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CONTENTS IN THIS ISSUE

Pages 799 to 850 include **ARC 3435** to **ARC 3446** and **ARC 3448** to **ARC 3461**

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UNDER AUTHORITY OF SECTION 17A.6, THE CODE

PREFACE

The Iowa Administrative Bulletin is published in pamphlet form biweekly pursuant to Chapter 17A, The Code, and supersedes Part I of the Iowa Administrative Code Supplement.

The Bulletin contains Notices of Intended Action on rules, Filed and Filed Emergency rules by state agencies [continue to refer to General Information for drafting style and form], all proclamations and executive orders of the Governor which are general and permanent in nature, and other "materials deemed fitting and proper by the Administrative Rules Review Committee."

The Bulletin may also contain economic impact statements to proposed rules and filed emergency rules, objections filed by Administrative Rules Review Committee, Governor or the Attorney General, any delay by the Committee of the effective date of filed rules, and agenda for monthly committee meetings.

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

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

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

WAYNE A. FAUPEL, Code Editor
PHYLLIS BARRY, Deputy Code Editor
LAVERNE SWANSON, Administrative Code Assistant

PRINTING SCHEDULE FOR IAB

ISSUE NUMBER	SUBMISSION DEADLINE	ISSUE DATE
14	Friday, December 17, 1982	January 5, 1983
15	Monday, January 3, 1983	January 19, 1983
16	Friday, January 14, 1983	February 2, 1983

SUBSCRIPTION INFORMATION

Iowa Administrative Bulletin

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

First quarter	July 1, 1982, to June 30, 1983	$91.00 plus $2.73 sales tax
Second quarter	October 1, 1982, to June 30, 1983	$68.25 plus $2.05 sales tax
Third quarter	January 1, 1983, to June 30, 1983	$45.50 plus $1.37 sales tax
Fourth quarter	April 1, 1983, to June 30, 1983	$22.75 plus $0.68 sales tax

Single copies may be purchased for $4.00 plus $0.12 tax. Back issues may be purchased if the issues are available.

Iowa Administrative Code

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

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

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Iowa State Printing Division
Grimes State Office Building
Des Moines, IA 50319
Phone: (515) 281-5231

Recycled Paper

The Administrative Rules Review Committee will hold a special meeting Tuesday January 4, 1983, 10:00 a.m., and Wednesday, January 5, 1983, 9:00 a.m., Committee Room 116, State Capitol. This meeting will be held in lieu of the statutory date. The following rules will be reviewed:

DIVISION I
Rules under Notice and Emergency Filed Rules

Bulletin

ARCHITECTUAL EXAMINERS, BOARD OF[80]
Registration, rules of conduct, disciplinary action, 1.1(1), 1.2, chs 2, 4 and 5 **ARC 3436** 12/22/82

AUDITOR OF STATE[130]
NOW accounts, 8.1(1), 8.1(5), 8.1(6), 8.2(1), 8.2(3), 8.2(4), 8.3 **ARC 3426** 12/8/82

COLLEGE AID COMMISSION[245]
Iowa guaranteed loan program, ch 10 **ARC 3406** 12/8/82
Iowa guaranteed loan program, tax setoff program, ch 10, filed emergency **ARC 3407** 12/8/82

COMMERCE COMMISSION[250]
Utilities, accounting of certain expenses, 19.2(5), 20.2(5), 21.2(14), 22.2(6) **ARC 3457** 12/22/82
Telephone utilities, customer premise equipment, accounting, amendments to chs 22 and 16 **ARC 3434** 12/8/82
Electric plant inspection, 25.3, 20.5(5) **ARC 3418** 12/8/82

CONSERVATION COMMISSION[290]
Land management agricultural lease program, ch 74 **ARC 3446** 12/22/82

HEALTH DEPARTMENT[470]
Special supplemental food program for women, infants and children (WIC), ch 73, filed emergency **ARC 3412** . 12/8/82
Homemaker-home health aide service, 80.3(2)"d" and "f", 80.4(1), 80.5 **ARC 3427** 12/8/82
Cosmetology school instructors, 149.2(5) **ARC 3408** 12/8/82
Barbers, reinstating lapsed license, 152.110 **ARC 3409** 12/8/82
Certificate of need program, 202.4(4), 202.4(5), filed emergency after notice **ARC 3413** 12/8/82

HOUSING FINANCE AUTHORITY[495]
General revenue bond procedures, public hearing and approval, 4.5 **ARC 3460**, also filed emergency **ARC 3459** 12/22/82

INSURANCE DEPARTMENT[510]
Limited benefit health insurance coverage, 36.6(10) **ARC 3414** 12/8/82

PHARMACY EXAMINERS, BOARD OF[620]
Pharmacist initial prescription, 6.1(5) **ARC 3445** 12/22/82
Medical assistance Act participation, 6.10, filed emergency **ARC 3444** 12/22/82

SOCIAL SERVICES DEPARTMENT[770]
Unemployed parent workfare program, contracts, 59.1, filed emergency **ARC 3419** 12/8/82
Licensing requirements for institutional care, ch 107 rescinded, filed emergency **ARC 3420** 12/8/82
Payments for foster care, 137.9(2) **ARC 3438** 12/22/82

TRANSPORTATION, DEPARTMENT OF[820]
Abandoned vehicles, [07,D] 2.2(5)"a" and "b" **ARC 3424** 12/8/82
Motor vehicle dealers, manufacturers and distributors, amendments to [07,D] ch 10 **ARC 3431** 12/8/82
Vehicle registration and certificate of title, amendments to [07,D] ch 11 **ARC 3425** 12/8/82
Implements of husbandry, moving on highways, [07,E] 1.6 **ARC 3452** 12/22/82
Interstate registration and operation of vehicles [07,F] 1.3(1)"a", 1.3(5)"a", 1.6, 1.9, 1.15 **ARC 3453** 12/22/82
Truck operators and contract carriers, marking equipment, [07,F] 3.3(1)"c" **ARC 3454** 12/22/82
Interstate motor vehicle fuel permits and transport carrier registration, [07,F] 7.2, 7.3(6), 7.4(6)"a" and "b", 7.4(8) **ARC 3455** 12/22/82

DIVISION II
Filed Rules

Bulletin

AGING, COMMISSION ON[20]
Nutrition services, 8.45 to 8.47, 8.49 to 8.53 **ARC 3449** 12/22/82

AGRICULTURE DEPARTMENT[30]
Aujeszky's disease, 16.149, 16.151(3), 16.153 **ARC 3450** 12/22/82
Food establishments, license, toilet and lavatory facilities, 38.1, 38.2 **ARC 3451** 12/22/82

COMMERCE COMMISSION[250]
Advertising, filing information, 7.4(3)"b", 7.4(6)"e" **ARC 3432** 12/8/82
Electric energy demand, customer notification of peaks, 20.11 **ARC 3456** 12/22/82
Electrical safety code, 25.2(1), 25.2(2), 25.2(3), 24.11(2)"e"(2) **ARC 3433** 12/8/82

HEALTH DEPARTMENT[470]

Radiation emitting equipment, ch 42 **ARC 3428** 12/8/82
Nonpublic water wells, 45 6(3), 45 7(2)"d", 45.7(2)"c" **ARC 3429** 12/8/82
Vital records, fees, 96.4 **ARC 3430** 12/8/82
Chiropractic examiners, 141.11, 141.13(6), 141.12(7), 141.12(8), 141 64(1), 141.68 **ARC 3439** 12/22/82
Cosmetology, 149.3(10), 151.12, 151.7, 160 7 **ARC 3410** 12/8/82
Barbering, license fees, 160.6(1), 160.6(3) **ARC 3411** 12/8/82

MERIT EMPLOYMENT DEPARTMENT[570]

Professional/managerial pay plan, amendments to chs 1 to 12, 14 and 17 **ARC 3458** 12/22/82

PLANNING AND PROGRAMMING[630]

Purpose of the agency, ch 1 **ARC 3435** 12/22/82
Community development block grant nonentitlement program, ch 23 **ARC 3461** 12/22/82

REVENUE DEPARTMENT[730]

Contested case proceedings, rehearing, 7 17(5), 7 20 **ARC 3416** 12/8/82
Request for waiver of penalty, penalty and interest, 12.11"h", 44 8(7), 52 6(12)"h", 58 6(11)"h", 63.9"h", 75.2, 81.15, 104 9 **ARC 3417** 12/8/82
Income tax, individual, 38.1(3), 39 1(2), 39.1(3), 39 3(3), 40.16(1), 40 16(5), 40.17, 41 3(1), 41.3(2), 41 7, 41.8, 42.2(3), 42.3 **ARC 3448** 12/22/82

SOCIAL SERVICES DEPARTMENT[770]

Medical and health services, reimbursement of providers, 79 1 **ARC 3421** 12/8/82
Child support recovery, offsetting income tax refunds, 95.6, 95 7 **ARC 3422** 12/8/82
Child support offset of unemployment benefits, 95.8 **ARC 3423** 12/8/82

SUBSTANCE ABUSE, DEPARTMENT OF[805]

Service and care facilities, health and safety, 3 24(6), 3.24(14), 3 23(5) **ARC 3415** 12/8/82

TRANSPORTATION, DEPARTMENT OF[820]

OWI and implied consent, driver licenses [07 C] ch11, 13 13(4), 13 14, 13 5(9), 13 15(10), 13 18, 14.6 **ARC 3440** 12/22/82
Minor's restricted license, [07,C] 13 5(4) **ARC 3441** 12/22/82
Driver license, suspension, driver improvement program, [07,C] 13 13(8), 13.19 **ARC 3442** 12/22/82
Financial responsibility, [07,C] 14 1, 14.6(3) **ARC 3443** 12/22/82

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
AUDITOR OF STATE[130]		
NOW accounts, ch 8 IAB 12/8/82 **ARC 3426**	Auditor of State Second Floor Lucas State Office Bldg. Des Moines, Iowa	January 4, 1983 1:30 p.m.
COMMERCE COMMISSION[250]		
Telephone utilities, amendments to chs 22 and 16 IAB 12/8/82 **ARC 3434**	Hearing Room First Floor Lucas State Office Bldg. Des Moines, Iowa	January 7, 1983 10:00 a.m.
Inspection of electric plant, 25.3, 20.5(5) IAB 12/8/82 **ARC 3418**	Hearing Room First Floor Lucas State Office Bldg. Des Moines, Iowa	January 18, 1983 10:00 a.m.
Services by gas, electric, water and telephone utilities, amendments to chs 19, 20, 21 and 22 IAB 12/22/82 **ARC 3457**	Hearing Room First Floor Lucas State Office Bldg. Des Moines, Iowa	January 26, 1983 10:00 a.m.
CONSERVATION COMMISSION[290]		
Use of firearms, 8.1(3) IAB 11/24/82 **ARC 3381**	Fourth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	December 28, 1982 10:00 a.m.
Land management agricultural lease program, ch 74 IAB 12/22/82 **ARC 3446**	Fourth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	January 19, 1983 10:00 a.m.
HEALTH DEPARTMENT[470]		
Homemaker-home health aide, amendments to ch 80 IAB 12/8/82 **ARC 3427**	Third Floor Conference Room Lucas State Office Bldg. Des Moines, Iowa	December 28, 1982 1:00 p.m.
HOUSING FINANCE AUTHORITY[495]		
General revenue bond procedures, 4.5 IAB 12/22/82 **ARC 3460**	Housing Finance Authority Suite 550 Liberty Bldg. Des Moines, Iowa	January 12, 1983 1:30 p.m.
INSURANCE DEPARTMENT[510]		
Accident and health minimum standards, 36.6(10) IAB 12/8/82 **ARC 3414**	Insurance Department Ground Floor Lucas State Office Bldg. Des Moines, Iowa	December 29, 1982 1:30 p.m.
SOCIAL SERVICES DEPARTMENT[770]		
Unemployed parent workfare program, ch 59 IAB 12/22/82 **ARC 3437** (See IAB 10/13/82 **ARC 3287**)	Machinist's Union Hall 2000 Walker Des Moines, Iowa	January 12, 1983 1:00 p.m.

TRANSPORTATION, DEPARTMENT OF[820]

Abandoned Vehicle, [07,D] 2.2(5) IAB 12/8/82 **ARC 3424**	Department of Transportation Complex Ames, Iowa	January 18, 1983
Motor vehicle dealers, manufacturers and distributors, [07,D] ch 10 IAB 12/8/82 **ARC 3431**	Department of Transportation Complex Ames, Iowa	January 18, 1983
Vehicle registration and certificate of title, [07,D] ch 11 IAB 12/8/82 **ARC 3425**	Department of Transportation Complex Ames, Iowa	January 18, 1983
Motor vehicle lighting and safety equipment, [07,E] 1.6 IAB 12/22/82 **ARC 3452**	Department of Transportation Complex Ames, Iowa	February 1, 1983
Interstate registration and operation of vehicles, amendments to [07,F] ch 1 IAB 12/22/82 **ARC 3453**	Department of Transportation Complex Ames, Iowa	February 1, 1983
Truck operators and contract carriers, [07,F] 3.3(1)"c" IAB 12/22/82 **ARC 3454**	Department of Transportation Complex Ames, Iowa	February 1, 1983
Interstate fuel permits and transport carrier registration, amendments to [07,F] ch 7 IAB 12/22/82 **ARC 3455**	Department of Transportation Complex Ames, Iowa	February 1, 1983

ARC 3436

ARCHITECTURAL EXAMINERS, BOARD OF[80]

NOTICE OF INTENDED ACTION

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

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

Pursuant to Iowa Code section 118.5, the Iowa Board of Architectural Examiners intends to adopt the following changes to the administrative rules of the board.

In chapter 1 (Item 1) of the intended changes, the address of the board is corrected.

Chapter 2 (Item 2) is amended to incorporate the new 1982 Circular of Information No. 1, issued by the National Council of Architectural Registration Boards into the rules in place of the 1981 Circular of Information. Fee changes to reflect the new Architectural Registration Examination (ARE) are also included in chapter 2.

Chapter 4 places the Rules of Conduct in a new chapter but does not change the Rules of Conduct per se.

Chapter 5 changes Disciplinary Action rules into chapter 5 from chapter 4.

Interested persons may make written suggestions or comments on the proposed changes by submitting them to the Iowa Board of Architectural Examiners, Executive Hills West, 1209 East Court Avenue, Des Moines, Iowa 50319. These suggestions or comments must be received in the board office no later than January 11, 1983.

ITEM 1. Amend chapter 1 as follows:

1.1(1) President. The president shall; ~~when present,~~ preside at all meetings, shall appoint all committees, shall sign all certificates, and shall otherwise perform all duties pertaining to the office of the president.

80—1.2(118,17A) ~~Headquarters~~ *Office* of the board. The mailing address of the board shall be: Iowa Board of Architectural Examiners, State Capitol Complex, Des Moines, Iowa 50319. *The physical location of the board shall be: Executive Hills West, 1209 East Court Avenue, Des Moines, Iowa 50319.*

ITEM 2. Rescind chapter 2 and insert the following:

CHAPTER 2
REGISTRATION

80—2.1(118,17A) Application for registration. Applicants for registration are required to make application to the National Council of Architectural Registration Boards, 1735 New York Avenue, Northwest, Washington, D.C. 20006 for a council record. A completed state application form and a completed council record shall be filed in the board office before an application will be considered by the board. If prerequisite to examination, the state application form and the council record shall be filed in the board office not fewer than sixty days before the date scheduled for the examination.

2.1(1) The board, by approval of three of its members who are registered architects, may waive examination requirements for architects registered during the current year in another state or country where the qualifications prescribed at the time of registration were equal to those prescribed in Iowa. Registrations in Iowa will be automatically revoked if the registrant's registration in any other state is revoked for statutory reasons or incompetence.

2.1(2) Except as provided in the preceding subrule, to qualify for registration, all applicants shall pass all divisions of the "Architect Registration Examination" (ARE) prepared and issued by the National Council of Architectural Registration Boards (NCARB). Applicants who have previously passed any portion of formerly required NCARB examinations will be granted credit for those portions passed in accordance with procedures established by NCARB. Divisions of the examination may be passed or failed separately in accordance with procedures established by NCARB.

80—2.2(118,17A) Admittance to examination. To be admitted to the examination, an applicant for registration shall have completed eligibility requirements (except for registration) for NCARB certification and shall have completed education credits equivalent to five years of professional education and training credits equivalent to three years of practical training.

2.2(1) All requirements shall have been verified by the council record and attained in accordance with Appendix "A" to Circular of Information No. 1, 1982, issued by the National Council of Architectural Registration Boards (NCARB).

2.2(2) Practical training shall have been equivalent to "Training Requirements for Intern Architect Development Program (IDP) Applicants for NCARB Certification" in accordance with Appendix "B" to Circular of Information No. 1, 1982, issued by the NCARB. "IDP Periodic Assessment Reports" forms, published by NCARB, verified by signature of a registered architect, shall have been completed to demonstrate attainment of an aggregate of the minimum number of value units in each training area and submitted by the applicant at the time of application.

80—2.3(118,17A) Certificates. Certificates issued to applicants who become registered architects shall contain the registrant's name, state registration number and the signatures of the board president, vice president and secretary-treasurer. All registrations are renewable July 1 every two years. All registrants will be mailed a notice of renewal and a wallet card indicating current registration.

80—2.4(118,17A) Fee schedule. Under the authority provided in Iowa Code chapter 118, the following fees are hereby adopted:

Examination fees:	
Entire ARE examination	$250.00
Division A	$ 37.00
Division B	$ 37.00
Division C	$ 62.00
Division D	$ 19.00
Division E	$ 15.00
Division F	$ 10.00
Division G	$ 19.00
Division H	$ 24.00
Division I	$ 27.00
Registration fee	$ 30.00
(plus $2.50 per month until renewal date)	
Application fee (reciprocal)	$ 20.00
Biennial renewal fee	$ 90.00
Reinstatement fee	$100.00
Duplicate certificate fee	$ 20.00
Roster fee (except to registered architects and governmental agencies)	$ 25.00

ARCHITECTURAL EXAMINERS, BOARD OF[80] *(cont'd)*

ITEM 3. Rescind chapter 4 and insert the following:

CHAPTER 4
RULES OF CONDUCT

80—4.1(118,17A) Rules of conduct.

4.1(1) Competence.

a. In practicing architecture, an architect shall act with reasonable care and competence, and shall apply the technical knowledge and skill which is ordinarily applied by architects of good standing, practicing in the same locality.

b. In designing a project, an architect shall take into account all applicable state and municipal building laws and regulations. While an architect may rely on the advice of other professionals (e.g., attorneys, engineers and other qualified persons) as to the intent and meaning of the regulations, once having obtained such advice, an architect shall not knowingly design a project in violation of these laws and regulations.

c. An architect shall undertake to perform professional services only when the architect, together with those whom the architect may engage as consultants, are qualified by education, training and experience in the specific technical areas involved.

d. No person shall be permitted to practice architecture if, in the board's judgment upon receipt of medical testimony or evidence the person's professional competence is substantially impaired by physical or mental disabilities.

4.1(2) Conflict of interest.

a. An architect shall not accept compensation for services from more than one party on a project unless the circumstances are fully disclosed to and agreed to (such disclosures and agreement to be in writing) by all interested parties.

b. If an architect has any business association or direct or indirect financial interest which is substantial enough to influence judgment in connection with the architect, performance or professional services, the architect shall fully disclose, in writing, to the client or employer the nature of the business association or financial interest, and if the client or employer objects to the association or financial interest, the architect will either terminate the association or interest or offer to give up the commission or employment.

c. An architect shall not solicit or accept compensation from material or equipment suppliers in return for specifying or endorsing the products.

d. When acting as the interpreter of building contract documents and the judge of contract performance, an architect shall render decisions impartially, favoring neither party to the contract.

4.1(3) Full disclosure.

a. An architect, making public statements on architectural questions, shall disclose when compensation is being received for making the statements.

b. An architect shall accurately represent to a prospective or existing client or employer the architect's qualifications and the scope of qualifications and responsibility in connection with work for which the architect is claiming credit.

c. If, in the course of work on a project, an architect becomes aware of a decision taken by the employer or client against the architect's advice which violates applicable state or municipal building laws and regulations and which will, in the architect's judgment, adversely affect the safety to the public of the finished project, the architect shall:

(1) Report the decision to the local building inspector or other public official charged with enforcement of the applicable state or municipal building laws and regulations.

(2) Refuse to consent to the decision and,

(3) In circumstances where the architect reasonably believes that other decisions will be taken, notwithstanding the architect's objection, terminate the architect's services with reference to the project.

d. An architect shall not deliberately make a materially false statement or fail deliberately to disclose a material fact requested in connection with application for registration or renewal of registration.

e. An architect shall not assist the application for registration of a person known by the architect to be unqualified in respect to education, training, experience or character.

f. An architect possessing knowledge of a violation of these rules by another architect shall report the knowledge to the board.

4.1(4) Compliance with laws.

a. An architect shall not, in the conduct of architectural practice, knowingly violate any state or federal criminal law.

b. An architect shall neither offer nor make any payment to a government official (whether elected or appointed) with the intent of influencing the official's judgment in connection with a prospective or existing project in which the architect is interested.

c. An architect shall comply with the registration laws and regulations governing professional practice in any United States jurisdiction.

4.1(5) Professional conduct.

a. Each office maintained for the preparation of drawings, specifications, reports or other professional work shall have an architect resident regularly employed in that office having direct knowledge and supervisory control of such work.

b. An architect shall not sign or seal drawings, specifications, reports or other professional work for which the architect does not have direct professional knowledge and direct supervisory control; provided, however, that in the case of the portions of professional work prepared by the architect's consultants, registered under this or another professional registration law of this jurisdiction, the architect may sign or seal that portion of the professional work if the architect has reviewed that portion, has coordinated its preparation and intends to be responsible for its adequacy.

c. An architect shall neither offer nor make any gifts to any public official with the intent of influencing the official's judgment in connection with a project in which the architect is interested.

d. An architect shall not engage in conduct involving fraud or wanton disregard of the rights of others.

Failure by a registrant to adhere to these rules of conduct shall cause the registration to be reviewed by the board and shall, at the discretion of the board, be cause for a reprimand, suspension or revocation of the registration.

ITEM 4. Add the following new chapter:

CHAPTER 5
DISCIPLINARY ACTION

80—5.1(118) Disciplinary action. The board may, upon its own recognizance, initiate disciplinary procedures for violations of the board rules or the Iowa Code against any registrant.

ARCHITECTURAL EXAMINERS, BOARD OF[80] *(cont'd)*

5.1(1) Charges against a registrant brought by a third party must be filed with the board in writing over the complainant's signature and with substantiating evidence to support the complainant's allegations. The complaint, which will be held in confidence as required by law, will be reviewed by the board at its next meeting. If the board concurs in the seriousness of the charges made by the complainant, the board will, in writing, advise the registrant of the charges involved. The registrant will have thirty days from receipt of the board's notice to answer the charges in writing. The registrant may additionally request a peer review finding or personal appearance before the board. The board will then review the charges made. The board may, at that time, based upon the evidence presented, take one or more of the following actions:

a. Dismiss the charges.
b. Suspend the registrant's registration as authorized by law.
c. Revoke the registrant's registration.
d. Fine the registrant as authorized by law.
e. Suspend the registration and impose a fine as authorized by law.
f. Impose a period of probation.
g. Require additional professional education or re-education.
h. Issue a citation and a warning respecting registrant's behavior.
i. Informally stipulate and settle any matter of registrant's discipline.
j. Reprimand.
k. Refer the charges to a peer review committee.

5.1(2) The peer review committee will meet within a sixty-day period to review and determine the facts of the charges and make recommendations to the board. The peer review committee will consist of three architects registered to practice in and residing in Iowa and eligible, by their length of practice, to be appointed to the board of architectural examiners. A peer review committee will be appointed by the board for each complaint as needed.

5.1(3) The findings of the peer review committee will be reviewed at the next meeting of the board of architectural examiners at which time the charges will be dropped or disciplinary action will be taken. The peer review committee's actions shall be reported to the board in writing and will become a part of the board's records.

5.1(4) If, in the opinion of the board or the peer review committee, additional investigation is determined to be advisable or necessary, the board may employ, at public expense, the necessary investigators or legal counsel to provide them with the information needed to fulfill their responsibilities. The method and kind of investigators employed will be determined by the board to fit each individual action and will be done at a regular board meeting with a majority of the members of the board concurring in the employment. The findings of the investigation will be reported to the board for the board's or peer review committee's use in determining the disposition of the disciplinary action.

5.1(5) The National Council of Architectural Registration Boards and the home board of a registrant not residing in Iowa will be notified if the registant's Iowa registration is revoked or suspended or if the registrant is fined.

5.1(6) Notice of any disciplinary action taken by the board will be made public by means available to the board.

ARC 3457

COMMERCE COMMISSION[250]

NOTICE OF INTENDED ACTION

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

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

Pursuant to the authority of Iowa Code sections 17A.4(1), 476.2 and 476.9, the Iowa State Commerce Commission hereby gives Notice of Intended Action to amend Iowa Administrative Code 250—Chapters 19, 20, 21, and 22 which prescribe rules for service supplied by gas, electric, water, and telephone utilities. To this end, the Commission issued on December 3, 1982, an Order Commencing Rulemaking, in Docket No. RMU-82-19.

Pursuant to Commission rule 250—3.4(17A,474) IAC, any interested person may file with the Commission, not later than January 21, 1983, an original and six copies of a written statement of position substantially complying with the form prescribed in Iowa Administrative Code 250—subrule 2.2(2) containing data, views, comments or argument concerning the proposed amendment.

An oral presentation on the proposal has been scheduled for January 26, 1983, at 10:00 a.m. in the Lucas State Office Building. Persons who wish to participate in this oral presentation must file a written appearance within the time allowed for written comments.

All communications shall clearly indicate the author's name and address as well as specific reference to this docket and the rule upon which comment is submitted. All communications shall be directed to the Executive Secretary, Iowa State Commerce Commission, Lucas State Office Building, Des Moines, Iowa 50319. This rulemaking proceeding shall be conducted pursuant to Iowa Administrative Code 250—chapter 3.

The proposal requires each rate-regulated utility to annually file an accounting of all expenses, charged or to be charged to Iowa ratepayers resulting from any assembly of all or part of the utility's board of directors and principal officers outside the state of Iowa and, if applicable, outside of the state in which the utility's home office(s) is located. The purpose of the proposal is to ensure speedy access to the specific information sought by the rules.

ITEM 1. Amend subrule **19.2(5)**, paragraph "k" by relettering it as paragraph "l", and inserting the following as paragraph "k":

k. By April 1, each rate-regulated utility shall report to the commission in writing all expenses, charged or to be charged to the Iowa ratepayers, incurred in the previous calendar year resulting from any assembly of all or part of its board of directors, principal officers, or both outside of Iowa and, if applicable, outside of the state in which the utility has its home office. All expenses required to be reported under this subrule should be itemized according to the following classifications:

(1) Transportation costs.
(2) Lodging (including meeting rooms).
(3) Food.
(4) Itemized miscellaneous.

The utility also shall provide the following information in the filing with the commission: Location of assembly

COMMERCE COMMISSION[250] *(cont'd)*

(including city, state) and hotel(s) or motel(s) accommodations; purpose of the assembly and meeting agenda; travel information (including whether public or private mode and dates of departure, arrival, and return); and a list of attendees (including spouses and guests if any expenses charged to ratepayers).

ITEM 2. Amend subrule **20.2(5)** by adding a new paragraph "j" to read as follows:

j. By April 1, each rate-regulated utility shall report to the commission in writing all expenses, charged or to be charged to the Iowa ratepayers, incurred in the previous calendar year resulting from any assembly of all or part of its board of directors, principal officers, or both outside of Iowa and, if applicable, outside of the state in which the utility has its home office. All expenses required to be reported under this subrule should be itemized according to the following classifications:

(1) Transportation costs.
(2) Lodging (including meeting rooms).
(3) Food.
(4) Itemized miscellaneous.

The utility also shall provide the following information in the filing with the commission: Location of assembly (including city, state) and hotel(s) or motel(s) accommodations; purpose of the assembly and meeting agenda; travel information (including whether public or private mode and dates of departure, arrival, and return); and a list of attendees (including spouses and guests if any expenses charged to ratepayers).

ITEM 3. Amend subrule 21.2(14) by renumbering it to subrule 21.2(15), and inserting the following as subrule 21.2(14):

21.2(14) By April 1, each rate-regulated utility shall report to the commission in writing all expenses, charged or to be charged to the Iowa ratepayers, incurred in the previous calendar year resulting from any assembly of all or part of its board of directors, principal officers, or both outside of Iowa, and if applicable, outside of the state in which the utility has its home office. All expenses required to be reported under this subrule should be itemized according to the following classifications:

a. Transportation costs.
b. Lodging (including meeting rooms).
c. Food.
d. Itemized miscellaneous.

The utility also shall provide the following information in the filing with the commission: Location of assembly (including city, state) and hotel(s) or motel(s) accommodations; purpose of the assembly and meeting agenda; travel information (including whether public or private mode and dates of departure, arrival, and return); and a list of attendees (including spouses and guests if any expenses charged to ratepayers).

ITEM 4. Amend subrule **22.2(6)** by adding a new paragraph "l" to read as follows:

l. By April 1, each rate-regulated utility shall report to the commission in writing all expenses, charged or to be charged to the Iowa ratepayers, incurred in the previous calendar year resulting from any assembly of all or part of its board of directors, principal officers, or both outside of Iowa and, if applicable, outside of the state in which the utility has its home office. All expenses required to be reported under this subrule should be itemized according to the following classifications:

(1) Transportation costs.
(2) Lodging (including meeting rooms).
(3) Food.
(4) Itemized miscellaneous.

The utility also shall provide the following information in the filing with the commission: Location of assembly (including city, state) and hotel(s) or motel(s) accommodations; purpose of the assembly and meeting agenda; travel information (including whether public or private mode and dates of departure, arrival, and return); and a list of attendees (including spouses and guests if any expenses charged to ratepayers).

ARC 3446

CONSERVATION COMMISSION[290]

NOTICE OF INTENDED ACTION

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

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

Pursuant to the authority of the Iowa Code section 107.24, the State Conservation Commission hereby gives Notice of Intended Action to adopt a new Chapter 74, "Land Management Agricultural Lease Program", Iowa Administrative Code.

These rules describe the policy, procedures, and methods to be followed by the State Conservation Commission and by private individuals to enable those individuals to participate in farming of land under the "Land Management Agricultural Lease Program".

Any interested person may make written suggestions or comments on these proposed rules prior to January 19, 1983. Such written materials should be directed to the Superintendent of Land Acquisition and Management, State Conservation Commission, Wallace State Office Building, Des Moines, Iowa 50319.

Persons who want to convey their views orally should contact the Superintendent of Land Acquisition and Management of the State Conservation Commission at 515/281-5634, or in the Land Management Office on the fourth floor of the Wallace State Office Building. Also, a public hearing will be held at 10:00 a.m. on January 19, 1983, in the conference room on the fourth floor of the Wallace State Office Building. Persons may present their views at this public hearing either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record, and to confine their remarks to the subject of the rule.

This rule is intended to implement the Iowa Code chapter 107.

The following rules are proposed.

CHAPTER 74
LAND MANAGEMENT
AGRICULTURAL LEASE PROGRAM

290—74.1(107) Purpose. The purpose of the agricultural lease program is to enhance the habitat for the

wildlife of the state of Iowa, thereby providing additional recreational opportunities to the public. Utilization of agricultural leases provide those practices which have become essential to successful wildlife management and reduces the operating expense of wildlife management.

290—74.2(107) Agricultural lease policy. The state conservation commission may enter into agricultural leases with co-operators, either on a cash rent or crop share basis, for the purposes of promoting sound conservation practices and wildlife management. All agricultural leases for wildlife management shall be awarded on a competitive basis to the maximum practical extent. All leases shall be in written form and shall be approved by the director.

290—74.3(107) Definitions. The following terms when used in these rules shall have the following meanings:

74.3(1) "Commission" means state conservation commission.

74.3(2) "Director" means the director of the state conservation commission or the person who has been designated to act for the director.

74.3(3) "Co-operator" means any party who enters into an agreement with the commisssion as provided in these rules.

