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# IOWA ADMINISTRATIVE BULLETIN

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## 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

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### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
15	Friday, December 30, 1983	January 18, 1984
16	Friday, January 13, 1984	February 1, 1984
17	Friday, January 27, 1984	February 15, 1984

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## 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:

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### Schedule for Rulemaking 1984

FILING DEADLINE	PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Jan. 13	Feb. 1	Feb. 21	Mar. 7	Apr. 18	July 30
Jan. 27	Feb. 15	Mar. 6	Mar. 21	May 2	Aug. 13
Feb. 10	Feb. 29	Mar. 20	Apr. 4	May 16	Aug. 27
Feb. 24	Mar. 14	Apr. 3	Apr. 18	May 30	Sep. 10
Mar. 9	Mar. 28	Apr. 17	May 2	June 13	Sep. 24
Mar. 23	Apr. 11	May 1	May 16	June 27	Oct. 8
Apr. 6	Apr. 25	May 15	May 30	July 11	Oct. 22
Apr. 20	May 9	May 29	June 13	July 25	Nov. 5
May 4	May 23	June 12	June 27	Aug. 8	Nov. 19
May 18	June 6	June 26	July 11	Aug. 22	Dec. 3
June 1	June 20	July 10	July 25	Sep. 5	Dec. 17
June 15	July 4	July 24	Aug. 8	Sep. 19	Dec. 31
June 29	July 18	Aug. 7	Aug. 22	Oct. 3	Jan. 14 '85
July 13	Aug. 1	Aug. 21	Sep. 5	Oct. 17	Jan. 28 '85
July 27	Aug. 15	Sep. 4	Sep. 19	Oct. 31	Feb. 11 '85
Aug. 10	Aug. 29	Sep. 18	Oct. 3	Nov. 14	Feb. 25 '85
Aug. 24	Sep. 12	Oct. 2	Oct. 17	Nov. 28	Mar. 11 '85
Sep. 7	Sep. 26	Oct. 16	Oct. 31	Dec. 12	Mar. 25 '85
Sep. 21	Oct. 10	Oct. 30	Nov. 14	Dec. 26	Apr. 8 '85
Oct. 5	Oct. 24	Nov. 13	Nov. 28	Jan. 9 '85	Apr. 22 '85
Oct. 19	Nov. 7	Nov. 27	Dec. 12	Jan. 23 '85	May 6 '85
Nov. 2	Nov. 21	Dec. 11	Dec. 26	Feb. 6 '85	May 20 '85
Nov. 16	Dec. 5	Dec. 25	Jan. 9 '85	Feb. 20 '85	June 3 '85
Nov. 30	Dec. 19	Jan. 8 '85	Jan. 23 '85	Mar. 6 '85	June 17 '85
Dec. 14	Jan. 2 '85	Jan. 22 '85	Feb. 6 '85	Mar. 20 '85	July 1 '85
Dec. 28	Jan. 16 '85	Feb. 5 '85	Feb. 20 '85	Apr. 3 '85	July 15 '85

20 days from the publication date is the **minimum** date for a public hearing or cutting off public comment.

35 days from the publication date is the **earliest** possible date for the agency to consider a noticed rule for adoption.

180 days 17A.4(1)"b" says that if a noticed rule is not adopted by the agency within this time, the agency must either adopt the rule or file a notice of termination.

D57248

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
<b>BEER AND LIQUOR CONTROL DEPARTMENT[150]</b>		
On-premise advertising, 6.1(8) IAB 1/4/84 ARC 4364	Conference Room Central Office 1918 S.E. Hulsizer Ave. Ankeny, Iowa	February 7, 1984 3:00 p.m.
Transportation and warehouse, 8.2(123) IAB 1/4/84 ARC 4355	Conference Room Central Office 1918 S.E. Hulsizer Ave. Ankeny, Iowa	February 7, 1984 1:00 p.m.
<b>COMMERCE COMMISSION[250]</b>		
Natural gas procurement, amendments to ch 19 IAB 1/4/84 ARC 4398	Commission Hearing Room First Floor Lucas State Office Bldg. Des Moines, Iowa	January 30, 1984 10:00 a.m.
<b>CONSERVATION COMMISSION[290]</b>		
Safety equipment, 27.13 IAB 12/21/83 ARC 4332	Fourth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	January 12, 1984 10:00 a.m.
Speed and distance— zoning, ch 30 IAB 12/21/83 ARC 4333	Fourth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	January 12, 1984 10:00 a.m.
Navigation aids, 31.4 IAB 12/21/83 ARC 4334	Fourth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	January 12, 1984 10:00 a.m.
Nonpermanent structures, ch 44 IAB 12/21/83 ARC 4335	Fourth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	January 10, 1984 10:00 a.m.
State parks and preserves, amendments to ch 45 IAB 12/21/83 ARC 4336	Fourth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	January 11, 1984 10:00 a.m.
Organization, method of operation and public participation, 60.2 IAB 12/21/83 ARC 4337	Fourth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	January 11, 1984 10:00 a.m.
Declaratory rulings, amendments to ch 61 IAB 12/21/83 ARC 4338	Fourth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	January 11, 1984 10:00 a.m.
Contested case proceeding, ch 64 IAB 12/21/83 ARC 4339	Fourth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	January 11, 1984 10:00 a.m.
<b>CORRECTIONS, DEPARTMENT OF[291]</b>		
Community-based corrections, chs 40, 44, 45, 46 IAB 1/4/84 ARC 4378	South Conference Room Grimes State Office Bldg. Des Moines, Iowa	January 27, 1984 1:00 p.m.
<b>HEALTH DEPARTMENT[470]</b>		
Vital records, 96.4 IAB 12/21/83 ARC 4330	Fourth Floor Conference Room Lucas State Office Bldg. Des Moines, Iowa	January 10, 1984 10:00 a.m.

**HIGH TECHNOLOGY COUNCIL[485]**

New agency rules, chs 1-4  
IAB 1/4/84 ARC 4366

Iowa Development Commission  
Conference Room  
600 East Court Ave.  
Des Moines, Iowa

January 24, 1984  
10:00 a.m.

**HUMAN SERVICES DEPARTMENT[498]**

Food stamps, 65.8, 65.14  
IAB 12/7/83 ARC 4299  
(See IAB 10/12/83 ARC 4142)

Second Floor  
Conference Room  
Black Hawk County  
Department of Human Services  
KWWL Building  
Waterloo, Iowa

January 3, 1984  
10:00 a.m.

**IOWA FAMILY FARM DEVELOPMENT AUTHORITY[523]**

Operating loan guarantee program,  
ch 5  
IAB 12/7/83 ARC 4292  
(See ARC 4291)

550 Liberty Bldg.  
418 Sixth Ave.  
Des Moines, Iowa

January 3, 1984  
10:00 a.m.

**MERIT EMPLOYMENT DEPARTMENT[570]**

Grievances, appeals and hearings,  
ch 12  
IAB 1/4/84 ARC 4387

Grimes Conference Room  
First Floor  
Grimes State Office Bldg.  
Des Moines, Iowa

February 10, 1984  
9:15 a.m.

**REAL ESTATE COMMISSION[700]**

Brokers and salespersons,  
1.11, 1.21  
IAB 1/4/84 ARC 4367

Commission Office  
1223 E. Court Ave.  
Suite 205  
Des Moines, Iowa

January 20, 1984  
9:00 a.m.

**SOIL CONSERVATION, DEPARTMENT OF[780]**

Surface coal mining and  
reclamation operations  
4.523  
IAB 12/7/83 ARC 4287

Room 201  
Memorial Union  
Iowa State University  
Ames, Iowa

January 16, 1984  
1:00 p.m.

**WATER, AIR AND WASTE MANAGEMENT DEPARTMENT[900]**

Waste water construction  
and operating permits  
64.2(9)  
IAB 1/4/84 ARC 4379

Fifth Floor  
Conference Room  
Henry A. Wallace Bldg.  
Des Moines, Iowa

January 24, 1984  
10:00 a.m.

## ARC 4364

**BEER AND LIQUOR CONTROL  
DEPARTMENT[150]**

**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 123.51, subsection 2, the Iowa Beer and Liquor Control Department hereby gives Notice of Intended Action to amend Chapter 6, "Advertising", Iowa Administrative Code. Item 1 makes certain liquor advertisements in retail establishments legal.

Any interested party may make written suggestions or comments on these proposed amendments prior to February 7, 1984. Such written materials should be directed to the licensing supervisor, Iowa Beer and Liquor Control Department, 1918 S. E. Hulsizer Avenue, Ankeny, Iowa 50021. Persons who want to convey their views orally should contact the licensing supervisor, Iowa Beer and Liquor Control Department at 515/964/6831. Also, there will be a public hearing on Tuesday, February 7, 1984, at 3:00 p.m. in the conference room in the department's central office at 1918 S. E. Hulsizer Avenue, Ankeny, Iowa. Persons may present their views at this public hearing either orally or in writing. Persons who wish to make oral presentations at the public hearing should contact the licensing supervisor at least one day prior to the date of the public hearing.

The following amendments are proposed.

Subrule 6.1(8), paragraphs "a" and "b" are rescinded and the following adopted in lieu thereof:

**6.1(8)** On-premise advertising of distilled spirits. The advertising of spirits or wine by brand name lighted or unlighted on the inside premises of a retail establishment licensed to sell such spirits and wine shall be allowed subject to the following limitations:

a. No person engaged in the business of manufacturing, bottling, wholesaling, importing or selling alcoholic beverages shall directly or indirectly supply, furnish, give or pay for any brand name advertising on items used in the storage, handling, serving or dispensing of alcoholic beverages within the licensed establishment. This limitation shall apply only to items which have a utility value necessary to the operation of the licensed establishment.

b. No licensee shall be prohibited from owning, displaying or selling novelty items carrying brand advertising within the licensed premises which items have been acquired for a full and fair consideration available equally to licensees as well as nonlicensees of the same standing on an equal basis through regular commercial channels.

This rule is intended to implement Iowa Code section 123.51, subsection 2.

## ARC 4355

**BEER AND LIQUOR CONTROL  
DEPARTMENT[150]**

**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 123.20, subsection 1, and 123.21, subsection 3, the Iowa Beer and Liquor Control Department hereby gives Notice of Intended Action to amend Chapter 8, "Transportation and Warehouse", Iowa Administrative Code. Item 1 deletes shippers' responsibility of filing loss and damage claims. Item 2 changes freight from prepaid to collect except direct imports will remain prepaid shipments. Item 3 adds name of carrier, deletes state office building in mailing address, changes mailing address from Superintendent of Warehouse to Traffic Manager, and eliminates requirement of sending duplicate of manifest to Merchandising Manager. Item 4 eliminates duplications in subrule 8.2(10).

Any interested party may make written suggestions or comments on these proposed amendments prior to February 7, 1984. Such written materials should be directed to the licensing supervisor, Iowa Beer and Liquor Control Department, 1918 S.E. Hulsizer Avenue, Ankeny, Iowa 50021. Persons who want to convey their views orally should contact the licensing supervisor, Iowa Beer and Liquor Control Department at 515/964/6831. Also, there will be a public hearing on Tuesday, February 7, 1984, at 1:00 p.m. in the conference room in the department's central office at 1918 S.E. Hulsizer Avenue, Ankeny, Iowa. Persons may present their views at this public hearing either orally or in writing. Persons who wish to make oral presentations at the public hearing should contact the licensing supervisor at least one day prior to the date of the public hearing.

The following amendments are proposed.

ITEM 1. Subrule 8.2(8) is amended to read as follows:

**8.2(8)** How to consign shipments. All shipments to the department are to be forwarded on straight bill of lading. The original bill of lading is to be retained in the files of the ~~shipping point shipper. for future use in supporting claims, etc.~~ The signed memorandum copy of the bill of lading is to be forwarded to the ~~traffic department. products department, attention: Traffic manager.~~ **Freight rate must be shown on the bill of lading in the proper place.**

This rule is intended to implement Iowa Code sections 123.20(1) and 123.21(3).

ITEM 2. Subrule 8.2(9) is amended to read as follows:

**8.2(9) Prepaid freight and freight bill.** *Freight bill.* Under the sales agreement with the department, the goods are to be sold on a delivered price basis to their

BEER AND LIQUOR CONTROL DEPARTMENT[150] (cont'd)

warehouse. on a freight collect basis unless otherwise specified. Freight charges must accordingly be fully prepaid to destination by suppliers' shipping plants. The shipping plant will retain the prepaid bill and not forward it to Iowa.

This rule is intended to implement Iowa Code sections 123.20(1) and 123.21(3).