74.3(4) "Lease" means the form used to enter into an agreement whereby a co-operator is permitted to engage in farming operations on land under the jurisdiction of the commission according to stated terms and conditions.

74.3(5) "Cash rent" means that an agreed-upon sum of money is to be paid to the commission as stated in the lease.

74.3(6) "Crop share" means that the payment to the commission under the lease is conditioned upon the total crop yield and the market price at the time of harvest.

74.3(7) "Current market value" means the market price of a crop at the time and place delivery to the commission is due under the terms of the lease.

74.3(8) "Crop year" means a one-year period terminating each March 1.

74.3(9) "Land manager" means the commission employee responsible for managing a particular area under commission jurisdiction.

290—74.4(107) Lease procedures. The following procedures shall be followed by the commission in administering the agricultural lease program.

74.4(1) Advertising for bids. A minimum of three weeks prior to the stated date of the bid opening, a notice shall be published in at least two local papers and other means as may be appropriate to ensure competitive bidding.

74.4(2) Form of notice. The notice shall state the location of the land and the address and telephone number of the land manager to be contacted for additional information, general conditions of the agreement, and instructions and forms for submission of a bid.

74.4(3) Bid security. The commission shall require a bid security, in the amount of ten percent of the total bid for the lease, to be submitted with all bids. The bid security of the successful bidder shall be retained by the commission as a down payment on the lease, or as liquidated damages in the event said bidder fails to fulfill the lease. The bid security of all unsuccessful bidders will be returned promptly.

74.4(4) Public bid opening. All bids shall be publicly opened as stated in the notice for bids. The results of the bids shall be made available to any interested party.

74.4(5) Awarding of lease. The highest bid will be accepted. The commission reserves the right to waive technicalities and reject any or all bids not in the best interest of the state of Iowa.

a. Negotiated agreements. If no bids are received, the land manager may negotiate a lease with any prospective co-operator, subject to approval of the director.

b. Federal lands. Leases on federal lands under the jurisdiction of the Army Corps of Engineers and licensed to the commission shall be entered into in the same manner as state-owned lands. However, the land manager shall also recognize and take into account any written agreement entered into by the Army Corps of Engineers and previous landowners which gives such previous landowners preference with regard to crop leases.

c. Restricted access lands. If a proposed crop lease is on land not accessible to equipment necessary to perform the required farming operations, except over privately owned land, the land manager may, with the approval of the director, negotiate a lease with any prospective co-operator who possesses legal access to state-owned land over the privately owned land.

74.4(6) Final approval of award. All awards of leases shall be subject to approval by the director.

74.4(7) Amendment to lease. The crops, acreages, and rates, may be amended only by mutual agreement, and any changes shall be evidenced by written instruments attached to and made a part of the lease. Final approval of amendments shall be subject to approval by the director.

290—74.5(107) Terms and conditions of the lease. All leases shall include the following terms and conditions:

74.5(1) Use of lands and improvements thereon by the co-operator. The co-operator shall take reasonable care of the lands and improvements described in the crop lease as good farming practices dictate; and at the termination of the term of the lease, shall deliver said premises to the commission in as good condition as when first received by the co-operator, subject to normal wear and tear.

74.5(2) Other uses of the land. The use by the co-operator of land described in the lease is limited to agricultural cropping purposes only, and the storage of equipment and produce is prohibited after the crop has been harvested. The co-operator's use of the land is also subject to the performance, by the state, of activities necessary thereon for the management and maintenance of the premise and of adjoining adjacent land administered by the state and the wildlife and fish found on or frequenting said premises and other lands administered by the state. The co-operator, by entering into the lease, also agrees not to inhibit any lawful use of the above land by the public including, but not limited to, use by the public for hunting and fishing as described by the rules of the commission and the laws of the state of Iowa.

74.5(3) Assignment of lease. The co-operator shall not sell or assign the lease or sublet any land under the lease without written consent of the director.

74.5(4) U.S. Department of Agriculture programs. The inclusion, by the co-operator, of land under the lease in any agreement under any U.S. Department of Agriculture program will be allowed only if it results in no effect on the management plan established for said land.

CONSERVATION COMMISSION[290] *(cont'd)*

74.5(5) Control of weeds. All noxious weeds on land under the lease shall be controlled by the co-operator.

74.5(6) Insecticides and herbicides. Only insecticides which do not have a cumulative effect on organisms or herbicides which will not interfere with the planned crop rotations will be allowed on land under the lease. The insecticides and herbicides used shall be approved by the land manager and set forth under the terms of the lease.

74.5(7) Livestock. Livestock is prohibited on all lands under the lease except as set forth in the terms of the crop lease.

74.5(8) Hay harvest. Hay may only be cut during the period agreed upon in the lease.

74.5(9) Location of crops left unharvested for wildlife purposes. Any of the crops to be left standing in the fields shall be at sites designated by the land manager.

74.5(10) Limitations on harvest methods. Corn may not be harvested for ensilage. No vegetation may be burned without written approval of the land manager.

74.5(11) Options to leave all crops unharvested. The co-operator may elect to relinquish all interest in crops for a specific year by notifying the commission in writing before any harvest of that year's crop, provided that the co-operator does not harvest any crops of any kind under the lease, and that the co-operator does not receive any other compensation for said crop. In the case of such notice, the co-operator shall be relieved of further payments under the crop lease for that crop year.

74.5(12) Partial relinquishment of interest in crops. The co-operator may request approval to relinquish all interest in crops to the commission on a field-by-field basis by submitting a request in writing to the land manager before any harvest for the crop year, provided that the co-operator does not harvest any crops of the current crop year from the designated fields, and that the co-operator does not receive any other compensation for said crops. The request shall designate the field involved and state a justification for the relinquishment. The relinquishment shall utilize the form and procedures of the standard lease amendment. Final approval of that amendment will relieve the co-operator from any further payments for the designated fields for the specified crop year.

74.5(13) Interpretation of the lease. Each provision of the lease shall be considered to be severable and the invalidity or voidability of any provision shall not affect the validity or the enforceability of any other provision of the lease.

290—74.6(107) Termination of lease.

74.6(1) Standard termination. The lease shall be terminated as stated in the lease and as required by Iowa Code chapter 562 with the exception that if the commission requires the land for other conservation purposes, the co-operator shall relinquish all claim to the land upon demand by the land manager at the end of the crop year. The lease will be considered void at the time the claim is relinquished. A refund of the down payment applicable to those crop years under the lease voided by termination, due to the commission requiring the land for other conservation purposes, will be made to the co-operator at the time the co-operator relinquishes all claim to the land.

74.6(2) Termination for cause. If the co-operator fails to comply with any of the terms of the lease, the commission may proceed to collect any money and the current market value of any portion of the crops which may be due and payable during the crop year the lease is terminated, and void the remainder of the lease. Further, the commission shall have a landlord's lien as set out by the Iowa Code chapter 570.

290—74.7(107) Payment of rent. All payments are to be made payable to the commission and shall be remitted as called for in the terms of the lease and delivered to the land manager.

This rule is intended to implement the Iowa Code section 107.24.

ARC 3460

HOUSING FINANCE AUTHORITY[495]

NOTICE OF INTENDED ACTION

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

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

Pursuant to the authority of Iowa Code section 220.5, subsection 15 the Iowa Housing Finance Authority hereby gives Notice of Intended Action to amend Chapter 4 "General Revenue Bond Procedures", by adding a new rule 4.5(220) and renumbering existing rules 4.5(220) and 4.6(220). The substance of these rules is also being submitted as emergency adopted rules, ARC 3459, published in the Iowa Administrative Bulletin on December 22, 1982.

The purpose of this notice is to solicit public comment on that submission, the subject matter of which is incorporated by reference.

Any interested person may make written suggestions or comments on these proposed rules prior to January 12, 1983. Such written materials should be directed to the General Counsel, Iowa Housing Finance Authority, 550 Liberty Building, Des Moines, Iowa 50309. Persons who want to convey their views orally should contact the General Counsel, George Cosson, at (515) 281-4058, or in the offices of the Authority at Suite 550, Liberty Building. There also will be a public hearing on Wednesday, January 12, 1983, at 1:30 p.m. in the Authority's offices at Suite 550, Liberty Building. Persons may present their views at this public hearing either orally or in writing. The public hearing will be concluded at 2:30 p.m. or whenever all persons wishing to convey their views have finished, whichever is later.

ARC 3445

PHARMACY EXAMINERS, BOARD OF[620]

NOTICE OF INTENDED ACTION

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

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

Pursuant to the authority of Iowa Code section 155.19, the Iowa Board of Pharmacy Examiners hereby gives Notice of Intended Action to amend Chapter 6, "Minimum Standards for the Practice of Pharmacy." The proposed amendment was approved during the November 9, 1982, meeting of the Iowa Board of Pharmacy Examiners.

The proposed amendment will assist the board in the conduct of controlled substance audits in pharmacies by identifying the dispensing pharmacist when a prescription is filled for the first time.

Any interested person may submit data, views, and arguments in writing on this proposed amendment on or before January 12, 1983, to Norman C. Johnson, Executive Secretary, Board of Pharmacy Examiners, 1209 E. Court, Executive Hills West, Des Moines, Iowa 50319.

Rule 620—6.1 is amended by adding the following:

6.1(5) The pharmacist who fills the original prescription shall hand sign or initial the prescription on its face.

ARC 3437

SOCIAL SERVICES DEPARTMENT[770]

AMENDED NOTICE OF INTENDED ACTION

The Notice of Intended Action published in the October 13, 1982, IAB as ARC 3287 under the authority of 1982 Iowa Acts, chapter 1260, proposing rules relating to the unemployed parent workfare program (chapter 59) is amended by adding notice of oral presentations. These are the rules to implement a workfare program for the principal wage earners in unemployed parent cases.

Oral presentations may be made by appearing at the following meeting. Written testimony will also be accepted at that time.

Des Moines - Wednesday, January 12, 1983, at 1:00 p.m.
Machinist's Union Hall
2000 Walker
Des Moines, Iowa 50317

ARC 3438

SOCIAL SERVICES DEPARTMENT[770]

NOTICE OF INTENDED ACTION

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

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

Pursuant to the authority of Iowa Code sections 217.6 and 234.6, the Department of Social Services proposes amending rules appearing in the IAC relating to payments for foster care (chapter 137). This rule gives out-of-state group foster care facilities the choice of being paid at Iowa rates or the rates in their own state. The change is being made to reduce the chance out-of-state facilities will refuse to accept Iowa children.

Consideration will be given to written data, views, or arguments thereto, received by the Bureau of Policy, Research, and Analysis, Department of Social Services, Hoover State Office Building, Des Moines, Iowa 50319 on or before January 14, 1983.

These rules are intended to implement Iowa Code section 234.38.

Subrule 137.9(2) is amended to read as follows:

137.9(2) The payment rate for public or private agency group care licensed or approved in another state shall be ~~the agency's unit cost as determined by the accounting and reporting procedure recognized by that~~ *either the payment rate established by the other* state, subject to the limitations in effect in that state, *or the agency's unit cost as determined by the department's accounting and reporting procedure for purchase of service contracts, subject to the limitations in 137.9(1). For states in which local agencies negotiate individual contracts with each facility, the state payment rate shall be the payment rate established by the local contracting agency in that area of the state. The rate determination method shall be at the option of the agency. Children who were placed in out-of-state group care prior to May 1, 1983 at payment rates higher than those allowed by this rule may continue to be paid at the higher rate for the duration of those placements.*

ARC 3452

TRANSPORTATION, DEPARTMENT OF[820]

07 MOTOR VEHICLE DIVISION

NOTICE OF INTENDED ACTION

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

On February 1, 1983, at their regular meeting at the Department of Transportation Complex, 800 Lincoln

TRANSPORTATION, DEPARTMENT OF[820] *(cont'd)*

Way, Ames, Iowa, the Transportation Commission shall consider for adoption the administrative rules as described herein. Such action shall be in accord with the Iowa administrative procedure Act, Iowa Code chapter 17A, and Department of Transportation rules 820—[01,B] chapter 1, "Administrative Rules".

Written comments concerning these proposed rules or written request to make an oral presentation at the above specified commission meeting shall be addressed to the Department of Transportation, Office of Financial/Operational Analysis, 800 Lincoln Way, Ames, Iowa 50010. Written comments or written requests to make an oral presentation may be accepted if received by the Department of Transportation on or before January 18, 1983.

Any person or agency, as defined in Iowa Code section 17A.2, subsections 1 and 6, may submit written comments or written requests to make an oral presentation. Such comments or requests shall clearly state:

1. The name, address and phone number of the person or agency authoring the comment or request.
2. The title and number of the proposed rule as given in this notice which is the subject of the comment or request. (Comments pertaining to a specific section of a proposed rule shall reference that section by subrule, paragraph, and subparagraph as appropriate.)
3. With regard to requests to make an oral presentation, the general content shall be indicated.

Pursuant to the authority of Iowa Code section 307.10, the Department of Transportation hereby gives Notice of Intended Action to amend 820—[07,E] chapter 1 entitled "Motor Vehicle Lighting Devices and Other Safety Equipment".

This rule establishes the minimum safety standards for moving implements of husbandry on Iowa highways.

These rule amendments are intended to implement Iowa Code chapter 321.

Proposed rulemaking actions:

07 MOTOR VEHICLE DIVISION

Pursuant to the authority of Iowa Code section 307.10, rules 820—[07,E] chapter 1 entitled "Motor Vehicle Lighting Devices and Other Safety Equipment" are hereby amended.

ITEM 1. [07,E] chapter 1 is amended by adding rule [07,E]1.6(321) as follows:

820—[07,E]1.6(321) Safety requirements for implements of husbandry. The following standards are minimum safety requirements for movement of implements of husbandry between the retail seller and a farm purchaser or the movement of indivisible implements of husbandry between the place of manufacture and a retail seller or farm purchaser.

1.6(1) Towing standard. No power unit shall tow more than one implement of husbandry from the manufacturer to the retail seller, from the retail seller to the farm purchaser, or from the manufacturer to the farm purchaser.

1.6(2) Equipment standards.

a. The brake, hitch and sway control requirements of Iowa Code sections 321.430 and 321.431.

b. The rear view mirror requirements of Iowa Code section 321.437.

c. Tires in compliance with Iowa Code sections 321.440, 321.441, 321.442 and 321.443.

d. The lighting equipment requirements of Iowa Code sections 321.384, 321.385, 321.387, 321.394, 321.398, and 321.404, and subsection 321.423(6).

e. The reflector requirements of Iowa Code section 321.390.

f. The signal device requirements of Iowa Code section 321.317.

g. The warning device requirements of Iowa Code section 321.447.

h. The coupling requirements of Iowa Code section 321.462.

This rule is intended to implement Iowa Code sections 321.1, 321.317, 321.383 to 321.385, 321.387, 321.390, 321.394, 321.398, 321.404, 321.423, 321.430, 321.431, 321.437, 321.440 to 321.443, 321.447, 321.453, 321.462 and 1982 Iowa Acts, chapter 1254.

ARC 3453

TRANSPORTATION, DEPARTMENT OF[820]

07 MOTOR VEHICLE DIVISION

NOTICE OF INTENDED ACTION

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

On February 1, 1983, at their regular meeting at the Department of Transportation Complex, 800 Lincoln Way, Ames, Iowa, the Transportation Commission shall consider for adoption the administrative rules as described herein. Such action shall be in accord with the Iowa administrative procedure Act, Iowa Code chapter 17A, and Department of Transportation rules 820—[01,B] chapter 1, "Administrative Rules".

Written comments concerning these proposed rules or written requests to make an oral presentation at the above specified commission meeting shall be addressed to the Department of Transportation, Office of Financial/Operational Analysis, 800 Lincoln Way, Ames, Iowa 50010. Written comments or written requests to make an oral presentation may be accepted if received by the Department of Transportation on or before January 18, 1983.

Any person or agency, as defined in Iowa Code section 17A.2, subsections 1 and 6, may submit written comments or written requests to make an oral presentation. Such comments or requests shall clearly state:

1. The name, address and phone number of the person or agency authoring the comment or request.
2. The title and number of the proposed rule as given in this notice which is the subject of the comment or request. (Comments pertaining to a specific section of a proposed rule shall reference that section by subrule, paragraph, and subparagraph as appropriate.)
3. With regard to requests to make an oral presentation, the general content shall be indicated.

TRANSPORTATION, DEPARTMENT OF[820] *(cont'd)*

Pursuant to the authority of Iowa Code section 307.10, the Department of Transportation hereby gives Notice of Intended Action to amend 820—[07,F] chapter 1 entitled "Interstate Registration and Operation of Vehicles".

Items 1, 2, 3 and 5 correct references to form numbers.

Item 4 amends the rule on temporary prorate permits by adding a cancellation penalty for carriers who do not comply with the conditions of the permit.

Item 6 rescinds a rule which is merely repetitious of the Iowa Code.

These rule amendments are intended to implement Iowa Code chapter 326.

Proposed rulemaking actions:

07 MOTOR VEHICLE DIVISION

Pursuant to the authority of Iowa Code section 307.10, rules 820—[07,F] chapter 1 entitled "Interstate Registration and Operation of Vehicles" are hereby amended.

ITEM 1. Paragraph **1.3(1)**"a" is amended as follows:

a. The proper forms for registration, either original, Forms 442016 ~~and 442013~~ (in the case of a vehicle to be added at the beginning of the year), or supplemental Forms 442015 ~~and 442013~~ (in the case of a vehicle to be added during the year), shall be completed by the carrier and sent to the office of operating authority at the address ~~specified~~ in *subrule* 1.3(6). ~~(a~~See *subrule* 1.3(4) for application instruction.~~).~~

ITEM 2. Paragraph **1.3(5)**"a" is amended as follows:

a. The original application for prorate registration is made on Forms 442013~~4~~, ~~442015~~ and 442016. (~~a~~*A*dditions or deletions to a prorate fleet, after the original application is filed, are made on Forms ~~442013~~ ~~and~~ 442015.~~).~~

ITEM 3. Subparagraph **1.3(5)**"a"(2) is amended as follows:

(2) The carrier shall then delete ~~the~~ ~~units~~ from the renewal form *the units* that it does not wish to license for the coming year. Application for registration of additional vehicles for the coming year cannot be made on the renewal application, but must be submitted on Forms 442013~~4~~ and 442016.

ITEM 4. Rule 820—[07,F]1.6(326) is amended as follows:

820—[07,F]1.6(326) Iowa temporary prorate permits. To facilitate the movement of vehicles in interstate or intrastate commerce by the Iowa-based carrier ~~who~~ *that* has registered its vehicles on a prorated basis, ~~Iowa~~ *the department* may issue the "Iowa Temporary Prorate Permit," which may be completed by the carrier at the time the vehicle is added to the fleet, whether by lease or by purchase. The ~~"Iowa~~ *t*~~T~~emporary *p*~~P~~rorate *p*~~P~~ermit~~"~~ is purchased in advance for a fee prescribed by the office of operating authority not to exceed two dollars. The permit must be completed in triplicate: One copy to be retained by the carrier, one copy to be carried in the cab of the vehicle and ~~the~~ ~~third~~ *one* copy to be mailed to ~~this office~~ ~~at~~ the address ~~specified~~ in *subrule* 1.3(6). Temporary prorate permits are valid for forty-five days from the date the permit is completed and are not renewable. The carrier shall immediately prepare a supplemental application, Forms ~~442013~~ ~~and~~ 442015, to qualify the vehicle in question and shall return the office copy of the temporary prorate permit with the supplement within five days of the date the permit is completed by the carrier. *Any carrier that has not complied with the conditions for issuance of the "Iowa Temporary Prorate Permit" shall be subject to cancellation of temporary prorate permit privileges for a twelve-month period.*

This rule is intended to implement *Iowa Code* section 326.37~~; The Code~~.

ITEM 5. Rule 820—[07,F]1.9(326) is amended as follows:

820—[07,F]1.9(326) Voluntary cancellation of prorate registration application. A carrier may cancel an application for prorate registration, either original (Forms ~~442013,~~ 442014 and 442016) or supplemental (Forms ~~442013~~ ~~and~~ 442015), by ~~notifying~~ ~~this~~ *written notice to the* office *of operating authority* at the address ~~specified~~ in *subrule* 1.3(6) ~~in writing~~ within fifteen days of the date of receipt of the application by ~~this~~ *that* office. The letter shall state the reason for cancellation and shall be signed by the carrier or its representative. The Iowa resident carrier shall be required to include in the written notification, the current licensing status and owner of the vehicle(s) ~~or vehicles~~ for which request for voluntary cancellation is being made. If ~~such~~ notification is not received, all registration fees shall be paid in full.

This rule is intended to implement *Iowa Code* section 326.6~~; The Code~~.

ITEM 6. Rescind rule **820—[07,F]1.15(326)** and reserve the number for future use.

ARC 3454

TRANSPORTATION, DEPARTMENT OF[820]

07 MOTOR VEHICLE DIVISION

NOTICE OF INTENDED ACTION

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

On February 1, 1983, at their regular meeting at the Department of Transportation Complex, 800 Lincoln Way, Ames, Iowa, the Transportation Commission shall consider for adoption the administrative rules as described herein. Such action shall be in accord with the Iowa administrative procedure Act, Iowa Code chapter 17A, and Department of Transportation rules 820—[01,B] chapter 1, "Administrative Rules".

Written comments concerning these proposed rules or written requests to make an oral presentation at the above specified commission meeting shall be addressed to the Department of Transportation, Office of Financial/Operational Analysis, 800 Lincoln Way, Ames, Iowa 50010. Written comments or written requests to make an oral presentation may be accepted if received by the Department of Transportation on or before January 18, 1983.

Any person or agency, as defined in Iowa Code section 17A.2, subsections 1 and 6, may submit written comments or written requests to make an oral presentation . Such comments or requests shall clearly state:

TRANSPORTATION, DEPARTMENT OF[820] *(cont'd)*

1. The name, address and phone number of the person or agency authoring the comment or request.
2. The title and number of the proposed rule as given in this notice which is the subject of the comment or request. (Comments pertaining to a specific section of a proposed rule shall reference that section by subrule, paragraph, and subparagraph as appropriate.)
3. With regard to requests to make an oral presentation, the general content shall be indicated.

Pursuant to the authority of Iowa Code section 307.10, the Department of Transportation hereby gives Notice of Intended Action to amend 820—[07,F] chapter 3 entitled "Truck Operators and Contract Carriers".

The letter "P" is being deleted from the required vehicle identification marking.

This rule amendment is intended to implement Iowa Code chapter 327.

Proposed rulemaking actions:

07 MOTOR VEHICLE DIVISION

Pursuant to the authority of Iowa Code section 307.10, the rules 820—[07,F] chapter 3, entitled "Truck Operators and Contrct Carriers" are hereby amended.

Paragraph **3.3(1)**"c" is amended to read as follows:

c. Ia. D.O.T. ~~P~~ .....

ARC 3455

TRANSPORTATION, DEPARTMENT OF[820]

07 MOTOR VEHICLE DIVISION

NOTICE OF INTENDED ACTION

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

On February 1, 1983, at their regular meeting at the Department of Transportation Complex, 800 Lincoln Way, Ames, Iowa, the Transportation Commission shall consider for adoption the administrative rules as described herein. Such action shall be in accord with the Iowa administrative procedure Act, Iowa Code chapter 17A, and the Department of Transportation rules 820—[01,B] chapter 1, "Administrative Rules".

Written comments concerning these proposed rules or written requests to make an oral presentation at the above specified commission meeting shall be addressed to the Department of Transportation, Office of Financial/Operational Analysis, 800 Lincoln Way, Ames, Iowa 50010. Written comments or written requests to make an oral presentation may be accepted if received by the Department of Transportation on or before January 18, 1983.

Any person or agency, as defined in Iowa Code section 17A.2, subsections 1 and 6, may submit written comments or written requests to make an oral presentation. Such comments or requests shall clearly state:

1. The name, address and phone number of the person or agency authoring the comment or request.
2. The title and number of the proposed rule as given in this notice which is the subject of the comment or request. (Comments pertaining to a specific section of a proposed rule shall reference that section by subrule, paragraph, and subparagraph as appropriate.)
3. With regard to requests to make an oral presentation, the general content shall be indicated.

Pursuant to the authority of Iowa Code section 307.10, the Department of Transportation hereby gives Notice of Intended Action to amend 820—[07,F] chapter 7 entitled "Interstate Motor Vehicle Fuel Permits and Transport Carrier Registration".

Item 1 adopts the provisions of the International Fuel Tax Agreement which was authorized by 1982 Iowa Acts, chapter 1071 and has been adopted by the department. The agreement simplifies fuel tax reporting and collection for the trucking industry.

Item 2 implements 1982 Iowa Acts, chapter 1045, which authorized the department to reissue a fuel tax permit canceled for cause and to impose a ninety-day waiting period prior to reissuance. This amendment specifies the instances in which the waiting period will be imposed.

Item 3 amends the implementation clause.

Item 4 explains that the postmark of the U.S. Postal Services is the one used to determine timely filing of fuel tax reports.

Item 5 is an address correction.

Item 6 implements 1982 Iowa Acts, chapter 1180, which allows fuel tax permittees to pay ninety percent of the taxes due and avoid a penalty, although the remainder due will accrue interest as provided by law.

These rule amendments are intended to implement Iowa Code chapter 324.

Proposed rulemaking actions:

07 MOTOR VEHICLE DIVISION

Pursuant to the authority of Iowa Code section 307.10, rules 820—[07,F] chapter 7 entitled "Interstate Motor Vehicle Fuel Permits and Transport Carrier Registration" are hereby amended.

ITEM 1. Strike all of rule 820—[07,F]7.2(324) and insert in lieu thereof the following:

820—[07,F]7.2(324) Organizational data. The office of operating authority of the department's motor vehicle division is authorized, pursuant to Iowa Code chapter 324, division III, to:

7.2(1) Issue permanent or single trip interstate fuel permits.

7.2(2) Compute and collect interstate motor fuel taxes on fuel purchased outside Iowa and used within Iowa.

7.2(3) Issue refunds for fuel taxes paid on motor fuel and special fuel purchased in Iowa and not used in this state.

7.2(4) Administer agreements with other jurisdictions for the collection and refund of interstate motor fuel tax. In accordance with this, the department has adopted the international fuel tax agreement and all of its provisions are hereby incorporated in this chapter of rules. A copy of the agreement may be obtained by writing to the department at the address given in paragraph 7.3(4)"a".

This rule is intended to implement Iowa Code section 324.51, and 1982 Iowa Acts, chapter 1071.

ITEM 2. Subrule 7.3(6) is amended to read as follows:

7.3(6) Cancellation *and reissuance.*

TRANSPORTATION, DEPARTMENT OF[820] *(cont'd)*

a. If ~~a~~ *all* vehicles which ~~is~~ *are* operated under a permanent permit ~~is~~ *are* consistently operated only within the state or only outside ~~of~~ the state, the permittee shall request that the permit be canceled *for nonuse.*

b. A permanent fuel permit which has been canceled for cause in accordance with Iowa Code section 324.68 may be reissued. As a condition of reissuance, a ninety-day waiting period shall be required if:

(1) The permittee owed taxes, penalty or interest at the time of cancellation.

(2) The permittee filed one or more late quarterly reports.

(3) The permittee failed to maintain with the department an accurate, current mailing address for the purpose of receiving and completing quarterly reports.

ITEM 3. Amend the implementation clause for rule **820—[07,F]7.3(324)** as follows:

This rule is intended to implement *Iowa Code* sections 324.52, 324.53, 324.54, ~~and~~ 324.58, ~~The Code~~ *and 324.68 as amended by 1982 Iowa Acts, chapter 1045.*

ITEM 4. Paragraph **7.4(6)**"a" is amended to read as follows:

a. The interstate fuel tax report required under *Iowa Code* section 324.54~~, The Code,~~ shall be deemed timely filed if postpaid, properly addressed, and postmarked *by the United States postal service* on or before midnight of the filing deadline. If the filing date falls on a Saturday, Sunday, or legal holiday, the next secular or business day shall be the filing deadline.

ITEM 5. Paragraph **7.4(6)**"b" is amended as follows:

b. All reports and remittances shall be addressed to: Iowa Department of Transportation, P.O. Box ~~1792~~ *10345,* Des Moines, Iowa 50306.

ITEM 6. Strike all of subrule 7.4(8) and insert in lieu thereof the following:

7.4(8) Penalties.

a. When a person fails to file a report by the due date or fails to remit at least ninety percent of the taxes by the due date, a penalty of five percent of the taxes due shall be added for each month or part of a month that the failure continues, up to a maximum of twenty-five percent.

b. If the quarterly report shows no taxes owed or a refund due, the penalty for filing a late report is ten dollars.

NOTICE - USURY

In accordance with the provisions of 1979 Iowa Acts, chapter 130, the Superintendent of Banking has determined that the maximum lawful rate of interest provided for in Iowa Code section 535.2, as amended, shall be:

March 1, 1981 - March 31, 1981	14.50%
April 1, 1981 - April 30, 1981	15.25%
May 1, 1981 - May 31, 1981	15.00%
June 1, 1981 - June 30, 1981	15.75%
July 1, 1981 - July 31, 1981	16.00%
August 1, 1981 - August 31, 1981	15.50%
September 1, 1981 - September 30, 1981	16.25%
October 1, 1981 - October 31, 1981	17.00%
November 1, 1981 - November 30, 1981	17.25%
December 1, 1981 - December 31, 1981	17.25%
January 1, 1982 - January 31, 1982	15.50%
February 1, 1982 - February 28, 1982	15.75%
March 1, 1982 - March 31, 1982	16.50%
April 1, 1982 - April 30, 1982	16.50%
May 1, 1982 - May 31, 1982	15.75%
June 1, 1982 - June 30, 1982	15.75%
July 1, 1982 - July 31, 1982	15.50%
August 1, 1982 - August 31, 1982	16.25%
September 1, 1982 - September 30, 1982	16.00%
October 1, 1982 - October 31, 1982	15.00%
November 1, 1982 - November 30, 1982	14.25%
December 1, 1982 - December 31, 1982	13.00%
January 1, 1983 - January 31, 1983	12.50%

ARC 3459

HOUSING FINANCE AUTHORITY[495]

Pursuant to the authority of Iowa Code section 220.5, subsection 15, the Iowa Housing Finance Authority emergency adopts rules by adding a new rule 4.5(220) to the Iowa Administrative Code establishing a public hearing provision as required by federal law. The present rules will be renumbered accordingly. The Tax Equity and Fiscal Responsibility Act of 1982 added a new section 103(k) to the United States Internal Revenue Code of 1954, which requires that all Industrial Development Bonds issued after January 1, 1983, be approved by an elected official of the state after a public hearing following reasonable public notice. This requirement is applicable to bonds issued by IHFA to finance Small Business Loans, and others. New rule 4.5(220) establishes a procedure for the approval of an elected official after hearing and notice.

In compliance with Iowa Code section 17A.4(2), the Authority finds that public notice and participation is impracticable or contrary to the public interest in that delays which said notice and participation would require would prevent the Authority from issuing any additional bonds for Small Business Loans after January 1, 1983, until the rules were finally adopted, thus denying to many Iowans the benefits of tax-exempt financing under a program established by the Iowa Legislature. It would also deny Iowans the benefits of tax-exempt financing available to citizens of other states.

The Authority also finds, pursuant to section 17A.5(2) "b"(2) that the normal effective date of this rule 35 days after publication is waived and the rules be made effective on January 1, 1983, as they confer a benefit and remove a restriction on a segment of the public. This rule permits the continuation of the Small Business Loan Program which is a benefit to the public, which without this rule would have to be suspended until a rule is adopted.

The Housing Finance Authority adopted this rule at a regular open meeting held November 17, 1982.

This rule implements 1982 Iowa Acts, chapter 1173, and Section 103(k), United States Internal Revenue Code of 1954, as amended, and regulations promulgated thereunder. This rule has also been filed under Notice of Intended Action as ARC 3460 (IAB 12/22/82).

ITEM 1. The Housing Finance Authority adopts new rule 4.5(220) as follows:

495—4.5(220) Public hearing and approval.