ITEM 3. Subrule 8.2(10) is amended to read as follows: 8.2(10) Forwarding advice. Upon forwarding shipment the shipper shall send by first-class mail such advice showing therein:

- a. Shipping point
b. Shipping date
c. Car no. Carrier or car number
d. Department purchase order nos.
e. cases of code

The above advice should be directed sent to the traffic department manager of the department, State Office Building, Iowa Beer and Liquor Control Department, 1918 S.E. Hulsizer Avenue, Ankeny, Iowa 50021. Copies of the above advice should be sent under separate cover to each of the following:

\*Superintendent of Warehouse
Iowa Beer and Liquor Control Department
1918 S.E. Hulsizer Avenue
Ankeny, Iowa 50021

\*together with duplicate of manifest to:
Merchandise Manager
Iowa Beer and Liquor Control Department
1918 S.E. Hulsizer Avenue
Ankeny, Iowa 50021

ITEM 4. Subrule 8.2(11) is rescinded and reserved.

Finance Disclosure Commission, 507 10th Street, Des Moines, Iowa 50309, telephone number 515/281-4411, no later than January 24, 1984.

The additions to this rule are intended to implement changes in Chapter 56 caused by the enactment of 1983 Iowa Acts, chapter 176. This bill increased the income tax checkoff dollars from a one dollar checkoff (two dollars in the case of a joint return) payable to the Iowa election campaign fund from the taxpayer's liability, to provide for additional checkoff of two dollars per taxpayer payable to the Iowa election campaign fund. This latter checkoff will be deducted from the taxpayer's refund (if any) or added to the tax liability.

This rule is a joint rule of the Department of Revenue, Comptroller and Campaign Finance Disclosure Commission, promulgated jointly under an IntraAgency Cooperative Agreement as permitted by Iowa Code chapter 28E. A similar but more comprehensive rule is also contained in Department of Revenue subrule 43.4(2). For this reason, this rule makes reference to the Department of Revenue rule. The IntraAgency Cooperative Agreement of the three agencies provides that income tax checkoff rules must be published in Campaign Finance Disclosure Commission rules.

Amend rule 2.1(56) by adding the following new subrule:

2.1(6) For tax years beginning on or after January 1, 1983, any taxpayer who directs that one dollar of the taxpayer's tax liability be paid over to the Iowa election campaign fund may also donate an additional two dollars to be allocated to or among the qualifying political parties in the same manner as the taxpayer's one dollar designation. If a husband and wife file a joint return each spouse may direct that an additional two dollars be donated pursuant to the provisions of this paragraph. The two dollar donation will reduce the taxpayer's refund or increase the amount due with the return, and must be made on the original return for the current year. For further information about optional designations of funds by taxpayers, see department of revenue (730) subrule 43.4(2).

This rule is intended to implement 1983 Iowa Acts, chapter 176.

ARC 4400

CAMPAIGN FINANCE DISCLOSURE COMMISSION[190] 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 56.10, the Campaign Finance Disclosure Commission hereby gives Notice of Intended Action to amend Chapter 2 of the Iowa Administrative Code.

Interested persons may submit suggestions or comments by phone or in writing, or may submit a written request to make an oral presentation on the intended action to Kay Williams, Executive Director, Campaign

ARC 4395

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.

The Iowa State Commerce Commission hereby gives notice that on December 16, 1983, the Commission issued an order in Docket No. RMU-83-36, In Re: Assessment Of Cost And Pipeline Permit Extension Proceedings, "Order Initiating Rulemaking." Iowa Code section 479.23

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

provides that the same proceedings will be applied to the extension of a pipeline permit as are applied in original permit proceedings. Section 479.13 states that, when applying for a pipeline permit, the applicant must pay the costs of the informational meetings, hearings, necessary preliminary investigation, and inspection fees. Pursuant to section 479.23, the same charges should apply to an application for an extension of a permit. However, the current Commission rules do not reflect this. Therefore, the Commission is initiating this rule-making proceeding to amend the relevant portions of Chapter 10 to reflect the statutory provisions. At the same time, the provision for waiver of notice and hearing in Iowa Administrative Code 250—10.9(479) will be deleted, as such a waiver is not in compliance with the contested case requirements of section 17A.12.

Item 1 of the proposed amendments amends rule 10.8(479) to provide that the procedure for extension of permits will be the same as the procedure for petition for a permit with respect to the assessment of costs. Item 2 deletes the flat \$25.00 fee provision from rule 10.10(479). Item 3 amends rule 10.9(479) by deleting the provision for waiver of notice and hearing with respect to permit renewals.

Any interested person may file a written statement of position concerning these proposed amendments no later than January 25, 1984, by filing with the Commission an original and six copies of the written statement in a form substantially complying with the form prescribed in Iowa Administrative Code 250—2.2(2). Such comments shall clearly indicate the author's name and address and shall contain a specific reference to this docket and the rule upon which comment is submitted. All comments shall be directed to the Executive Secretary.

The proposed amendments are promulgated pursuant to Iowa Code sections 476.2 and 479.23.

**ITEM 1.** Amend rule 250—10.8(479) to read as follows:  
**250—10.8(479) Renewal permits.** Petition for renewal of permit may be filed at any time subsequent to issuance of a permanent permit and prior to the expiration thereof. Such a petition shall be made on the form prescribed by this commission. Instructions for the use thereof are included as a part of such form. The procedure for petition for permit shall be followed with respect to publication of notice, objections, and hearing, and assessment of costs. Renewal permits shall normally expire twenty-five years from date of issue. No such permit shall ever be granted for a longer period than twenty-five years. The same procedure shall be followed for subsequent renewals.

**ITEM 2.** Amend rule 250—10.10(479) by deleting the paragraph headed "Renewal permit fee."

**ITEM 3.** Amend rule 250—10.9(479) to read as follows:  
**250—10.9(479) Amendments of permit.** Petition may be filed for amendment of permanent or renewal permit to cover construction of a line paralleling an existing line of petitioner or to make contiguous extension of an existing underground storage area of petitioner. Such petition for amendment shall be made on the form prescribed by this commission. Such petition shall have attached those same exhibits required for a petition for permit. ~~If such petition for amendment is for paralleling construction and the same falls within the one hundred sixty rods permissive deviation of the permanent permit~~

~~or subsequent renewal permit, the requirement of publication of notice of hearing may be waived. Subject to such exception only, The applicable procedures for petition for permit shall be followed in all instances. Upon appropriate determination by this commission, an amendment to permanent permit will be issued. Such amendment shall be subject to the same conditions with respect to completion of construction within two years of the filing of final routing maps as attached to permanent permits.~~

## ARC 4398

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.

The Iowa State Commerce Commission gives notice that on December 16, 1983, the Commission issued an order in Docket No. RMU-83-26, In Re: Natural Gas Procurement in Contracting Practices, "Order Adopting Rules and Implementing on an Emergency Basis."

In accordance with 1983 Iowa Acts, Chapter 127, section 25, the Commission adopted rules to provide for the annual review of gas procurement and contracting practices to become effective by January 1, 1984. Finally adopted rules include several modifications that were suggested by parties submitting comments in that rule-making procedure. The Commission is renoticing the rules adopted on December 16, 1983, to allow other parties to the proceeding to comment on the proposals which were adopted by the Commission. The Commission requests that the comments be limited to the modifications to the proposed rules adopted by the Commission.

An interested person may file written comments not later than January 24, 1984, by filing an original and six copies of such comments substantially complying with the form prescribed in Iowa Administrative Code 250—2.2(2). Such comments shall clearly indicate the author's name and address and shall contain a specific reference to this docket and the rule upon which comments are submitted. All comments shall be directed to the Executive Secretary, Iowa State Commerce Commission, Lucas State Office Building, Des Moines, Iowa 50319. An oral presentation has been scheduled for 10:00 a.m. on January 30, 1984, in the Commission's hearing room on the first floor of the Lucas State Office Building, Des Moines, Iowa.

These rules are also being filed emergency as ARC 4397 and are incorporated by reference.

## ARC 4377

**CORRECTIONS,  
DEPARTMENT OF[291]  
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 1983 Iowa Acts, Chapter 96, the Department of Corrections hereby gives Notice of Intended Action to amend Chapter 6, Personnel, to eliminate the credit reference check from the background investigations for employment applicants; amend Chapter 20 changing requirements for membership of the Publications Review Committee and removing notification to the publisher; amend Chapter 50, Jail Standards, to reflect changes necessitated by additional chapter of standards for temporary holding facilities; and adopt a new chapter covering jail inspection standards for temporary holding facilities.

Any interested persons may make oral or written suggestions or comments on these proposed rules not later than 4:30 p.m., January 27, 1984. Such written materials shall be directed to the Director, Department of Corrections, Jewett Building, 10th and Grand, Des Moines, Iowa 50309. A meeting will be held for the purpose of oral presentation at 1:00 p.m., January 27, 1984, in the South Conference Room, First Floor, Grimes State Office Building, East 14th and Grand, Des Moines, Iowa 50319. Persons who want to convey their views orally should contact the director's office (515) 281-4811. The proposed rules are subject to revisions after the department considers all written and oral presentations.

ITEM 1. Rule 291—6.1(70GA,SF464) item "7" is rescinded and items "8", "9", "10" and "11" are renumbered accordingly.

7. Credit reference check.

ITEM 2. Change Chapter 20 title to read "Institutions."

ITEM 3. Amend rule 20.6(218) as follows:

Subrules 20.6(2) paragraph "a", is amended as follows:  
20.6(2) Publications shall be approved or denied approval by a publication review committee.

a. The committee shall be appointed by the director, department division of adult corrections, and shall include an ex offender, a person with broad exposure to various publications, and two three representatives of correctional institutions.

Amend 20.6(3) paragraph "b" as follows:

b. When approval is denied, the committee shall:

(1) Send a written notice stating the reason for denial to the sender.

(2) send a written notice to the inmate, stating the publication involved, the reason for denial, and the inmate's available appeal process.

Amend 20.6(5) as follows:

20.6(5) An inmate may appeal the committee's decision within ten days of receipt of the decision by filing written objections to the director, department division of adult corrections. The director's decision shall be final.

ITEM 4. Subrule 22.1(1), Definitions, is rescinded and reserved for future use.

ITEM 5. Title IV is renamed to Jail Inspection Standards.

ITEM 6. Rule 50.1(356,356A), General provisions, is renumbered to 50.2(356,356A) and amended as follows:

Renumbered subrule 50.2(1) is revised to read:

50.2(1) Applicability. These rules apply to all facilities regulated by Iowa Code chapters 356 and or 356A except temporary holding facilities which are covered by IAC chapter 51.

Renumbered subrule 50.2(7) is amended to read:

50.2(7) Nondiscriminatory treatment. Each jail administrator shall ensure that staff and inmates are not subject to discriminatory treatment based upon race; religion; nationality; handicap; sex or age and are not subject to discriminatory treatment based on religion, nationality, handicap, sex or age absent compelling reason for said discriminatory treatment.

ITEM 7. Rule 50.2(356,356A), Definitions, is renumbered to 50.1(356,356A) and amended as follows:

Remove subrule numbers from the definitions, arrange definitions in alphabetical order and add new definitions and revise existing definitions as follows:

"Alternative jail facility" means a facility designated pursuant to Iowa Code chapter 356A, and which is used as a halfway house type facility rather than a jail-type operation. These facilities shall be subject to inspection and accreditation by division of community services staff utilizing applicable administrative rules for residential facilities pursuant to IAC 291—chapter 43 and other acceptable operations standards.

"Average daily population" means the average number of inmates or detainees housed daily during each year.

"Capacity" means the number of inmates or detainee occupants for which any cell, room, unit, building, facility or combination thereof has been approved by the jail inspection unit.

"Day room", a common space shared by inmates or detainees residing in a group of cells or multiple occupancy cells, to which inmates or detainees are admitted for activities such as dining, bathing, recreation or exercise.

"Detainee" means any individual confined in a temporary holding facility.

"Detention area" means that portion of the facility used to confine inmates or detainees.

"Existing facility" means any place in use as a jail or temporary holding facility or for which bids have been let for construction prior to the effective date of these regulations.

"Facility" means a jail in IAC chapter 50 or a temporary holding facility in IAC chapter 51 as defined by these rules.

"Inspection unit" means state jail inspection unit.

"Jail" means any place used to confine persons pursuant to law which is regulated by chapters 356 or 356A, The Code; administered and designed to hold inmates for as long as lawfully required but not to exceed one year pursuant to Iowa Code chapters 356 and 356A.

"Mail" means anything that is sent to or by an inmate or detainee through the United States Postal Service.

"Major remodeling" means construction or repairs to a portion of a jail or temporary holding facility requiring

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## CORRECTIONS, DEPARTMENT OF[291] (cont'd)

sealed bids as specified in Iowa Code section 384.96.

"Medical practitioner" means medical doctor, osteopathic physician or physician's assistant.