4.5(1) Public hearing. After January 1, 1983, the authority will not issue a bond for a specific project unless, prior to issuance, the authority has conducted a public hearing conforming to the applicable requirements of the United States Internal Revenue Code of 1954 and the regulations promulgated thereunder. The hearing shall be preceded by a notice thereof published at least fourteen days prior to the date of the hearing in a newspaper published and of general circulation in the county where the project is located. The notice shall include but not be limited to the date, time and place of the hearing, the name of the project sponsor, and a general description of the project.

The hearing shall be held at the authority's offices in Des Moines, or other location stated in the notice, unless at or prior to the time scheduled for the hearing, the authority receives a written request that a local hearing be held. In the event a local hearing is requested, the previously scheduled hearing shall be canceled, and notice of a hearing in the local area shall be published in the time and manner stated above. The local hearing shall be held at the date, time and place specified in the new notice, which time and place shall be reasonably convenient to persons affected by the project.

The public hearing may be held by a staff member or board member of the authority.

4.5(2) Approval of elected official. After January 1, 1983, the authority will not issue a bond for a specific project unless, prior to issuance, the governor or another elected official of the state designated by the governor, shall approve the issuance of the bond. Following the public hearing opportunity referred to in subrule 4.5(1), the authority shall prepare and send to the governor's office, or the office of the elected official of the state designated by the governor, a statement describing each bond or series of bonds which it proposed to issue, along with a summary of the public comments received with respect thereto, if any.

This rule is intended to implement Iowa Code chapter 220, as amended by 1982 Iowa Acts, chapter 1173, and Section 103(k), United States Internal Revenue Code of 1954, as amended, and regulations promulgated thereunder.

ITEM 2. Existing rules **4.5(220)** to **4.7(220)** are renumbered as 4.6(220) to 4.8(220)

[Filed emergency 12/3/82, effective 1/1/83]
[Published 12/22/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 12/22/82.

ARC 3444

PHARMACY EXAMINERS, BOARD OF[620]

Pursuant to the authority of the 1982 Iowa Acts, chapter 1260, section 96, the Iowa Board of Pharmacy Examiners on November 9, 1982, adopted the following rules which will amend Chapter 6 "Minimum Standards for the Practice of Pharmacy" to allow for the review of all financial records in pharmacies licensed under Iowa Code section 155.10.

In compliance with Iowa Code section 17A.4(2), the board finds that public notice and participation is not necessary in that the 1982 Iowa Acts, chapter 1260, provides that the rules may be adopted under 17A.4(2).

The board also finds, pursuant to Iowa Code section 17A.5(2)"b"(1), that the formal effective date of this rule, thirty-five days after publication, should be waived and the rule be made effective on December 22, 1982, in that the rule conveys a benefit to the public by allowing the provisions of 1982 Iowa Acts, chapter 1260, section 96, to be enforced at an earlier date.

The Board of Pharmacy Examiners adopted this rule at a regular meeting on November 9, 1982.

Rule 620—6.10 (69GA,ch 1260) is added as follows:

620—6.10 (69GA,ch 1260) Medical Assistance Act participation. Pharmacies licensed under Iowa Code section 155.10 who reduce copayments to participants in private, third-party payor prescription drug insurance or benefit plans shall reduce their total charges to the medical assistance program by an amount equal to the reduction in copayment. Pharmacies who reduce charges to persons participating in private, third-party payor prescription drug insurance or benefit plans by the distribution of free merchandise directly or indirectly through coupon or rebate programs shall provide the same reductions to the beneficiaries of the Medical Assistance Act, Iowa Code chapter 149A, except that payments of free merchandise or its cash equivalent shall be made directly to the state agency administering the Medical Assistance Act. The state agency responsible for administering the Medical Assistance Act shall be deemed to be participating in such coupon or rebate programs immediately upon their offering and shall continue for the full period of their existence. Determination of the cash equivalent of free merchandise will be based upon the involved pharmacies invoice cost of that merchandise. Free merchandise may be distributed directly to Medical Assistance Act recipients in an amount which reflects the copayments collected from these recipients.

6.10(1) Definitions.

a. Third-party payor prescription drug insurance or benefit programs do not include the following:

(1) Medicare;

(2) Major medical programs;

(3) Programs which reimburse pharmacies on any basis other than fee for service plus drug cost.

b. Prescription drugs shall include any and all drugs which are reimbursed by third-party payor prescription drug insurance or benefit programs and the medical assistance program. For the purposes of this chapter, the definition of drugs and medicines in Iowa Code section 155.3, subsection 1, shall apply to prescription drugs.

c. The secretary shall mean the executive secretary of the Iowa board of pharmacy examiners.

6.10(2) Maintenance and availability of records.

a. Pharmacies who participate in private, third-party payor prescription drug insurance programs and the medical assistance program shall maintain financial and other records which include but are not limited to the following:

(1) Documentation relative to the collection of patient copayments.

(2) Billings to third-party payor prescription drug insurance or benefit programs.

(3) Payments received from third-party payor prescription drug insurance or benefit programs.

b. The records covered in 6.10(2)"a" shall be maintained for a period of two years.

c. The records required by 6.10(2)"a" shall be made available at the address of the pharmacy within seventy-two hours of receipt of a written request from the secretary.

6.10(3) Discipline.

a. Noncompliance with the provisions of these rules will result in the initiation of proceedings as detailed in board rule 9.2(17A, 147, 155, 203A, 204, 205). Any disciplinary action taken as the result of an administrative hearing will comply with the provisions in chapter 10 of board rules with the exception that the board shall require restitution of any overpayments made by the state medical assistance program. Such restitution shall be made directly to the medical assistance program and the state agency responsible for administering that program.

b. Notification of any disciplinary action decision shall be made to the state agency responsible for administering the medical assistance program. A copy of the decision of the board shall constitute notification.

[Filed emergency 12/2/82, effective 12/22/82]
[Published 12/22/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 12/22/82.

ARC 3449

AGING, COMMISSION ON[20]

Pursuant to the authority of Iowa Code section 17A.3, the Iowa Commission on the Aging amends rules 20—8.45(249B) to 20—8.53(249B), Iowa Administrative Code, "Nutrition Services". The commissioners adopted the amended rules at their regular meeting on September 17, 1982, after considering oral comments submitted at four public hearings and comments received in writing.

The amended rules were published as Notice of Intended Action in the Iowa Administrative Bulletin on July 21, 1982, as ARC 3075.

The rules provide guidance to area agencies on aging, subcontractors and providers on the provision of both congregate and home-delivered meals and related services.

Changes in the rules include a reorganization of rules, and simplification of language relating to meal standards. A definition of "meal ratio" will be included in 20—1.7(249B), "Definitions", in a subsequent filing.

Substantial wording in subrule 8.45(1) is deleted, and replacement wording is inserted in 8.45(2) and 8.45(3). Subrule 8.45(4) is deleted in its entirety. 8.46 and 8.50 are no longer reserved and new wording is inserted. Rules 8.47, 8.49, and 8.51 are deleted in their entirety and new wording is inserted. 8.52 and 8.53 are no longer reserved, and new wording is inserted.

These rules implement Iowa Code chapter 249B.

These rules shall become effective January 26, 1983.

ITEM 1. Subrule 8.45(1) is amended by rescinding a phrase and paragraphs "a", "b" and "c".

8.45(1) Purpose of making awards. The area agency may award nutrition services funds to provide meals and other nutrition services, including outreach and nutrition education to older persons. ~~The area agency must assure that funds are used to:~~

~~a. Provide meals in a congregate nutrition site, and provide home-delivered meals based upon a determination of need.~~

~~b. Provide other nutrition services, to assure that the maximum number of eligible individuals have the opportunity to participate. Other services include outreach activities with emphasis on frail, those with the greatest economic and social need, and the isolated.~~

~~c. Provide a nutrition education program planned by a registered dietitian or nutritionist, including the nutritionist employed by the state agency, who has determined the nature and extent of nutrition needs and problems of the target population. The program is to be based on desired objectives and conducted on a consistent basis by personnel trained to provide quality service.~~

ITEM 2. Subrules 8.45(2) and 8.45(3) are rescinded in their entirety and replaced with the following:

8.45(2) Assessment of need. The area agency must assess the level of need for congregate and home-delivered meals within the planning and service area and must base the awards on that assessment.

8.45(3) Use of funds. The area agency must assure that funds are used to:

a. Provide meals in a congregate nutrition site, and provide home-delivered meals based upon a determination of need.

b. Provide other nutrition services including outreach activities to assure that the maximum number of eligible individuals, with emphasis on the frail, those with greatest social and economic need, and the isolated will have the opportunity to participate.

c. Provide a nutrition education program planned by a registered dietitian or nutritionist, including the dietitian employed by the state agency, who has determined the nature and extent of nutrition needs and problems of the target population. The program is to be based on desired objectives and conducted on a consistent basis by personnel trained to provide quality service.

ITEM 3. Subrule 8.45(4) is rescinded.

ITEM 4. Rule 20—8.46 is no longer reserved. The following is inserted:

20—8.46(249B) Selection of nutrition service providers.

8.46(1) General rule. The area agency may make awards for congregate and home-delivered nutrition services to a provider that furnishes either or both types of services. The area agency shall make awards only to providers that meet the requirement of rules 8.50(249B) and 8.51(249B).

8.46(2) Existing nutrition services projects. On September 30, 1978, area agencies on aging were the recipients of subgrants to provide nutrition services throughout the state of Iowa. Therefore, 45 CFR §1321.143(b) is not applicable to the state of Iowa.

8.46(3) Preference. The area agency must give preference in making awards for home-delivered meals to the public, private nonprofit and voluntary organizations which demonstrated an ability to provide home-delivered meals efficiently and reasonably as defined in rule 8.2(249B), and have furnished assurances to maintain efforts to solicit voluntary support and not to use funds received under the Act to supplant funds from nonfederal sources pursuant to rule 8.12(249B).

ITEM 5. Rule 20—8.47(249B) is rescinded and replaced with the following:

20—8.47(249B) Registered dietitian or nutritionist. Each area agency must utilize the services of a registered dietitian or nutritionist to provide technical assistance in areas of food service management, and other nutrition services.

ITEM 6. Rule 20—8.49(249B) is rescinded in its entirety and the following is inserted in lieu thereof:

20—8.49(249B) Special requirements for area agencies related to nutrition services.

8.49(1) Contracts. The area agency must maintain a contract system according to procedures issued by the executive director to ensure that congregate and home-delivered nutrition service providers perform in accordance with terms, conditions and specifications for funding. At a minimum, the procedures must require that the contract includes meal pattern, use of project income, length of contract, cost per unit, and performance requirements to ensure accountability and monitoring.

8.49(2) Meal performance by area agencies.

a. The area agency must provide a number of meals which results in a planning and service area meal ratio of at least eighty percent of the statewide meal ratio.

b. At least ninety-five percent of the total number of meals served by an area agency during the fiscal year must be served to persons age sixty or older or their spouse.

8.49(3) Noncompliance.

a. When a grantee's performance falls below the planning and service area standards, the commission will:

1. Notify the grantee of the performance deficiency;

2. Provide technical assistance in determining the reasons for the deficiency;

3. Assist the grantee in developing a specific action plan for correcting the deficiency within twelve months;

4. Monitor the grantee's progress towards compliance;

5. Consider the grantee ineligible for discretionary funds.

b. When a grantee's performance falls below the planning and service area standards, the commission may:

1. Include a probationary condition on the next approved annual notification of grant award if the deficiency has not been corrected;

2. Initiate withdrawal of area agency grantee designation as provided in rule 20—5.2(249B) if the grantee has not achieved compliance or demonstrated significant progress towards compliance in the first six months of the probationary period.

8.49(4) County meal performance.

a. The area agency must in each county:

1. Provide for hot or other appropriate meals at least once a day, five or more days a week with a county meal ratio of at least forty percent of the statewide meal ratio; or

2. Provide meals three or four days a week with a county meal ratio of at least eighty percent of the statewide meal ratio.

b. Noncompliance. When a grantee's performance falls below these standards, the commission will:

1. Notify the grantee of the performance deficiency;

2. Provide technical assistance in determining the reasons for the deficiency;

3. Assist the grantee in developing a specific action plan for correcting the deficiency within twelve months;

4. Monitor the grantee's progress towards compliance; and the commission may include a probationary condition on the next approved annual notification of grant award which will require compliance within twelve months or termination by the area agency of nutrition service in the noncompliant county.

8.49(5) Food borne illness. The area agency must develop written procedures for handling suspected cases of food borne illnesses. The food service provider must report the occurrence of a food borne illness or suspected case to the area agency within twelve hours. The area agency must then notify the state agency within twelve hours.

8.49(6) Evaluation of providers. Conduct, record and keep on file systematic on-site evaluations of nutrition service providers on a semiannual basis in order to document program compliance and analyze areas for ongoing monitoring.

8.49(7) Requirements for opening or closing congregate nutrition sites. The executive director must be notified in writing thirty days before the area agency may open, relocate, or terminate a nutrition site.

ITEM 7. Rule 20—8.50 is no longer reserved, and the following is inserted:

20—8.50(249B) Congregate nutrition services.

8.50(1) Eligibility.

a. A person age sixty or older and the spouse of the person, regardless of age, are eligible participants of congregate nutrition services.

b. Noneligible individuals may eat at a congregate nutrition site if that does not deprive an eligible participant of a meal in accordance with subrule 8.11(5).

8.50(2) Requirements for area agencies. In making awards for congregate nutrition service, the area agency must:

a. Select and designate as a congregate meal site any location where meals are served in a group setting with federal AoA nutrition funds or contributions from an AoA federal nutrition program, or both. Meal sites shall be located as close as possible to the majority of eligible older persons.

b. Provide for hot or other appropriate meals at least once a day, five or more days a week.

c. Require hot or other appropriate meals to be provided in each congregate nutrition site at least once a day, three or more days a week, with the exception that in a county where there is a site providing meals five or more days a week, other sites may be established which provide meals one or more days a week with the provision that efforts are made each year and documented to the state agency to increase the number of serving days to a minimum of three days each week.

d. Assure that any facility housing an AoA program or service will fully comply with federal, state or local health, fire, sanitation, accessibility, and licensure requirements. All congregate nutrition sites must be inspected by the department of agriculture and must have a current restaurant license posted in the congregate nutrition site.

e. Have procedures developed to handle weather and emergency situations at the congregate nutrition sites.

f. Provide information and referral services, health and welfare counseling, recreation activities, and access to nutrition services to participants when such services are needed and not available.

g. Where feasible and appropriate, make arrangements for the availability of food to older persons in weather and disaster related emergencies.

h. Noncompliance. When a grantee's performance falls below these standards, the commission will:

1. Notify the grantee of the performance deficiency;

2. Provide technical assistance in determining the reasons for the deficiency;

3. Assist the grantee in developing a specific action plan for correcting the deficiency within twelve months;

4. Monitor the grantee's progress towards compliance; and the commission may include a probationary condition on the next annual approved notification of grant award which will require compliance within twelve months or termination by the area agency of nutrition service in the noncompliant nutrition site.

8.50(3) Congregate nutrition services provider requirements. In making awards for congregate nutrition services, the area agency must require the service providers to assess the individual need for home-delivered meals among participants.

ITEM 8. Rule 20—8.51(249B) is rescinded in its entirety and the following inserted in lieu thereof:

20—8.51(249B) Home-delivered nutrition services.

8.51(1) Eligibility. A person age sixty or over who is homebound by reason of illness, incapacitating disability, or is otherwise isolated, is eligible to receive a home-delivered meal.

a. The spouse of the older person, regardless of age or condition, may receive a home-delivered meal, if according to criteria determined by the area agency, receipt of the meal is in the best interest of the homebound older person.

b. The area agency or the home-delivered meals provider, subject to area agency approval shall establish procedures for the determination of an individual's eligibility for home-delivered nutrition services, including specific criteria for:

1. Initial and subsequent six-month assessments of the individual's eligibility for home-delivered meals;
2. Determination of the number of days per week the individual has a need for home-delivered meals;
3. Determination of the individual's need for other home-delivered nutrition services.

8.51(2) Requirements for area agencies. In making awards for home-delivered nutrition services, the area agency must:

a. Provide for home-delivered meals at least once a day, five or more days a week.

b. Where feasible and appropriate, make arrangements for the availability of meals to older persons in weather and disaster related emergencies.

8.51(3) Requirements for home-delivered meal providers. In making awards for home-delivered meals, the area agency must require the service providers to:

a. Provide other nutrition and supportive services either directly or through referral to meet the need of the homebound individual.

b. Provide nutrition education for recipients that includes emphatic instruction in the storage and preparation of the home-delivered meal.

c. Assess, every six months, the individual need for home-delivered meals among participants provided home-delivered meals.

d. Provide for home-delivered meals to participants according to the frequency of need determined by procedures required in 8.51(1)"b". Meals may be hot, cold, frozen, dried, canned or supplemental foods with a satisfactory storage life. The provider is not required to provide meals more than five days per week but is encouraged to do so.

e. With the consent of the older person or his or her representative, bring to the attention of appropriate officials for follow-up conditions or circumstances which place the older person or the household in imminent danger. The area agency should make provision for other agencies to provide services to the homebound elderly person to reduce isolation and dependency.

ITEM 9. Rules 20—8.52 and 20—8.53 are no longer reserved. Insert the following:

20—8.52(249B) Food requirements for all nutrition service providers.

8.52(1) Food standards. The area agency must require that the service provider, when purchasing food and preparing and delivering meals, follows appropriate procedures to preserve nutritional value and food safety.

a. Each service provider must establish and implement procedures on handling foods prepared for a meal but not served. The procedures shall address which foods may be saved, which foods need to be destroyed, and instructions for cooling and storing foods for reuse.

b. All raw fruits and vegetables and other foods utilized must be free from spoilage, filth or contamination and must be safe for human consumption.

c. Foods prepared, canned or preserved in the home shall not be used. The use of hermetically sealed noncommercially packaged foods is prohibited because of the history of such food causing food borne illness.

d. Standardized tested quantity recipes, adjusted to yield the number of servings needed, shall be used to achieve the consistent and desirable quality and quantity of meals.

e. Leftover foods shall not be given away or sold.

8.52(2) Preparation, handling and serving. The nutrition service providers must comply with all state and local health laws and ordinances concerning preparation, handling and serving food.

8.52(3) Menus.

a. Each meal served by the nutrition service provider must contain at least one-third of the current recommended dietary allowances as established by the food and nutrition board of the National Academy of Sciences-National Research Council.

b. All menus must be planned for a minimum of four weeks, certified in writing by the dietitian/nutritionist whose services are utilized by the area agency and submitted to the state agency for review at least two weeks prior to the initial use of the menu. For purposes of audit, area agencies shall keep on file for a period of one year copies of the certified menus used.

c. All certified menus must be posted in a conspicuous location in each congregate meal site. The certified menus may be modified occasionally if the provisions of 8.52(3) are maintained and a dietitian/nutritionist or nutrition director is consulted prior to the change.

8.52(4) Special diet menus. The area agency must assure that the nutrition service provider provides special menus, where feasible and appropriate, to meet the particular dietary needs arising from the health requirements, religious requirements, or the ethnic backgrounds of eligible individuals.

a. The provider must use the following criteria to determine feasibility and appropriateness:

1. Sufficient numbers of persons exist who need the special menus to make their provision practical;
2. Skills and food necessary to provide the special menus are available.

b. Special diet menus must be planned under the supervision of a registered dietitian in accordance with a current diet manual approved by the executive director and supplied to each area agency by the state agency. Certified menus must be submitted to the state agency at least two weeks prior to the initial use of the menus.

c. A written physician's order for each individual requesting a special diet must be obtained prior to receipt of the meal, and kept on file where the meal is prepared and served. The order must be interpreted by a registered dietitian and renewed periodically by the dietitian and the individual's physician.

8.52(5) Special utensils. The service provider must have available for use, upon request, appropriate food containers and utensils for blind and handicapped participants.

20—8.53(249B) USDA food assistance programs.

8.53(1) USDA commodities and cash.

a. The area agency must have an agreement with the state agency to receive USDA commodities, cash or a combination of commodities and cash.

b. The commission shall allocate all food, cash or the combination of food and cash received from USDA to

area agencies based on each agency's proportion of the total number of meals served to eligible recipients in the state.

c. The area agency must comply with the requirements of 7 CFR, Part 250, for participation in the USDA program.

d. The area agency must maintain perpetual inventories of all USDA foods at each site and storage area, and must submit a quarterly areawide inventory to the state agency within thirty days after the reporting period.

e. Nutrition service providers must accept and use appropriate USDA foods made available by the area agency, and must assure appropriate and cost effective arrangements for the transportation, storage, inventory and use of the food.

f. USDA commodities shall be consumed as food only and shall not be sold, exchanged, traded, transferred, destroyed, or otherwise disposed of for any reason without prior approval from the executive director.

g. The area agency must report the loss, theft, damage, spoilage or infestation of USDA commodities to the state agency within five working days to initiate claim action.

h. An area agency which receives cash-in-lieu of commodities must spend all cash received from the USDA to purchase United States agricultural food items.

8.53(2) Food stamp program. The area agency and nutrition service providers must assist participants in taking advantage of benefits available to them under the food stamp program by providing current information to participants in both the congregate and home-delivered meals program by co-ordinating activities with agencies responsible for administering the food stamp program and by being certified to accept, and accepting food stamps as contributions for meals.

20—8.54 Reserved.

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[Published 12/22/82]

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ARC 3450

AGRICULTURE DEPARTMENT[30]

Pursuant to the authority of Iowa Code sections 163.1 and 166C.6, the Iowa Department of Agriculture hereby adopts amendments to Chapter 16, "Livestock Diseases" (Aujeszky's Disease), Iowa Administrative Code.

The adopted rules provide for an Aujeszky's Disease Pilot Control Program area within Iowa. Program participants will permit swine in their herds to be tested, at program expense, for the purpose of determining the health status of the herd prior to the start of the program, and at intervals during the course of the program. Control program test results will remain confidential and will not precipitate a quarantine unless there is evidence of clinical disease on the premises or unless the test results are to be utilized for a regulatory or certification purpose.

The amendment also strikes from the existing rules the alternative certification/recertification procedure which provided for the testing of progeny over five months, equivalent to the number of breeding swine. This amendment is made to bring the existing rules in conformance with Title IX, Code of Federal Regulations, Part 85—Pseudorabies. (9 C.F.R., Section 85.1(ee) provides that the status of a qualified pseudorabies negative herd is maintained by an official pseudorabies test of twenty-five percent of the swine over six months of age every eighty to one hundred five days, and finding all swine so tested negative; 9 C.F.R., Section 85.1(ff) provides that the status of a pseudorabies control vaccinated herd is maintained by an official pseudorabies test of twenty-five percent of the offspring between sixteen and twenty weeks of age, and finding all swine so tested negative.)

The rules relating to the Aujeszky's Disease Pilot Control Program are being adopted as a result of the recommendations and input of the following organizations: Iowa Pork Producers, Secretary's Livestock Advisory Committee, Iowa Veterinary Medical Association (Swine Practitioners Committee), the Swine Health Committee of the Iowa Farm Bureau, and the Infectious Diseases of Swine Committee of the Livestock Conservation Institute.

Notice of Intended Action was published in the IAB on October 27, 1982, as ARC 3325. A public hearing on the proposed rules was held on December 17, 1982. The rules are identical to those published under notice.

These rules are intended to implement Iowa Code section 166C.3.

These rules will become effective January 26, 1983.

ITEM 1. Rule 30—16.149(163) is amended to read as follows:

30—16.149(163) Certification of Aujeszky's approved established herd. The owner or veterinarian shall make a request to the department for certification and recertification of an Aujeszky's disease-free established herd when the required tests are completed. Upon satisfactory proof that all requirements have been met, a certificate viable for ninety days shall be issued to the owner of the herd. The approved status of the herd will be recertified provided an alternating twenty-five percent (in sequence) of different animals from the herd are tested not less than eighty days or over one hundred five days after the original herd test; ~~or the number of progeny over five months of age, equivalent to the number of breeding swine, be tested negative;~~ or so as to meet minimum federal standards.

16.149(1) Initial certification. To qualify for initial certification, all the breeding stock six months of age or over ~~or the number of progeny over five months equivalent to the number of breeding swine~~ must have a negative Aujeszky's disease test. There must be a minimum of ten animals tested. All animals shall be tested in herds of less than ten animals. If the herd has had a reactor, in order to certify or recertify, the reactors must be kept separate and apart and the herd have two negative tests at least sixty days apart or so as to meet federal standards.

16.149(2) Recertification. Initial certification shall expire ninety days from date of issue and recertification will be based on a test conducted from eighty to one hundred five days after the last certification date and receipt by the department of proof that an alternating

quarter (in sequence) of the breeding swine herd, on retesting, had a negative Aujeszky's disease test; ~~or the number of progeny over five months of age equivalent to the number of breeding swine, be tested negative;~~ or so as to meet minimum federal standards. There must be a minimum of ten animals tested. All animals shall be tested in herds of less than ten animals.

ITEM 2. Subrule **16.151(3)**, paragraph "c", appearing in rule 30—16.151(163), relating to quarantines, is amended to read as follows:

c. Herds that are quarantined on the basis of positive serology only and in the absence of any clinical symptoms, may be released after six months following investigation by the department and a negative test of at least ten percent of the progeny ~~equal to the size of the breeding herd~~ (with a minimum of ten animals tested).

ITEM 3. Chapter 16 is amended by adding the following new rule, to appear in the division titled Aujeszky's Disease:

30—16.153(166C) Aujeszky's disease pilot control program. The department may establish a pseudorabies pilot control area within Iowa.

16.153(1) The area involved in the control program shall be designated at least ninety days prior to the start of the program and all livestock producers in the area shall receive a prior written notice of the program.

16.153(2) For an area to be acceptable for a control program, at least seventy-five percent of all swine producers residing within the area must sign a co-operative agreement with the state to participate in the program and the co-operators must represent at least ninety percent of the swine produced within the area.

16.153(3) All co-operators will permit sufficient swine in their herds to be tested at program expense to determine the health status of herd prior to the start of the program and at intervals during the course of the program as deemed necessary by the department.

16.153(4) The results of all tests performed for the benefit of the program shall be confidential and not result in quarantine action unless the test results are being utilized for regulatory or certification purposes, or there is evidence of clinical disease on the premise.

16.153(5) The cost of the program, testing and vaccination, shall be provided for by federal or state, or a combination of both funds. No indemnities will be paid for condemned animals.

16.153(6) In the event federal or state funds are not available, producers within a pilot control area may continue the program at their own expense under state supervision.

These rules are intended to implement Iowa Code section 166C.3.

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ARC 3451

AGRICULTURE DEPARTMENT[30]

Pursuant to the authority of Iowa Code sections 159.5(11) and 170.16, the Iowa Department of Agriculture hereby adopts amendments to Chapter 38, "Food Establishments", Iowa Administrative Code.

The rules provide standards for toilet and lavatory facilities for food establishments in accordance with Iowa Code section 170.16. In addition, the rules provide that licenses for food establishments are not transferable or refundable and must be posted no higher than eye level.

Notice of Intended Action was published in the IAB on October 27, 1982, as ARC 3326. The rules are identical to those published under notice.

These rules are intended to implement Iowa Code chapter 170.

These rules will become effective on January 26, 1983.

ITEM 1. Adopt a new rule appearing in reserved space 30—38.1 as follows:

30—38.1(170) License required. A license is not transferable or refundable. Any change in location or ownership requires a new license. A valid license shall be posted no higher than eye level in all establishments.

This rule is intended to implement Iowa Code section 170.2.

ITEM 2. Adopt a new rule appearing in reserved space 30—38.2 as follows:

30—38.2(170) Toilet and lavatory facilities. Food establishments shall provide at least one conveniently located toilet room with toilet and lavatory fixtures that is accessible to employees at all times and to patrons upon request. The floor of such room shall be of nonabsorbent, impermeable material. The walls and ceilings shall be of a material that can be easily kept in a sanitary condition.

38.2(1) Toilet rooms shall be well lighted and effectively vented to the outside of the building through the use of electrically powered units where necessary.

38.2(2) The toilet rooms shall have lavatories equipped with both hot and cold or tempered running water except in those establishments selling only prepackaged, nonhazardous food, coffee, sno-cones or soft drinks. All toilet rooms shall have hand cleansing soap or detergent and approved hand drying devices or individual sanitary towels. Toilet and lavatory fixtures shall be kept in a clean condition and in good repair.

38.2(3) Food establishments shall provide a lavatory or hand washing sink in meat processing or food preparation areas which is conveniently located for employees' use and is properly equipped with hot and cold running water, soap or detergent dispenser and individual towel cabinet.

This rule is intended to implement Iowa Code section 170.16.

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ARC 3456

COMMERCE COMMISSION[250]

The Iowa State Commerce Commission hereby gives notice, pursuant to Iowa Code section 17A.4 that on December 2, 1982, the Commission issued an order in

Docket No. RMU-82-14, In Re: Proposed Rules Providing For Customer Notification Of An Approaching Peak In Electric Power Demand, "Order Adopting Rules," amending Iowa Administrative Code 250—chapter 20. Notice of Intended Action was published in the September 1, 1982, Iowa Administrative Bulletin as ARC 3181.

The adopted rules contain several changes from the rules published in the Notice of Intended Action. In the finally adopted rules, the standard for determining when a general and direct notice of approaching peaks in electric power demand must be issued by investor-owned utilities is based upon the existence of certain weather conditions during the period of June 15 to September 15. All electric utilities must provide a written notice to their customers explaining the effects of reducing consumption during periods of high energy demand, but rural electric cooperatives and municipalities have been exempted from filing plans for notifying customers on days when peak demand occurs.

Other changes in the finally adopted rules are discussed in the Commission's "Order Adopting Rules" issued December 2, 1982.

The amendments to Iowa Administrative Code 250—chapter 20 are intended to implement Iowa Code section 476.2.

The rule will become effective Janaury 26, 1983, pursuant to Iowa Code section 17A.5.

Amend 250—chapter 20 by inserting a new rule 250—20.11(476) to read as follows:

250—20.11(476) Customer notification of peaks in electric energy demand. Each electric utility shall inform its customers of the significance of reductions in consumption of electricity during hours of peak demand.

20.11(1) Annual notice. Each electric utility shall provide its customers, on an annual basis, with a written notice explaining how growth in demand affects a utility's investment costs and why reduction of customer usage during periods of peak demand may help delay or reduce the amount of future rate increases. The utility shall request commission approval of the notice on or before April 1 of each year and an approved notice shall be delivered to its customers between May 1 and June 15 of each year. A copy of the notice, together with an affidavit showing when and how the notice was delivered, shall be filed with the commission on or before June 30 of each year.

20.11(2) Notification plan. On or before April 15, 1983, each investor owned utility shall file with the commission a plan to notify its customers of an approaching peak in demand on the day when peak demand is likely to occur.

a. The plan shall include the following:

(1) A provision for a general notice to be given customers prior to the time when peak demand is likely to occur as prescribed in subrule 20.11(2)"b" and an explanation of when and how notice of an approaching peak in electric demand will be given to customers.

(2) A provision for direct notice to be given customers whose load reduction will have a significant impact on the utility's peak. The utility shall provide for such notice to be given prior to the time when peak demand is likely to occur, as prescribed in subrule 20.11(2)"b", and shall explain the criteria used to identify customers to whom notice will be directly given and when and how notice will be given.

(3) A statement showing the total costs, with each component thereof itemized, projected to be associated with implementing the plan. Notice should be provided in the most efficient manner available. The commission may reject a plan which includes excessive costs or which specifies an ineffective method of customer notification and may direct development of a new plan.

(4) The text of the general and direct message to be given in the general notice to customers. The message shall, at a minimum, include the name of the utility or utilities providing the notice, an explanation that conditions exist which indicate a peak in demand is approaching, and a statement that reduction in usage of electricity during the period of peak demand will ease the burden placed on the utility's system by growth in peak demand and may help delay or reduce the amount of future rate increases.

(5) A designation of the U.S. weather station(s), situated within the utility's service territory, whose temperature readings and predictions will be used by the utility in applying the standard in subrule 20.11(2)"b".