"Person performing temporary holding facilities duties" means all persons directly involved in the provision of services to detainees or the operation of a facility except:

1. Outside contractors performing specific housekeeping functions under the direct supervision of a facility supervisor.

2. Individuals such as maintenance personnel, cooks, and janitors.

"Residential facilities" means the facilities governed by IAC chapter 43.

"Temporary holding facility" means secure holding rooms or cells where detainees may be held for a limited period of time, not to exceed twenty-four hours, necessary for a court appearance and a reasonable time thereafter to arrange for transportation to an appropriate facility.

"Temporary holding facility administrator" means the executive head of any agency or designee operating a temporary holding facility. The temporary holding facility administrator shall be responsible for the operation of the facility according to these rules.

"Temporary holding facility inspector" means the department of corrections employee responsible for inspection of temporary holding facilities and enforcement of these rules by authority of Iowa Code section 356.43.

"Temporary holding facility supervisor" means any person who is responsible for the routine operation of the facility during their assigned duty hours. This person need not be on the premises at all times, but must be readily available for consultation.

ITEM 8. Rule 50.3(356,356A), Types of jails/facilities is rescinded and reserved for future use.

ITEM 9. Rule 50.4(356,356A) is amended as follows:

**291—50.4(356,356A) Inspection and compliance.** The chief jail inspector or authorized representative shall visit and inspect each jail within this state at least annually to determine the degree of compliance with these standards and within forty-five days of each said inspection shall report the results to the sheriff or chief of police and the governing body responsible for the facility.

If a residential facility is operated by a judicial district department of correctional services, the ~~division bureau~~ of community services ~~corrections of the department division~~ of ~~adult~~ corrections shall be responsible for all inspections and approvals. The ~~deputy director bureau~~ chief of community corrections and personnel of that division shall have the same powers as the members of the jail inspection unit in carrying out these rules.

ITEM 10. Rule 291—50.5(356,356A) is amended as follows:

**291—50.5(356,356A) Variances.** If it is not financially or physically practical for a facility to be brought into strict compliance with these standards, the agency having administrative responsibility for operation of the facility may file an application for variance with the state jail inspection unit. If compliance with the rule would impose financial hardship, the legislative body having responsibility for the operation of the facility shall join in the application. Upon a showing of good cause for non-compliance the jail inspection unit may grant a reasonable variance, except that no variance may be granted to permit clearly unhealthy, unsanitary, unsafe or unconstitutional conditions.

ITEM 11. Subrule 50.4(2) is amended as follows:

**50.4(2)** Enforcement of minimum standards; remedial orders. Upon receipt from the jail inspection unit of a notice of noncompliance of their jail with the established minimum jail standards, the responsible authorities shall initiate appropriate corrective measures within the time prescribed by the jail inspection unit in its notice (which shall not exceed ninety days) and shall complete the corrections within a reasonable time as prescribed by the notice of noncompliance. If the responsible officials receiving a notice of noncompliance fail to initiate corrective measures or to complete the corrective measures within the time prescribed, the jail inspection unit may order the jail in question or any portion thereof closed, that further confinement of inmates or classifications of inmates in the noncomplying jail or any portion thereof be prohibited, or that all or any number of inmates then confined be transferred to and maintained in another jail or detention facility, or that the jail type be reduced, or any combination of remedies.

An order for closure shall contain the following:

- a. Statute(s) and rule(s) violated.
- b. A brief description of the deficiencies.
- c. A time period for submission of a plan of compliance.

This order shall be the notice of noncompliance pursuant to Iowa Code section 356.36, as amended by 1983 Iowa Acts, Senate File 464, section 114, and Administrative Code, 291—chapter 12, Contested cases. The matter shall then proceed in accordance with chapter 12, IAC.

The jail inspector may agree with the responsible authorities to a plan of action detailing corrective steps with corresponding time frames which would bring the facility into compliance within a reasonable time. The remedial order shall be in writing and shall specifically identify each minimum standard with which the jail has failed to comply. Such remedial order shall become final and effective thirty days after receipt thereof.

This rule is intended to implement Iowa Code sections 17A.10, 17A.12 and 356.43 as amended by 1983 Iowa Acts, Senate File 464, section 115.

ITEM 12. Subrule 50.6(2) paragraph "b" is amended as follows:

b. Any facility determined to be deficient following inspection may be ordered closed by the jail inspector or specific conditions limiting its operation may be imposed in lieu of closing. (~~Pursuant to the authority of section 356.43, The Code.~~)

An order of closure shall contain the following:

- (1) Statute(s) and rule(s) violated.
- (2) A brief description of the deficiencies.
- (3) A time period for submission of a plan of compliance.

This order shall be the notice of noncompliance pursuant to Iowa Code section 356.36, as amended by 1983 Iowa Acts, Senate File 464, section 114, and Administrative Code, 291—chapter 12, Contested cases. The matter shall then proceed in accordance with chapter 12, IAC.

ITEM 13. Subrule 50.7(9) is amended as follows:

**50.7(9)** Each single occupancy cell shall be equipped with a bunk of adequate size for adults ~~males~~. Inmates shall have access to toilet and lavatory facilities at all times. (I)

ITEM 14. Subrule 50.7(11) is amended as follows:

**50.7(11)** One shower shall be provided for each housing unit. This shower may be either in the housing unit

## CORRECTIONS, DEPARTMENT OF [291] (cont'd)

itself or in an adjacent area. (Not applicable to temporary holding.) (I)

ITEM 15. Subrule 50.8(2)"b" is amended as follows:

b. A bunk of adequate size for adults males for each inmate.

ITEM 16. Subrule 50.11(2)"a"(1) is amended as follows:

(1) The individual shall hold a Red Cross standard first aid certificate or the equivalent; or

A crash injury management certificate from the Iowa state department of health; or

Be certified as having completed an emergency medical technician program; or

Be licensed to practice as a physician's assistant, licensed practical nurse, registered nurse or medical practitioner medical doctor in the state of Iowa.

ITEM 17. Subrule 50.11(3) is amended as follows:

50.11(3) Continuing education. During each full year of employment following completion of the required training as set forth in subrule 50.11(2), paragraphs "a" and "b", a jailer and appointed administrator of a jail except a temporary holding facility shall complete twenty hours of in-service training, not to include hours spent in maintaining certifications or proficiency in first aid, life support and handling of firearms. Administrators and jailers of holding facilities shall complete five hours of in-service training, not to include hours spent in maintaining required certification or proficiency in first aid, life support, and handling of firearms.

ITEM 18. Subrule 50.15(1) is amended to read:

50.15(1) Medical resources. Each jail shall have a licensed physician, osteopathic physician or medical resource, such as a hospital or clinic staffed by licensed physicians or licensed osteopathic physicians designated for medical supervision, care and treatment of inmates as deemed necessary and appropriate. Medical resources shall be available on a twenty-four-hour basis. (IMO)

ITEM 19. Subrule 50.15(7)"d" is amended to read:

d. Prescription medication, as ordered by a licensed physician or licensed osteopathic physician shall be provided in accordance with the directions of the prescribing physician. Inmates with medication from a personal physician may be evaluated by a physician or osteopathic physician selected by the jail administrator to determine if the present medication is appropriate. (I)

ITEM 20. Rule 50.23(356,356A) is amended as follows:

291—50.23(356,356A) Alternative jail facilities. County detention facilities qualifying as alternative jail facilities, in addition to these rules are subject to the rules for residential treatment centers operated by judicial district departments of correctional services community corrections programs as prescribed by IAC 291—chapter 43 770—25.8(906) of the Iowa Administrative Code.

ITEM 21. Subrule 50.23(4) is amended as follows:

50.23(4) Training. Basic training and continuing education requirements for a residential facility may be satisfied by either completing the requirements of this chapter or by meeting the educational requirements specified by the division bureau of community services corrections for residential treatment facilities pursuant to IAC 291—chapter 43.

These rules are intended to implement Iowa Code sections 356.36 and 356.43.

The sole remedy for breach of these rules is by a proceeding for compliance initiated by request of the department of corrections social services. The violation of any rule shall not be construed to permit any civil action to recover damages against the state of Iowa, its departments, agents or employees of any county, its agencies or employees.

ITEM 22. New chapter 51 is added as follows:

## CHAPTER 51

## TEMPORARY HOLDING FACILITIES

291—51.1(356,356A) General provisions. These rules apply to all temporary holding facilities regulated by Iowa Code chapter 356 or 356A.

51.1(1) Capacity. Established capacities as determined by these rules shall not be exceeded except in the event of an emergency, and then only for such a period of time as is necessary to arrange for alternate housing or release of sufficient detainees to bring the number of persons confined into compliance with the rated capacity.

51.1(2) Right to inspect and visit. The chief jail inspector and authorized representatives shall visit and inspect temporary holding facilities and may do so on an unannounced basis. Facility personnel and supervisors shall co-operate in inspections and shall exhibit to the inspectors, upon request, all books, records, data, documents and accounts pertaining to a temporary holding facility or to the detainees confined and shall assist inspectors to perform the functions, powers and duties of their office. Provisions of the first paragraph of Iowa Code section 356.43 shall control to the extent of any inconsistency of the provisions of this subrule.

51.1(3) Other standards. Nothing contained in these standards shall be construed to prohibit local officials from adopting standards and requirements governing their employees and facilities, provided these standards and requirements exceed and do not conflict with these standards. These standards shall not be construed as authority to violate any state fire safety standard, building standard, health and safety code, or any constitutional requirement. No facility shall be operated without substantially meeting these rules, absent the granting of a variance.

51.1(4) Equal opportunity. Facilities, programs, and services shall be available on an equitable basis to both males and females even though each standard does not specify that it applies to both males and females.

51.1(5) Nondiscriminatory treatment. Each facility administrator shall ensure that staff and detainees are not subject to discriminatory treatment based upon race, and are not subject to discriminatory treatment based on religion, nationality, handicap, sex or age, absent compelling reason for said discriminatory treatment.

291—51.2(356,356A) Inspection and compliance. The chief inspector or authorized representative shall visit and inspect each facility within this state at least annually to determine the degree of compliance with these standards and within forty-five days of each said inspection shall report the results to the chief of police and the governing body responsible for the facility.

Residential facilities operated by judicial district departments of correctional services shall be inspected

**CORRECTIONS, DEPARTMENT OF[291] (cont'd)**

and approved by the division of community services of the department of corrections. The deputy director of the community services division and personnel of that division shall have the same powers as the members of the inspection unit in carrying out these rules.

**51.2(1)** Notice of noncompliance with minimum standards. The inspection unit shall issue a notice of noncompliance to the responsible facility administrator and the governing body of each instance in which the facility fails to comply with the minimum standards established under these rules.

**51.2(2)** Enforcement of minimum standards; remedial orders. Upon receipt from the inspection unit of a notice of noncompliance of their facility with the established minimum standards, the responsible authorities shall initiate appropriate corrective measures within the time prescribed by the inspection unit in its notice (which shall not exceed ninety days) and shall complete the corrections within a reasonable time as prescribed by the notice of noncompliance. If the responsible officials receiving notice of noncompliance fail to initiate corrective measures or to complete the corrective measures within the time prescribed, the inspection unit may order the facility in question or any portion thereof closed, that further confinement of detainees or classifications of detainees in the noncomplying jail or any portion thereof be prohibited, or that all or any number of detainees then confined be transferred to and maintained in another jail or detention facility, or any combination of remedies.

An order for closure shall contain the following:

- a. Statute(s) and rule(s) violated.
- b. A brief description of the deficiencies.
- c. A time period for submission of a plan of compliance.

This order shall be the notice of noncompliance pursuant to Iowa Code section 356.36, as amended by 1983 Iowa Acts, Senate File 464, section 114, and Administrative Code, 291—chapter 12, Contested cases. The matter shall then proceed in accordance with chapter 12, IAC.

The jail inspector may agree with the responsible authorities to a plan of action detailing corrective steps with corresponding time frames which would bring the facility into compliance within a reasonable time. The remedial order shall be in writing and shall specifically identify each minimum standard with which the jail has failed to comply.

Such remedial order shall become final and effective thirty days after receipt thereof.

**51.2(3)** Precedent. Because rules cannot adequately anticipate all potential specific factual situations and circumstances presented for action, determination or adjudication by the inspection unit, the nature of the action taken with regard to any matter or the disposition of any matter pending before the inspection unit is not necessarily of meaningful precedential value, and the department shall not be bound by the precedent of any previous action, determination, or adjudication in the subsequent disposition of any matter pending before it.

**291—51.3(356,356A) Variances.** If it is not financially or physically practical for a facility to be brought into strict compliance with these standards, the agency having administrative responsibility for operation of the facility may file an application for variance with the state inspection unit. If compliance with the rule would impose financial hardship, the legislative body having responsibility for the operation of the facility shall join in the

application. Upon a showing of good cause for noncompliance the inspection unit may grant a reasonable variance, except that no variance may be granted to permit clearly unhealthy, unsanitary, unsafe or unconstitutional conditions.