(6) A provision for joint delivery, by two or more utilities, of the general notice to customers in regions of the state where U.S. weather station(s) predict conditions specified in subrule 20.11(2)"b" will exist on the same day.

b. For purposes of this rule, peak demand is likely to occur on a nonholiday weekday between June 15 and September 15 when the following conditions exist:

(1) The utility's designated weather station predicts the temperature will rise above 95° Fahrenheit (35° Celsius), and the designated weather station officially recorded a temperature above 95° Fahrenheit (35° Celsius) on the previous day, or

(2) The utility's designated weather station predicts the temperature will rise to above 90° Fahrenheit (33° Celsius) on a day following at least two consecutive days of temperatures above 95° Fahrenheit (35° Celsius), as officially recorded by the designated weather station, but

(3) If a utility can demonstrate it would have been required to provide between June 15 and September 15 a peak alert notice to customers, because of the existence of the conditions set forth in subrule 20.11(2)"b"(1) or 20.11(2)"b"(2), on more than six days in any one of the preceding ten years, the utility may substitute a 97° Fahrenheit (36° Celsius) standard in lieu of the 95° Fahrenheit (35° Celsius) standard in the subrule.

20.11(3) Implementation of notification plan. Upon approval of a peak notification plan by the commission, the utility shall immediately prepare for implementation of the plan. The utility shall implement the approved plan on each day of the year when peak demand is likely to occur, as prescribed by subrules 20.11(2)"b".

20.11(4) Permissive notices. The standard for implementing peak alert notification in subrule 20.11(2) is a minimum standard and does not prohibit a utility or association of utilities from issuing a notice requesting customers to reduce usage at any other time.

20.11(5) Annual report. Each electric utility required by subrule 20.11(2) to file a plan for customer notification shall file, on or before April 1 of each year, a report stating the number of notices given its customers, the dates when notices were issued, the annual cost of providing both general and direct notice to customers and measures of kilowatt hour demand at the time when notice was given and at hourly intervals thereafter until kilowatt hour demand decreases to the level at which it was measured when the notice was issued. The annual report shall also include a statement of any problems experienced by the utility in providing customer notifica-

tion of a peak demand and a proposal to modify the plan, if necessary, to make customer notification more effective. Modifications must be approved by the commission before they are implemented.

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ARC 3439

HEALTH DEPARTMENT[470]

BOARD OF CHIROPRACTIC EXAMINERS

Pursuant to the authority of Iowa Code section 147.76 and 258A, the Board of Chiropractic Examiners hereby adopts amendments to chapter 141 of the Iowa Administrative Code.

Items 1 to 4 are being amended to reflect the latest update of the standards and bylaws set by the Council on Chiropractic Education.

Item 5 is being amended to implement the Iowa Code.

Items 6 and 7 are being amended to provide clarity.

Notice of Intended Action was published in the IAB, Volume V, Number 4, August 18, 1982, as ARC 3109 and was adopted at the board meeting on October 30, 1982.

The adopted rules are identical to those proposed in the Notice of Intended Action.

These rules become effective on January 26, 1983.

These rules are intended to implement Iowa Code sections 147.7, 147.9, 147.10, 151.4 and 258A.2.

ITEM 1. Subrule 141.11(1) is amended to read as follows:

141.11(1) Rules pertaining to the practice of chiropractic at a chiropractic college clinic shall be equal to the standards established by the Council on Chiropractic Education existing as of May 1, ~~1981~~ *1982* or one that meets equivalent standards thereof.

ITEM 2. Subrule 141.11(2) is amended to read as follows:

141.11(2) All chiropractic colleges in order to be approved by the board of chiropractic examiners shall first have status with the Commission on Accreditation of the Council on Chiropractic Education as recognized by the U.S. Office of Education existing as of May 1, ~~1981~~ *1982* or one that meets equivalent standards thereof.

ITEM 3. Subrule **141.11(3)** paragraph "a" is amended to read as follows:

a. Standards. The standards against which the institution will be evaluated shall be equivalent to, or exceeding those published and utilized by the Council on Chiropractic Education existing as of May 1, ~~1981~~ *1982*.

ITEM 4. Subrule 141.13(6) is amended to read as follows:

141.13(6) All applicants matriculating after October 1, 1975 will be a graduate from a college having status with the C.C.E. (Council on Chiropractic Education) or its successor, or from a college which meets or exceeds equivalent standards thereof existing as of May 1, ~~1981~~ *1982*. (See 141.11(151).

ITEM 5. Rule 141.12(151) is amended by adding the following new subrules:

141.12(7) Every person licensed to practice chiropractic shall keep his or her license publicly displayed in the place in which he or she practices, and when a person licensed to practice chiropractic changes one's residence, notification shall be sent to the Board of Chiropractic Examiners, Lucas State Office Building, Des Moines, Iowa 50319.

This rule is intended to implement Iowa Code sections 147.7 and 147.9.

141.12(8) Every license to practice chiropractic shall expire in multiyear intervals and be renewed as determined by the board upon application by the licensee, without exception. Application for renewal shall be made in writing to the board accompanied by the required fee at least thirty days prior to the expiration of the license. Every renewal shall be displayed in connection with the original license. The board shall notify each licensee by mail prior to the expiration of a license. Failure to renew the license within a reasonable time after the expiration shall not invalidate the license, but a reasonable penalty may be assessed by the board.

This rule is intended to implement Iowa Code section 147.10.

ITEM 6. Subrule **141.64(1)** is amended by striking the first three lines following paragraph "d" and inserting in lieu thereof the following:

By January 31 of each year, commencing January 31, 1980, all accredited sponsors shall submit a report in writing to the board disclosing the educational programs provided for Iowa licensees during the preceding calendar year including dates, titles and hours of instruction provided each licensee in a form approved by the board.

ITEM 7. Rule 470—141.68(258A) is amended to read as follows:

470—141.68(258A) Attendance report. The person or organization sponsoring continuing education activities shall make a written record of the Iowa licensees in attendance *at each activity* and send a signed copy of the attendance record to the executive secretary of the board upon completion of the educational activity, but in no case later than February 1 of the following calendar year.

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ARC 3458

MERIT EMPLOYMENT DEPARTMENT[570]

Pursuant to the authority of Iowa Code section 19A.9, the Iowa Merit Employment Commission adopts amendments to Chapter 1, "Definitions", Chapter 2, "State Service and Its Divisions", Chapter 3, "Classification Plan", Chapter 4, "Pay Plan", Chapter 5, "Recruitment and Examination", Chapter 6, "Eligible Lists", Chapter 7, "Certification and Selection", Chapter 8, "Appointments",

MERIT EMPLOYMENT DEPARTMENT[570] *(cont'd)*

Chapter 9, "Probationary Period", Chapter 10, "Promotions, Reassignments, Transfers and Demotions", Chapter 11, "Separation and Disciplinary Action", Chapter 12, "Appeals", Chapter 14, "Vacation and Leave", and Chapter 17, "Records", Iowa Administrative Code.

The 1981 Iowa Acts, chapter 9 [H.F. 875] provide, in part, for a special compensation system for professional and managerial employees in all state agencies, having pay ranges for the various pay grades defined only by a minimum and a maximum salary and no intermediate steps. The present rules of the department do not provide for a professional/managerial pay plan, nor do they provide for the agency flexibilities intended by 1981 Iowa Acts, chapter 9. These rules are to bring the department's rules into compliance with that statute.

In the process of reviewing its rules to achieve the above stated purpose, the department also found numerous companion rules as well as other miscellaneous rules that were considered to be in need of modification or updating.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 13, 1982 as ARC 3304. The Iowa Merit Employment Commission adopted these rules following a public hearing on December 3, 1982.

Several minor changes from such notice resulted from input submitted during the period for comment. In addition, two noteworthy revisions are as follows:

Item 7 now includes language that provides for the post-audit of advanced appointment requests that do not require prior approval by the department, and the means to sanction agencies where a pattern of abuse of that discretion is found.

Item 28 now includes language that provides for the transfer of copies of personnel records from one agency to another when a state employee promotes, demotes or transfers from one agency to another in order for the current agency of employment to always have a continuous employment record.

These rules are intended to implement Iowa Code section 19A.9.

These rules will become effective on January 26, 1983.

The following amendments are adopted.

ITEM 1. Rule **570—1.1(19A)** is amended by striking subrules 1.1(13), 1.1(31), 1.1(32), 1.1(35) and 1.1(54) and inserting in lieu thereof the following:

1.1(13) "Demotion" means the change of an employee from one job class to another job class having either a lower entrance rate of pay, a lower maximum rate of pay, or a lower pay grade. Demotions of permanent employees may be disciplinary, as determined by the appointing authority; may be in lieu of layoff, as elected by the employee; or may be voluntary, as requested by the employee and approved by the appointing authority.

1.1(31) "Promotion" means the change of an employee from a lower job class to a higher job class having duties and responsibilities that require higher performance standards, knowledges, abilities and skills, with either a higher entrance rate of pay, a higher maximum rate of pay, or a higher pay grade.

1.1(32) "Reallocation" means the change of a position from one job class to another job class based upon changes in the kind or level of assigned tasks, duties and responsibilities.

1.1(35) "Transfer" means the change of an employee from a permanent position in one job class to another permanent position in the same job class or to a job class in the same or comparable pay grade, or the relocation of an occupied permanent position without a change in its job classification.

1.1(54) is rescinded and the number reserved for future use.

ITEM 2. Subrule **2.2(4)** is rescinded.

ITEM 3. Rule 570—3.4(19A) is rescinded and the following adopted in lieu thereof:

570—3.4(19A) Status of incumbents when positions are reallocated.

3.4(1) A probationary or permanent employee shall not be required to meet the minimum qualifications or compete for the position if the reallocation is the result of the correction of a classification allocation error, a class or series revision, the gradual evolution of changes in the position, or when additional functions or tasks are assigned due to legislative action or other external forces clearly outside the control of the appointing authority.

3.4(2) A probationary or permanent employee shall be required to meet the minimum qualifications, but not compete for the position when the reallocation is the result of successful completion of an established training period where progression to the next higher level in the class series is customary practice, or when only one person would clearly possess the specific qualifications prescribed for the position.

3.4(3) In all instances of reallocation where licensure, certification, or passing a performance test is required by policy, rule, regulation, or statute, the requirement must be met by the position incumbent within prescribed time limits or as set forth in policy by the department.

3.4(4) In all other circumstances, the filling of the reallocated position shall be in accordance with these rules governing promotion, transfer or demotion.

3.4(5) If the position incumbent is ineligible or is not selected to continue in the reallocated position, and cannot otherwise be retained, the provisions of these rules regarding reduction in force shall apply.

ITEM 4. Rule 570—3.7(19A) is rescinded and the following adopted in lieu thereof:

570—3.7(19A) Assignment of leadworker duties. Whenever an employee, who is otherwise performing the same duties as other employees in the same class, is further assigned limited duties such as distribution of work assignments, maintaining a balanced workload among a group of employees, or keeping records of work, production or attendance, and the performance of those additional duties does not justify reallocation to another class, the appointing authority may request the director to approve the person as a leadworker with compensation. The appointing authority may temporarily assign leadworker duties without compensation to an employee for a period not to exceed six pay periods in a calendar year without the approval of the director.

The request for leadworker assignment with compensation, or extension beyond six pay periods in a calendar year without compensation, must provide facts as to why the additional duties are necessary and cannot be accomplished by other personnel.

Leadworker assignment shall not be authorized for any employee covered by a collective bargaining agreement unless determination has been made by the employment relations division that it is not prohibited.

ITEM 5. Rule 570—4.3(19A) is rescinded and the following adopted in lieu thereof:

MERIT EMPLOYMENT DEPARTMENT[570] *(cont'd)*

570—4.3(19A) Content of the pay plans. The various pay plans for the classified service shall include:

4.3(1) Numbered pay grades for noncontractual and contractual classes showing the minimum, maximum and intermediate step(s) for each pay grade, except as otherwise provided in these rules.

4.3(2) A list of classes, numeric and alphabetic, with the pay grade and pay plan to which each class is assigned.

ITEM 6. Rule 570—4.4(19A) is rescinded and the following adopted in lieu thereof:

570—4.4(19A) Pay of employees.

4.4(1) Each employee shall be paid either at one of the established steps, or at a rate of pay between the minimum and maximum salary for those classes assigned to the professional/managerial pay plan, in the pay grade set forth in the pay plan for the class to which the position the employee occupies is allocated, except as provided elsewhere in these rules or when otherwise authorized by the director.

4.4(2) Total remuneration. No employee shall receive any pay other than that specifically authorized for the discharge of the duties assigned to the position and performed during scheduled work hours.

In any case in which part of the compensation for services in a position, exclusive of military leave, is paid by another department, division or an outside agency such as a city, county, or the federal government or from a different fund or account, those payments shall be deducted from the compensation of the employee to the end that the total compensation paid to the employee from all sources combined for any period shall not exceed the amount payable at a rate prescribed for the position to which the employee was appointed.

4.4(3) Employees who are allocated to classes assigned to the professional/managerial pay plan shall be placed in pay grades having an established minimum and maximum salary with no intermediate steps. Individual rates of pay for these employees will be determined by the appointing authority using recent job performance evaluations, other pertinent criteria and current policies of the department.

ITEM 7. Rule 570—4.5(19A) is rescinded and the following adopted in lieu thereof:

570—4.5(19A) Administration of the pay plans.

4.5(1) Entrance rate of pay. The entrance salary for any employee shall be at the minimum rate for the class to which appointed, except for the following advanced appointment rate provisions:

a. Pay based on scarcity of qualified applicants. When an appointing authority submits a written request setting forth the economic or employment conditions which make employment of eligibles at the minimum rate for a class improbable or impossible, the director may authorize appointment of qualified eligibles at a higher entrance rate within the pay grade for the class in a specific geographical area or for the class as a whole. The higher entrance rate shall remain in effect until the director orders that rate rescinded. All incumbent employees in the same class and under the same conditions necessitating the higher entrance rate, who are earning less than the higher authorized entrance rate, shall be increased to the approved entrance rate and a new merit pay increase eligibility date shall be established. Thereafter, all new employees or promoted employees subject to the same conditions in the same class shall be treated in a like manner.

b. Pay based on overqualification or exceptional qualifications.

(1) An appointing authority may grant up to two steps, or up to fifteen percent for classes covered by the professional/managerial pay plan, in excess of the entrance rate for a class to eligibles who have been determined to possess significant and pertinent qualifications which exceed the minimum qualifications for a class or who possess outstanding and unusually applicable education or experience for the position depending upon the particular needs of the appointing authority. Offers that exceed two steps or fifteen percent in excess of the entrance rate for a class shall first be requested in writing and approved by the director.

(2) An appointing authority may, for promoted employees, grant up to two steps, or up to fifteen percent for classes covered by the professional/managerial pay plan, in excess of the amount granted on promotion based upon the same criteria set forth in subparagraph (1) of this paragraph. Advanced promotional appointment pay offers that exceed two steps or fifteen percent shall first be requested in writing and approved by the director.

(3) In all instances all other current employees in the same job class possessing equivalent qualifications under the same appointing authority and in the same clearly defined organizational unit may, at the discretion of the appointing authority, be adjusted to the same advanced appointment rate of pay granted to an individual for original appointment or promotion. Adjustments that exceed two steps or fifteen percent shall first be requested in writing and approved by the director.

(4) Advanced appointment rates may be applied to reallocations only when they are processed as competitive promotions. Advanced appointment rates shall not apply to pay upon assignment to special duty.

(5) Advanced appointments that do not require prior written justification and approval by the department will be periodically postaudited by the department. If postauditing reveals noncompliance with the criteria set forth in these rules or in policy as necessary for granting advanced rates, that discretion may be temporarily or permanently revoked by the director.

c. Pay upon reinstatement. A former permanent employee who is being reinstated may, at the discretion of the appointing authority, be paid the minimum rate of pay for the class, a rate of pay within the pay grade for that class which does not exceed the rate of pay that was being received upon separation, or a rate of pay within the pay grade nearest to that which was received upon separation if reinstated to a class covered by a different pay plan. The rate of pay shall include any class series, pay grade or other pay adjustments made during the period of separation.

If the employee's pay rate was "red-circled" at the time of separation, the maximum rate of pay in the pay grade to which reinstated shall be controlling. A new merit pay increase eligibility date shall be established upon reinstatement. A new adjusted employment date for vacation accrual purposes shall be established upon reinstatement except as otherwise provided for in these rules.

d. Pay upon return from leave without pay. A probationary or permanent employee who returns from authorized leave without pay shall be paid at the same step or rate of pay in the pay grade for his or her class as when the employee went on leave taking into account changes in

the pay grade for the class, class series changes, cost of living increases or other adjustments for which the employee would have been eligible if he or she had not gone on leave. The merit pay increase eligibility date shall be adjusted upon return from leave without pay that has been in excess of thirty calendar days, crediting the period of service before the leave, except that time spent on educational leave required by the appointing authority shall be fully credited toward the merit pay increase eligibility date.

e. Pay upon appointment from the preferred employment list. A permanent employee who has been laid off, or who has demoted in lieu of layoff to a class in the same series or to a class formerly held, and who is subsequently re-employed from the preferred employment list, shall have a salary set at the step, or rate of pay for a class covered by the professional/managerial pay plan, comparable to the step or rate of pay the employee was paid upon layoff or demotion in lieu of layoff, including any class series, pay grade or other salary adjustments. The merit pay increase eligibility date shall be adjusted, but with full credit for previous time served on step.

f. Appointment below the minimum rate of pay for a class. The director may authorize appointment below the minimum rate of pay for a class as follows:

(1) Career development appointment. When a career development appointment is made in accordance with these rules, the rate of pay shall be set one step below the minimum rate for the class for each six months of experience that the appointee lacks in meeting the minimum experience requirements for the class to which the career development appointment is made to a maximum of one year. If the appointee is a permanent employee, and the current rate of pay equals or exceeds the minimum rate for the new class, the employee shall be permitted to receive pay increases in the class to which appointed until such time as the pay equals the rate to which the employee would have been entitled in the new class.

(2) Trainee appointments. When trainee appointments are made in accordance with these rules, the rate of pay shall be set one step below the minimum rate for the class for each semester of training the appointee lacks in meeting the minimum training requirements for the class to which the trainee appointment is made. Pay step increases shall be automatic and coincide with the completion of each semester of additional training. As soon as the training needed to meet the established minimum qualifications has been completed, the trainee shall be certified in accordance with chapter 7 of these rules to a probationary appointment or terminated.

(3) Budget limitation. If the director is advised by the state comptroller that an agency is unable to make appointments at the minimum rate of the pay grade for a class because of budget limitations, the director may authorize appointment at any rate below the minimum as budgetary limitations may require.

(4) Economic rates below the minimum. When it is determined that the competitive entrance rate for a type of work in a geographical area is below the established minimum rate for a class, the director may, upon request, authorize appointment of eligibles at any rate below the minimum as necessary to avoid payment of a premium rate for the class in that geographical area.

4.5(2) Merit pay increases. A merit pay increase is a periodic increase in pay from one step to the next higher step within the pay grade for a class.

a. Basis for merit pay increases. Merit pay increases shall not be automatic, except where otherwise provided by collective bargaining agreements, nor retroactive, nor in advance of the merit pay increase eligibility date. All merit pay increases shall be upon specific recommendation of the appointing authority and substantiated by a current official job performance evaluation.

b. Merit pay increase eligibility. Permanent full-time or part-time employees may be considered by the appointing authority for a one step merit pay increase at the beginning of the pay period following the completion of the prescribed minimum periods of satisfactory service set forth below. Merit pay increases for employees covered by the professional/managerial pay plan shall be in accordance with 4.4(3) of these rules. The minimum periods of satisfactory service shall be exclusive of time spent on educational leave (except as required by the appointing authority), or leave without pay which exceeds thirty calendar days. A satisfactory job performance evaluation with an "overall rating" of at least "competent (3.00)" must accompany the request for an increase to be approved, except where collective bargaining agreement provisions call for automatic step increases.

(1) Progression from 1st to 2nd step—twenty-six weeks.

(2) Progression from 2nd to 3rd, and all subsequent steps—fifty-two weeks.

(3) Progression between steps below the 1st step—twenty-six weeks.

c. The director may approve the reduction of the time interval under 4.5(2)"b"(2) to one-half the stated minimum period of service for a specific class for a period not to exceed one year provided there is agency showing of unusual recruitment and retention difficulties in that class because of economic problems or technological changes. Classes crossing agency lines shall require that all agencies using the class agree before the time interval reduction will be approved.

d. Merit pay increase eligibility date. Any type of pay increase given an employee, other than pay for exceptional job performance, pay for leadworker duty assignment, extraordinary duty or special duty assignment, or as otherwise provided in these rules or in policy by the department shall establish a new merit pay increase eligibility date.

If an employee is either at the top of or "red-circled" above the maximum salary established for the pay grade and the pay grade is subsequently adjusted upward, the employee shall have the time spent at the maximum salary or at the "red-circled" rate credited toward the time interval required for progression in the new pay grade.

Merit pay increase eligibility dates for employees shall be set from the first day of the pay period if they start on the first work day of a pay period. Otherwise, they shall be set from the first day of the pay period following the date of entry on duty.

e. Suspension of merit pay increases. Whenever merit pay increases are temporarily suspended by Acts of the general assembly, the rules providing for merit pay increase consideration shall be suspended for the duration of that mandate. The director shall provide for the administration of the suspension and shall maintain the necessary information for the reinstatement of merit pay increases following the suspension.

4.5(3) Pay for exceptional job performance. Extra pay may be given for exceptional job performance to a permanent employee upon recommendation of the appointing authority and the approval of the director.

The amount shall not exceed five percent of the employee's current annual salary. Exceptional job performance pay shall be governed by the following:

a. The employee shall have served in the class for at least six months.

b. Written justification setting forth the nature of the exceptional job performance shall be submitted in advance to the director for approval.

c. No more than one request shall be approved for the same employee during a twelve-month period.

d. No request shall be considered for an employee covered by a collective bargaining agreement unless the employment relations division has certified that the request is not prohibited.

4.5(4) Pay upon promotion.

a. An employee who is promoted to a position in a class that is not covered by the professional/managerial pay plan shall be given a promotional pay increase of one step, or be brought to the minimum rate of pay in the pay grade for the class to which promoted, whichever is greater, except as otherwise provided in this subrule.

b. For promotions between classes having a three or more pay grade difference, and the position to which promoted is not in a class covered by the professional/managerial pay plan, the director may approve a promotional pay increase of two steps, or bring the promoted employee to the minimum rate of pay in the pay grade to which promoted, whichever is greater, except as otherwise provided in this subrule.

c. For employees promoted to positions in classes covered by the professional/managerial pay plan, the appointing authority may grant a promotional pay increase not to exceed ten percent above the employee's rate of pay before promotion, or bring the promoted employee to the minimum rate of pay in the pay grade for the class to which promoted, whichever is greater, except as otherwise provided in this subrule.

d. For promotions that require a change of duty station beyond twenty-five miles for the appointee to perform the duties of the position to which promoted, the director may, upon request from the appointing authority, approve a one-step pay increase, or up to a five percent pay increase for employees promoted to a position in a class covered by the professional/managerial pay plan, in addition to any other promotional pay increase provided for in these rules. Subsequent changes in the location of the duty station may justify a request by the appointing authority to remove the extra pay previously granted under this paragraph. Additional pay for a change in duty station shall not be authorized for any employee covered by a collective bargaining agreement unless determination has been made by the employment relations division that it is not prohibited.

e. An employee who is transferred or reallocated from a nonsupervisory class to a supervisory class having the same or comparable pay grade as the class from which transferred or reallocated, may receive up to a five percent pay increase, but not to exceed the maximum pay rate for the pay grade of the class to which transferred or reallocated, except as provided in "g" of this subrule. A pay increase shall establish a new merit pay increase eligibility date.

f. An employee who is promoted to a class covered by a different pay plan having established steps within the pay range shall first have the pay adjusted to the nearest step in the current pay grade of the pay plan to which promoted and then further adjusted in accordance with paragraphs "a", "b", "d", or "e" as applicable, except as provided in "g" of this subrule. An employee who is promoted to a class covered by the professional/managerial pay plan shall have the promotional pay increase percentage calculated from the employee's current base rate of pay except as otherwise provided in these rules.

g. If an employee's pay rate has previously been "red-circled" and the employee is promoted within the agency during the established period of "red-circling", the promotional pay increase shall be calculated from the maximum step/rate of the pay grade from which promoted. If the employee's "red-circled" pay rate is higher than the promotional pay increase, the employee's pay shall not be reduced to that which would be received upon promotion until the expiration date of the previously approved "red-circle" period. No employee who is "red-circled" under these rules shall receive a cost-of-living or economic adjustment unless it is specifically authorized by Acts of the general assembly. For promotion to another agency, the "red-circled" pay rate may, at the discretion of the new appointing authority, be removed before applying promotional pay rules.

4.5(5) Pay for leadworker duty assignment.

a. An employee who has been approved by the director as a leadworker with compensation shall be entitled to extra pay of one step in addition to the employee's base salary in the pay grade for the class to which the employee is allocated. Employees covered by the professional/managerial pay plan shall be entitled to extra pay not to exceed five percent of their base salary. The extra pay may exceed the maximum of the pay grade.

b. At the time the employee is relieved of leadworker duties, the extra pay granted for those duties shall be removed. If being relieved of leadworker duties coincides with promotion to a position in a higher or supervisory job class, then the promotional pay increase may, at the discretion of the appointing authority, be calculated from the combined total of the current base pay plus the current extra pay for leadworker duty.

4.5(6) Pay upon assignment to special duty. A permanent employee assigned to special duty may receive extra pay only when the assignment is to a higher class or from a nonsupervisory to a supervisory class in the same or comparable pay grade. Requests for extra pay shall require prior approval from the director and shall be fixed in accordance with these rules governing pay upon promotion to the class to which assigned for the duration of the special duty assignment. The class to which the employee is temporarily assigned shall be controlling for all pay purposes including overtime, shift differential, standby, reporting, call back and leadworker pay eligibility.

a. A temporary pay increase may not affect the employee's eligibility to receive a merit/automatic pay increase in the employee's regular position during the period of special duty assignment, as provided for in policy by the department.

b. At the expiration of the assignment to special duty the employee's pay shall revert to the authorized step or rate of pay in the employee's regular position.

4.5(7) Pay upon demotion.

a. An employee who demotes voluntarily, or who is disciplinarily demoted by downward reallocation or to a vacant position in a lower class, shall have the rate of pay fixed by the appointing authority on any step/rate within the pay grade for the class to which the employee has been demoted which does not exceed the employee's last rate of

pay in the pay grade for the class from which demoted unless the salary must be adjusted to the minimum rate of pay set for the new class or as provided in "c" of this subrule. If the employee's current rate of pay exceeds the maximum pay rate for the lower class, the maximum rate of pay or step of the pay grade for the lower class shall be controlling except as provided in "d" of this subrule. The merit pay increase eligibility date shall not change upon demotion, except that a new merit pay increase eligibility date shall be set in those instances where a shorter number of months would be required for pay increase eligibility in the new pay grade or when an employee is adjusted to the entrance rate established for the class. The merit pay increase eligibility date shall be adjusted in those instances when a longer period of time would be required, but credit shall be given for time already spent on the step.

b. An employee who demotes voluntarily or who is disciplinarily demoted shall not be eligible for a promotional pay increase until six months after the effective date of the demotion, unless the employee's rate of pay was reduced at the time of the demotion in an amount equal to or greater than the amount of the pay increase the employee would receive upon the promotion. If the employee's salary requires adjustment to the minimum salary established for the new class or adjustment to the nearest higher step in a different pay plan, that portion of the promotional pay increase shall be granted at the time of promotion and the remainder of the promotional pay increase shall be granted at the end of the six-month period.

c. An employee demoted to a class covered by a different pay plan having established steps within the pay range shall first have the pay adjusted to the nearest step in the current pay grade of the pay plan to which demoted and then adjusted in accordance with "a" of this subrule if applicable, except as provided in "d" of this subrule.

d. An employee reclassified downward as the result of a reallocation not otherwise provided for in this subrule, or who demotes in lieu of layoff, shall maintain the same rate of pay unless it requires adjustment to the nearest rate of pay that is no less than the employee's current rate of pay. If the employee's rate of pay exceeds the maximum rate of pay for the lower graded class, it may be "red-circled" at the discretion of the appointing authority for a period not to exceed two years. The appointing authority shall notify the employee in writing at the time of the action of this rule's content, the decision regarding the employee's rate of pay, and the expiration date of the "red-circling", if granted. A copy of the notice shall be sent to the director. At the end of the established period of "red-circling", the employee's pay shall be reduced to the maximum pay rate in the lower graded class. If, during that established period of "red-circling", the employee demotes voluntarily within the agency, the "red-circled" pay rate shall not be reduced in accordance with "a" of this subrule until the expiration date of the previously established "red-circle" period. The pay rate to be in effect following the expiration of the "red-circle" period shall be determined at the time of the voluntary demotion and the employee and the department shall be notified. For voluntary demotion to another agency, the "red-circled" pay rate may, at the discretion of the new appointing authority, be removed and the pay rate established in accordance with "a" of this subrule.

If, during the established period of "red-circling", another demotion takes place within the employing agency that could result in another discretionary period of "red-circling" by the appointing authority, a new period of "red-circling" not to exceed two years from the date of the new demotion may be allowed. The new "red-circled" rate of pay may not exceed the maximum rate of pay for the class to which the preceding demotion was made. Until the preceding "red-circle" period expires, that pay rate shall remain in effect, but the time shall be counted as part of the new "red-circled" period.

No employee who is "red-circled" shall receive a cost-of-living or economic adjustment unless it is specifically authorized by Acts of the general assembly.

4.5(8) Pay adjustments incident to pay grade reassignments and class or series revisions.

a. An employee who occupies a position in a class that has been assigned to a higher pay grade or that has been changed to a new class in a higher pay grade due to a class or series revision shall have the pay adjusted as follows: If the class is covered by a different pay plan having established steps in the pay range, the employee shall first have the rate of pay adjusted to the nearest step in the current pay grade of the pay plan to which allocated that is no less than the employee's current rate of pay; if the rate of pay in the former grade is below the new minimum rate of pay in the new pay grade, the pay shall be adjusted to the new minimum rate; if the employee's current rate of pay corresponds with a step or rate of pay in the new pay grade it may be adjusted to the corresponding rate in the new pay grade, or the employee may be granted a one-step increase or up to a five percent increase for those positions in classes covered by the professional/managerial pay plan; if the employee has previously been "red-circled" and the current rate of pay exceeds the maximum of the new pay grade, the employee's rate of pay shall not be reduced to that maximum rate until the expiration date of the previously approved "red-circle" period. A new merit pay increase eligibility date shall be established if a pay increase is granted.

b. In the event a class is assigned to a lower pay grade, the employee's pay shall be maintained by adjusting it to a step or rate of pay in the new lower pay grade corresponding to the rate of pay in the old pay grade. An employee whose rate of pay exceeds the maximum in the new lower pay grade shall be "red-circled" at the employee's current rate of pay for a period of two years. The merit pay increase eligibility date shall not change except in those instances when a longer period of time would be required, and then credit shall be given for the time already spent on the step.

4.5(9) Pay upon transfer.

a. When an employee is transferred in the same class or to another class having the same or comparable pay grade, from one agency to another or in the same agency, the employee's rate of pay shall not be changed from the rate of pay the employee was receiving prior to the transfer unless it must be increased to the minimum or reduced to the maximum rate of pay for the class or the transfer is interagency and a lower rate of pay is agreed upon between the employee and the new appointing authority. The merit pay increase eligibility date shall not change upon transfer except that a new merit pay increase eligibility date shall be set in those instances where a shorter number of months would be required, or when an employee is given a pay increase to the entrance rate established for the class. The merit pay increase eligibility date shall be adjusted in those instances when a

MERIT EMPLOYMENT DEPARTMENT[570] *(cont'd)*

longer period of time would be required, but credit shall be given for time already spent on the step.