**51.3(1)** Contents. An application for variance must include:

- a. The name and address of the administrator and executive head of the legislative body responsible for the operation of the noncomplying facility;
- b. The specific sections of these rules with which the facility is not in compliance;
- c. The specific manner in which the facility is not in compliance;
- d. A detailed statement of efforts expended to bring the facility into compliance;
- e. Documented statements of projected costs to bring the facility into compliance;
- f. An estimate of the time required to bring the facility into compliance and the basis of the estimate;
- g. A statement of the effect of noncompliance upon facility operations and upon the custody, security, care, and supervision of the detainees;
- h. A statement of the nature of the variance requested and length of time for which it is requested;
- i. Clear and convincing documentation showing that granting a variance will not result in unhealthy, unsanitary, unsafe or unconstitutional conditions;
- j. Any additional statements, documentation, or evidence demonstrating a clear justification for the requested variance.

**51.3(2)** Burden. The burden shall be on the applicant to show by preponderance of evidence that a variance should be granted. An application for variance will not be granted if it appears to the inspection unit that the variance requested would permit or create clearly unhealthy, unsanitary, unsafe or unconstitutional conditions or if the facility could comply with the rules without undue burden.

**51.3(3)** Determination, notice. The inspection unit shall consider each application for variance and shall issue a written decision within thirty days of receipt granting or denying the application in whole or in part. Notice of the decision of the inspection unit shall be mailed or delivered in person to the applicant(s) named in the application for variance.

**51.3(4)** Appeals. Decisions pertaining to these rules not appealable under Iowa Code section 356.43 may be heard under the appeal process pursuant to IAC subrule 50.5(4).

**291—51.4(356,356A) Physical plant — general.**

**51.4(1)** Building to meet existing codes. All facilities are required to be structurally sound and to meet existing building and health requirements.

**51.4(2)** Professional inspections.

a. The state inspector may require for good reason that an agency operating a facility cause it to be examined by an architect, engineer, licensed electrician, health inspector, plumber, heating and air conditioning specialist or food establishment inspector. Inspection by a municipal inspector qualified in these areas may be permitted.

b. Any facility determined to be deficient following inspection may be ordered closed by the inspector or specific conditions limiting its operation may be imposed in lieu of closing.

## CORRECTIONS, DEPARTMENT OF[291] (cont'd)

An order of closure shall contain the following:

- (1) Statute(s) and rule(s) violated.
- (2) A brief description of the deficiencies.
- (3) A time period for submission of a plan of compliance.

This order shall be the notice of noncompliance pursuant to Iowa Code section 356.36, as amended by 1983 Iowa Acts, Senate File 464, section 114, and Administrative Code, 291—chapter 12, Contested cases. The matter shall then proceed in accordance with chapter 12, IAC.

c. In the event that any agency fails to co-operate in an inspection, the inspector may arrange for an inspection and the agency operating the facility shall be financially responsible for any expense involved.

**51.4(3) Heating and ventilation.** All detention and living areas shall be reasonably heated and ventilated to ensure healthful and comfortable living and working conditions for detainees and staff.

**51.4(4) Cells/rooms.** Maximum security cells shall be equipped with tamper resistant bunks, a toilet and wash basin recommended for jail or prison use.

**51.4(5) Lighting.** All areas of the facility shall have lighting adequate for the purposes of reading and writing.

**51.4(6) Screens.** If windows are opened for ventilation, insect screens shall be installed and maintained in good repair.

**51.4(7) Electrical facilities.** Drop cords shall not be used as permanent wiring.

**51.4(8) Storage.**

a. Except for reasonable amounts of necessary operating supplies, storage is not permitted in primary detention areas.

b. Adequate storage space of detainees' personal clothing and property shall be provided.

c. Janitorial supplies shall be stored in a manner to prevent unauthorized detainee access.

**51.4(9) Firearms lockers.** A place inaccessible to detainees shall be provided where officers entering the security area can store firearms.

**51.4(10) Noise level.** Detainee noise inside the jail shall be controlled to assure an orderly and secure facility operation.

**291—51.5(356,356A) Physical requirements for existing facilities.** In cases where an existing facility undergoes major remodeling IAC rule 291—51.6(356, 356A) shall apply to the area being upgraded.

**51.5(1)** Each single occupancy cell for detainees in normal status shall have a minimum floor area of forty square feet.

**51.5(2)** For each additional detainee of normal status housed in a cell there must be an additional twenty square feet of floor space beyond the requirement in subrule 50.7(1).

**51.5(3)** Except in emergency situations, no multiple occupancy cell shall house more than six detainees.

**51.5(4)** Each cell/room shall provide a minimum of seven feet from floor to ceiling height.

**51.5(5)** Each single occupancy cell shall be equipped with a bunk of adequate size for adults. Detainees shall have access to toilet and lavatory facilities at all times.

**51.5(6)** Each multiple occupancy cell or room unit shall be equipped with one bunk of adequate size for each detainee. It shall also contain at least one toilet and lavatory which supplies adequate running water for each housing unit.

**51.5(7)** Holding cells are multiple occupancy space where detainees may be confined only while awaiting processing through administrative or legal procedures. These areas must have at least forty-five square feet of floor space for the first detainee with twenty square feet for each additional person.

**291—51.6(356,356A) Physical requirements for new facilities.** This rule shall apply to jails which are of new construction let for bid after the effective date of these rules. Plans for any remodeling or new construction shall be submitted to the jail inspection unit prior to letting any bids or commencing any construction subject to this rule. The inspection unit shall, within sixty days of receiving plans, review them for compliance with these rules and forward any comments to the submitting authority.

**51.6(1)** New housing units may be single occupancy cells or multiple occupancy cells. Each single occupancy cell shall have a minimum of seventy square feet of floor space. Each multiple occupancy cell shall have a minimum of seventy square feet of floor space for the first detainee and an additional fifty square feet of floor space for each additional detainee. Maximum occupancy in a multiple occupancy cell shall be six detainees.

**51.6(2)** All new housing units shall have:

a. No less than eight feet of space between the floor and ceiling.

b. A bunk of adequate size for adults for each detainee.

**51.6(3)** Each new single and multiple occupancy cell shall have a security type toilet/lavatory combination fixture which provides adequate running water. These cells may rely on common toilet facilities located outside the detention room provided that the detainee is never involuntarily locked in the room and denied access to the toilet facilities.

**51.6(4)** The new facility shall be designed to admit natural lighting and to give access to outside viewing by detainees where practical.

**51.6(5)** The new facility shall be designed and constructed so that detainees may be segregated according to existing laws and regulations.

**51.6(6)** Except in emergency situations no housing unit shall house more detainees than its rated capacity.

**291—51.7(356,356A) Fire safety and emergency evacuation.**

**51.7(1)** Approval of building plans. All new construction or major remodeling plans shall be approved prior to commencement of construction by the state fire marshal.

**51.7(2)** Fire marshal's certificate. No facility shall be occupied by a detainee unless the state fire marshal has issued a fire certificate within the last eighteen calendar months. The state fire marshal shall issue this certificate only if the facility complies with the fire safety standards in these rules as well as applicable standards of the state fire marshal.

**51.7(3)** Evacuation plan. The administrator of each facility shall prepare a written plan for emergency evacuation of the facility in the event of fire or other disaster. This plan shall include security arrangements and one or more alternate housing arrangements for displaced detainees. All personnel employed in the facility shall be thoroughly familiar with this plan and relevant portions thereof shall be conspicuously posted. To the extent practical, fire drills shall be practiced.

**CORRECTIONS, DEPARTMENT OF[291] (cont'd)****51.7(4) Release of detainees.**

a. The prompt removal of detainees in the event of a life threatening situation shall be guaranteed by staff on duty twenty-four hours a day, and keys for all locks necessary for emergency exit shall be readily accessible.

b. There shall be at least one full set of facility keys, other than those regularly used, stored in a safe place accessible only to appropriate persons, for use in the event of an emergency.

**51.7(5) Fire extinguishers.** All facilities shall be equipped with not less than one AA ABC fire extinguisher in operable condition for each three thousand square feet of facility on any given floor of the building.

**51.7(6) Emergency lighting.** All exits shall be equipped with independent emergency lighting sources.

**51.7(7) Required exits.** Where exits are not immediately accessible from an open floor area, safe and continuous passage, aisles or corridors shall be maintained leading directly to every exit, and shall be so arranged as to provide access for each detainee to at least two separate and distinct exits from each floor; A locked exit may be classified as an emergency exit only if necessary keys to locked doors are readily available. Elevators shall not be counted as required exits.

**51.7(8) Fire alarms.** A means of fire detection utilizing equipment of a type tested and approved by Underwriters Laboratories or Factory Manual shall be installed and maintained in operational condition. These alarms shall be ceiling-mounted if possible and shall be protected from detainee access. The detection equipment shall be battery operated or so constructed as to continue operating during a power failure.

**51.7(9) Heating appliances.** Heating appliances and water heaters shall not be located along the path of required exits.

**51.7(10) Hinged doors.** All hinged doors serving as required exits from an area designed for an occupancy in excess of fifty persons shall swing with exit traffic.

**51.7(11) Mattresses.** Only fire resistant mattresses which will not sustain a flame and certified by the manufacturer and approved by the state fire marshal shall be used in the facilities.

**291—51.8(356,356A) Minimum standards for facility personnel.**

**51.8(1) Requirements for employment.** No person shall be recruited, selected or appointed to serve as a jail administrator or facility supervisor unless the person has met qualifications compatible with that of a police officer.

**51.8(2) Business transactions with detainees.** No person working in a facility shall transact any business with any detainee or member of a detainee's family, nor shall any person working in a facility arrange through another party any business transaction with a detainee.

**291—51.9(356,356A) Training for facility personnel.**

**51.9(1) Initial orientation.** Except in an emergency situation, all persons performing temporary detention duties shall meet the following requirements.

a. The individual shall have received a copy of these rules and be familiar with their content.

b. The individual shall be familiar with facility rules, written policies and procedures as adopted by the administrator.

c. The individual shall have been given specific orientation with respect to a detainee's rights during confinement and procedures adopted to ensure those rights.

d. The individual shall have been given both safety and range instruction assuring competency in the use of any firearm which might be used in the line of duty. If the individual is to have access to a handgun at any time the person shall hold a professional permit to carry weapons issued under the authority of Iowa Code section 724.6.

e. Personnel authorized to have access to chemical control agents shall be trained in their use.

f. The individual shall have been instructed in the use of required fire-fighting equipment and the fire and emergency evacuation plan.

**51.9(2) Basic training.** All appointed facility administrators and designees shall meet the following requirements within one year of employment:

a. First aid and cardiopulmonary resuscitation.

(1) The individual shall hold a Red Cross standard first aid certificate or the equivalent; or

A crash injury management certificate from the Iowa state department of health; or

Be certified as having completed an emergency medical technician program; or

Be licensed to practice as a licensed practical nurse, registered nurse or medical practitioner in the state of Iowa.

(2) The individual shall be certified as having successfully completed the basic life support training conducted under the program of the American Heart Association or the American Red Cross.

(3) All certification or licensure required by this rule must thereafter be maintained current according to the standards of the certifying or licensing agency.

b. Facility administrators and supervisors employed in holding facilities shall receive ten hours of training within the first year of employment. This training shall include the following or comparable course content:

(1) Introduction to Iowa criminal procedure and criminal law as applicable to the temporary holding facility setting including laws relating to the use of force.

(2) Security procedures, to include procedures regarding the proper methods of transporting detainees.

(3) Supervision of detainees, to include instruction on the basic civil rights of a detainee which would be applicable to a temporary holding facility.

(4) Recognizing symptoms of mental illness, retardation or substance abuse.

**51.9(3) Continuing education.** Administrators and supervisors of holding facilities shall complete five hours of in-service training, not to include hours spent in maintaining required certification or proficiency in first aid, life support, and handling of firearms.

**291—51.10(356,356A) Approved training programs.**

1. All employees shall receive an appropriate period of orientation prior to shift assignment.

2. Practice in the execution of a policy or procedure shall be conducted when feasible.

**291—51.11(356,356A) Standard operating procedures manual.** Pursuant to the authority of Iowa Code sections 356.5 and 356.36 each municipality shall establish and the facility administrator shall ensure compliance with a standard operating procedures manual requiring at a minimum the following specifications:

**51.11(1) Admission and classification.**

a. No person shall be confined or released from confinement without appropriate process or order of court.

b. With the exception of incidental contact under staff supervision, the following classes of detainees shall be

**CORRECTIONS, DEPARTMENT OF [291] (cont'd)**

kept separate by architectural design barring conversational and visual contact from each other:

(1) Juveniles and adults. (Pursuant to Iowa Code section 356.3.)