When the transfer is clearly for the convenience of management and requires a change of duty station beyond twenty-five miles, the director may, upon request from the appointing authority, approve a one-step pay increase and a new merit pay increase eligibility date shall be established. When the class to which the employee transfers is covered by the professional/managerial pay plan, a pay increase not to exceed five percent may, upon request from the appointing authority, be approved by the director to compensate for the change of duty station beyond twenty-five miles. Subsequent changes in the location of the duty station may justify a request by the appointing authority to remove the extra pay previously granted under this paragraph. A pay increase upon transfer for a change in duty station shall not be authorized for any employee covered by a collective bargaining agreement unless determination has been made by the employment relations division that it is not prohibited.

b. An employee who is transferred to a class covered by a different pay plan having established steps in the pay range shall have the rate of pay first adjusted to the nearest step in the current pay grade of the pay plan to which transferred that is no less than the employee's current rate of pay unless that rate of pay exceeds the maximum, and then the maximum rate of pay shall be controlling. The employee's pay may be further adjusted in accordance with "a" of this subrule if applicable. Salaries of employees who transfer to classes covered by the professional/managerial pay plan shall not be adjusted unless it is necessary to bring them to the minimum salary provided for the class, reduce their salary to the maximum for the class, the transfer is interagency and a lower rate of pay is agreed upon between the employee and the new appointing authority, or except as provided in "c" of this subrule.

c. If during an established period of "red-circling" an employee transfers within the agency, the "red-circled" pay rate shall not be reduced to the maximum pay rate in the class until the expiration date of the previously established "red-circle" period. No employee who is "red-circled" under these rules shall receive a cost-of-living or economic adjustment unless it is specifically authorized by Acts of the general assembly. For transfer to another agency, the "red-circled" pay rate may, at the discretion of the new appointing authority, be removed.

4.5(10) Pay upon reallocation. When a position is reallocated, the incumbent's pay shall be fixed in accordance with these rules governing pay upon promotion, demotion or transfer, whichever is applicable. A pay increase given an incumbent as a result of a reallocation shall establish a new merit pay increase eligibility date.

4.5(11) Pay for part-time employment. Pay for part-time employment in a position shall be proportionate to the rate of pay for full-time employment.

4.5(12) Effective date of changes. All pay or payroll changes shall be effective on the first day of the pay period following approval unless otherwise authorized by the department. Correction of payroll errors caused by administrative oversight will be handled in accordance with policies established by the comptroller's office and the department. Original appointments, re-employments, and reinstatements shall be effective on the first day the appointee reports for work.

4.5(13) Pay for overlap appointments. In cases where it is deemed necessary by the appointing authority to fill a position on an overlap basis pending the separation of an incumbent employee, an appointment of a new employee may be made in accordance with these rules for a period not to exceed one month. Any overlap appointment for a longer period must first be approved by the director.

4.5(14) Pay for certified instructional personnel. Employees who are required to possess a current valid teaching certificate with appropriate endorsements and approvals as issued by the Iowa department of public instruction shall be allocated by the appointing authority to an established class within the educator class series, subject to review and approval by the department. Assignment to a specific class shall be determined by the appointing authority based upon consideration of the following factors: Undergraduate and graduate coursework satisfactorily completed, years of experience in the teaching profession, special endorsements required of the position, rates of pay for comparable levels of teaching responsibility and credentials in local school districts surrounding the location of employment, performance standards and minimum qualifications. Merit pay increase eligibility shall be in accordance with these rules.

ITEM 8. Rule 570—4.7(19A) is rescinded and the following adopted in lieu thereof:

570—4.7(19A) Pay for extraordinary duty. The director may authorize a reasonable amount of additional pay for an employee who is assigned and performs duties extraordinary for the employee's class. This extra pay must be given in step interval increments except for employees covered by the professional/managerial pay plan, may exceed the maximum rate of pay for the class, and shall be paid only as long as the circumstances continue which have necessitated the assignment of extraordinary duties. Pay for extraordinary duty may be granted for a period not to exceed six pay periods. In unusual circumstances extensions may be authorized by the director upon the written request of the appointing authority. Employees in positions permanently located outside the state of Iowa may be granted extraordinary duty pay for the duration of their assignment. Requests for extraordinary duty pay and extensions shall be submitted in writing setting forth the justification for the additional pay amount requested and the period of time requested. The appointing authority may temporarily assign extraordinary duties without compensation for a period not to exceed six pay periods in a calendar year. Extraordinary duty assignment shall not be authorized for any employee covered by a collective bargaining agreement unless determination has been made by the employment relations division that it is not prohibited.

ITEM 9. Rule **570—4.9(19A)** is rescinded and the number reserved for future use.

ITEM 10. Rule **570—4.10(19A)** is rescinded and the number reserved for future use.

ITEM 11. Rule 570—5.11(19A) is amended to read as follows:

570—5.11(19A) Notice of examination results. Each applicant shall be notified by mail of the results of the examinations *and the date that the rating will expire* as soon as the rating of the examination has been completed and the eligible list established.

MERIT EMPLOYMENT DEPARTMENT[570] *(cont'd)*

ITEM 12. Rule 570—5.12(19A) is amended to read as follows:

570—5.12(19A) Review of ratings. Any applicant may request *of* the director to review the rating of ~~his~~ *the applicant's* examination, provided ~~such~~ *the* request is filed within fifteen days of the date the notice of examination results was ~~mailed~~ *issued.* Review of examination ratings shall be limited to the applicant and the appointing authority to whom the ~~eligible~~ *applicant* has been certified for appointment. ~~Such~~ *The* review shall be ~~provided~~ *allowed* only during regular business hours in the offices of the department. Any person who reviews an examination ~~that has been taken~~ may not participate in another examination in the same series or with similar examination content until ninety calendar days have elapsed after ~~such~~ *the* review. *Attempts to do so will result in all prior exam scores for that job class being voided and an additional ninety-day waiting period being imposed, as well as ineligibility for certification from that list until the exam is retaken.*

ITEM 13. Subrule 6.6(2) is amended to read as follows:

6.6(2) Appointment through certification from ~~such~~ *that* eligible list to fill a permanent position. *Applicants so removed may, upon their request, be reinstated to the list from which appointed.*

ITEM 14. Subrule 6.6(3) is amended to read as follows:

6.6(3) Appointment to fill a permanent position ~~at~~ *in a class in* the same, *comparable* or higher ~~salary~~ *pay grade* ~~from a different eligible list, provided that any person whose name is removed may have her/his name restored to any eligible list by making written application for such action to the director.~~ *Applicants so removed may, upon their request, be reinstated to those lists from which removed.*

ITEM 15. Rule 570—7.6(19A) is amended to read as follows:

570—7.6(19A) Number of names certified. The ~~number of~~ names ~~to be~~ certified will be ~~from among~~ those eligibles *applicants* with the highest six *final* scores, who are available for the location *and conditions* specified in the request for certification.

ITEM 16. Rule 570—7.9(19A) is amended to read as follows:

570—7.9(19A) Omission of the name of an eligible *applicant* after three valid considerations. If the appointing authority passes over the name of an eligible *applicant* on ~~a~~ *three separate* certificates in connection with three separate appointments from the same eligible list *from which another person with a lower certified score was hired,* the ~~name of the eligible~~ *appointing authority may request of the director that the applicant* shall ~~thereafter~~ not be certified to that appointing authority from the same eligible list for future vacancies *for a period of two years from the date removed. If approved, the department shall notify the applicant of the action. Appeal from removal shall be in accordance with chapter 12 of these rules.*

~~Provided: The appointing authority makes a request in writing to the director that the eligible's name be withheld. The appointing authority notifies the eligible by certified mail of the action taken and provides a copy of that certified notice to the director.~~

ITEM 17. Chapter 7 is amended by adding the following new rule:

570—7.12(19A) Discretionary consideration of eligibles. An appointing authority need not consider the name of an applicant on an official certificate of eligibles if the applicant is currently employed in a permanent position in the same class or a class in the same, comparable or higher pay grade.

ITEM 18. Rule 570—8.3(19A) is amended to read as follows:

570—8.3(19A) Project appointment. ~~Where~~ *When* a particular job, project, grant, ~~or~~ contract *or other temporary employment situation* ~~requires the services of an individual(s) for a~~ *is of* limited duration ~~and~~ *or* funding, ~~a~~ project appointments may be made ~~to unauthorized positions,~~ ~~P~~provided the ~~commission~~ *director* approves the project determination and the comptroller certifies that funds are available. ~~Appointments~~ *Certification* shall be made in accordance with chapter 7 of these rules. ~~Such~~ *Project* appointments shall not confer any right of position, transfer, demotion, promotion or appeal, but incumbents shall be eligible for vacation and sick leave and other ~~classified~~ employee benefits. *An* ~~A~~*a*ppointments *of an individual to any one particular project* ~~may~~ *will* be approved for no more than one year. ~~E~~*e*xcept the director, on the basis of limited specific need that could not otherwise be efficiently and effectively ~~filled~~ *met,* may extend the appointment for a reasonable period not to exceed ~~six~~ *twelve* months. ~~Successive project appointments will not be allowed.~~

ITEM 19. Rule 570—8.7(19A) is rescinded and the following adopted in lieu thereof:

570—8.7(19A) Reinstatement. A former permanent classified employee who resigned while in good standing or who was separated from the classified service for other than just cause may be reinstated at the discretion of an appointing authority. Reinstatement shall be to the class held at the time of separation, to a class in the same or comparable pay grade, or to a lower class, and shall require that the person be determined to be eligible for appointment to the class, but not be certified from a list of eligibles.

Eligibility shall be limited to a period equal to the previous period of continuous classified service, not to exceed two years from the date of separation. Eligibility for reinstatement for former employees who have received or applied for long-term disability payments shall start the first day of the month following the termination or denial of those payments. A permanent employee occupying a position that has been exempted from the classified service shall be eligible for reinstatement during the period of exempt service and for a period equal to the period of the employee's continuous classified employment, not to exceed two years, following separation from the exempt service.

ITEM 20. Rule 570—9.1(19A) is rescinded and the following adopted in lieu thereof:

570—9.1(19A) Nature, duration and purpose. All original appointments to permanent positions shall be made as provided for in these rules for a probationary period of six months unless a statutory probationary period for a specific class provides otherwise. The probationary period shall be utilized for the orientation, training and evaluation of the new employee, shall be an essential part of the final selection process and shall result in the employee being granted permanent status or being terminated. A probationary period of six months may, at

the discretion of the appointing authority with notice to the employee and the department, be required upon reinstatement, and all rules regarding probationary status shall apply during that period.

ITEM 21. Rule 570—9.3(19A) is rescinded and the following adopted in lieu thereof:

570—9.3(19A) Demotion during the period of probationary status. At any time during the period of probationary status, a probationary employee may be demoted by the appointing authority to a lower class in the same class series, in the same location, and under the same conditions for which the employee was originally certified. Otherwise, demotion during the period of probationary status shall require eligibility for recertification in accordance with subrule 7.3(2). The total required probationary period shall include the probationary service in the class from which demoted. The rate of pay shall be set in accordance with subrule 4.5(1). Demotion during the period of probationary status required for original appointments or reinstatements shall not give the right of appeal to the commission except as provided in 12.6(19A) of these rules.

ITEM 22. Rule 570—9.4(19A) is rescinded and the following inserted in lieu thereof:

570—9.4(19A) Promotion during the period of probationary status. A probationary employee shall not be eligible for promotion during the period of probationary status unless the employee is recertified in accordance with subrule 7.3(2). The total required probationary period shall include the probationary service in the class from which promoted. The rate of pay shall be set in accordance with subrule 4.5(4).

ITEM 23. Rule 570—9.5(19A) is rescinded and the following adopted in lieu thereof:

570—9.5(19A) Transfer during the period of probationary status. A probationary employee may be transferred by the appointing authority in the same class, in the same location, and under the same conditions for which the employee was originally certified. In all other instances of transfer, the probationary employee must be eligible for recertification in accordance with subrule 7.3(2). The total required probationary period shall include the probationary service in the class from which transferred. The rate of pay shall be set in accordance with subrule 4.5(9).

ITEM 24. 570—Chapter 10 is rescinded and a new chapter adopted as follows:

CHAPTER 10

PROMOTION, TRANSFER, TEMPORARY ASSIGNMENT AND VOLUNTARY DEMOTION

570—10.1(19A) Promotion.

10.1(1) Selection. As far as is practicable and feasible, vacancies should be filled by the promotion of permanent, qualified employees based upon individual job performance, evaluations, personal observation of work behaviors, promotional examination scores and due consideration for length of service and capability for a new position. Promotions may be either interagency or intra-agency.

10.1(2) Certification as to qualifications. A permanent employee who is an applicant for promotion must, except as otherwise provided for in policies of the department:

a. Meet the current minimum qualifications for the class;

b. Have completed the required examination processes; and

c. Currently be on the eligible list for the class and have signified willingness to accept appointment within the stated conditions of the certification request.

10.1(3) Establishment of promotional eligible lists. Permanent employees shall be placed on promotional eligible lists for classes in the order of their final examination scores. The life of a promotional eligible list need not be the same as that for an open competitive eligible list. Promotional examinations shall be of a similar nature and content as open competitive examinations for the same class.

10.1(4) Competitive promotion. The appointing authority shall announce, post in conspicuous places throughout the agency, and periodically update a list of all agency promotional opportunities. A copy of the current promotional announcement shall be filed with the department. Openings may be limited to permanent employees of the appointing authority or may be open to permanent employees of all agencies. Certification and selection shall be in accordance with chapter 7 of these rules.

10.1(5) Noncompetitive promotion. The appointing authority may fill a vacancy in a class by the noncompetitive promotion of a permanent employee upon written justification to and approval by the director. An employee proposed for noncompetitive promotion must meet the current minimum qualifications for the class.

570—10.2(19A) Transfer. An appointing authority may transfer a permanent employee provided the employee meets the current minimum qualifications for the class. Transfers may be intra-agency or interagency, and may be voluntary or involuntary. Refusal by an employee to accept an agency directed transfer will be considered just cause for disciplinary action.

570—10.3(19A) Special duty assignment. An appointing authority may request a special duty assignment with compensation for a permanent employee when the services of that employee are temporarily needed in another position of a higher classification. For the purposes of this rule, a higher classification shall include assignment from a nonsupervisory to a supervisory class having the same or comparable pay grade. Unless there is a statutory requirement to the contrary, the employee need not be qualified for, nor certified to the class to which temporarily assigned. The original assignment shall be for no more than six pay periods, must be accompanied by a written statement of need and shall require approval by the director. In unusual circumstances, the director may, upon request, authorize extensions of the special duty assignment.

The appointing authority may assign an employee to temporary duty in a position in a higher class, without adjusting compensation, or to a lower or comparable class for a period not to exceed six pay periods in a calendar year without the approval of the director.

A special duty assignment shall not be authorized for any employee covered by a collective bargaining agreement unless determination has been made by the employment relations division that it is not prohibited.

570—10.4(19A) Voluntary demotion. If a permanent employee wishes to be demoted to a lower class, the appointing authority may, upon written request from the

MERIT EMPLOYMENT DEPARTMENT[570] *(cont'd)*

employee, grant the demotion. Voluntary demotion may be either interagency or intra-agency. A copy of the approved request shall be forwarded by the appointing authority to the department. However, no demotion shall be made to a lower class not in the same series until the employee is approved by the director as being eligible for appointment. Voluntary demotion shall not be subject to appeal under these rules.

ITEM 25. Subrule 11.1(1) is amended to read as follows:

11.1(1) Resignations. To resign in good standing, an employee must give the appointing authority at least fourteen calendar days' prior notice unless the appointing authority agrees to ~~permit~~ a shorter period ~~of notice~~. A written resignation shall be ~~supplied~~ *given* by the employee to the appointing authority, *with a copy forwarded to the department by the appointing authority.* An employee who fails to give proper notice~~,~~ may, at the request of the appointing authority, be barred from future certification to that agency ~~or reinstatement to the register from which certification was made~~. *Resignation shall not be subject to appeal under these rules.*

~~Abandonment of position. Any classified employee who is absent from duty for three consecutive work days without proper notification to the appointing authority and authorization therefrom shall be deemed to have resigned his/her position.~~

Any employee who is absent from duty for three consecutive work days without proper authorization from the appointing authority shall be considered to have abandoned the position and voluntarily resigned. In these instances the appointing authority may consider requests for review of the resignation based upon exceptional circumstances.

ITEM 26. Rule 570—12.4(19A) is amended to read as follows:

570—12.4(19A) Appeal ~~for~~ *of* removal from eligible lists or disqualification of an applicant. An ~~eligible~~ applicant ~~or employee,~~ whose name has been removed from an eligible list or who has been disqualified for any of the reasons specified in these rules~~,~~ may file a written appeal to the commission for reconsideration of ~~such~~ *that* action. Right of appeal shall expire unless the ~~eligible~~ applicant ~~or employee~~ files a written appeal *in the department* within thirty calendar days of the mailing of the ~~director's~~ decision regarding the removal from an eligible list or disqualification. The ~~commission will hear the~~ appeal *will be heard* as quickly as scheduling permits.

ITEM 27. Rule **570—14.2(19A)** is amended by adding a new subrule as follows:

14.2(12) Any employee who is laid off or who applies for or receives long-term disability payments, and subsequently returns to state employment within two years from the date of separation, shall have previous continuous service and the period of separation counted toward the vacation accrual rate. Employees who decline recall from preferred employment and employees who are rehired but subsequently terminate are ineligible for prior service credit if later reemployed during that same two-year period.

Subrule 14.2(12) shall be retroactive to January 1, 1980.

ITEM 28. Subrule 17.1(2) is rescinded and the following adopted in lieu thereof:

17.1(2) The agency personnel file for each employee shall contain official documents, records and other materials related to the employee's employment. Each employee shall receive from the appointing authority a copy of all job performance evaluations, approved personnel transactions requiring an employee copy, and disciplinary correspondence or documents which are placed in the employee's agency personnel file. The appointing authority shall send to the department copies of the employee's job performance evaluations, those materials maintained in the agency personnel file that require the department's approval or processing, as well as copies of other personnel action documents or correspondence required by department rule or policy. When an employee is transferred, promoted or demoted from one agency to another agency, a copy of all personnel records that have previously been forwarded to the department shall be sent at that time to the receiving appointing authority by the former appointing authority. Employees shall have the right to inspect and have copies made of all materials in their personnel files at the employing agency during regular business hours, subject to proper authority to be absent from duty and any copying costs.

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ARC 3435

PLANNING AND PROGRAMMING[630]

Pursuant to the authority of Iowa Code sections 7A.3 and 17A.3(1), the Office for Planning and Programming hereby adopts new rules describing the organization, responsibility, and operation of the agency. These rules replace the present Chapter 1, Iowa Administrative Code.

Notice of Intended Action was published in the IAB on September 29, 1982 as ARC 3245. A public hearing on the proposed rule was held on October 20, 1982. The rule is identical to that published under notice, except in subrule 1.1(2), line one, the word "training" was changed to "planning" to correct a printing error.

These rules implement Iowa Code sections 7A.3, 17A.3(1)"a", and 1982 Iowa Acts, chapter 1181.

These rules will become effective January 26, 1983.

Rescind 630 — chapter 1 and insert in lieu thereof the following:

CHAPTER 1
PURPOSE OF THE AGENCY

630—1.1(7A) Responsibility. Pursuant to the authority of Iowa Code section 7A.3, the primary responsibility of the office for planning and programming (OPP) is to co-ordinate the development of state and local government programs in order to promote efficient and economic use of federal, state, local and private resources. To carry out this responsibility, the office shall:

1.1(1) Provide technical and financial assistance to local and regional government organizations in Iowa, analyze intergovernmental relations in Iowa, and recommend policies to state agencies, local governments, the governor, and the general assembly.

PLANNING AND PROGRAMMING[630] *(cont'd)*

1.1(2) Provide co-ordination of state policy planning, management of interagency programs of the state, and recommend policies to the governor and the general assembly.

1.1(3) Maintain and make available demographic and other information useful for state and local planning.

1.1(4) Prepare and submit economic reports appraising the economic condition, growth and development of the state.

1.1(5) Analyze the quality and quantity of services required for the orderly growth of the state, taking into consideration the relationship of activities, capabilities, and future plans of private enterprise, the local, state and federal governments, and regional units established under any state or federal legislation, and make recommendations to the governor and the general assembly for the establishment and improvement of the services.

1.1(6) Apply for, receive, administer, and use federal or other funds available for achieving the purposes of this chapter.

1.1(7) Inquire into methods of planning and program development, and the conduct of affairs of state government; prescribe adequate systems of records for planning and programming; establish standards for effective planning and programming; and exercise all other powers necessary in discharging the powers and duties of this chapter.

1.1(8) Analyze the relationship of federal and private aid programs to state and locally financed programs and make recommendations to state agencies, local governments, the governor, and the general assembly on means of avoiding duplication of activity and of increasing efficiency.

1.1(9) Carry out any other duties consistent with this chapter as directed by the governor or the general assembly.

This rule is intended to implement Iowa Code section 7A.3.

630—1.2(7A) Organization. OPP is organized into six divisions: Administration, local government affairs, human resources co-ordination, economic analyses, physical resources co-ordination, and criminal and juvenile justice planning.

1.2(1) The administration division is responsible for the agency's state budget, federal grants, financial management, personnel activities, public information, data processing, office management, and the governor's highway safety office.

1.2(2) The local government affairs division is responsible for the local government services section, the community development block grant, the community services block grant, the rural community development program, and staffing of the city development board and advisory commission on intergovernmental relations.

1.2(3) The human resources co-ordination division is responsible for the Comprehensive Employment and Training Act (CETA) balance of state prime sponsorship, the governor's special CETA grants, the Iowa youth corps, and staffing of the commission on professional and occupational regulation and council for children and families. In addition, staff support is provided to the private industry council, the state employment and training council, the state manpower planning council and the governor's youth council.

1.2(4) The economic analysis division is responsible for the Iowa census data center and demographer's office, federal grants-in-aid co-ordination, economic appraisal activities, and staffing of the state occupational information co-ordinating committee and the governor's economic advisory council.

1.2(5) The physical resources co-ordination division staffs the governor's science advisory council and does special projects related to the natural resources of the state.

1.2(6) The office of criminal and juvenile justice contains the agency and advisory council established by 1982 Iowa Acts, Senate File 464 (Chapter 1181). The agency is responsible for co-ordinating criminal and juvenile justice activities in the state, including planning, research, program implementation, and the administration of grants and other funds.

The statistical analysis center (SAC) is also a part of the division. SAC scientifically collects and analyzes all types of criminal justice data.

The juvenile restitution program is operated by the division in co-operation with the human resources co-ordination division.

This rule is intended to implement Iowa Code section 7A.3 and 1982 Iowa Acts, chapter 1181.

630—1.3(7A) Contracts and subgrants. Contracts and subgrants shall be awarded in conformance with applicable state and federal laws and administrative rules.

1.3(1) Contracts and subgrants shall be awarded on a competitive basis unless it is determined by the director to not be in the best interests of the state to do so. The reasons for awarding any contracts or subgrants noncompetitively shall be in writing and available in the agency's contract or subgrant file.

1.3(2) With the prior written consent of the director of OPP, specific subordinate managers may execute contracts or subgrants, or modifications of such, on behalf of the director.

This rule is intended to implement Iowa Code chapter 7A.

630—1.4(17A) Certain rules exempted from public participation. The department finds that certain rules should be exempted from notice and public participation as being in a very narrowly tailored category of rules for which notice and public participation is unnecessary as provided in Iowa Code section 17A.4(2). The rules shall be those that are mandated by federal law or regulation; where the department has no option but to adopt the rules as specified; where federal funding is contingent upon the adoption of the rules; and the rules are promulgated in accordance with the applicable federal statute.

Notice and public participation would be unnecessary since the provisions of the law or regulation must be adopted in order to maintain federal funding and the department would have no option in the rule which was adopted.

This rule is intended to implement Iowa Code section 17A.3(1)"a".

630—1.5(7A) Further information. The general public may obtain further information on the rules contained in this chapter or information about the office for planning and programming in writing or orally by contacting the Office for Planning and Programming, 523 East 12th Street, Des Moines, Iowa 50319; 515/281-3711.

This rule is intended to implement Iowa Code section 17A.3(1).

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ARC 3461

PLANNING AND PROGRAMMING[630]

Pursuant to the authority of Iowa Code chapter 7A, the Office for Planning and Programming adopts Chapter 23, "Community Development Block Grant Nonentitlement Program," Iowa Administrative Code.

The Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) allows states to administer the "Nonentitlement Program". In the past, the program was administered in Iowa by the United States Department of Housing and Urban Development (HUD), Omaha Area Office. Cities under 50,000 in population and counties are funded under the Nonentitlement Program.

The state of Iowa has administered the Nonentitlement Program for federal fiscal year 1982. Upon the recommendation of the Administrative Rules Review Committee, OPP adopted an emergency implemented rule for the FY'82 program with a January 1, 1983 expiration date.

The rules describe the procedures which shall be followed by communities applying for funds under this program, as well as the procedures the Office for Planning and Programming will follow in administering the program.

Activities which are eligible for funding under this program remain basically the same as under the HUD-administered program. Such activities would include acquisition of property, acquisition or construction of public facilities, such as parks, water and sewer systems, or fire protection equipment, housing rehabilitation, and certain other community development activities.

Notice of Intended Action was published in IAB, September 1, 1982, as ARC 3186. A public hearing was held in Des Moines on October 14, 1982, to solicit comments and suggestions on the proposed rules contained in the Notice of Intended Action. Public hearing comments and proposed rule changes were presented by OPP staff to the Iowa Community Development Council (ICDC) on November 8, 1982. The ICDC is the advisory body to the Iowa CDBG program, and is made up of representatives of cities, counties, and councils of governments. ICDC recommendations and suggestions from the public hearing and other sources have been considered in this rulemaking. Following are the major comments received and the manner in which we address these comments in the administrative rules:

A significant number of comments were received suggesting that the number of communitywide points be reduced. In response to these comments OPP has reduced the number of communitywide points from 400 to 300. Communitywide points had been based on three elements: Persons below poverty level income (200 points), housing deficiencies (100 points) and change in tax base (100 points). In order to reduce the total points from 400 to 300, the housing deficiencies element was eliminated. OPP feels this is justified because of the relatively low incidence of housing deficiencies in Iowa, and the slight variation in percentage of housing with deficiencies among communities in this state. The change in tax base element was replaced by a tax levy element, wherein communities will be awarded points based on their city or county millage rate.

Comments favoring reduction in the communitywide points most frequently suggested that an additional 100 points be added to the project-specific points. OPP has increased the project-specific points from 600 to 700, by increasing the project need element from 100 to 200 points.

Many of those commenting felt that communities should not be allowed to apply for funds if they received a grant for the previous program year. The reasons given for this were that a larger number of communities should be given the opportunity to receive funds, and that many communities would have difficulty administering two or more successive grants. The Iowa Community Development Council, however, felt that large communities should be eligible for consecutive year funding, since the number of eligible applicants was relatively small in relation to the number which will likely be funded. The ICDC also felt that there should be a way to fund badly needed projects, even if a community had received a grant for the previous year. Taking the above into consideration, OPP proposes that a bonus of 50 points be given to applicants in the small community category that did not receive funds in the preceding year. OPP projects that this change will provide greater opportunity for communities that were not previously funded, while retaining the possibility for funding high-ranking applications from previous grantees.

It was also felt that unused money reserved for imminent threat grants be rolled back into the current year's program instead of bringing it forward into the next year's program. This would allow several communities that were almost funded to receive funds at the end of the fiscal year. OPP has changed the rules to reflect these comments.

Some of those commenting felt that the criteria for evaluation of imminent threat projects should be more definitive. Due to the vague language in the 1982 rules, many applications were received for these funds that did not fit the purpose of the imminent threat program. New criteria have been included that will clarify conditions which will be considered an imminent threat for this program.

Several of those commenting felt that counties as well as cities over 2,500 population should be allowed to apply for multiyear funding. Those counties with a rural population of 6,800 and over compete for the same funds as cities of 2,500 population and over. In order to treat the larger cities and counties alike, the rules have been changed to allow counties with rural populations of 6,800 and over to apply for multiyear funding.

In the 1982 CDBG program, references to the applicants' names were deleted from applications prior to rating. This assured that rating was done in an unbiased manner, protecting both the applicant and those rating the applications. The Iowa Community Development Council felt this system worked well and requested that the anonymous rating of applications be included in the

administrative rules to ensure its use in forthcoming years.

The Iowa Community Development Council along with several of the 1982 CDBG applicants were concerned that the multipurpose application was too narrowly defined. It prohibited a number of applications that would have been allowed under the federally administered program and was confusing. This definition has been more broadly defined to reflect these concerns.

The CDBG program has now been administered for one program year. During this year a number of things have been learned by the staff which will improve the technical operation of the program. Following are a number of technical changes to the rules which are not viewed as having major policy significance:

23.1(18) has been changed to more accurately reflect the average family size in Iowa. The definition of "low- and moderate-income families" is now based on a family of three instead of a family of four. The average household size in Iowa is below three persons. When a family of four was used as a base, the number of low- and moderate-income persons identified was much higher than the actual number. Using a family of three will give us a more realistic picture of the number of low- and moderate-income persons being served by the program.

23.4(1)"d"(1) has been changed to clarify the use of special assessments to recover capital costs. In 1982 a great deal of confusion over this paragraph existed among applicants who wish to use special assessments. A written waiver was also required by applicants wishing to use special assessments. The waiver requirement has also been dropped.

23.4(1)"f" has been deleted. This paragraph was considered redundant. Activities listed in this section are also listed in 23.4(2)"b".

23.5(2), paragraph 3 has been changed to shorten the application review period from one hundred twenty days to ninety days. Ninety days was sufficient time to review applications in the 1982 program.

23.6(1)"b" has been added to include acceptable past performance as a threshold criteria. This was included in the former rules under evidence of local capacity to administer the grant. However, it was felt that this was a separate item and should be treated separately.

23.6(1)"f" has been changed to clarify the public hearing requirements. In 1982, a number of applicants were confused concerning public hearing requirements. This section has been expanded to explain the requirements in more detail.

23.8(8) has been deleted. This subrule was intended to cover lump sum drawdowns for property rehabilitation. It was reserved in the former rules and never used. At the present time, we are uncertain of the federal government's position on this type of drawdown.

23.9(2) has been added to describe the treatment of OPP multiyear grant awards. The first of these awards were granted in 1982 and this was, therefore, not applicable to the 1982 program.

23.9(8) has been changed to reflect changes in forms used in the administration of the CDBG program.

In addition to the substantive revisions listed above, minor revisions, typographical or grammatical corrections were made in the following sections:

23.2(1)"h", 23.2(2)"d", 23.4, 23.4(1)"c", 23.4(1)"e"(1), 23.4(2)"b", 23.4(2)"c", 23.4(2)"d", 23.4(2)"h", 23.4(2)"l", 23.4(2)"n", 23.4(3)"e", 23.5(3), 23.5(3)"e", 23.6(1)"a", 23.7(2), 23.7(3), 23.8(2)"a", 23.8(2)"c", 23.8(2)"d"(3), 23.8(2)"d"(5)1, 23.8(3)"a", 23.8(4)"a", 23.8(5), 23.8(6), 23.9(3), 23.9(5), 23.9(7), 23.9(8).

The following were renumbered:

23.6(2)"c" to 23.6(2)"e", and 23.9(2) to 23.9(8).

The Office for Planning and Programming adopted these rules on December 7, 1982.

These rules will become effective on January 26, 1983.

Rescind chapter 23 and insert in lieu thereof the following:

CHAPTER 23

COMMUNITY DEVELOPMENT BLOCK GRANT NONENTITLEMENT PROGRAM

630—23.1(7A) Definitions. When used in this chapter, unless the context otherwise requires:

23.1(1) "Act" shall mean Title I of the Housing and Community Development Act of 1974, as amended (P.L. 93-383 and P.L. 97-35).

23.1(2) "Application" shall mean a request for program funds including the required forms and attachments.

23.1(3) "Application on behalf of" shall mean any application submitted by one eligible applicant requesting funds for one or more other eligible applicants.

23.1(4) "Community" shall mean any eligible applicant.

23.1(5) "Community Development Block Grant Nonentitlement Program" shall mean the grant program authorized by Title I of the Housing and Community Development Act of 1974, as amended, for cities and counties except those designated as entitlement areas by the U.S. Department of Housing and Urban Development.

23.1(6) "Competitive program" shall mean the CDBG nonentitlement program, excluding the HUD multiyear program, described in subrule 23.9(1), and the imminent threat contingency program, described in subrule 23.9(2).