(2) Females from males (exception — alternate jail facilities). (Pursuant to Iowa Code section 356.4.)

c. The following shall be kept separate whenever possible:

(1) Felons from misdemeanants.

(2) Pretrial detainees from sentenced persons.

(3) Witnesses from persons charged with crimes.

d. The following shall be kept physically separated:

(1) Persons of whom violence is reasonably anticipated.

(2) Persons who are a health risk to others.

(3) Persons of whom sexually deviant behavior is reasonably anticipated.

e. Detention of juveniles shall be pursuant to Iowa Code section 232.22.

**51.11(2) Security.**

a. Supervision of detainees.

(1) Twenty-four-hour supervision of all detainees shall be provided pursuant to Iowa Code section 356.5(6).

(2) When staff is not within the confinement area of the facility, a staff person shall be in a position to hear detainees in a life threatening or emergency situation; or a calling device to summon help will be provided.

(3) At least hourly visual inspections of individual detainees shall be made and documented.

(4) Detainees considered to be in physical jeopardy because of physical or mental condition or those held pursuant to Iowa Code chapter 232 shall be checked more frequently than on an hourly basis.

(5) No employee or visitor of one sex shall enter a housing unit occupied by the other sex unless advance notice has been provided except in case of an emergency.

(6) When there are women in the facility population, a female employee shall be on the premises in accordance with Iowa Code section 356.5(6).

b. Searches.

(1) All detainees entering the facility shall be thoroughly searched; searches of persons charged with simple misdemeanors shall follow provisions of Iowa Code section 804.30.

(2) All persons entering a facility may be searched for contraband if a notice is posted. Persons may be denied admission if they refuse to consent to a required search.

c. Key control. The facility administrator will identify those persons who may have access to keys.

d. Detainees' property. All personal property of detainees shall be inventoried and accounted for.

e. Release and transfer of detainees. No detainee shall be released or transferred from confinement without appropriate process or order of the court.

**291—51.12(356,356A) Cleanliness and hygiene.**

**51.12(1) Housekeeping.**

a. Walls, floors and ceilings shall be well maintained.

b. Unless cleaning is done by staff, necessary cleaning equipment shall be provided to detainees.

c. The jail shall be maintained in pest-free condition.

d. All clothing and linen, if provided, shall be clean and sanitary.

**51.12(2) Reserved.**

**291—51.13(356,356A) Medical services.** The administrator shall establish a procedure to assure detainees the opportunity to receive prompt medical attention for illness and injury and emergency dental care.

**51.13(1) Medical practitioner coverage.** Each facility shall have a licensed physician, licensed osteopathic physician or medical resource, such as a hospital or clinic staffed by licensed physicians or licensed osteopathic physicians designated for medical supervision, care and treatment of detainees as deemed necessary and appropriate. Medical resources shall be available on a twenty-four-hour basis.

**51.13(2) Trained staff.** At least one staff member on duty within the police facility shall be certified in first aid and CPR in facilities with an average detainee population of fifteen or more.

**51.13(3) Detainee involvement.** No detainee shall be involved in any phase of delivery of medical services.

**51.13(4) First aid kits.** A first aid kit approved by qualified medical personnel shall be available to staff. (1MO)

**51.13(5) Chemical agent.** Detainees affected by a chemical control agent shall be offered appropriate treatment.

**51.13(6) Screening upon admission.**

a. Any person who is obviously injured, ill or unconscious, shall be examined by qualified medical personnel before being admitted to a facility.

b. Detainees suspected of having a contagious or communicable disease shall be isolated from other detainees and examined by qualified medical personnel as soon as possible.

c. As a part of the admission procedure a medical history intake form shall be completed for each person admitted.

**51.13(7) Medication procedures.**

a. Written policies and procedures pertaining to providing medication shall be established.

b. All prescription medicine shall be securely stored and inventory control practiced.

c. A written procedure for recording the taking of all medications shall be established.

d. Prescription medication, as ordered by a licensed physician or a licensed osteopathic physician shall be provided in accordance with the directions of the prescribing physician. Detainees with medication from a personal physician may be evaluated by a physician or osteopathic physician selected by the administrator to determine if the present medication is appropriate.

**51.13(8) Medical records.** A confidential medical record shall be maintained for every detainee receiving medical care. Records shall be maintained for two years.

**291—51.14(356,356A) General food service requirements.** If a detainee is held over a meal period, a meal of adequate nutrition shall be provided. The three meals provided for each twenty-four-hour duration shall be served at reasonable and proper intervals; at least one shall be a hot meal. Meals shall be served at approximately the same time every day.

**51.14(1) Medical diets.** Any special diet as prescribed by a physician shall be followed and documented.

**51.14(2) Religious requirements.** When a special diet is required for an individual due to a bona fide religious belief, the facility shall meet that need.

**51.14(3) Punishment.** Deviation from normal feeding procedures shall not be used as punishment.

**51.14(4) Inspection of outside facilities.** If food service is provided by outside sources, only a facility with a food establishment license or required to undergo inspection by other statutes shall be utilized to provide these services.

**CORRECTIONS, DEPARTMENT OF[291] (cont'd)****291—51.15(356,356A) In-house food services.**

**51.15(1)** Food preparation areas shall be clean and sanitary in accordance with requirements of the state health standards regulating institutional or food establishment operations.

**51.15(2)** All food products shall be stored in compliance with state health standards governing institutional or food establishment operations.

**51.15(3)** Dishes, utensils, pans and trays shall be sanitized after use in accordance with state health standards for food establishments or institutions.

**51.15(4)** Staff shall serve, or supervise the serving of all meals.

**291—51.16(356,356A) Communication.**

**51.16(1)** Telephone calls upon request. Detainees shall be permitted access to their family or an attorney, or both, without unnecessary delay after arrest as required by Iowa Code section 804.20.

**51.16(2)** Special persons. Attorneys and ministers shall be permitted to visit detainees upon request of the detainee at reasonable hours if security and daily routine are not unduly interrupted.

**51.16(3) General visitation.**

a. All detainees in normal status shall be allowed reasonable visitation.

b. Rules shall specify who, when and how often visitors are allowed.

c. All visitors shall be required to sign a visitor log before being permitted to visit a detainee.

d. A visit may be denied if reasonable suspicion exists that the visit might endanger the security of the facility. A record shall be made of such denial and the reason therefor.

**291—51.17(356,356A) Access to the courts.** Detainees shall be provided at their request pertinent sections of the Iowa Code or city ordinance pertaining to their offense.

**291—51.18(356,356A) Discipline and grievance procedures.**

**51.18(1)** No detainee shall be allowed to have authority or disciplinary control over another detainee.

**51.18(2)** The use of physical force by staff shall be restricted to instances of justifiable self-protection, the protection of others or property, the prevention of escapes or the suppression of disorder, and then only to the degree necessary to overcome resistance; corporal punishment is forbidden.

**51.18(3)** In the event of any death or injury due to physical force requiring medical care a report shall be sent to the state inspection unit within twenty-four hours. Any other injuries reported to the facility staff will be documented and retained within a central file at the facility.

**51.18(4)** The following information shall be made available to all detainees and explained to any detainee unable to read the English language:

a. A set of rules (including sanctions) and regulations pertaining to the conduct of persons in custody shall be posted in a conspicuous place.

b. What services are available to them.

**51.18(5)** Deprivation of clothing, bedding, or hygienic supplies shall not be used as discipline or punishment. These items may be withheld from any detainee whom staff reasonably believes would destroy such items or use them as weapons, self-injury or escape.

**291—51.19(356,356A) Records.** The following records shall be maintained by the facility administrator for two years unless a different period is specified.

1. Facility calendar. This record shall list the date and time of admission; authority for admission; name, address, age, and sex of detainee; date and time of release and the information required by Iowa Code section 356.6.

2. Visitor registration. This record shall contain the name and address of the person visiting; name of person visited; the date, time and duration of the visit.

3. Facility inspection records. Jail inspection records shall contain the following and be maintained for a minimum period of two years:

Fire marshal's certificates.

Written reports received from all persons doing official inspections of the facility.

4. Medical history intake form. Notation of injury upon admission shall be included.

5. Records of medical care.

6. Injury reports. Copies of all peace officer reports of investigations relating to injuries within the facility shall be maintained by the administrator for a period of five years.

7. Disciplinary records.

8. Property receipts. Property receipts as required by Iowa Code section 804.19 shall be completed and distributed as required.

9. Fire and disaster evacuation plan.

10. Records of staff training.

11. Disposition of medication. A record shall be kept of the disposition of prescribed medication not taken by a detainee.

12. Supervisory checks. A record shall be made of all required supervisory checks of detainees.

13. Incident reports.

Use of force;

Suicide/suicide attempts;

Any unusual incidents.

These rules are intended to implement Iowa Code sections 356.36 and 356.43.

**ARC 4378**

**CORRECTIONS,  
DEPARTMENT OF[291]  
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 1983 Iowa Acts, Chapter 96, the Department of Corrections hereby gives Notice of Intended Action to adopt 2 new chapters, rescind 2 existing chapters and revise 2 chapters.

Effective July 1, 1984, administration of the parole and work release services will be transferred to the Judicial District Departments of Correctional Services pursuant to 1983 Iowa Acts, SF 464, sections 4 and 159. In accordance with this transfer, chapters 44, Work Release, and 45, Parole, have been rewritten. Existing chapters 44 and

## CORRECTIONS, DEPARTMENT OF [291] (cont'd)

45 are rescinded and new chapters 44 and 45 added as of July 1, 1984. New definitions are added to chapter 40, Community Based Corrections, in accordance with this change.

A new rule is added to chapter 46, Interstate Compact for the Supervision of Parolees and Probationers, to include supervision by the Judicial District Departments of Correctional Services.

Any interested persons may make oral or written suggestions or comments on these proposed rules not later than 4:30 p.m., January 27, 1984. Such written materials shall be directed to the Director, Department of Corrections, Jewett Building, 10th and Grand, Des Moines, Iowa 50309. A meeting will be held for the purpose of oral presentation at 1:00 p.m., January 27, 1984, in the south conference room, Grimes State Office Building, East 14th and Grand, Des Moines, Iowa 50319. Persons who want to convey their views orally should contact the director's office (515) 281-4811. The proposed rules are subject to revisions after the Department considers all written and oral presentations.

ITEM 1. Rule 40.1(905) is amended as follows: Remove subrule numbers from the definitions, alphabetize and add new definitions as follows:

*"Curfew hours"* means those hours between 12:00 midnight and 6:00 a.m.

*"Immediate family"* means spouse, child, parent, sibling, natural grandparent, stepparent, legal guardian, an individual with whom the inmate lived and who was responsible for the inmate while a minor for a period of at least one year.

*"Medical practitioner"* means medical doctor, osteopathic physician or physician's assistant.

*"Parole"* means the same as defined in Iowa Code section 906.1 as amended by 1983 Iowa Acts, Senate File 464, section 143.

*"Parole agreement"* means the contract of supervision entered into by the parolee setting out the conditions under which release is granted.

*"Parole plan"* means a document listing place of employment, residence and the supervising parole officer.

*"Probation agreement"* means the contract of supervision entered into by the probationer setting out the conditions under which release is granted.

*"Rehabilitative objectives or purposes"* means activities designed to further the reintegration of the offender into the community as a productive, law-abiding citizen. Activities deemed to serve rehabilitative objectives shall include, but not be limited to, family visits, seeking employment, supervised recreational activities, shopping trips, counseling/consultation sessions, educational programs and activities, vocational training and religious activities.

*"Technical violation"* means a noncriminal violation of the conditions of parole.

ITEM 2. Chapter 44, Work Release, is rescinded effective July 1, 1984. New Chapter 44, Work Release, effective that date is added as follows:

#### CHAPTER 44 WORK RELEASE

##### 291—44.1(247A) Administration.

44.1(1) Supervision. Persons committed to the director of the department of corrections and approved for work release by the state work release committee shall be supervised and housed by the judicial district departments of correctional services in accordance with con-

tractual provisions between the district departments and the department of corrections.

##### 44.1(2) Facility requirements.

a. The facility staff shall assure the provision and maintenance of a safe environment for the residents. Each facility shall comply with fire, building, health and safety regulations or standards applicable in the local jurisdiction.