23.1(7) "Designated community development areas" shall mean any area(s) designated by the community as an area in need of a concerted community development effort. This may include but is not restricted to an urban renewal area, urban revitalization area, or neighborhood strategy area. In any city of 2,500 population or less, the entire city may be considered a designated community development area.

23.1(8) "Economic development" shall mean the alleviation of physical and economic distress through the stimulation of private investment and community revitalization in areas with declining populations, outmigration or a stagnating or declining tax base.

23.1(9) "Eligible applicant" shall mean any county or incorporated city within the state of Iowa, except those designated as entitlement areas by the U.S. Department of Housing and Urban Development.

23.1(10) "Grant" shall mean funds received through the community development block grant nonentitlement program.

23.1(11) "Historic sites" shall mean any site listed on the national register of historic sites or any other site deemed to have historical significance by the Iowa division of historic preservation.

23.1(12) "HUD" shall mean the U.S. Department of Housing and Urban Development.

23.1(13) "HUD multiyear program" shall mean those projects with funding commitments made by the U.S. Department of Housing and Urban Development extending beyond the 1981 fiscal year.

PLANNING AND PROGRAMMING[630] *(cont'd)*

23.1(14) "Imminent threat contingency fund" shall mean a separate allocation to fund projects which will alleviate an imminent threat to public health and safety which requires immediate action. Up to five percent of the total nonentitlement program funds may be reserved for this purpose. Rules governing these funds are specified in subrule 23.9(2).

23.1(15) "In-kind resources" shall mean noncash resources contributed by public or private sources within the community which are used to directly support the program activities described in the application. This may include the donation or lending of materials, equipment, or labor. Methods for determining the cash equivalent of these resources will be described in the application package.

23.1(16) "Joint application" shall mean an application submitted by more than one eligible application to complete a single project for the benefit of all those applying.

23.1(17) "Local effort" shall mean cash provided by public or private sources within the community which is used to directly support the costs of program activities as described in an application. Local effort may include in-kind resources for cities of less than 2,500 population.

23.1(18) "Low- and moderate-income families" shall mean those families earning no more than eighty percent of the median three-person family income of the county as determined by the latest U.S. Department of Housing and Urban Development, section 8 income guidelines. This includes individuals living alone.

23.1(19) "Low- and moderate-income persons" shall mean members of low- and moderate-income families as defined in this rule.

23.1(20) "Multipurpose application" shall mean an application having two or more major activities.

23.1(21) "Multiyear funding" shall mean a project receiving a funding commitment from two or three program years' allocations.

23.1(22) "Nonentitlement area" shall mean an area which is not a metropolitan city.

23.1(23) "OMB Circular A-87" shall mean the U.S. Office of Management and Budget report entitled "Cost Principles Applicable to Grants and Contracts With State and Local Governments".

23.1(24) "OMB Circular A-102" shall mean the U.S. Office of Management and Budget report entitled "Uniform Administration Requirements for Grants-in-Aid to State and Local Governments".

23.1(25) "OPP" shall mean the Iowa office for planning and programming.

23.1(26) "Program income" shall mean program income as defined by Attachment E of OMB Circular No. A-102.

23.1(27) "Project" shall mean an activity or activities funded with community development block grant nonentitlement funds.

23.1(28) "Recipient" shall mean any eligible applicant receiving funds under this program.

23.1(29) "Single purpose application" shall mean an application having only one primary or major activity and any number of other activities incidental to the primary activity.

23.1(30) "Single-year funding" shall mean a project receiving a funding commitment from only one program year's allocation.

630—23.2(7A) Goals and objectives.

23.2(1) National objectives. The Act apportions funds to states, on a formula basis, to be used by local governments, for the purposes listed in this rule.

As outlined in section 101(c) of the Act, the primary goal of this program is "the development of viable urban communities, by providing decent housing and suitable living environment and expanding economic opportunities, principally for persons of low and moderate income."

The Act also lists the following specific objectives:

a. The elimination of slums and blight and the prevention of blighting influences and the deterioration of property and neighborhood and community facilities of importance to the welfare of the community, principally for persons of low and moderate income;

b. The elimination of conditions which are detrimental to health, safety, and public welfare, through code enforcement, demolition, interim rehabilitation assistance and related activities;

c. The conservation and expansion of the nation's housing stock in order to provide a decent home and a suitable living environment for all persons, but principally those of low and moderate income;

d. The expansion and improvement of the quantity and quality of community services, principally for persons of low and moderate income, which are essential for sound community development and for the development of viable urban communities;

e. A more rational utilization of land and other natural resources and the better arrangement of residential, commercial, industrial, recreational, and other needed activity centers;

f. The reduction of the isolation of income groups within communities and geographical areas and the promotion of an increase in the diversity and vitality of neighborhoods through the spatial deconcentration of housing opportunities for persons of lower income and the revitalization of deteriorating or deteriorated neighborhoods to attract persons of higher income;

g. The restoration and preservation of properties of special value for historic, architectural, or esthetic reasons; and

h. The alleviation of physical and economic distress through the stimulation of private investment and community revitalization in areas with population outmigration or a stagnating or declining tax base. It is the intent of Congress that the federal assistance made available under this title not be utilized to reduce substantially the amount of local financial support for community development activities below the level of such support prior to the availability of this assistance.

23.2(2) State objectives. As amended in 1981, the Act allows states the option of administering this program.

In addition to the national program goals and objectives listed above, the state of Iowa will address the following objectives through its administration of the program:

a. Involve local officials in program decisions, including program design, administrative policies, and review;

b. Increase the number of funding recipients, if feasible, while maintaining adequate program impact in each funded community;

c. Simplify the application procedures and administration of the program;

d. Design the program to be flexible enough to address community priorities. As required by federal

statute, however, the projected use of funds must give maximum feasible priority to activities which benefit low- and moderate-income families, or aid in the prevention or elimination of slums or blight; or must meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet the needs;

e. Ensure neutrality and fairness in the treatment of all applications submitted under this program.

630—23.3(7A) Eligibility. All incorporated cities and all counties in the state of Iowa, except those designated as entitlement areas by the U.S. Department of Housing and Urban Development, are eligible to apply for and receive funds under this program.

630—23.4(7A) Eligible and ineligible activities. Rule 23.4(7A) provides a general summary of eligible and ineligible activities under the CDBG program. In instances where questions arise concerning the eligibility of a specific activity, OPP will utilize the more detailed description of eligible and ineligible activities in the Iowa CDBG Management Guide, which may be obtained from OPP.

23.4(1) General policies relating to eligible activities.

a. Facilities containing both eligible and ineligible uses. Where a facility, otherwise eligible for assistance under the block grant program in subrule 23.4(2), is to be provided as a part of a multiple-use building or facility that also contains otherwise ineligible uses, the portion of the costs attributing to the eligible facility may be assisted with block grant funds if: The facility, which is otherwise eligible and proposed for assistance will occupy a designated and discrete area within the larger facility; and the applicant can determine the costs attributable to the facility proposed for assistance as separate and distinct from the overall costs of the multiple-use building or facility.

b. Facilities located on school property. Any facility eligible for assistance under subrule 23.4(2), which is designed primarily for a public purpose other than education, is not considered to be a school or educational facility where, although it is to be located on a site controlled by a school district, school board or similar body responsible for public education, the facility will be used by any adjacent school or educational facility on an incidental basis. In order to determine whether the facility is to be used on an incidental basis, the applicant shall at a minimum demonstrate that: After school hours and on weekends the facility shall be available for use by the general public to the same extent as similar facilities operating within the applicant's jurisdiction; and during school hours the facility is not used for school purposes for more than four hours each day.

c. Activities outside an applicant's boundaries. Applicants may conduct activities which are otherwise eligible for block grant assistance which are located outside of their boundaries and which are not inconsistent with state or local law, only if the applicant can demonstrate that community objectives could not be achieved if the activities were located within the community's boundaries.

d. Special assessments under the block grant program. The term "special assessment" means a fee or charge levied or filed as a lien against a parcel of real estate as a direct result of benefit derived from the installation of a public improvement, such as streets, curbs, and gutters. The amount of fee represents the pro rata share of the capital costs of the public improvement levied against the benefiting properties. This term does not relate to taxes, or the establishment of the value of real estate for the purpose of levying real estate, property, or ad valorem taxes. The following policies relate to the use of special assessment under the block grant program:

(1) Special assessments may be used to recover the capital costs of public improvements funded in whole or in part with block grant funds provided that special assessments are not used to recover capital costs from properties owned and occupied by low- and moderate-income persons.

(2) Where the capital costs of a public improvement are funded with both block grant and local funds. Any amount of special assessment greater than the amount of local investment in the project shall be considered as program income. An applicant may retain that portion of the special assessment equivalent to, or less than, the amount of local investment in the block grant project.

(3) The total amount of any special assessment and the amount of funds, as collected, shall be recorded as part of the grant program transactions in accordance with Attachment G of OMB Circular No. A-102.

(4) Special assessments paid with block grant funds. Block grant funds may be used to pay special assessments levied against properties owned and occupied by low- and moderate-income persons for the capital costs of eligible public facilities and improvements financed from local revenue sources, other than block grant funds, which are described in the approved application, are constructed during the contract period, and represent the pro rata share of the capital cost of the eligible facility or improvement to the benefiting property. Applicants that propose to pay special assessments with block grant funds must carry out the appropriate environmental reviews and clearances for the public improvements under 24 Code of Federal Regulations Part 58.

e. Consultant activities. Consulting services, including professional assistance in program planning, and other general professional guidance relating to program execution are eligible for assistance. The use of consultants is governed by the following:

(1) Employer-employee type of relationship. No person providing consultant services in an employer-employee type of relationship shall receive more than a reasonable rate of compensation for personal services paid with block grant funds which, on a daily basis, shall not exceed the maximum daily rate of compensation for a GS-18 as established by federal law. These services shall be evidenced by written agreements between the parties which detail the responsibilities, standards and compensations. Adjustments of eligible costs for these services may be made where audit and monitoring reviews indicate that the rates of compensation were not reasonable, or exceeded the maximum daily rate for a GS-18.

(2) Independent contractor relationship. Consultant services provided under an independent contractor relationship are governed by the procurement standards of Attachment O of OMB Circular No. A-102 and are not subject to the GS-18 limitation.

23.4(2) Eligible activities. As authorized by Title I, Section 105 of the Housing and Community Development Act of 1974, as amended, activities assisted by this program may include only the following:

a. The acquisition of real property (including air rights, water rights, and other interests therein) which is

PLANNING AND PROGRAMMING[630] *(cont'd)*

blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth; appropriate for rehabilitation or conservation activities; appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open spaces, natural resources, and scenic areas, the provision of recreational opportunities, or the guidance of urban development; to be used for the provision of public works, facilities, and improvements eligible for assistance under this title; or to be used for other public purposes;

b. The acquisition, construction, reconstruction, or installation (including design features and improvements with respect to such construction, reconstruction, or installation which promote energy efficiency) of public works, facilities and site or other improvements — including:

Neighborhood facilities,
Centers for the handicapped,
Senior centers,
Historic properties,
Utilities (including power generation and distribution facilities using renewable resource energy systems),
Streets,
Street lights,
Water and sewer facilities,
Foundations and platforms for air rights sites,
Pedestrian malls and walkways,
Parks, playgrounds, and recreational facilities (including parks, playgrounds, and recreational facilities established as a result of reclamation and other construction activities carried out in connection with a river and land adjacent thereto where assistance under other federal laws or programs is determined to be unavailable),
Flood and drainage facilities in cases where assistance for these facilities under other federal laws or programs is determined to be unavailable,
Parking facilities which are located in or serve designated community development areas,
Solid waste disposal facilities, recycling or conversion facilities, which are located in or serve designated community development areas, and
Fire protection services and facilities which are located in or which serve designated community development areas.

c. Code enforcement in deteriorated or deteriorating areas in which enforcement, together with public improvements and services to be provided, may be expected to arrest the decline of the deteriorated or deteriorating area;

d. Clearance, demolition, removal, and rehabilitation (including rehabilitation which promotes energy efficiency) of buildings and improvements (including interim assistance, and financing public or private acquisition for rehabilitation, and rehabilitation, of privately owned properties and including renovation of closed school buildings);

e. Special projects directed to the removal of material and architectural barriers which restrict the mobility and accessibility of elderly and handicapped persons;

f. Payments to housing owners for losses of rental income incurred in holding for temporary periods housing units to be utilized for the relocation of individuals and families displaced by activities under this title;

g. Disposition (through sale, lease, donation, or otherwise) of any real property acquired pursuant to this title or its retention for public purposes;

h. Provisions of public services, including but not limited to those concerned with:

Employment,
Crime prevention,
Child care,
Health,
Drug abuse,
Education,
Energy conservation,
Welfare or recreation needs,

if these services have not been provided by the unit of general local government (through funds raised by such unit, or received by such unit from the state in which it is located) during any part of the twelve-month period immediately preceding the date of submission of the statement with respect to which funds are to be made available under this title, and which are to be used for such services, unless the secretary finds that the discontinuation of such services was the result of events not within the control of the unit of general local government, except that not more than ten percentum of the amount of any assistance to a unit of general local government under this title may be used for activities under this paragraph;

i. Payment of the nonfederal share required in connection with a federal grant-in-aid program undertaken as part of activities assisted under this title;

j. Payment of the cost of completing a project funded under Title I of the Housing Act of 1949;

k. Relocation payments and assistance for displaced individuals, families, businesses, organizations, and farm operations, when determined by the grantee to be appropriate;

l. Activities necessary to develop a comprehensive community development plan, and to develop a policy-planning-management capacity so that the recipient of assistance under this title may more rationally and effectively: Determine its needs; set long-term goals and short-term objectives; devise programs and activities to meet these goals and objectives; evaluate the progress of the programs in accomplishing these goals and objectives; and carry out management, co-ordination, and monitoring of activities necessary for effective planning implementation;

m. Payment of reasonable administrative costs and carrying charges related to the planning and execution of community development and housing activities, including the provision of information and resources to residents of areas in which community development and housing activities are to be concentrated with respect to the planning and execution of these activities, and including the carrying out of activities as described in section 701(e) of the Housing Act of 1954 on the date prior to the date of enactment of the Housing and Community Development Amendments of 1981. Funds used for these purposes shall not exceed ten percent of the total grant amount.

n. Activities which are carried out by public or private nonprofit entities, including: Acquisition of real property; acquisition, construction, reconstruction, rehabilitation, or installation of public facilities, site improvements, and utilities, and commercial or industrial buildings or structures and other commercial or industrial real property improvements, and planning;

o. Grants to neighborhood-based nonprofit organizations, local development corporations, or entities organ-

ized under section 301(d) of the Small Business Investment Act of 1958 to carry out a neighborhood revitalization or community economic development or energy conservation project in furtherance of the objectives of subrule 23.2(1);

p. Activities necessary to the development of comprehensive communitywide energy use strategy, which may include items such as:

(1) A description of energy use and projected demand by sector, by fuel type, and by geographic area;

(2) An analysis of the options available to the community to conserve scarce fuels and encourage use of renewable energy resources;

(3) An analysis of the manner in, and the extent to, which the community's neighborhood revitalization, housing, and economic development strategies will support its energy conservation strategy;

(4) An analysis of the manner in, and the extent to, which energy conservation objectives will be integrated into local government operations, purchasing and service delivery, capital improvements, budgeting, land use planning and zoning, and traffic control, parking, and public transportation functions;

(5) A statement of the actions the community will take to foster energy conservation and the use of renewable energy resources in the private sector, including the enactment and enforcement of local codes and ordinances to encourage or mandate energy conservation or use of renewable energy resources, financial and other assistance to be provided (principally for the benefit of low- and moderate-income persons) to make energy conserving improvements to residential structures, and any other proposed energy conservation activities;

(6) Appropriate provisions for energy emergencies;

(7) Identification of the local governmental unit responsible for administering the energy use strategy;

(8) Provision of a schedule for implementation of each element in the strategy; and

(9) A projection of the savings in scarce fossil fuel consumption and the development and use of renewable energy resources that will result from implementation of the energy use strategy; and

q. Provision of assistance to private, for-profit entities, when the assistance is necessary or appropriate to carry out an economic development project.

23.4(3) Ineligible activities. The following is a list of activities which are ineligible for block grant assistance under most circumstances and serves as a general guide regarding ineligible activities. The list of examples of ineligible activities is merely illustrative and does not constitute a list of all ineligible activities.

a. Purchase of equipment. The purchase of equipment with block grant funds is generally ineligible.

(1) Construction equipment. The purchase of construction equipment is ineligible, but compensation for the use of such equipment through leasing, depreciation or use allowances pursuant to Attachment B of OMB Circular A-87 for an otherwise eligible activity is an eligible use of block grant funds. An exception is the purchase of construction equipment which is used as a part of a solid waste disposal facility which is eligible for block grant assistance, such as a bulldozer used at a sanitary landfill.

(2) Furnishings and personal property. The purchase of equipment, fixtures, motor vehicles, or furnishings or other personal property not an integral structural fixture is ineligible, except when necessary for use by a recipient or its subgrantees in the administration of its community development program.

b. Operating and maintenance expenses. The general rule is that any expense associated with operating, maintaining, or repairing public facilities and works or any expense associated with providing public services not assisted with block grant funds is ineligible for assistance. However, operating and maintenance expenses associated with providing public services or interim assistance otherwise eligible for assistance may be assisted. For example, the cost of a public service being operated with block grant funds in a neighborhood facility may include reasonable expenses associated with operating the public service within the facility, including costs of rent, utilities and maintenance. Examples of activities which are not eligible for block grant assistance are:

(1) Maintenance and repair of streets, parks, playgrounds, water and sewer facilities, neighborhood facilities, senior centers, centers for the handicapped, parking and similar public facilities. Examples of maintenance and repair activities for which block grant funds may not be used include the filling of potholes in streets, repairing of cracks in sidewalks, the mowing of recreational areas, and the replacement of expended street light bulbs.

(2) Payment of salaries for staff, utility costs and similar expenses necessary for the operation of public works and facilities; and

(3) Expenses associated with provision of any public service which is not eligible for assistance.

c. General government expenses. Except as otherwise specifically authorized in these rules or under OMB Circular A-87, expenses required to carry out the regular responsibilities of the unit of general local government are not eligible for assistance under this part.

d. Political activities. No expenditure may be made for the use of equipment or premises for political purposes, sponsoring or conducting candidates' meetings, engaging in voter registration activity or voter transportation or other partisan political activities.

e. New housing construction. Assistance may not be used for the construction of new permanent residential structures or for any program to subsidize or finance new construction. For the purpose of this paragraph, activities in support of the development of low- or moderate-income housing, including clearance, site assemblage, provision of site improvements and provision of public improvements and certain housing preconstruction costs, are not considered as programs to subsidize or finance new residential construction.

f. Income payments. The general rule is that assistance shall not be used for income payments for housing or any other purpose.

630—23.5(7A) Application requirements.

23.5(1) Restrictions on applicants.

a. No more than one application per community per program year will be considered. An exception to this restriction is that a community may be funded under both the competitive and imminent threat contingency fund programs.

b. Joint applications from two or more communities will be accepted only in those instances where the most efficient solution to a problem requires mutual action.

c. Cities of 2,500 population or over and counties of 6,800 population or over may apply for multiyear funding. All eligible applicants may apply for single-year, single-purpose or multipurpose funding. Single-year

funding does not necessarily require project completion within a twelve-month period.

d. Communities may not apply on behalf of applicants other than themselves. Applicants will be allowed, however, to utilize staff from counties, areawide planning organizations, or other jurisdictions to administer the program.

23.5(2) Application procedure. Each year, prior to solicitation of applications, the office for planning and programming will, to the extent funds are available for this purpose, conduct a training program for all eligible applicants. All eligible applicants will be notified of the time, date, place and agenda by mail. Application instructions and all necessary forms will be available upon written request to OPP's division of local government affairs, 523 E. 12th Street, Des Moines, Iowa 50319, or by calling 515/281-3982. The training program will include a discussion of the program's purpose, eligible and ineligible program activities and instructions regarding the preparation and submission of an application.

The deadline for submission of applications (original and one copy) shall be two months following the date of the training program. No applications will be accepted after the deadline for submission. Only data submitted by the established deadline will be considered in the selection process, unless additional data is specifically requested by OPP in writing.

Review and ranking of the applications will be performed by OPP personnel after consultation, where appropriate, with other state agencies with program responsibility in CDBG-related areas. All applications meeting threshold requirements will be reviewed and ranked within ninety days of the final submission deadline. The anonymity of the communities will be maintained to the greatest extent possible during the review and ranking of applications. Those applications with the highest rankings within each population category will be funded, to the extent that competitive program funding is available. All successful applicants will be notified and invited to a conference with OPP personnel to outline procedures to be followed as grant recipients.

23.5(3) Contents of application. Each application must address each of the threshold criteria, and demonstrate that each criterion has been satisfied. In addition, each application must contain each of the following items:

a. Description of community need (and how need was determined);

b. Project description (includes amount of funding requested, use of funds, project's impact on community need, and project schedule);

c. Percent of project addressed towards low- and moderate-income persons, including method of determination;

d. Description of local effort, including the amount;

e. Certifications. All applicants will be required to certify that, if they receive funds under this program, they will comply with the following requirements if applicable:

(1) The Civil Rights Act of 1964 (P.L. 88-352) and Title VIII of the Civil Rights Act of 1968 (P.L. 90-284);

(2) Title I of the Housing and Community Development Act of 1974, as amended;

(3) Age Discrimination Act of 1975;

(4) Section 504 of the Rehabilitation Act of 1973;

(5) Davis Bacon Act, as amended (40 U.S.C. 276a-276a-5) where applicable under Section 110 of the Housing and Community Development Act of 1974, as amended;

(6) Preservation of Historical and Archaeological Data Act of 1974 (P.L. 93-291);

(7) National Historic Preservation Act of 1966, Section 106 (P.L. 89-665);

(8) National Environmental Policy Act of 1969;

(9) Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1979, Title II and Title III;

(10) Other relevant regulations as noted in the Iowa CDBG Management Guide.

630—23.6(7A) Selection criteria.

23.6(1) Threshold criteria. All applicants must satisfy these criteria before their application will be considered complete and eligible for ranking.

a. Evidence of local capacity to administer the grant, such as satisfactory previous grant administration, availability of qualified personnel, or plans to obtain qualified personnel.

b. Acceptable past performance in the administration of Community Development Block Grant funds, where applicable.

c. Feasibility of completing identified project with funds requested. If an applicant intends to use other funding sources, they must be identified and the level of commitment and time frames involved must be explained:

d. Project must address one of the following three objectives:

(1) Give maximum feasible priority to activities which will benefit low- and moderate-income persons;

(2) Aid in the prevention or elimination of slums or blight; or

(3) Meet other community development needs having a particular urgency because existing conditions pose a serious threat to the health, safety or welfare of the community where other financial resources are not available to meet such needs.

e. Project funds may only be used for an eligible activity or activities;

f. Project funds may not be incurred prior to written authorization to incur costs;

g. At least one public hearing must be conducted to solicit comments on the community's proposed CDBG program, prior to submission of the community's CDBG application. Notice of the public hearing must be published at least once, not less than four nor more than twenty days before the hearing. The notice must be published in a newspaper of general circulation that is published at least once weekly in the community. Cities with a population of 200 or less may meet the publication requirement by posting the notice in three public places in the city.

23.6(2) Rating factors (to be based on point system). There are two categories of rating factors, communitywide and project-specific. The highest point total possible is 1,050.

a. Communitywide. (Data supplied by OPP)

(1) Percent of community below the poverty level as defined by the 1980 Census, 200 points possible;

(2) City or county mill rate, 100 points.

b. Project- specific. (Data obtained from applications)

(1) Magnitude of need identified by community, 200 points possible;

(2) Project impact—extent to which project addresses community need, 200 points possible;

(3) Percent of project funds benefiting low- and moderate-income families, 200 points possible; and,

(4) Local effort, 100 points possible.

c. Cities of under 2,500 population and counties of under 6,800 population will receive a 50 point bonus if they did not receive a CDBG grant in the preceding year's program.

d. Ties in applications. Ties will be decided in favor of the community whose project benefits the largest number of low- and moderate-income families.

e. Rating of multiyear and multipurpose applications. All applications will be rated on the factors noted in paragraphs "a" and "b" of this subrule. Multiyear applications will be rated on the basis of the total number of years applied for, and multipurpose applications will be rated on the basis of weighted total of need and impact scores for all the projects applied for.

23.6(3) Verification of data. Applications which rate high enough to be funded will be reviewed to verify figures or statements in the applications. At the discretion of OPP, this may include site visits. In cases where inaccuracies, omissions, or errors are found, OPP will have the discretion of rejecting the application or rerating it based on correct information. In cases where an applicant loses funding through this process, its grant amount may be awarded to the highest ranking nonfunded applicant(s). In an instance where the highest ranking nonfunded applicant requests more funds than are available, OPP will have complete discretion concerning the disposition of the excess funds, including renegotiating the amount requested or carrying those funds over to the next program year.

630—23.7(7A) Funding allocation.

23.7(1) Up to two percent of total state program funds may be used for state administration.

23.7(2) Up to five percent of total program funds may be reserved in any year for the imminent threat contingency fund. If this fund is not fully utilized in any year, the excess amount will be reallocated to the general nonentitlement program for the current year. (Rules for this fund are in subrule 23.9(3).)

23.7(3) Distribution of competitive funds. The funds remaining after deducting those used for state administration and the imminent threat contingency fund will be allocated in the following manner:

Cities	Counties	Percent of Funds
0-2,499 population	0-6,799 population (54 smallest)	35%
2,500-49,999 population	6,800+ population (45 largest)	65%

The division of counties is based on unincorporated population only. The counties have been divided between the two population categories in order to maintain an equal per capita distribution of funds.

Competitive grants in each category will be reduced by the amount of prior HUD and OPP multiyear commitments within each category.

23.7(4) Prior HUD multiyear funding commitments will be honored subject to the provisions of subrule 23.9(1).

23.7(5) Grant ceilings. Maximum grant amounts are as follows:

All Applicants	Grant Ceiling
0-2,499 population	$200,000
2,500-14,999 population	$350,000
15,000-49,999 population	$500,000

However, no grantee may receive more than $1,000 per capita, based on the total population within the grantee's jurisdiction. In determining grant ceilings, county populations will be calculated on the basis of unincorporated areas only. Joint applications may be funded up to one and one-half (1.5) times the maximum amount allowable for either of the joint applicants. The ceilings noted above will also apply to each individual year of a multiyear commitment from OPP.

630—23.8(7A) Administration.

23.8(1) Contracts. Upon selection of a project(s) for funding, the office for planning and programming will issue a contract. In the absence of special circumstances in which there is a legal incapacity on the part of the applicant to accept funds for eligible activities, the contract shall be between the office for planning and programming and the community. The designation by the community of another public agency to undertake activities assisted under this program shall not relieve the recipient of its responsibilities in assuring the administration of the program in accordance with all federal and state requirements, including these rules. These rules and applicable federal and state laws and regulations become a part of the contract.

23.8(2) Financial management standards.

a. All recipients shall comply with applicable provisions of OMB Circular No. A-102, "Uniform Administrative Requirements For Grant-in-Aid To State And Local Governments". Where requirements differ between the Circular and state or local law, the more restrictive requirement shall prevail. Contracts may also be conditioned to provide other requirements.

b. Allowable costs shall be determined in accordance with OMB Circular No. A-87, "Cost Principles Applicable To Grants And Contracts With State And Local Governments". Any clarifications or modifications of this standard by the state shall be clearly stated in the Iowa CDBG Management Guide provided to each recipient with the contract.

c. All contracts made under these rules are subject to audit. Recipients shall be responsible for the payment of costs for audits. Audits may be performed by the state auditor's office or by an independent public accountant and, subject to state law, shall be prepared in accordance with the Iowa CDBG Management Guide. Audits shall be conducted not less frequently than once every two years. Audits for single-year funding, and for the final year of a multiyear funding shall commence within sixty days of completion of the funded activities. Audit completion, meaning the issuance of the audit, shall occur within one hundred fifty days of completion of the funded activities. Variations of these time requirements shall only be allowed upon written approval of OPP.

d. Program income.

(1) Units of general local government shall be required to return to the federal government interest (except for interest described in subparagraph 23.8(2) "d"(3)) earned on grant funds advanced in accordance with Attachment E of OMB Circular No. A-102, "Program Income".

(2) Proceeds from the sale of personal property shall be handled in accordance with Attachment N of OMB Circular No. A-102, "Property Management Standards".

(3) All other program income earned during the grant period shall be retained by the recipient and added to funds committed to the program. Included in this category are proceeds from disposition of real property, payments of principal and interest on rehabilitation loans, interest earned on revolving funds, and proceeds from special assessments levied to recover the cost of constructing a public work or facility to the extent the cost was initially paid with funds provided under this part. Receipts derived from the operation of a public work or facility, the construction of which was assisted under this program (e.g., admission fees paid by persons using recreational facilities constructed with grant funds; service fees paid by households using a water facility constructed with grant funds), do not constitute program income.

(4) Recipients shall record the receipt and expenditure of revenues related to the program (such as taxes, special assessments, levies, fines, etc.) as a part of the grant program transactions.

(5) Program income received subsequent to grant closeout.

1. Except as may be otherwise provided under the terms of the grant agreement or any closeout agreement, program income received subsequent to the end of the grant period may be treated by the recipient as follows: Subject to the requirements of this subparagraph, items 2 and 3, this income may be treated as miscellaneous revenue, the use of which is not governed by the provisions of the grant: Provided, that if the recipient has another continuing grant under these rules, the program income received subsequent to the grant closeout shall be treated as program income of the active grant program.

2. Disposition of tangible personal property. The recipient shall account for any tangible personal property acquired with grant funds in accordance with Attachment N of OMB Circular No. A-102, "Property Management Standards".

3. Disposition of real property. Proceeds derived after the closeout from the disposition of real property acquired with grant funds under this program shall be subject to the program income requirements of item 1 above, provided that where such income may be treated as miscellaneous revenue pursuant to item 1 above, it shall be used by the recipient for community development activities eligible pursuant to subrule 23.4(2) to further the general purposes and objectives of the Act. The use of income subject to this proviso is not governed by any other requirements of these rules.

23.8(3) Reimbursements. Grant recipients shall submit billings for reimbursement in the manner and on forms prescribed by OPP. Advance payments may be made to recipients when the following conditions are met:

a. The recipient has demonstrated to OPP, initially through certification in a form prescribed by OPP and subsequently through performance, its willingness and ability to establish procedures that will minimize the time elapsing between the transfer of funds to it and its disbursement of the funds;

b. The recipient's financial management system meets the standards for fund control and accountability prescribed in Attachment G of OMB Circular No. A-102, "Standards for Grantee Financial Management Systems";

c. Grant recipients shall provide documentation as required by OPP to substantiate all costs incurred on a project.

23.8(4) Recordkeeping and retention. Financial records, supporting documents, statistical records, the environmental review records required by 24 Code of Federal Regulations 58.11, and all other records pertinent to the grant program shall be retained by the recipient in accordance with the provisions of Attachment C of OMB Circular No. A-102, "Retention and Custodial Requirements for Records", with the following additions:

a. Records for any displaced person shall be retained for three years after the person has received final payment;

b. Records pertaining to each real property acquisition shall be retained for three years after settlement of the acquisition, or until disposition of the applicable relocation records in accordance with 23.8(4)"a", whichever is later;

c. Representatives of the secretary of the department of housing and urban development, the inspector general, the general accounting office, the state auditor's office and the office for planning and programming shall have access to all books, accounts, documents, records and other property belonging to or in use by recipients pertaining to the receipt of assistance under these rules.

23.8(5) Performance reports and reviews. At the completion of twelve months, calculated from the contract effective date, and at the completion of each succeeding twelve months until contract expiration, each recipient shall submit a grantee performance report to OPP. However, in the instance of a contract due to expire within eighteen months of its issuance, the grantee may elect, with the approval of OPP, to submit a final completion report in accordance with the closeout procedures of 23.8(6) in lieu of a grantee performance report. The report will assess the use of funds in accordance with program objectives, the timeliness of completion of program activities, and compliance with the certifications made under 23.5(3)"e", and will be prepared in accordance with instructions found in the Iowa CDBG Management Guide.

OPP may perform any reviews or field inspections it deems necessary to assure program compliance, including reviews of grantee performance reports. When problems of compliance are noted, OPP may require remedial actions to be taken. Failure to respond to a notification of need for remedial action may result in the implementation of 23.9(5).

23.8(6) Grant closeouts. Upon completion of project activities, recipients will initiate grant closeout in accordance with procedures specified in the Iowa CDBG Management Guide.

23.8(7) Compliance with federal and state laws and regulations. All grant recipients shall comply with all applicable provisions of the Act and its implementing regulations, including these rules. Recipients shall also comply with any provisions of the Iowa Code governing activities performed under this program, including chapter 403 (urban renewal).

630—23.9(7A) Miscellaneous.

23.9(1) HUD multiyear grants. In the case of some communities, grant awards have been made by HUD with a commitment of funding beyond federal fiscal year 1981. All such multiyear commitments will be fully funded under the state's CDBG nonentitlement program

provided performance has been found acceptable in the program year previously funded. HUD shall assess grantee performance during program years for which HUD provided funds. OPP shall assess grantee performance during program years for which the state provided funds.

These communities shall in general follow the same application procedures required by HUD of second or third year applicants. Forms and instructions are included in the Iowa CDBG Management Guide. Communities shall send the applications and any other material or documentation to OPP. If the application is complete, and the grantee's past performance is judged to be satisfactory by HUD or OPP, as appropriate, release of funds to the community will be initiated.

Communities with HUD multiyear grants may amend their proposals, but only after receiving written approval from OPP to do so. OPP may approve, approve with conditions, or deny a request for amendment. If a proposed amendment is a major change, and especially if the amendment might significantly alter program impact, OPP may reclassify the application as a competitive application rather than one which would automatically be funded. The amended application would then have to achieve a certain rating in order to be funded, the same as all other competitive applications.

23.9(2) OPP multiyear grants. Some communities receive funding commitments from OPP, from more than one program year's allocation. These commitments will be fully funded for each year of the communities' programs provided performance has been found acceptable in the year previously funded. OPP shall assess grantee performance.

Any year of an OPP multiyear proposal may be amended prior to grant award for that year, after receiving written approval from OPP to do so. OPP may approve, approve with conditions, or deny a request for amendment. Any amendment that changes the score received on the original application shall be denied.

23.9(3) Imminent threat contingency fund. Up to five percent of the total nonentitlement funds allocated to the state may be reserved for communities which are experiencing an imminent threat to public health, safety or welfare which necessitates corrective action sooner than could be accomplished through the regular application process under the nonentitlement program.

Communities in need of these funds must submit a written request to the Director of the Division of Local Government Affairs, Office for Planning and Programming, Des Moines, Iowa 50319. The request must include a description of the community's problem, the amount of funding requested, projected use of funds, and why the problem cannot be remedied through the normal CDBG funding procedure.

Upon receipt of a request for imminent threat funding, OPP will make a determination as to whether the community and the project are eligible for funding. This determination will be made by OPP, after consultation with the department of health, office of disaster services, or other appropriate federal, state, or local agencies. A project will be considered eligible for funding only if it meets all of the following criteria:

The proposed project must be an eligible project under Iowa administrative code rule 23.4(7A);

An immediate threat must exist to health, safety or community welfare;

The threat must be the result of unforeseeable and unavoidable circumstances or events;

The threat must require immediate action;

No known alternative project or action would be more feasible than the proposed project;

Sufficient other local, state, or federal funds (including the competitive CDBG program) either are not available, or cannot be obtained within the time frame required. OPP staff will check into this with the office of disaster services, and other public agencies, as appropriate.

If OPP determines that the community and the proposed activity are eligible for funding, it shall notify the governor of its determination. Upon the personal authorization of the governor to do so, OPP will make funds available to an applicant which meets the eligibility criteria.

Any community receiving funds under the imminent threat program must comply with all laws, rules, and regulations applicable to the CDBG nonentitlement program, with the exception of those rules waived by the governor pursuant to subrule 23.9(7).

23.9(4) Amendments to competitive applications. Communities may amend proposals at any time after approval of their application by OPP. In any case where program amendments involve new activities or significant alteration of existing activities that may change the scope, location, objectives or scale of the approved activities or beneficiaries, the community must first obtain written approval from OPP to amend their proposal. In order for such an amendment to be approved, the amended application must rate at least as high on the selection criteria point system as the original application rated, and the community must be capable of completing the proposed activities in a reasonable period of time.

23.9(5) Remedies for noncompliance. At any time before project closeout, OPP may, for cause, find that a community is not in compliance with its requirements under this program. At OPP's discretion, remedies for noncompliance may include penalties up to and including the return of program funds to OPP. Reasons for a finding of noncompliance include, but are not limited to: The recipient using program funds for activities not described in its application, the recipient's failure to complete approved activities in a timely manner, the recipient's failure to comply with any applicable state or federal rules or regulations, or the lack of a continuing capacity of the recipient to carry out the approved program in a timely manner.

23.9(6) Contractors and subrecipients limited. Project funds shall not be used directly or indirectly to employ, award contracts to, or otherwise engage the services of, or fund any contractor or subrecipient during any period of debarment, suspension or placement in ineligibility status by the Department of Housing and Urban Development under the provisions of 24 Code of Federal Regulations Part 24.

23.9(7) Waivers. When the governor of the state of Iowa has determined that sufficient cause for such action exists, he may waive any requirement under these rules not required by law. A waiver may be applied to one or more eligible applicants under this program. Sufficient cause for such a waiver may include, but not be limited to, instances where a community has requested imminent threat contingency funds under 23.9(3), or where undue hardship will result from applying the requirement. Waivers under this subrule will become effective only upon the personal authorization of the governor.

23.9(8) Forms. Participants in the block grant program must complete the following forms, as applicable:

PLANNING AND PROGRAMMING[630] *(cont'd)*

a. Grant application procedures.
(1) Standard application package for competitive program.
(2) Standard application package for HUD multiyear program.
b. Program administration procedures.
(1) Grant agreement.
(2) Designation of depository for direct deposit of grant funds.
(3) Authorized signature card and witness certification for letter of credit.
(4) Request for payment and status of funds.
(5) Request for release of funds and certification.
(6) Standard contractor compliance forms package.
(7) Program activities schedule.
(8) Grantee performance report.
(9) Grantee local effort documentation forms package.
c. Program close-out procedures.
(1) Certification of completion.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 12/22/82.

ARC 3448

REVENUE DEPARTMENT[730]

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Iowa Department of Revenue hereby adopts amendments to Chapter 38, "Administration", Chapter 39, "Filing Return and Payment of Tax", Chapter 40, "Determination of Net Income", Chapter 41, "Determination of Taxable Income", and Chapter 42, "Adjustments to Computed Tax", Iowa Administrative Code.

Notice of Intended Action was published in IAB, Volume V, Number 9, on October 27, 1982, as ARC 3334.

The 1982 Iowa Acts, chapter 1226, changed the filing requirements for individual income tax for nonresidents of Iowa and the method for computing tax on nonresidents' and part-year residents' income reportable to Iowa. The 1982 Iowa Acts, chapters 1064 and 1023, provide for the imposition of a minimum tax and a tax on lump-sum distributions for nonresidents.

The present rules of the department are in conflict with those statutory mandates, since they do not provide for the new filing requirements for nonresidents nor do they provide for computing tax on all income, then presenting the tax based on net income allocable to Iowa to total net income.

These rules are identical to those published under Notice of Intended Action with the exception of grammatical changes made at the request of the Administrative Rules Review Committee. The amendments will become effective January 26, 1983, after filing with the administrative rules coordinator and publication in the Iowa Administrative Bulletin and Iowa Administrative Code.

These rules are intended to implement Iowa Code chapter 422.

The following amendments are adopted.

ITEM 1. Amend subrule 38.1(3) as follows:

38.1(3) The word "taxpayer" includes under this division:

a. Every resident of the state of Iowa.
b. *Every part-year resident of the state of Iowa.*
c. Every estate and trust resident of this state whose income is in whole or in part subject to the state income tax.
e *d.* Nonresident individuals, estates and trusts (those with a situs outside of Iowa) receiving taxable income from property in Iowa or from business, trade, or profession or occupation carried on in this state.

ITEM 2. Amend subrule 39.1(2) as follows:

39.1(2) Nonresidents.

a. Tax years beginning on or before December 31, 1981. For each taxable year, every nonresident of Iowa who is not claimed as a dependent on another person's return, but is required to file a federal income tax return and who has a net income, as defined in section 422.7, from sources within this state of four thousand dollars or more, must make, sign and file a nonresident return. Each nonresident who is claimed as a dependent on another person's return, and whose net income, as defined in section 422.7, from sources within this state is three thousand dollars or more, and who is required to file a federal income tax return, must make, sign and file a nonresident return.

b. Tax years beginning on or after January 1, 1982. For each taxable year, every nonresident of Iowa must make, sign and file an Iowa return if the nonresident meets one or more of the following conditions: (1) Is required to file a federal income tax return, (2) has a net income from all sources of $4,000, or (3) is claimed as a dependent on another person's return and had a net income from all sources of $3,000 or more. However, a nonresident is not required to file an Iowa individual income tax return if that individual has a net income, as defined in section 422.7, from sources within this state of less than five hundred dollars.

ITEM 3. Amend subrule 39.1(3) as follows:

39.1(3) Part-year residents.

a. Tax years beginning on or before December 31, 1981. Every part-year resident of Iowa, except those part-year residents claimed as a dependent on another person's return, whose net income earned from all sources during the time ~~he or she~~ *the person* was a resident and whose net income earned from Iowa sources for the portion of the year ~~he or she~~ *the person* was a nonresident, totals four thousand dollars or more, and every part-year resident who is required to file a federal income tax return, must make, sign and file an Iowa resident income tax return. Every part-year resident of Iowa, who is claimed as a dependent on another person's return, and whose net income earned from all sources during the time ~~he or she~~ *the person* was a resident and whose net income earned from Iowa sources for the portion of the year ~~he or she~~ *the person* was a nonresident, totals three thousand dollars or over, or every part-year resident who is required to file a federal income tax return, must make, sign and file an Iowa ~~resident~~ income tax return.

b. Tax years beginning on or after January 1, 1982. For each taxable year, every part-year resident of Iowa must make, sign and file an Iowa return if the part-year resident meets one or more of the following conditions: (1) Is required to file a federal income tax return, (2) has a net income from all sources of $4,000 or more, or (3) is claimed

as a dependent on another person's return and had a net income from all sources of $3,000 or more.

ITEM 4. Amend rule **730—39.1(422)** at the implementation clause as follows:

This rule is intended to implement *Iowa Code* sections 422.5 and 422.13, ~~The Code,~~ *as amended by 1982 Iowa Acts, chapter 1226.*

ITEM 5. Amend subrule 39.3(3) as follows:

39.3(3) Copy of federal income tax return to be filed by nonresident. A nonresident taxpayer shall file a copy of ~~his or her~~ *their* federal income tax return for the current tax year with ~~his or her~~ *their* Iowa ~~nonresident~~ income tax return. Such copy shall include full and complete copies of all farm, business, capital gains and other schedules that were filed with such federal return.

ITEM 6. Amend subrule 40.16(1) as follows:

40.16(1) Nonresidents exempt from paying tax. Nonresidents whose net income as computed under section 422.7, *plus the amount of a lump sum distribution for which the taxpayer has elected to be separately taxed for federal income tax purposes,* is five thousand dollars or less, including any income not allocated to Iowa, are exempt from paying individual income tax subject to the following conditions:

a. Income of both husband and wife is considered in determining the exemption. The combined income regardless of filing status must be five thousand dollars or less in order to qualify for the exemption.

b. An individual claimed as a dependent on another person's return with an income of at least three thousand dollars, but no more than five thousand dollars will be exempt from Iowa tax if:

(1) The person on whose return the dependent is claimed has a net income of five thousand dollars or less, or

(2) The combined income of the person and the person's spouse is five thousand dollars or less.

If the payment of tax would reduce the net income to less than five thousand dollars, the tax shall be reduced to that amount which would allow the taxpayer to retain a net income of five thousand dollars. For example: If a taxpayer's net income is five thousand twenty-five dollars and the computed tax after personal exemption and out-of-state credit is forty-five dollars, the payment of the forty-five dollars would reduce the net income below five thousand dollars; therefore, the amount of tax due is reduced to twenty-five dollars which enables the taxpayer to retain a net income of five thousand dollars.

This provision for reducing tax does not apply to the Iowa minimum tax which must be paid irrespective of the amount of Iowa income that an individual has.

ITEM 7. Amend subrule **40.16(5)** by adding the following examples after the second unnumbered paragraph:

Following are examples to illustrate when intangible income may or may not be subject to the allocation provisions of section 422.8 and rules 730-40.15(422) and 42.3(422):

EXAMPLE A - An Illinois resident is a laborer at a factory in Davenport. A $50 payroll deduction is made each week from the laborer's paycheck to the company's credit union. The Illinois resident will earn $600 in interest income from the Iowa credit union account in 1983. The interest income would not be included in the net income allocated to Iowa since the interest income is not derived from the taxpayer's business or utilized for business purposes.

EXAMPLE B - A Nebraska resident is a self-employed plumber, who has a plumbing business in Council Bluffs. The plumber has an interest-bearing checking account in an Iowa bank which the plumber uses to pay bills for the plumbing business. The plumber will earn $200 in interest income from the checking account in 1982. The plumber will have a net income of $25,000 from the plumbing business which will be reported on the plumber's 1982 Iowa return. The interest income earned by this nonresident would be taxable to Iowa since it is derived from the business and is utilized in the business.

EXAMPLE C - An Illinois resident has a farm in Illinois. The Illinois resident has an account in an Iowa savings and loan association and invests earnings from the Illinois farm in the Iowa savings and loan account. In 1982, the Illinois farmer will earn $1,000 in interest income from the account in the Iowa savings and loan. The interest income is not included in the net income allocable to Iowa since the interest income is not derived from the taxpayer's trade or business.

EXAMPLE D - An Illinois resident has Iowa farms. The Illinois resident invests the profits from the farms in a savings account in an Iowa bank. Several times a year, the taxpayer transfers part of the funds from the savings account to the taxpayer's checking account to purchase machinery to be used in the farming operations. The interest income would not be included in income allocated to Iowa since the interest income is not derived from the taxpayer's trade or business nor is the savings account utilized as a business account.

EXAMPLE E - An Illinois resident is a physician, whose practice is in Iowa. The physician has a business checking account in an Iowa bank that is used to pay the bills relating to the physician's practice. In the same bank, the physician has a personal savings account where all the physician's receipts for a given month are deposited. On the first working day of the month, funds are transferred from the savings account to the checking account to pay the bills that have accrued during the month. The interest income from the savings account would be included in net income allocated to Iowa since it is derived from and utilized in the business.

EXAMPLE F - A nonresident has a farm in Iowa which is the nonresident's principal business, although this person is an Illinois resident. The nonresident has an interest-bearing checking account in an Iowa bank. This checking account is used to pay personal expenditures as well as to pay expenses incurred in operation of the farm. In 1982, the taxpayer will earn $550 in interest from the checking account. The interest would be included in net income allocated to Iowa since the interest is derived from the business, generated from a business account, and utilized in the business.

ITEM 8. Amend rule **730—40.16(422)** at the implementation clause as follows:

This rule is intended to implement *Iowa Code* sections 422.5, 422.7 and 422.8, ~~the Code,~~ *as amended by 1982 Iowa Acts, chapter 1023, section 2 and chapter 1064.*

ITEM 9. Amend rule 730—40.17(422) as follows:

730—40.17(422) Income of part-year residents. A taxpayer who was a resident of Iowa for only a portion of the taxable year is subject to the following rules of ~~reporting~~ *taxation*:

1. For that portion of the taxable year for which the taxpayer was a nonresident, ~~he~~ *the taxpayer* shall ~~report~~ *allocate to Iowa* only the income derived from sources within Iowa.

2. For that portion of the taxable year for which the taxpayer was an Iowa resident, ~~he~~ *the taxpayer* shall ~~report~~ *allocate to Iowa* all income earned *or received* whether from sources within or without Iowa.

A taxpayer moving into Iowa may adjust ~~his or her~~ *their* gross income by the amount of the moving expense to the extent allowed by the Internal Revenue Code. Any reimbursement of moving expense shall be included in *Iowa* income. A taxpayer moving from Iowa to another state or country may not adjust ~~his or her~~ *their* gross income by the amount of moving expense, *nor should any reimbursement of moving expense be allocated to Iowa.*

This rule is intended to implement *Iowa Code* sections 422.5, 42~~7~~2.7 and 42~~8~~2.8~~,~~ ~~The Code~~.

ITEM 10. Amend subrule 41.3(1) as follows:

41.3(1) Federal income tax deduction - part-year residents.

a. For tax years beginning on or before December 31, 1981, ~~T~~the federal income tax deduction attributable to Iowa by part-year residents shall be determined by multiplying the federal tax paid or accrued for the entire taxable year by a fraction, the numerator which is the Iowa ~~adjusted gross~~ *net* income and the denominator which is the federal adjusted gross income except that the taxpayer can deduct actual federal income tax withheld on that income subject to withholding which was earned while the taxpayer was an Iowa resident if the federal tax withheld on the Iowa income is separately shown on the wage statement(s) of the taxpayer.

b. For tax years beginning on or after January 1, 1982, the federal income tax deduction attributable to Iowa by part-year residents shall be the same deduction as is available for resident taxpayers.

ITEM 11. Amend subrule 41.3(2) as follows:

41.3(2) Federal income tax deduction - nonresidents.

a. For tax years beginning on or before December 31, 1981, ~~T~~the federal income tax deduction attributable to Iowa by nonresidents shall be determined by multiplying the federal tax paid or accrued for the entire taxable year by a fraction, the numerator of which is the Iowa *net* ~~adjusted gross~~ income and denominator of which is the federal adjusted gross income.

If separate Iowa nonresident returns are filed by a husband and wife who filed a joint federal return, each spouse's Iowa adjusted gross income must be divided by the total federal ~~adjusted gross~~ *net* income of both spouses in order to compute a ratio that can be used to determine the federal tax deduction attributable to each spouse. In any event, the ratio including the combined ratio of husband and wife, cannot exceed one hundred percent.

Federal income taxes paid during the taxable year on prior years' federal income tax returns will not be allowable on the nonresident return for the taxable year unless Iowa returns were filed for the prior years for which the federal taxes were paid.

Any federal income tax, either paid by a nonresident or withheld from ~~his or her~~ *their* compensation, which is later refunded to the taxpayer, shall be included as Iowa income by the nonresident for the year the refund is received, in the same portion that such federal tax was deducted by the nonresident in a prior Iowa income tax return.

b. For tax years beginning on or after January 1, 1982, the federal income tax deduction attributable to Iowa by nonresidents of Iowa shall be the same deduction as is available for resident taxpayers.

This rule is intended to implement *Iowa Code* section 422.9, ~~The Code,~~ *as amended by 1982 Iowa Acts, chapter 1226.*

ITEM 12. Amend rule 730—41.7(422) as follows:

730—41.7(422) Itemized deductions - part-year residents.

41.7(1) For tax years beginning on or before December 31, 1981, ~~I~~itemized deductions attributable to Iowa by part-year residents shall be determined by multiplying the total itemized deductions, excluding Iowa income tax expensed, by a fraction, the numerator of which is the Iowa ~~adjusted gross~~ *net* income and the denominator of which is the federal adjusted gross income unless the taxpayer can show the actual amount of itemized deductions paid or accrued during the period of residency in Iowa.

41.7(2) For tax years beginning on or after January 1, 1982, itemized deductions attributable to Iowa by part-year residents shall be the itemized deductions allowable for resident taxpayers.

This rule is intended to implement *Iowa Code* sections 422.7, 422.8 and 422.9, ~~The Code,~~ *as amended by 1982 Iowa Acts, chapter 1226.*

ITEM 13. Amend rule 730—41.8(422) as follows:

730—41.8(422) Itemized deductions - nonresidents.

41.8(1) For tax years beginning on or before December 31, 1981, ~~I~~itemized deductions attributable to Iowa by nonresidents shall be determined by multiplying the total itemized deductions, excluding Iowa income tax expensed, by a fraction, the numerator of which is the Iowa ~~adjusted gross~~ *net* income and the denominator of which is the federal adjusted gross income.

If separate Iowa nonresident returns are filed by husband and wife who filed a joint federal return, each spouse's Iowa adjusted gross income must be divided by the total federal ~~adjusted gross~~ *net* income of both spouses in order to compute a ratio that can be used to determine the itemized deductions attributable to each spouse. In any event, the ratio including the combined ratio of husband and wife, cannot exceed one hundred percent.

41.8(2) For tax years beginning on or after January 1, 1982, itemized deductions attributable to Iowa by nonresidents shall be the itemized deductions available for resident taxpayers.

This rule is intended to implement *Iowa Code* sections 422.5, 422.7 and 422.9, ~~the Code,~~ *as amended by 1982 Iowa Acts, chapter 1226.*

ITEM 14. Amend subrule 42.2(3) as follows:

42.2(3) Child care credit. Effective for tax years beginning on or after January 1, 1977, Iowa resident taxpayers are allowed a tax credit equal to five percent of the qualifying employment-related expenses paid for child and dependent care. The expense limitations are the same as provided by Internal Revenue Code Section 44A. A joint Iowa income tax return is not required to be filed in order to obtain this credit. However, those married taxpayers electing to file separate returns or separately on a combined return must allocate the credit to each spouse in proportion to their respective net incomes to the total combined net income. The credit may not exceed the computed tax less amount of exemption credits for any taxable year.

For tax years beginning on or before December 31, 1981, ~~A~~ *a* nonresident of Iowa is allowed a child care credit of

five percent of the qualifying employment-related expenses incurred to allow the taxpayer ~~and/~~or the taxpayer's spouse to work either full or part time for an employer or as a self-employed individual in the state of Iowa. To compute the amount of child care credit attributable to Iowa, the following formula should be used:

$$\frac{\text{Iowa earned income (wages, salaries, self-employment income, etc.)}}{\text{Federal earned income (wages, salaries, self-employment income, etc.)}} \times \text{qualifying employment related expense} \times 5\%$$

In the case of married taxpayers, both taxpayers' incomes must be used in the computation. If the spouses file separate returns or separately on a combined return, the child care credit attributable to Iowa must be allocated to each spouse in the proportion that ~~his or her~~ *each spouse's* respective Iowa net income bears to the total combined Iowa net income.

The computation of the child care credit for nonresident taxpayers is shown in the following example:

A husband and wife both have earned income during 1977 and are filing separate Iowa returns or separately on a combined Iowa return. The total income for the spouses is shown below:

	Husband	Wife
Wages		$ 5,000 (Non-Iowa)
Self-employment income	$20,000 (Iowa)	
Interest Income	$ 2,500 (Non-Iowa)	$ 2,500 (Non-Iowa)
Net rental income		$10,000 (Iowa)

The qualifying employment related expenses shown on federal schedule 2441 amounted to $3,000. The amount of child care credit attributable to Iowa would be:

$$\frac{\$20{,}000}{\$25{,}000} \times \$3{,}000 \times 5\% = \$120$$

The $120 child care credit is then allocated to each spouse on the following basis:

Husband	Wife
$\frac{\$20{,}000}{\$30{,}000} \times \$120 = \$80$	$\frac{\$10{,}000}{\$30{,}000} \times \$120 = \$40$

A copy of federal schedule 2441 must be attached to all returns on which taxpayers have claimed the child care credit. In no case may the child care credit exceed the taxpayer's Iowa income tax liability.

This rule is intended to implement *Iowa Code* section 422.12~~, The Code~~.

ITEM 15. Amend chapter 42 by inserting the following new rule at 42.3 and renumbering the remaining rules of chapter 42 accordingly:

730—42.3(422) Proration of computed tax - nonresidents and part-year residents. For tax years beginning on or after January 1, 1982, the Iowa tax liability of a nonresident or part-year resident of Iowa is computed upon the individual's total net income as if a resident, and after application of all nonrefundable credits, the tax is reduced by multiplying the tax by a fraction, the numerator of which is the individual's net income allocated to Iowa according to Iowa Code section 422.8, and rule 730—40.16(422), and the denominator of which is the individual's total net income computed under Iowa Code section 422.7.

This rule is intended to implement Iowa Code section 422.5, as amended by 1982 Iowa Acts, chapter 1226.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 12/22/82.

ARC 3440

TRANSPORTATION, DEPARTMENT OF[820]

07 MOTOR VEHICLE DIVISION

Pursuant to the authority of Iowa Code section 307.10, the Transportation Commission, on November 30, 1982, adopted amendments to 820—[07,C] entitled "Driver Licensing". The Transportation Commission also rescinded, effective on January 26, 1983, the amendments to 820—[07,C] which have been in effect since July 1, 1982 under emergency rulemaking provisions. The emergency amendments were published in the June 23, 1982 Iowa Administrative Bulletin as ARC 2972.

A Notice of Intended Action for the rule amendments which are being adopted was published in the June 23, 1982 Iowa Administrative Bulletin as ARC 2973.

The 1982 Iowa Acts, chapter 1167, significantly altered the department's responsibilities toward persons suspected of operating motor vehicles while intoxicated or drugged. Due to the complexity and scope of the legislation, a new chapter of rules is being adopted and current rules which conflict with the new chapter are being deleted or amended.

The new rules, Chapter 11, "OWI and Implied Consent," provide departmental procedures and requirements for revocations, work permits, hearings and reinstatements. The chapter covers five types of revocations: When a chemical test indicates ten hundredths or more of one percent by weight of alcohol in a person's blood; when a person refuses to submit to chemical testing; when a court defers judgment, orders a six-year revocation for a third or subsequent violation, or orders the person to undergo alcoholism evaluation, treatment, rehabilitation or education.

The rule amendments being adopted are identical to the ones adopted under emergency provisions and to the ones published under notice except for the following:

1. The title of chapter 11 has been changed to "OWI and Implied Consent". OWI (Operating While Intoxicated) is the language used in the implemented Act.
2. Subrule 11.6(2) has been amended to state that expiration of the six-year period also restores a person's eligibility for operating privileges.
3. Citations of the Iowa Code and the 1982 Iowa Acts have been amended to comply with 1982 Iowa Acts, chapter 1061.

These rule amendments are intended to implement Iowa Code chapter 17A and chapters 321, 321A and 321B as amended by 1982 Iowa Acts, chapter 1167.

These rule amendments are to be published as adopted in the December 22, 1982 Iowa Administrative Bulletin and Supplement to the Iowa Administrative Code to be

effective January 26, 1983; and the rule amendments adopted under emergency rulemaking provisions as ARC 2972 are to be rescinded effective January 26, 1983.

Pursuant to the authority of Iowa Code section 307.10, rules 820—[07,C] entitled "Driver Licensing" are hereby amended.

ITEM 1. Article C is amended by adding Chapter 11 entitled "OWI and Implied Consent" as follows:

CHAPTER 11
OWI AND IMPLIED CONSENT

820—[07,C]11.1(321,321B) Definitions.

11.1(1) Work permit. In this chapter the term shall mean a temporary restricted license, temporary permit, temporary driving permit, or a temporary restricted driving permit.

11.1(2) Temporary license. A replacement license issued in lieu of a license to operate motor vehicles which has been surrendered to a peace officer or the department pursuant to Iowa Code chapter 321B, as amended by 1982 Iowa Acts, chapter 1167. A temporary license is valid only until the effective date of a revocation or the outcome of a departmental hearing.

This rule is intended to implement Iowa Code sections 321.281 and 321.283 and Iowa Code chapter 321B, as amended by 1982 Iowa Acts, chapter 1167.

820—[07,C]11.2(17A) Forms. The department shall provide all forms necessary to accomplish the provisions of this chapter. Forms may be obtained from the Office of Driver License, Iowa Department of Transportation, Lucas State Office Building, Des Moines, Iowa 50319.

This rule is intended to implement Iowa Code section 17A.3.

820—[07,C]11.3(17A, 321, 321A, 321B) Test result revocation.

11.3(1) Cause for revocation. The department shall revoke a person's privilege to operate motor vehicles in Iowa upon receipt of a sworn statement from a peace officer in accordance with Iowa Code section 321B.3, as amended by 1982 Iowa Acts, chapter 1167, section 15, that the person submitted to a chemical test which indicated ten hundredths or more of one percent by weight of alcohol in the person's blood.

11.3(2) Revocation period.

a. The revocation period shall be:

(1) One hundred twenty days if the person has no revocation within the previous six years under Iowa Code subsection 321.209(2), section 321.281, chapter 321B, or 1982 Iowa Acts, chapter 1167.

(2) Two hundred forty days if the person has one previous revocation under those provisions.

(3) One year if the person has two or more revocations under those provisions.

b. The effective date of the revocation shall be twenty days after mailing of the notice by restricted certified mail, personal service of the notice by a peace officer, or personal service of the notice as provided for in rule 820—[07,C]13.21(321), IAC.

11.3(3) Request for an informal settlement hearing.

a. Any person whose privilege to operate motor vehicles has been revoked pursuant to this rule may request a hearing before the department. A hearing must be requested pursuant to this subrule and held pursuant to subrule 11.3(5) before the department will consider granting the person a work permit.

b. The request for a hearing must be submitted in writing to the Office of Driver License, Iowa Department of Transportation, Lucas State Office Building, Des Moines, Iowa 50319. The request shall include the plaintiff's full name, date of birth and current address.

c. If a temporary license was issued by a peace officer, the request must be made within ten days of the issuance of this license. In all other cases, the request must be made within ten days of the effective date of the revocation. Failure to make a timely request for a hearing shall be deemed a waiver of rights under Iowa Code chapter 17A, and Iowa Code chapter 321B, as amended by 1982 Iowa Acts, chapter 1167, and the revocation shall become effective on the date specified in the notice.

d. The department may stay the revocation pending the outcome of the informal settlement hearing if the person is otherwise eligible for licensing. If the revocation is stayed, the department shall issue a temporary license pending the outcome of the informal settlement hearing.

11.3(4) Work permit issuance under test result revocation.

a. A work permit shall not be issued to any person who:

(1) Has a current suspension or revocation pending for any other reason, or is otherwise ineligible for licensing, or

(2) Has had operating privileges suspended or revoked within the preceding twelve months, or

(3) Has been issued a work permit within the preceding two-year period, or

(4) Was not licensed at the time of arrest, or

(5) Has previously had a revocation for a violation of Iowa Code subsection 321.209(2), sections 321.281, 321.283, 321B.7, or 1982 Iowa Acts, chapter 1167.

b. A work permit may only be issued after an appearance before a hearing officer.

c. The person must provide the department with the following information before the issuance of the work permit may be considered:

(1) A statement from the person's employer explaining the need for the work permit.

(2) A statement from the person explaining the need for the work permit.

(3) A work schedule listing the days worked each week, the time that work is started and ended each day, and the hours during the workday when driving is necessary.

(4) A description of the vehicle(s) which will be covered by the work permit.

d. The person must show proof of financial responsibility as provided in Iowa Code chapter 321A, as amended by 1982 Iowa Acts, chapter 1167, section 11, for all vehicles to be operated.

e. The department shall determine the restrictions to be imposed by the work permit.

f. The department shall cancel the work permit immediately upon receipt of a conviction for a moving traffic violation or for violation of a term or condition of the work permit.

g. The permit holder shall immediately notify the department in writing, with justification, of any changes in the terms and conditions under which the permit was issued.

11.3(5) Informal settlement hearing.

a. The informal settlement hearing, pursuant to Iowa Code section 17A.10, shall be conducted by a driver license hearing officer and shall not be recorded.

b. If the plaintiff or the plaintiff's representative fails to appear at the hearing, this failure shall be considered a withdrawal of the request for a hearing and a waiver of rights under Iowa Code chapter 17A, and Iowa Code chapter 321B, as amended by 1982 Iowa Acts, chapter 1167.

c. The informal settlement hearing may cover any issue relating to the incident from which the revocation arose. The plaintiff and the hearing officer may agree in writing to the issues to be raised in a formal hearing.

d. The hearing officer shall either sustain or rescind the revocation, advise the plaintiff of the decision, and report that decision in writing to the department.

e. If the revocation is sustained, the hearing officer shall issue to the plaintiff a revocation notice to be effective twenty days after personal service or mailing of the notice. Mailing of the notice, when required, shall be by certified mail to the last known address of the plaintiff. If the plaintiff is otherwise eligible for licensing, the hearing officer shall also issue to the plaintiff a temporary license which shall expire on the effective date of the revocation. All of the plaintiff's other Iowa licenses or permits to operate motor vehicles shall be surrendered to the hearing officer.

f. If the revocation is rescinded, the department shall issue to the plaintiff a notice rescinding the revocation. The department shall also return to the plaintiff any licenses or permits previously confiscated.

g. The hearing officer shall advise the plaintiff of further procedures concerning the operating privilege.