Each facility shall lend itself to an ongoing process of evaluation.

b. The district department shall have written policy which ensures that at least one staff member is awake, dressed and readily available to residents twenty-four hours a day in each work release facility.

c. The district departments shall have written policies which establish facility rules, possible sanctions and appeal procedures for all residents. The final appeal step on any reports resulting in the loss of time or removal from the honor role shall be the director of the department of corrections or designee.

d. The district departments shall have written policies and procedures for searching work release residents and their property and for seizure of resident property or contraband.

e. The district departments shall have written policies and procedures which conform to appropriate statutes and regulations governing and reporting the use of physical force by work release facility staff.

f. The district departments shall have uniform written policies and procedures for the inventory and recording of a work release resident's property.

g. District department staff shall not purchase, directly or indirectly, property or services belonging to or being sold by any person under supervision except as specifically allowed under department of corrections policy.

h. The district departments shall have written policies which establish a grievance procedure for work release residents for activities other than disciplinary action.

##### 44.1(3) Admission.

a. The district departments shall admit residents in accordance with a contract with the department of corrections or federal correctional agencies.

b. At the time of intake, the facility staff shall discuss with each resident program goals, services available, rules governing conduct in the facility, disciplinary procedures, client fiscal management and residents' responsibilities, rights and communication privileges and shall obtain written documentation from the resident that these matters were discussed.

##### 44.1(4) Records.

a. The district department shall maintain records for state work release clients as required by the department of corrections.

b. The district departments shall maintain a case record for each client under supervision which shall include, when applicable, the following: (1) Identification data, (2) institutional information packet, (3) case plan, (4) restitution plan, (5) work release plans, (6) chronological records, (7) disciplinary reports, (8) hold orders, (9) transfer reports, (10) parole progress reports, (11) signed release of information forms, (12) inventory sheets, and (13) discharge reports.

Written procedures shall exist at the facility concerning the security, maintenance, accessibility, closure and destruction of said case records.

**CORRECTIONS, DEPARTMENT OF**[291] (cont'd)

c. The district departments shall have written policies and procedures which ensure that an individual case plan is maintained on each work release resident which includes an assessment of client needs, and resources utilized to meet those needs.

**291—44.2(247A) Provision of services.**

**44.2(1)** Contingency plan. The district department shall have contingency plans that will ensure proper continuation of the program in the event of an emergency.

**44.2(2)** Food service. The district department shall have policies and procedures which assure that all work release residents have access to three meals a day during the week and two meals on weekend days and that meals provided at the work release facility meet recognized minimum daily nutritional requirements.

The district department shall have written policies which ensure that if food service is provided, all facilities including kitchen equipment and food handlers comply with applicable health and safety laws and regulations as evidenced by a certificate of rating from the Iowa department of agriculture or local restaurant inspection unit.

**44.2(3) Medical service.**

a. The district department shall provide for a medical examination of any work release resident suspected of having a communicable disease which safeguards both residents and employees. Employees who contract a communicable disease, except common colds, should not be permitted to work in a facility until the danger of contagion is ended. For purposes of this rule, communicable disease shall mean any disease which is transmittable from one person to another and is either temporarily or permanently debilitating.

b. The district department shall have written policies and procedures which govern the medical care of work release residents in case of emergencies, sudden illnesses or accidents.

c. The district department shall have written policies and procedures governing the method of handling prescription and nonprescription drugs.

d. All personnel shall furnish a statement from a valid medical practitioner or registered nurse prior to starting employment, stating that they are in good health, able to perform the duties required and free from any communicable disease that could reasonably be determined to represent a public health hazard.

**44.2(4)** Visitation. The district department shall have policies and procedures which provide for visitation but visiting privileges may be limited to the extent necessary for security and management reasons.

**44.2(5)** Transportation. District department staff may provide transportation for residents in order to facilitate program objectives or to transport residents for security purposes.

**291—44.3(910) Restitution.**

**44.3(1)** Restitution plan of payment. There shall be a restitution plan of payment developed on those work releasees who have been court ordered to pay restitution unless the court ordered restitution plan of payment has been completed. Factors which must be considered in developing the restitution plan of payment are:

- a. Present income/employment
- b. Physical/mental health
- c. Education
- d. Financial situation
- e. Family circumstances

The district department shall have written policies and procedures governing the development and modification of the restitution plan of payment. Final approval of the restitution plan of payment shall be by the district director.

The approved restitution plan of payment shall be forwarded to the appropriate clerk of court by the district department or to the person responsible for collection if collections are performed by the district department.

**44.3(2) Compliance.**

a. The work releasee shall submit payments in a timely manner to the clerk of court or district department.

b. If payments are made to the clerk of the district court, the work releasee shall provide the district department proof of payments.

c. The district department will provide statements to the appropriate clerks of court when community service is ordered in lieu of financial restitution.

**291—44.4(247A) Resident finances.**

**44.4(1)** Residents shall surrender earnings to the facility in accordance with Iowa Code section 247A.7.

**44.4(2)** The district departments of correctional services shall provide for proper accounting for the receipt and disbursement of resident earnings, in accordance with fiscal requirements established in chapter 40 of the Iowa Administrative Code.

**291—44.5(247A) Furloughs.** The district departments shall administer furlough programs for work release clients in accordance with the department of corrections work release manual.

**291—44.6(247A) Violations.**

**44.6(1)** Preplacement violations. When disciplinary problems occur with residents who have been approved for work release but not yet placed, designated staff shall determine whether or not the situation is serious enough to warrant further review by the state work release committee. Designated staff herein shall mean authorized persons from the judicial district department of correctional services, the community services division or the sending institution.

**44.6(2)** Post placement violation. Work release violations may be classified as technical, minor, or major in accordance with state policy depending on the seriousness and frequency. Such classification shall determine the sanction or range of sanctions to correspond with the violation(s).

**44.6(3)** Request for temporary custody. Requests for temporary custody in a county jail or municipal holding facility may be issued by an authorized staff person of the district department of correctional services, in those cases where the resident is considered dangerous, likely to flee or in serious violation of the work release program.

**44.6(4)** Out of place escape. Residents who are out of place of assignment are considered in serious violation of work release rules and possibly guilty of a felony under Iowa Code section 719.4. Escapes shall be reported to designated authorities in accordance with department of corrections work release policy.

**44.6(5)** Reimbursement for transportation. Transportation costs incurred due to a work releasee escaping or absconding shall be assessed against the work releasee. The amount of reimbursement shall be the actual cost incurred by the department of corrections or the judicial district department and shall be credited to the support of

**CORRECTIONS, DEPARTMENT OF[291] (cont'd)**

correctional services account from which the billing occurred. Actual cost shall mean the following:

1. Actual salary, to include overtime, of all personnel required to return the work releasee.
2. Actual personal expenses of personnel involved.
3. Ground mileage at the rate paid to state employees.
4. Actual cost of any common carrier fare for personnel and the work releasee. Air fare shall be booked at regular coach.

**44.6(6) Transfer hearings.** The district department shall petition the department of corrections for a transfer hearing on residents found guilty of serious work release violations. The hearing officer shall determine whether or not the resident is to be transferred to the designated security institution.

**44.6(7) Special transfers.** Transfers from one facility to another or from a facility to Riverview Release Center may be allowed in special circumstances with the approval of the department of corrections.

**291—44.7(246) Discharge.** Under no circumstances shall work release supervision extend beyond the expiration of a work releasee's sentence.

These rules are intended to implement Iowa Code sections 246.38 as amended by 1983 Iowa Acts, SF 464, section 93; 247A.2, 247A.4, 247A.5, 247A.7, 247A.9 and 247A.10 as amended by 1983 Iowa Acts, SF 464, sections 103, 105, 106 and 108; 910.5 as amended by 1983 Iowa Acts, SF 464, section 154; 1983 Iowa Acts, SF 464, sections 13 and 14; and 1983 Iowa Acts, SF 503, section 1.

ITEM 3. Chapter 45, Parole is rescinded effective July 1, 1984. New chapter 45, Parole, effective that date, is added as follows:

**CHAPTER 45  
PAROLE**

**291—45.1(906) Administration.**

**45.1(1) Supervision.** Persons committed to the director of the department of corrections and granted parole by the Iowa board of parole shall be supervised by the judicial district departments of correctional services. The district departments shall impose conditions of parole as contained in rule 45.2(906).

**45.1(2) Effective date/parole agreement.** Parole is effective only upon the acceptance of the terms of parole as evidenced by the signing of the standard parole agreement form by the parolee before a district department employee. In the event that emergency procedures are effected to reduce the institutional population, institutional staff shall authorize a temporary agreement by having the inmate sign the standard form prior to leaving the institution. The temporary agreement shall be forwarded to the supervising parole agent who may revise the agreement in accordance with rule 45.2(906). The parole agreement shall be issued only upon the written order of the board of parole and shall not be issued prior to the establishment of an approved parole plan. The parolee may not be released on parole prior to the execution of the parole agreement. The parole agreement shall contain the conditions of parole pursuant to rule 45.2(906) and shall contain the parolee's reporting instructions.

**45.1(3) Furlough.** Parolees may be granted a community placement furlough to their prospective parole area upon request by the assigned supervising parole officer pursuant to 20.12(5)"b"(2). The district departments shall have written policy and procedures on furloughs.

**45.1(4) Parole release funds.** Inmates approved for parole will receive clothing or a clothing allowance, money and transportation in accordance with the provisions of Iowa Code section 906.9.

**45.1(5) Hospitalization.** The director of the department of corrections may send indigent parolees to the university hospitals at the university of Iowa for needed medical services without the court order required in other cases pursuant to Iowa Code section 255.29 as amended by 1983 Iowa Acts, Senate File 464, section 110.

**45.1(6) Pharmaceuticals.** Except in an emergency pursuant to Iowa Code section 613.17, the district department personnel shall not administer or dispense any prescription drugs, including antabuse, to parolees.

**45.1(7) Grievance procedure.** The district department shall have a written grievance procedure for all parolees which shall include the method by which all parolees are notified of the procedure.

**45.1(8) Parole relief fund.** In the event of financial distress due to illness, loss of employment or conditions creating personal need, a parolee may request an advancement of up to \$100.00 from the parole relief fund. This request must be approved by the director of the district department and by the director of the department of corrections. Prior to approval the parolee shall agree in writing to repay the advanced funds during the period of parole.

Requests for discharge, prior to expiration of sentence, will not be made until the advanced funds have been repaid in total.

**291—45.2(906) Conditions of parole.**

**45.2(1) Standard conditions.** The following are standard conditions of parole supervision applicable to all parolees.

a. The parolee shall obey all federal, state and local laws and ordinances.

b. In the event of any arrest or citation, the parolee shall notify the district department of the arrest or citation within twenty-four hours.

c. The parolee shall secure and maintain employment as approved by the district department. The parolee shall obtain advance permission from the district department before changing or quitting a job. If the parolee is fired or laid off, the parolee shall notify the district department within twenty-four hours. If the parolee is unemployed, every effort shall be made to obtain employment, and such efforts shall be reported to the district department as directed.

d. The parolee will be restricted to the county of residence unless prior permission to travel has been granted by the district department or otherwise in accordance with the parole agreement. The parolee will secure advance written permission which may be a part of the parole agreement, from the district department before traveling outside the state of residence.

e. The parolee shall obtain prior permission from the district department before changing residence.

f. The parolee shall maintain contact with the district department as directed by the district department or the department of corrections.

g. The parolee shall maintain and, upon request, present proof of adequate liability insurance or proof of financial responsibility and a valid driver's license before owning or operating a motor vehicle.

**CORRECTIONS, DEPARTMENT OF[291] (cont'd)**

h. The parolee shall not own, possess, use or transport firearms or other dangerous weapons or imitation thereof.

i. The parolee shall co-operate in any treatment/rehabilitation/monitoring program as specified by the district department.

j. The parolee will make payments as directed by the restitution plan of payment.

**45.2(2) Special conditions.** Special conditions may be imposed at any time and shall only be imposed in accordance with the needs of the case as determined by the judicial district department of corrections, the department of corrections or the Iowa board of parole. Special conditions shall be handled in the following manner.

a. Deletions. Immediately following the condition being deleted, the deletion shall be clearly noted on all copies of the parole agreement. Both the parolee and district department staff shall sign the notation of deletion including the date of the deletion. The district supervisor and the board of parole shall be immediately informed of the deletion in writing.

b. Additions. Additional conditions may be imposed. The additional conditions shall be clearly indicated on all copies of the parole agreement and shall be signed and dated by the parolee and the supervising agent. The department of corrections and the parole board shall be notified of additional conditions in writing.

**291—45.3(910) Restitution.**

**45.3(1) Restitution plan of payment.** There shall be a restitution plan of payment developed on those parolees who have been court ordered to pay restitution unless the court ordered restitution plan of payment has been completed. Factors which must be considered in developing the restitution plan of payment are:

- a. Present income/employment
- b. Physical/mental health
- c. Education
- d. Financial situation
- e. Family circumstances

The district department shall have written policies and procedures governing the development and modification of the restitution plan of payment. Final approval of the restitution plan of payment shall be by the district director.

The approved restitution plan of payment shall be forwarded to the appropriate clerk of court by the district department or to the person responsible for collection, if collections are performed by the district department.

**45.3(2) Compliance.**

a. The parolee shall submit payments in a timely manner to the clerk of court or district department.

b. If payments are made to the clerk of the district court, the parolee shall provide the district department proof of payments.

c. The district department will provide statements to the appropriate clerks of court when community service is ordered in lieu of financial restitution.

**291—45.4(908) Violations.**

**45.4(1) Offenses.** The district department may at any time report violations of the conditions of parole to the board of parole.

Within ten calendar days of receipt of knowledge of the commission of certain violations, listed below, the district department shall make written report to the board of parole of the violations. The report shall include a recommendation to revoke parole or continue the person

on parole. When the subject of the report is the commission of a new offense, the district department may withhold recommendation until disposition of the charges in district court.

a. Conviction of a public offense as defined in Iowa Code sections 701.7 and 701.8 except for simple misdemeanors.

b. Willful and continued failure to maintain employment or contact with supervising officer.

c. Illegal use of drugs.

d. Wrongful or excessive use of alcohol.

e. Absconding from parole.

f. Physically assaultive or violent behavior.

g. Repeated technical violations.

h. Violations of any conditions imposed by the board of parole.

i. Willful failure to comply with court-ordered restitution.

Revocation proceedings will not be initiated for failure to meet financial conditions which are not included in the parole agreement.

**45.4(2) Detention.** A parole officer, with supervisory approval, may arrest a parolee when there is probable cause to believe the parolee has violated conditions of parole which may result in parole revocation. The arresting agent may request temporary detention of the parolee in a local detention facility. In such cases all actions of the agent shall be in accordance with Iowa Code sections 908.1 and 908.2. A parole officer may also proceed without arrest by filing a complaint with the Iowa board of parole pursuant to Iowa Code section 908.8. When a parolee is arrested the agent shall immediately notify the board of parole.

A complaint, which is a preliminary parole violation information, shall be filed with the magistrate at the time of the initial appearance.

**45.4(3) Absconding from supervision.** Upon receipt of information that a parolee has absconded from supervision, a preliminary parole violation information shall immediately be filed with a judge, an associate judge, or a magistrate and a warrant for arrest requested.

**291—45.5(906) Voluntary return to institution.** A parolee may be returned to an Iowa department of corrections institution for a period not to exceed ninety days for treatment or further training, provided a voluntary return agreement is approved by the district department and the warden or superintendent of said institution and is signed by them and by the parolee prior to the return.

**291—45.6(906) Discharge from parole.** The district department shall make application for discharge to the board of parole following the parolee's satisfactory adjustment under supervision. The optimum point for consideration for discharge is evaluated in terms of:

The risk to society posed by the parolee.

The further assistance that might be efficiently rendered to the parolee.

**45.6(1) Recommendation.** The recommendation for discharge from parole as submitted by the supervising officer shall include, but not be limited to, the following:

a. Parolee's attitude and adjustment to parole supervision.

b. Public offenses committed by the parolee while under supervision.

c. Violation of any parole conditions set by the board of parole.

d. Abuse of alcohol or drugs while on parole.

## CORRECTIONS, DEPARTMENT OF[291] (cont'd)

- e. Restitution accomplished by the parolee.  
f. The reasons why the discharge is appropriate.

A recommendation for or against restoration of citizenship addressed to the governor shall be forwarded to the department of corrections.

45.6(2) Repayment of relief fund. A request for discharge shall not be made, prior to expiration of sentence, until any outstanding advanced funds provided under 45.1(8) have been repaid in total.

45.6(3) Expiration of sentence. Under no circumstances shall parole supervision extend beyond the expiration of a parolee's sentence. (Iowa Code section 906.15)

These rules are intended to implement Iowa Code sections 255.29 as amended by 1983 Iowa Acts, SF 464, section 110; 906.9 to 906.11, 906.15 and 906.16 as amended by 1983 Iowa Acts, SF 464, sections 146 and 147; 908.1, 908.2 and 908.8 as amended by 1983 Iowa Acts, SF 464, section 152; 910.5 as amended by 1983 Iowa Acts, SF 464, section 154; and 1983 Iowa Acts, SF 464, sections 13 and 14.

ITEM 4. The chapter 46 title shall be changed to read: Supervision Under Interstate Compact.

ITEM 5. Rule 46.4(247) is amended by adding a new subrule as follows:

46.4(5) In the transfer of supervision of all probation and parole cases to or from other states, the judicial district departments of correctional services established pursuant to Iowa Code chapter 905, shall abide by these rules, the provisions of the compact and department of corrections policies and procedures.

## ARC 4376

DENTAL EXAMINERS,  
BOARD OF[320]

## NOTICE OF INTENDED ACTION

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

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

Pursuant to the authority of Iowa Code sections 147.10, 147.76, 147.80, and 258A.2, the Iowa State Board of Dental Examiners gives Notice of Intended Action to amend Chapters 6, 10, 11, 13, 14, 15, and 25 of the IAC relating to renewal of licenses, license fees, and continuing education.

The proposed rules adjust license fees and provide for biennial continuing education and renewals.

Any interested person may make written suggestions or comments on the proposed rules prior to February 8, 1984. Such written comments should be directed to Constance Price, Executive Director, Iowa State Board of Dental Examiners, Executive Hills West, 1209 East Court, Des Moines, Iowa 50319.

The proposed rules are intended to implement Iowa Code sections 147.10, 147.80, and 258A.2.

These rules are being filed emergency, ARC 4375, and the contents of that filing are hereby incorporated by reference.

## ARC 4361

## HEALTH DEPARTMENT[470]

BOARD OF PHYSICAL AND

OCCUPATIONAL THERAPY EXAMINERS

## NOTICE OF INTENDED ACTION

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

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

Pursuant to the authority of Iowa Code sections 147.29 and 147.76, the Board of Physical and Occupational Therapy Examiners gives Notice of Intended Action to amend Chapters 137 and 138 of the Iowa Administrative Code relating to application for license.

The rules require applicants to submit to the Board an official transcript of academic courses.

Any interested person may make written comments concerning the proposed rules prior to 4:30 p.m. January 26, 1984 addressed to Peter J. Fox, Hearing and Compliance Officer, Iowa State Department of Health, Lucas State Office Building, Des Moines, Iowa 50319.

The proposed rules are intended to implement Iowa Code section 147.29.

ITEM 1. Rule 470—137.2(147) is amended by adding the following new subrule:

137.2(8) Each applicant shall submit to the board an official transcript of academic courses.

ITEM 2. Rule 470—138.201(148B) is amended by adding the following new subrule:

138.201(6) Each applicant shall submit to the board an official transcript of academic courses.

## ARC 4363

## HEALTH DEPARTMENT[470]

BOARD OF PSYCHOLOGY EXAMINERS

## TERMINATION OF NOTICE

Pursuant to the authority of Iowa Code section 147.76, the Board of Psychology Examiners is terminating the Notice of Intended Action to rescind the existing and adopt a new subrule 140.4(9) found in the July 20, 1983 Iowa Administrative Bulletin as ARC 3926. The content of ARC 3926 has been made a part of ARC 4132 found in the October 12, 1983 Iowa Administrative Bulletin.

**ARC 4358****HEALTH DEPARTMENT[470]****BOARD OF CHIROPRACTIC EXAMINERS****NOTICE OF INTENDED ACTION**

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

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

Pursuant to the authority of Iowa Code sections 147.10, 147.76 and 258A.4, the Board of Chiropractic Examiners gives Notice of Intended Action to amend Chapter 141 of the IAC.

Item 1 provides for a biennial renewal date.

Item 2 expands the grounds for disciplinary action of 141.24(2) to include the failure to maintain clinical and fiscal records for a minimum of five years.

Item 3 expands the grounds for disciplinary action to include the failure to respond to written communications from the board.

Any interested person may make written comments on the proposed rules prior to January 24, 1984 to Harriett L. Miller, Executive Secretary, Board of Chiropractic Examiners, Lucas State Office Building, Des Moines, Iowa 50319.

These proposed changes are intended to implement Iowa Code sections 147.10 and 258A.4.

The following amendments are proposed.

ITEM 1. Rule 141.15(151) is amended as follows:

**470—141.15(151) License renewal date.** A license to practice chiropractic shall expire on the thirtieth of June following the date of issuance of the license of every even numbered year.

ITEM 2. Subrule 141.24(2), paragraph "a" is amended by adding the following new subparagraph:

(5) Failure to maintain clinical and fiscal records in support of services rendered for a minimum of five years.

ITEM 3. Rule 141.24(258A) is amended by adding the following new subrule:

**141.24(28)** Failure to respond, when requested, to communications of the board within thirty days of the mailing of such communication by registered or certified mail.

**ARC 4359****HEALTH DEPARTMENT[470]****BOARD OF CHIROPRACTIC EXAMINERS  
NOTICE OF INTENDED ACTION**

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

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

Pursuant to the authority of Iowa Code section 147.80, the Board of Chiropractic Examiners hereby proposes to

amend Chapter 141 of their rules appearing in the Iowa Administrative Code.

Subrule 141.16(2) is being amended to adjust license fees to pay for the cost of licensing as required by Iowa Code section 147.80, including indirect costs as directed by the Office of the State Comptroller.

The Board intends to make the adopted filing of the proposed rule according to section 17A.5(2)"b"(1) on an emergency basis.

Any person, government agency or association may submit written comments to Harriett L. Miller, Executive Secretary, Board of Chiropractic Examiners, Lucas State Office Building, Des Moines, Iowa 50319, or make comment by telephone to 281-4416 not later than 4:30 p.m., January 24, 1984.

These proposed changes are intended to implement Iowa Code sections 147.10 and 147.80.

The following amendment is proposed.

Subrule 141.16(2) is amended as follows:

**141.16(2)** For the biennial renewal fee of a license to practice chiropractic, ~~eighty dollars~~ *one hundred dollars*. Renewal fees shall be received by the board before the end of the last month of the renewal period.

**ARC 4366****HIGH TECHNOLOGY  
COUNCIL, IOWA [485]****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 1983 Iowa Acts, chapter 207, division VII, section 35, subsection 5, unnumbered paragraph 3, and Iowa Code section 17A.3, the Iowa High Technology Council hereby gives Notice of Intended Action to promulgate new rules. The purpose of these rules is to implement the provisions of 1983 Iowa Acts, chapter 207, division VII.

The 1983 Iowa Acts, chapter 207, division VII created the Iowa High Technology Council to encourage the development of high technology industries and research in Iowa which will establish new employment opportunities, improve family farm operations and improve the quality of life in Iowa and to ensure the development of a technology transfer system.

Although the sections of division VII will be placed in Iowa Code chapter 28, the council is promulgating rules as a separate agency due to the separate governing structure of the council from the Iowa Development Commission.

Any interested person may make written comments on the proposed rules no later than January 24, 1984, to David H. Swanson, Chairperson, Iowa High Technology Council, 205 Engineering Annex, Iowa State University, Ames, Iowa 50011. Persons wishing to convey their views orally should contact the chairperson at the above address or by telephone, 515/294-3420, or contact Doug

## HIGH TECHNOLOGY COUNCIL, IOWA[485] (cont'd)

Getter, Manager, Research and Development Group, Iowa Development Commission, 600 East Court Avenue, Suite A, Des Moines, Iowa 50309, 515/281-3925.

There will be a public hearing on January 24, 1984, at 10:00 a.m. in the conference room of the Iowa Development Commission, 600 East Court Avenue, Suite A, Des Moines, Iowa. Oral or written comments may be presented at the hearing. Persons wishing to make oral comments at the hearing should contact Mr. Swanson or Mr. Getter prior to January 23, 1984, in order to be scheduled.

The complete text of these rules is filed as emergency ARC 4365.

These rules are intended to implement 1983 Iowa Acts, chapter 207, division VII.

**ARC 4387****MERIT EMPLOYMENT  
DEPARTMENT[570]****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 section 19A.9, the Iowa Merit Employment Department hereby gives Notice of Intended Action to amend Chapter 1, "Definitions"; Chapter 12, "Appeals"; and Chapter 15, "Grievances and Complaints", Iowa Administrative Code.

This amendment deletes reference to variances in individual agency grievance procedures, integrates discrimination complaints by employees into the revised procedure, establishes the procedural time limits on filing and processing of grievances and appeals, sets forth the specific appeal rights of employees and applicants, provides general and specific information on scheduling, public access to hearings and hearing records, costs associated with hearings, use of counsel or representatives, subpoenas and definition of parties to a hearing. The amendment further describes the procedures for conducting a hearing, the types of decisions issued and the use of administrative hearing officers in the conduct of hearings. This amendment combines Chapter 12 (Appeals) and Chapter 15 (Grievances and Complaints) of our current rules for ease of reference and to establish uniform procedures for conducting contested case hearings.