11.3(6) Request for a formal hearing (contested case proceeding).

a. A formal hearing may be requested by any person aggrieved by the result of an informal settlement hearing.

b. The hearing request must be submitted in writing to the Office of Driver License, Iowa Department of Transportation, Lucas State Office Building, Des Moines, Iowa 50319. The request shall include the plaintiff's full name, date of birth and current address.

c. The request must be submitted within ten days of the effective date of revocation resulting from an informal settlement hearing. Failure to make a timely request for a hearing shall be deemed a waiver of rights under Iowa Code chapter 17A, and Iowa Code chapter 321B, as amended by 1982 Iowa Acts, chapter 1167, and the revocation shall become effective on the date specified in the notice.

d. The department may stay the revocation pending the outcome of the formal hearing if the person is otherwise eligible for licensing. If the revocation is stayed, the department shall issue a temporary license pending the outcome of the formal hearing.

11.3(7) Formal hearing (contested case proceeding).

a. The hearing shall be conducted by an administrative hearing officer in accordance with the provisions of Iowa Code chapter 17A, and rules 820—[01,B] chapter 3, IAC.

b. If the plaintiff or the plaintiff's representative fails to appear at the hearing, the hearing officer may either conduct the hearing, consider all evidence available and render a decision on this evidence, or treat the failure to appear as a withdrawal of the request for a hearing and a waiver of rights under Iowa Code chapter 17A, and Iowa Code chapter 321B, as amended by 1982 Iowa Acts, chapter 1167.

c. The hearing shall cover whether:

(1) The peace officer had reasonable grounds to believe the plaintiff was operating a motor vehicle in violation of Iowa Code section 321.281, as amended by 1982 Iowa Acts, chapter 1167, section 5.

(2) The chemical test results warrant revocation.

(3) The plaintiff should be issued a work permit.

d. The hearing officer shall either sustain or rescind the revocation, and shall provide the plaintiff with a written decision.

e. If the revocation is sustained, the department shall issue to the plaintiff a revocation notice to be effective twenty days after mailing or personal service of the notice. Mailing of the notice, when required, shall be by certified mail to the last known address of the plaintiff. If the plaintiff is otherwise eligible for licensing, the department shall also issue to the plaintiff a temporary license which shall expire on the effective date of the revocation. All other Iowa licenses or permits to operate motor vehicles held by the plaintiff shall be surrendered to the department.

f. If the revocation is rescinded, the department shall issue to the plaintiff a notice rescinding the revocation. The department shall also return to the plaintiff any licenses or permits previously confiscated.

g. If a work permit is authorized, the department shall issue the work permit after the plaintiff has met the requirements of this rule.

h. Upon written request to the department, transcripts of the formal hearing shall be provided for a reasonable fee.

11.3(8) Appeals. A decision by an administrative hearing officer may be appealed in accordance with 820—[01,B] chapter 3, IAC. However, the appeal shall be limited to conclusions of law.

11.3(9) Judicial review. Judicial review of the final agency action may be sought pursuant to Iowa Code section 17A.19, and Iowa Code section 321B.9, as amended by 1982 Iowa Acts, chapter 1167, section 22.

11.3(10) Reinstatement of operating privileges. When the revocation period has ended, a person may obtain a license or permit to operate motor vehicles in Iowa if the person has:

a. Presented proof to the department of compliance with any court orders issued.

b. Filed proof of financial responsibility with the department in accordance with Iowa Code chapter 321A, as amended by 1982 Iowa Acts, chapter 1167.

c. Received a notice from the department ending the revocation.

d. Successfully completed the required driver license examinations.

e. Paid the specified reinstatement fee.

f. Paid the appropriate license or permit fee.

This rule is intended to implement Iowa Code chapter 17A, and Iowa Code sections 321.209 and 321.281 and chapters 321A and 321B, as amended by 1982 Iowa Acts, chapter 1167.

820—[07,C]11.4(17A, 321, 321B) Revocation or denial for refusal to submit to chemical testing.

11.4(1) Cause for revocation. The department shall revoke or deny a person's privilege to operate motor vehicles in Iowa for refusal to submit to chemical testing when the department receives a sworn report from a peace officer in accordance with 1982 Iowa Acts, chapter 1167, section 20.

11.4(2) Revocation period.

a. The revocation period shall be:

(1) One hundred eighty days if the person has no previous revocation under Iowa Code subsection

321.209(2), section 321.281, chapter 321B, or 1982 Iowa Acts, chapter 1167.

(2) One year if the person has one previous revocation under those provisions.

(3) Five hundred forty days if the person has two or more previous revocations under those provisions.

b. The effective date of the revocation shall be twenty days after mailing of the notice by restricted certified mail, personal service of the notice by a peace officer, or personal service of the notice as provided for in rule 820—[07,C]13.21 (321), IAC.

11.4(3) Request for a formal hearing.

a. Any person whose privilege to operate motor vehicles has been revoked pursuant to this rule may request a hearing before the department.

b. The request for a hearing must be submitted in writing to the Office of Driver License, Iowa Department of Transportation, Lucas State Office Building, Des Moines, Iowa 50319. The request shall include the plaintiff's full name, date of birth and current address.

c. If a temporary license was issued by a peace officer, the request must be made within ten days of the issuance of this license. In all other cases, the request must be made within ten days of the effective date of revocation or denial. Failure to make timely request for a hearing shall be deemed a waiver of rights under Iowa Code chapter 17A, and Iowa Code chapter 321B, as amended by 1982 Iowa Acts, chapter 1167, and the revocation shall become effective on the date specified in the notice.

d. The department may stay the revocation or denial pending the outcome of the formal hearing if the plaintiff is otherwise eligible for licensing. If the revocation is stayed, the department shall issue a temporary license pending the outcome of the formal hearing.

11.4(4) Formal hearing (contested case proceeding).

a. The hearing shall be conducted by an administrative hearing officer in accordance with the provisions of Iowa Code chapter 17A, and rules 820—[01,B] chapter 3, IAC.

b. If the plaintiff or the plaintiff's representative fails to appear at the hearing, the hearing officer may either conduct the hearing, consider all evidence available and render a decision on this evidence, or treat the failure to appear as a withdrawal of the request for a hearing and a waiver of rights under Iowa Code chapter 17A, and Iowa Code chapter 321B, as amended by 1982 Iowa Acts, chapter 1167.

c. The hearing shall cover whether:

(1) The peace officer had reasonable grounds to believe the plaintiff was operating a motor vehicle in violation of Iowa Code section 321.281, as amended by 1982 Iowa Acts, chapter 1167, section 5.

(2) The plaintiff refused to submit to chemical testing.

d. The hearing officer shall either sustain or rescind the revocation or denial, and shall provide the plaintiff with a written decision.

e. If the revocation is sustained, the department shall issue to the plaintiff a revocation notice to be effective twenty days after mailing or personal service of the notice. Mailing of the notice, when required, shall be by certified mail to the plaintiff's last known address. If the plaintiff is otherwise eligible for licensing, the department shall also issue to the plaintiff a temporary license which shall expire on the effective date of the revocation. All other Iowa licenses or permits to operate motor vehicles held by the plaintiff shall be surrendered to the department.

f. If the revocation is rescinded, the department shall issue to the plaintiff a notice rescinding the revocation. The department shall also return to the plaintiff any licenses or permits previously confiscated.

g. A person whose operating privilege has been revoked for refusal to submit to a chemical test shall not be eligible for, and shall not be issued, a work permit.

h. Upon written request to the department, transcripts of the formal hearing shall be provided for a reasonable fee.

11.4(5) Appeals. A decision by an administrative hearing officer may be appealed in accordance with 820—[01,B] chapter 3, IAC. However, the appeal shall be limited to conclusions of law.

11.4(6) Judicial review. Judicial review of the final agency action may be sought pursuant to Iowa Code section 17A.19, and Iowa Code section 321B.9, as amended by 1982 Iowa Acts, chapter 1167, section 22.

11.4(7) Reinstatement of operating privileges. When the revocation period has ended, a person may obtain a license or permit to operate motor vehicles in Iowa if the person has:

a. Presented proof to the department of compliance with any court orders issued.

b. Filed proof of financial responsibility with the department in accordance with Iowa Code chapter 321A, as amended by 1982 Iowa Acts, chapter 1167.

c. Received a notice from the department ending the revocation.

d. Successfully completed the required driver license examinations.

e. Paid the specified reinstatement fee.

f. Paid the appropriate license or permit fee.

This rule is intended to implement Iowa Code chapter 17A, and Iowa Code sections 321.209 and 321.281 and chapter 321B, as amended by 1982 Iowa Acts, chapter 1167.

820—[07,C]11.5(321,321B) Revocation for deferred judgment.

11.5(1) Cause for revocation. The department shall revoke a person's privilege to operate motor vehicles in Iowa upon receipt of a court order granting the person a deferred judgment for an offense under Iowa Code section 321.281, as amended by 1982 Iowa Acts, chapter 1167, section 5.

11.5(2) Revocation period.

a. The length of the revocation shall be as specified by the court order. If no revocation period is specified by the court, the revocation period shall be ninety days.

b. If the person's licenses or permits have not been surrendered to the court, the person must surrender all Iowa licenses or permits to operate motor vehicles to the department.

11.5(3) Work permit issuance.

a. A work permit shall not be issued to any person who:

(1) Has a current suspension or revocation pending for any other reason, or is otherwise ineligible for licensing, or

(2) Is subject to revocation or denial of operating privileges under Iowa Code section 321B.7, or 1982 Iowa Acts, chapter 1167, section 20 for refusal to submit to chemical testing, or

(3) Has had operating privileges suspended or revoked within the preceding twelve months for any other reason, or

TRANSPORTATION, DEPARTMENT OF[820] *(cont'd)*

(4) Has been issued a work permit within the preceding two-year period, or

(5) Was not licensed at the time of arrest, or

(6) Is requesting the work permit for the purpose of attending a course for drinking drivers, or

(7) Has previously had a revocation for a violation of Iowa Code subsection 321.209(2), sections 321.281, 321.283, 321B.7, or 1982 Iowa Acts, chapter 1167.

b. The person must provide the department with the following information before the issuance of the work permit may be considered:

(1) A statement from the person's employer explaining the need for the work permit.

(2) A statement from the person explaining the need for the work permit.

(3) A work schedule listing the days worked each week, the time that work is started and ended each day, and the hours during the workday when driving is necessary.

(4) A description of the vehicle(s) which will be covered by the work permit.

(5) A certification of enrollment in an alcohol or drug dependency evaluation, treatment or educational facility or service if the permit is requested for these purposes.

c. The department shall determine the restrictions to be imposed by the work permit.

d. The department shall cancel the work permit immediately upon receipt of a conviction for a moving traffic violation or for violation of a term or condition of the work permit.

e. The permit holder shall immediately notify the department in writing, with justification, of any changes in the terms and conditions under which the permit was issued.

11.5(4) Reinstatement of operating privileges. When the revocation period has ended, a person may obtain a license or permit to operate motor vehicles in Iowa if the person has:

a. Received a notice from the department ending the revocation.

b. Presented proof to the department of compliance with any court orders issued.

c. Successfully completed the required driver license examinations.

d. Paid the appropriate license or permit fee.

This rule is intended to implement Iowa Code sections 321.281 and 321B.7, as amended by 1982 Iowa Acts, chapter 1167, section 20.

820—[07,C]11.6(321) Six-year revocation for a third or subsequent violation.

11.6(1) Cause for revocation. When the department receives a court order which provides for a six-year revocation of a person's privilege to operate motor vehicles in Iowa for a third or subsequent violation of Iowa Code section 321.281, as amended by 1982 Iowa Acts, chapter 1167, section 5, the department shall revoke that person's operating privilege. If the person's licenses or permits have not been surrendered to the court, the person must surrender all Iowa licenses or permits to operate motor vehicles to the department.

11.6(2) Restoration of eligibility. Upon expiration of the six-year period or upon receipt of a court order authorizing restoration of the person's eligibility for a license or permit to operate motor vehicles, the department shall notify the person by mail that the person's eligibility has been restored and shall advise the person of further procedures concerning the operating privilege.

11.6(3) Reinstatement of operating privileges. When the revocation period has ended, a person may obtain a license or permit to operate motor vehicles in Iowa if the person has:

a. Presented proof to the department of compliance with any court orders issued:

b. Filed proof of financial responsibility with the department in accordance with Iowa Code chapter 321A, as amended by 1982 Iowa Acts, chapter 1167.

c. Received a notice from the department ending the revocation.

d. Successfully completed the required driver license examinations.

e. Paid the specified reinstatement fee.

f. Paid the appropriate license or permit fee.

This rule is intended to implement Iowa Code section 321.281, as amended by 1982 Iowa Acts, chapter 1167, section 5.

820—[07,C]11.7(321,321A,321B) Revocation for court ordered evaluation, treatment or education on alcohol.

11.7(1) Cause for revocation. The department shall revoke a person's privilege to operate motor vehicles in Iowa when the person is ordered by the court to enroll, attend and successfully complete a course for drinking drivers, or to complete alcohol evaluation, treatment or rehabilitation services.

11.7(2) Revocation period. If the person's operating privilege is revoked or suspended at the time of the order, that revocation or suspension shall not end until proof of completion of the required course or evaluation, treatment or rehabilitation services has been filed with the department.

11.7(3) Work permit issuance.

a. A person who has been ordered to successfully complete evaluation, treatment or rehabilitation services may be issued a work permit. However, a work permit shall not be issued to any person who:

(1) Has a current suspension or revocation pending for any other reason, or is otherwise ineligible for licensing, or

(2) Has had operating privileges suspended or revoked within the preceding twelve months for any other reason, or

(3) Has been issued a work permit within the preceding two-year period, or

(4) Was not licensed at the time of arrest, or

(5) Is subject to revocation or denial of operating privileges under 1982 Iowa Acts, chapter 1167, section 20, for refusal to submit to chemical testing, or

(6) Is requesting the work permit for the purpose of attending a course for drinking drivers, or

(7) Has previously had a revocation for a violation of Iowa Code subsection 321.209(2), sections 321.281, 321.283, chapter 321B or 1982 Iowa Acts, chapter 1167.

b. A work permit may only be issued after an appearance before a hearing officer.

c. The person must provide the department with the following information before the issuance of the work permit may be considered:

(1) A statement from the person's employer explaining the need for the work permit.

(2) A statement from the person explaining the need for the work permit.

(3) A work schedule listing the days worked each week, the time that work is started and ended each day, and the hours during the workday when driving is necessary.

(4) A description of the vehicle(s) which will be covered by the work permit.

d. The person must show proof of financial responsibility as provided in Iowa Code chapter 321A, as amended by 1982 Iowa Acts, chapter 1167, for all vehicles to be operated.

e. The department shall determine the restrictions to be imposed by the work permit.

f. The department shall cancel the work permit immediately upon receipt of a conviction for a moving traffic violation or for violation of a term or condition of the work permit.

g. The permit holder shall immediately notify the department in writing with justification, of any changes in the terms and conditions under which the permit was issued.

11.7(4) Reinstatement of operating privileges. When the revocation period has ended, a person may obtain a license or permit to operate motor vehicles in Iowa if the person has:

a. Presented proof to the department of compliance with any court orders issued.

b. Filed proof of financial responsibility with the department in accordance with Iowa Code chapter 321A, as amended by 1982 Iowa Acts, chapter 1167.

c. Received a notice from the department ending the revocation.

d. Successfully completed the required driver license examinations.

e. Paid the specified reinstatement fee.

f. Paid the appropriate license or permit fee.

This rule is intended to implement Iowa Code sections 321.281 and 321.283 and chapters 321A and 321B, as amended by 1982 Iowa Acts, chapter 1167.

ITEM 2. Rescind subrule 820—[07,C]13.13(4) and insert in lieu thereof the following:

13.13(4) When the department's records show that such person is incompetent to drive a motor vehicle. An "incompetent" as used in this subrule shall include the following:

a. Any person convicted of two moving traffic law violations committed within the twelve-month period following the reinstatement of driving privileges after suspension as a habitual violator.

b. Any person convicted of six or more moving traffic law violations committed within a period of three years.

c. Any person who has been involved in a motor vehicle accident when the department's records indicate that such person contributed to said accident and if said person, according to the department's records, has previously been considered to have contributed to at least two motor vehicle accidents within a period of one year, and who has been subjected to the department's driver improvement action as a result of said prior accidents. "Contributed" shall mean that the records of the department indicate that the subject in question committed some act or failed to do that which would reasonably be expected of a driver when such action or failure to perform appears to have been a cause of the accident.

d. Any person who has been involved in five accidents within twelve months.

e. Any person who shall not be licensed under the authority of subsections 321.177(4), (5), (6) and (7).

A suspension under this rule for incompetence shall be for an indefinite period but shall be terminated upon receipt by the department of satisfactory evidence that the licensee has been restored to competency. However, an indefinite suspension of an incompetent as defined in subrule 13.13(4), "a," "b," "c," or "d," shall not be subject to review for two years.

ITEM 3. Rescind rule 820—**[07,C]13.14(321)** and reserve the number for future use.

ITEM 4. Rescind subrule 820—[07,C]13.15(9) and insert in lieu thereof the following:

13.15(9) A temporary restricted license shall not be issued to the following:

a. An individual whose license has been suspended pursuant to Iowa Code section 321.210(4), for incompetency.

b. An individual whose driving privileges have been suspended as the result of an action resulting from Iowa Code chapter 321A.

c. An individual whose license has been mandatorily revoked pursuant to Iowa Code section 321.209.

d. An individual whose license has been suspended pursuant to Iowa Code section 321.513 [68GA, ch1103,§16].

ITEM 5. Rescind subrule 820—**[07,C]13.15(10)** and reserve the number for future use.

ITEM 6. Rescind rule 820—**[07,C]13.18(321B)** and reserve the number for future use.

ITEM 7. Rescind the first paragraph of rule 820—[07,C]14.6(321A) and insert in lieu thereof the following:

820—[07,C]14.6(321A) Proof of financial responsibility for the future. Proof is required whenever a person's license is suspended or revoked for a conviction or unsatisfied judgment or when the license is revoked or denied under the provisions of Iowa Code chapter 321B, as amended by 1982 Iowa Acts, chapter 1167. The registrations of the person are also suspended unless that person has filed proof of financial responsibility with respect to all motor vehicles registered to that person.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 12/22/82.

ARC 3441

TRANSPORTATION, DEPARTMENT OF[820]

07 MOTOR VEHICLE DIVISION

Pursuant to the authority of Iowa Code section 307.10 the Transportation Commission, on November 30, 1982, adopted an amendment to 820—[07,C] chapter 13 entitled "Driver Licenses".

A Notice of Intended Action for this rule amendment was published in the October 13, 1982 Iowa Administrative Bulletin as ARC 3261.

The current subrule on probationary operator's license is being replaced by a subrule on minor's restricted license. The new subrule implements the provisions of 1982 Iowa Acts, chapter 1248, sections 1 and 2. This bill:

Changes the license type from probationary operator to restricted.

TRANSPORTATION, DEPARTMENT OF[820] *(cont'd)*

Deletes the requirement that the license may only be issued for one year.

Provides that the restricted license is valid only for driving to and from work.

Requires the department to receive confirmation of employment and need for a restricted license, a statement that driver education is not offered or available, if applicable, and the parent's or guardian's consent before issuance may be considered.

Authorizes the department to suspend the restricted license for one conviction for a moving traffic violation and to revoke for two convictions.

Sets the time period after revocation during which no new license or permit may be issued.

Requires the employer to notify the department if employment is terminated prior to the licensee's eighteenth birthday.

This rule amendment is identical to the one published under notice.

This rule amendment is intended to implement Iowa Code sections 321.178 and 321.184 as amended by 1982 Iowa Acts, chapter 1248, sections 1 and 2.

This rule amendment is to be published as adopted in the December 22, 1982 Iowa Administrative Bulletin and Supplement to the Iowa Administrative Code to be effective January 26, 1983.

Pursuant to the authority of Iowa Code section 307.10, rules 820—[07,C] chapter 13 entitled "Driver Licenses" are hereby amended.

Rescind all of subrule 13.5(4) and insert in lieu thereof the following:

13.5(4) Minor's restricted license.

a. "Minor's restricted license" means "restricted license" as used in Iowa Code section 321.178 as amended by 1982 Iowa Acts, chapter 1248, section 1.

b. A person under the age of eighteen, but at least sixteen, shall not be required to complete an approved driver education course prior to being considered for a minor's restricted license if the person meets one of the following criteria:

(1) The person is not attending a high school level institution. This means that either the person has terminated enrollment and is not expected to re-enroll, or the person has never enrolled.

(2) The person is attending a high school level institution which does not offer an approved driver education course, and the course cannot be obtained through another school. The fact that a person is not able to take driver education due to scheduling problems or limited offering shall not be construed to mean that driver education is not available.

c. Proof of nonattendance shall be required before the department will consider issuing a minor's restricted license to a person who is not attending a high school level school.

(1) Proof of nonattendance may be documented on Form 430072, provided by the department. This form must be completed by the superintendent or principal of the school of last attendance, whether private or public, or in-state or out-of-state.

(2) If Form 430072 is not used, a high school diploma or equivalency certificate, or acceptance papers from a college or university, may be accepted by the department as proof of nonattendance..

d. The following, as applicable, shall be required before the department will consider issuing a minor's restricted license to a person attending a high school level school which does not offer or make available an approved driver education course:

(1) A letter from the superintendent or principal of the school of attendance stating that the school system does not offer an approved course in driver education at any time.

(2) For persons attending a private school, a statement from the superintendent or principal of the private school stating that the school does not provide an approved driver education course and that an approved driver education course is not available from the public school district where the private school is located.

e. Other requirements for issuance of a minor's restricted license:

(1) The applicant shall provide to the department a letter from the employer confirming the applicant's employment.

(2) The parent's or guardian's consent for issuance of a minor's restricted license shall be presented to the department.

(3) The applicant shall meet visual standards for licensing.

(4) Successful completion of the operator knowledge examination shall be required unless the applicant has a valid Iowa license or permit to operate motor vehicles which has not been expired for more than thirty days.

(5) The applicant shall pass a driving test in a motor vehicle for which an operator's license is valid.

(6) The applicant shall pay a fee of five dollars.

f. The minor's restricted license shall be issued to expire on the person's eighteenth birthday and shall remain valid for thirty days past the expiration date. The minor's restricted license shall be valid only for driving to and from the person's employment.

g. The employer shall notify the department when the person's employment has terminated if the person is not yet eighteen years of age. The minor's restricted license shall be canceled when the person is no longer employed unless the person re-enters school and completes the classroom portion of an approved driver education course as soon as a course is available.

h. The department shall suspend the minor's restricted license upon receiving proof of the person's conviction for a moving traffic violation. Reinstatement is allowed thirty days after suspension if the suspended license is surrendered to the department.

i. The department shall revoke the minor's restricted license upon receiving proof of the person's conviction for two or more moving traffic violations. The person shall not be eligible for issuance of any new license or permit to operate motor vehicles until the expiration of one year or until the person's eighteenth birthday, whichever is the longer period.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 12/22/82.

ARC 3442

TRANSPORTATION, DEPARTMENT OF[820]

07 MOTOR VEHICLE DIVISION

Pursuant to the authority of Iowa Code section 307.10, the Transportation Commission, on November 30, 1982, adopted amendments to 820—[07,C] chapter 13 entitled "Driver Licenses".

A Notice of Intended Action for these rule amendments was published in the October 13, 1982 Iowa Administrative Bulletin as ARC 3262.

TRANSPORTATION, DEPARTMENT OF[820] *(cont'd)*

These amendments implement a new driver improvement program. A person with two convictions for moving traffic violations committed within a twelve-month period shall be sent an advisory letter. The letter will serve to remind the individual of the previous convictions and the fact that a third conviction could result in suspension of the person's privilege to operate motor vehicles in Iowa.

A person convicted of three moving traffic violations committed within a twelve-month period shall be declared a habitual violator and shall be required to complete a driver improvement school. Upon completion, the person shall be on probation for a period of one year.

A person convicted of a moving traffic violation committed after completing the school and while on probation, convicted of at least four moving traffic violations committed within a twelve-month period, or declared a habitual violator for the second time within a two-year period shall be required to appear before the department for an informal driver improvement interview. The interview may result in suspension or restriction of the person's operating privilege.

It is anticipated that the use of advisory letters and attendance at driver improvement classes will decrease the future accident involvement and traffic violations of the persons affected by these driver improvement actions.

These rule amendments are identical to the ones published under notice except for gender changes.

These rule amendments are intended to implement Iowa Code chapters 17A and 321.

These rule amendments are to be published as adopted in the December 22, 1982 Iowa Administrative Bulletin and Supplement to the Iowa Administrative Code to be effective January 26, 1983.

Pursuant to the authority of Iowa Code sections 307.10 and 321.210, rules 820—[07,C] chapter 13 entitled "Driver Licenses" are hereby amended.

ITEM 1. Rescind subrule 13.13(8) and insert in lieu thereof the following:

13.13(8) In lieu of a suspension under subrule 13.13(3) of this chapter, the department may require a person to attend an approved driver improvement school or may take other appropriate remedial action in accord with the following driver improvement program.

a. An advisory letter may be sent by ordinary mail to the last known address of each person shown by department records to have accumulated convictions for two moving traffic violations committed within twelve months. The letter shall inform the person that convictions for three moving traffic violations committed within any twelve-month period will result in the person's being declared a habitual violator of the traffic laws. The letter shall also state that the department will take remedial action to improve a habitual violator's driving habits and that the remedial action may include suspension of the person's privilege to operate motor vehicles in Iowa. Failure of the advisory letter to reach the person shall have no bearing or effect on any subsequent driver improvement actions taken by the department.

b. A person convicted of three moving traffic violations committed within a twelve-month period shall be declared a habitual violator of the traffic laws. Each person declared a habitual violator of the traffic laws shall be required, at the violator's own expense, to attend and successfully complete a driver improvement school approved by the department.

(1) The person shall be scheduled to attend the driver improvement school nearest the person's last known address.

(2) One request for rescheduling may be granted if space is available at the desired time and location, and if the school begins within thirty days of the originally scheduled date.

(3) A request to attend a driver improvement school in another state may be granted if the curriculum and instructors are approved by the department.

c. Each person directed to attend a driver improvement school must also successfully complete a one-year probationary driving period commencing on the day the driver improvement school is successfully completed. One conviction for a moving traffic violation committed during probation may result in suspension of the person's operating privilege for a period of ninety days pursuant to subrule 13.13(3) of this chapter.

d. Any person who does not attend, or does not successfully complete, the driver improvement school shall have the person's operating privilege suspended for a period of ninety days to one year.

e. No person shall be assigned to a driver improvement school more than once within a two-year period. Any person who has been declared a habitual violator more than once within a two-year period shall be required to appear for an informal driver improvement interview (see rule 820—[07,C] 13.19(321)).

f. Any person who is convicted of four or more moving traffic violations committed within a twelve-month period shall be required to appear for an informal driver improvement interview (see rule 820—[07,C]13.19(321)).

ITEM 2. Rescind rule [07,C]13.19(321) and insert in lieu thereof the following:

820—[07,C]13.19(321) Driver improvement interview or informal settlement.

13.19(1) Any person may be required to appear before the department for an informal driver improvement interview if that person:

a. Is declared a habitual violator of the traffic laws for the second time within a two-year period.

b. Is convicted of at least four moving traffic violations committed within a twelve-month period or has been convicted of a moving traffic violation while on probation.

c. Has contributed to three motor vehicle accidents within a twelve-month period, as defined in subrule 13.13(4) of this chapter.

d. Appears to be in violation of Iowa Code section 321.216 relating to unlawful use of a license.

e. Is convicted of a serious violation as defined in subrule 13.13(7) of this chapter.

f. Is subject to suspension pursuant to the provisions of Iowa Code section 321.210.

13.19(2) The department may take any of these remedial actions following an informal driver improvement interview:

a. Suspend the person's privilege to operate motor vehicles in Iowa. The suspension may be required to be completed with or without a work permit.

b. Place the person on probation. A conviction for one moving traffic violation committed during the probationary period may result in suspension of the person's operating privilege.

c. Restrict the person's operating privilege to specified vehicles, times, routes, locations, or other conditions.

d. Require surrender of the driver's license.

e. Issue a temporary driver's permit.

f. Order the person to successfully complete an approved driver improvement course provided the person has not attended one within the past two years.

g. Take no further action.

13.19(3) Failure to appear at the driver improvement interview shall result in the suspension of the person's operating privilege.

13.19(4) Upon notice of suspension of a person's operating privilege by the department, that person's driver's license shall be surrendered to the designated representative of the department. The department shall issue, in lieu thereof, a temporary driver's permit which will allow the person to retain the operating privilege until the effective date of the suspension.

This rule is intended to implement Iowa Code sections 17A.10, 321.193 and 321.210.

[Filed 12/1/82, effective 1/26/83]
[Published 12/22/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 12/22/82.

ARC 3443

TRANSPORTATION, DEPARTMENT OF[820]

07 MOTOR VEHICLE DIVISION

Pursuant to the authority of Iowa Code section 307.10, the Transportation Commission, on November 30, 1982, adopted amendments to 820—[07,C] chapter 14 entitled "Financial Responsibility".

A Notice of Intended Action for these rule amendments was published in the October 13, 1982 Iowa Administrative Bulletin as ARC 3263.

This chapter is being amended by moving the subrule which sets out the exceptions to this chapter to the beginning of the chapter, and by adding a definition of "department".

The "exceptions" subrule is also being shortened by referencing the Iowa Code section it implements (321A.33) instead of merely repeating this section almost word for word. It should be noted that section 321A.33 was amended by 1982 Iowa Acts, chapter 1150, section 1. This bill adds to the financial responsibility exceptions those owners and operators of motor vehicles subject to Iowa Code sections 327A.5 and 327B.6.

These rule amendments are identical to the ones published under notice.

These rule amendments are intended to implement Iowa Code chapter 321A.

These rule amendments are to be published as adopted in the December 22, 1982 Iowa Administrative Bulletin and Supplement to the Iowa Administrative Code to be effective January 26, 1983.

Pursuant to the authority of Iowa Code section 307.10, rules 820—[07,C] chapter 14 entitled "Financial Responsibility" are hereby amended.

ITEM 1. Strike rule [07,C]14.1(321A) and insert in lieu thereof the following:

820—[07,C]14.1(321A) General provisions.

14.1(1) Definitions. The definitions contained in Iowa Code section 321A.1 are hereby adopted. In addition:

a. "Department" means the Iowa department of transportation.

b. Reserved.

14.1(2) Exceptions. Except for accident reporting requirements, this chapter of rules does not apply to the owners or operators of motor vehicles excepted by Iowa Code section 321A.33. To establish availability of an exception, the person required to show proof shall submit to the department a letter from the owner of the motor vehicle authorizing the person to use the motor vehicle.

This rule is intended to implement Iowa Code sections 321A.1 and 321A.33.

ITEM 2. Rescind subrule **14.6(3)** and reserve for future use.

[Filed 12/1/82, effective 1/26/83]
[Published 12/22/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 12/22/82.

EFFECTIVE DATE DELAY

[Pursuant to §17A.4(5)]

AGENCY	RULE	EFFECTIVE DATE DELAYED
Aging, Commision on[20]	Subrules 4.2(1) to 4.2(7) [IAB 11/24/82, **ARC 3393**]	Seventy days from effective date of December 29, 1982.
Public Employment Relations Board[660]	Rule 7.2(20) [IAB 11/10/82, **ARC 3359**]	Forty-five days after convening of the next General Assembly pursuant to §17A.8(9).

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