Any interested person may make written suggestions or comments on these proposed rules no later than January 24, 1984, to the Division Manager, Technical Services Division, Iowa Merit Employment Department, Grimes State Office Building, Des Moines, Iowa 50319. Persons who wish to convey their views orally should contact the Division Manager, Technical Services Division at (515) 281-6602 or at the above address. Also, there will be a public hearing on Friday, February 10, 1984 at 9:15 a.m. in the Grimes Conference Room on the first floor of the Grimes State Office Building. Persons may present their views at this public hearing either orally or in writing.

Persons who wish to make oral presentation at the public hearing should contact the Division Manager of the Technical Services Division prior to the date of the public hearing in order to be scheduled.

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

The following amendments are proposed.

ITEM 1. Subrule 1.1(21) is rescinded and a new subrule adopted as follows:

1.1(21) "Grievance" means an expressed difference, dispute or controversy between an employee and the appointing authority or its designated representative with respect to circumstances or conditions of employment.

ITEM 2. 570—Chapter 12(19A) is rescinded and a new chapter adopted as follows:

**CHAPTER 12****GRIEVANCES, APPEALS AND HEARINGS**

570—12.1(19A) Grievances. Employees shall have the right to file grievances without fear of jeopardizing their jobs, opportunities for advancement, salary increases, or rights to fair and equitable treatment. Any attempt by the appointing authority at retaliation through any of these means or otherwise shall itself be grounds for a grievance. This right and the grievance procedures provided for in these rules shall be made known and available to employees by the appointing authority through postings in conspicuous places throughout the agency, publication in employee manuals, or other well publicized means. Grievances alleging discrimination based on political or religious opinions or affiliations, race, color, creed, national origin, sex (including sexual harassment), age, physical or mental disabilities shall be subject to the provisions of subrule 12.1(1) unless there is an established agency discrimination grievance procedure approved by the department. Grievances of permanent employees from suspension, reduction within pay grade, disciplinary demotion, or discharge shall be filed as appeals in accordance with subrule 12.2(8). Grievances arising from layoff or demotion in lieu of reduction in force that allege the circumvention of the right of appeal as provided for in subrule 12.2(8) shall be filed as appeals in accordance with subrule 12.2(9). Employees covered by collective bargaining agreements shall be governed by the terms of their contract grievance procedures only for those provisions contained in their contract.

**12.1(1) Grievance procedure steps.**

a. Step 1. The grievant shall initiate the grievance by submitting it in writing to the immediate supervisor within fourteen calendar days from the date the grievant first became aware of or should have become aware of the grievance issue by the exercise of reasonable diligence. The immediate supervisor shall, within seven calendar days after receiving the grievance, give a decision in writing to the grievant.

b. Step 2. If the grievant is not satisfied with the decision obtained at the first step, the grievant may, within seven calendar days after receiving the written decision at the first step, file the grievance in writing with the next higher designated management representative in the appointing authority's grievance process. The next higher designated management representative shall, within fourteen calendar days after receiving the grievance, give a decision in writing to the grievant.

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

c. Step 3. If the grievant is not satisfied with the decision obtained at the second step, the grievant may, within seven calendar days after receiving the written decision at the second step, file the grievance in writing with the appointing authority or the appointing authority's designee. The appointing authority or the designee shall, within fourteen calendar days after receiving the grievance, give a decision in writing to the grievant.

d. If the grievant is not satisfied with the decision obtained at the third step of the agency grievance procedure, or the decision obtained through the agency discrimination grievance procedure, and the grievance alleges a violation of these rules or Iowa Code chapter 19A, the grievant may file an appeal to the commission in accordance with rule 12.2(19A).

**12.1(2) Exceptions to time limits.**

a. The maximum time periods at any step in the grievance procedure may be extended when mutually agreed to in writing by both parties.

b. If the grievant fails to proceed to the next higher available step in the grievance process within the appropriate time limits, the grievant shall have waived any right to proceed further in the grievance procedure.

c. If any management representative fails to comply with the appropriate time limits in the grievance process, the grievant may proceed to the next higher available step within the period of time allowed for progression to the next step.

**12.1(3) Group grievances.** When two or more grievances or grievants address the same or similar issues, they shall be processed and determined as a group grievance.

**12.1(4) Grievance meetings.**

a. When it is determined by a designated management representative that a meeting with the grievant will be held, all reasonable attempts will be made to hold the meeting during the grievant's regularly scheduled hours of work.

b. The grievant shall be in paid status for only that time spent in grievance meetings during the grievant's regularly scheduled hours of work. This provision shall also apply to all witnesses except those who are required by management's representative to attend the grievance meeting. Witnesses required to attend by management's representative shall be paid for all time spent during their regularly scheduled hours of work and, if eligible for overtime pay, shall also be in paid status for that time spent outside of their regularly scheduled hours of work in accordance with these rules, policies, or collective bargaining contract provisions. In the case of group grievances, only one of the grievants shall be in paid status.

**12.1(5)** An alleged violation of this rule shall bypass all steps of the grievance procedure and shall be immediately eligible for filing by the grievant for appeal to the commission. The initial burden of proof to establish a prima facie case of an alleged violation of this rule shall rest with the appellant at the appeal hearing.

**12.1(6)** Any of the steps contained in subrule 12.1(1) may be bypassed by the grievant when the subject of the grievance is alleged sexual harassment and that step involves the respondent in the grievance.

**570—12.2(19A) Appeals.** The following are deemed to be appeals to the commission and are not subject to rule 12.1(19A).

**12.2(1) Appeal of position allocation or reallocation.**

a. An appointing authority or an employee may, within thirty calendar days of the receipt of the final

notice of allocation or reallocation of a position, file a written appeal with the department for review of that decision by a classification appeal board. The classification appeal shall be held in accordance with subrule 3.1(5).

b. A permanent employee whose position has been reallocated downward and who alleges that the reallocation process circumvented a reduction in force as provided in rule 11.3(19A) may appeal in writing to the commission. Right of appeal shall expire unless the employee files the written appeal with the commission within thirty calendar days after having received the final notice of allocation or the decision of the classification appeal board. If the commission finds for the appellant, the appointing authority shall either submit a reduction in force plan or reassign duties to the appellant sufficient to retain the appellant's prior classification.

**12.2(2) Appeal of application rejection.** An applicant whose application for a job class has been rejected by the department as being not qualified may file a written appeal to the commission for a review of the reasons for rejection. Right of appeal shall expire unless the applicant files the written appeal with the commission within thirty calendar days of the mailing of the notification of the application rejection.

**12.2(3) Appeal of examination rating.** Following examination, an applicant may file a written appeal to the commission for a review of the rating received on the examination for the sole purpose of assuring that uniform rating procedures have been applied consistently and fairly. Right of appeal shall expire unless the applicant files the written appeal with the commission within thirty calendar days of the mailing of the notification of the examination results.

A rating on an examination may be corrected if it is found by the commission that a substantial error has been made. The correction of a rating shall not, however, affect any certifications or appointments which have already been made.

**12.2(4) Appeal of removal from eligible lists or disqualification.** An applicant whose name has been removed from an eligible list or who has been disqualified from certification for any of the reasons specified in these rules may file a written appeal to the commission for review of that action. Right of appeal shall expire unless the applicant files the written appeal with the commission within thirty calendar days of the mailing of the notification regarding the removal from an eligible list or disqualification from certification.

**12.2(5) Appeal of veterans' points rejection.** An applicant whose claim to veterans' points, as provided for in these rules, has been rejected by the department may file a written appeal to the commission for a review of the reasons for rejection. Right of appeal shall expire unless the applicant files the written appeal with the commission within thirty calendar days of the mailing of the notification of the examination results showing the veterans' points rejection.

**12.2(6) Appeal of discrimination.** Applicants may appeal alleged discrimination with respect to employment decisions when the discrimination is alleged to involve political or religious opinions or affiliations, race, color, creed, national origin, sex (including sexual harassment), age, physical or mental disabilities. The appeal must be filed in writing with the commission within thirty calendar days after the alleged discrimination unless there is an established agency discrimination

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

complaint procedure approved by the department. If an appeal has first been made under an agency's approved discrimination complaint procedure, written appeal to the commission shall be filed within fourteen calendar days after the mailing to the appellant of the final agency decision.

The written appeal to the commission must specifically state the allegations of discrimination. The initial burden of proof to establish a prima facie case of alleged discrimination shall rest with the appellant at the appeal hearing.

**12.2(7) Appeal of grievance decision.** When a grievant alleges a violation of these rules or Iowa Code chapter 19A, an employee may, within seven calendar days after receiving the decision obtained at the third step of the agency grievance procedure or the decision obtained through an approved agency discrimination grievance procedure, file an appeal in writing with the commission which contains all pertinent matters brought forth and decided at the earlier steps of the procedure.

**12.2(8) Appeal of suspension, reduction in pay step/rate within pay grade, disciplinary demotion, or discharge.** A permanent employee who is suspended, reduced in pay step/rate within pay grade, disciplinarily demoted, or discharged may appeal to the appointing authority and if not satisfied may appeal in writing to the commission. Right of appeal to the commission shall expire unless the employee files the written appeal with the commission within thirty calendar days after the effective date of the suspension, disciplinary demotion, reduction in pay step/rate within pay grade or discharge by the appointing authority.

**12.2(9) Appeal of reduction in force.** A permanent employee who has been laid off or demoted in lieu of a reduction in force, and alleges that the reduction in force was used to circumvent the right of appeal as provided in subrule 12.2(8), may appeal in writing to the commission. Right of appeal to the commission shall expire unless the employee files the written appeal with the commission within thirty calendar days after the mailing of the official notice of the employee's reduction by the appointing authority.

**12.2(10) All remedies provided in rule 12.2(19A) must be exhausted pursuant to Iowa Code subsection 17.19(1) in order to obtain judicial review.**

**570—12.3(19A) Appeal hearings.****12.3(1) General information.**

a. All hearing requests, allegations, charges, answers, issues, and motions shall be clearly and sufficiently stated so that all parties to the hearing can understand the issues presented. Discovery procedures applicable to civil actions as provided for in the rules of civil procedure are available to all parties.

b. When an appeal is filed with the commission, a copy of the documents submitted shall be sent to the appointing authority by the department. The party filing shall, thereafter, send a copy of all subsequent documents filed in the case to the other party or to the other party's designated representative at the address on file. Service shall be by U.S. mail or hand delivered to the party or the party's designated representative. The party filing the document shall certify on the submission that the document was so delivered, and shall note the method by which the document was delivered and the name of the person to whom it was delivered.

Failure to present the other party or the other party's designated representative with copies of submissions

may result in the exclusion of the document from consideration in the decision to be made in the appeal, as well as any other remedies provided by law.

Matters shall be considered filed when date stamped received by the department.

c. All appeal hearings shall be open to the public, except that appeal hearings involving suspension, reduction in pay step/rate within pay grade, disciplinary demotion, or discharge shall be closed to the public unless an open hearing is requested by the appellant.

d. The commission, any member or members of the commission, or a hearing officer may hear an appeal. The decision as to who will hear the appeal shall rest with the department.

e. The commission's chairperson, any member of the commission, or a hearing officer may preside at the hearing.

f. Parties to the hearing are defined to include the appellant and the appointing authority or the appointing authority's designee. The parties may appear personally and each may authorize the presentation of their respective cases by another individual.

g. Hearings shall be held in an informal manner and the technical rules of evidence shall not apply.

h. Although the technical rules of evidence shall not apply at the hearing, testimony, facts, data, documents and other materials offered must be relevant and pertinent to the issues presented. The person presiding at the hearing will consider the objection of either party to the admission of the aforementioned materials.

i. All testimony shall be made under oath. Testimony shall be subject to cross-examination by the other party, as well as informational questions or inquiry by the commission or hearing officer.

j. Any letter, paper, document or other material offered for identification or the record shall be presented to the person presiding at the hearing and shall be marked as an exhibit. Parties shall be entitled to examine the exhibits as offered and make objections.

k. Testimony may be presented in statement form or by question and answer. Oral proceedings shall be recorded by the department either by mechanized means or by a certified shorthand reporter.

l. No questioning or statements by any person attending the hearing shall be allowed except through the parties or by permission of the person presiding at the hearing. During the hearing, examination of materials admitted to the hearing record by any nonparty shall be at the discretion of the person presiding at the hearing.

m. The members of the commission and the hearing officer shall have the authority to administer oaths to witnesses.

n. Parties to the hearing may request the issuance of a subpoena during regular business hours at the department. The service of the subpoena and the costs related to service are the sole responsibility of the requesting party. Members of the commission, the department's hearing officer or the director may authorize the issuance of a subpoena.

o. Either party may object to the reasonableness of a subpoena. A ruling on the objection to a subpoena may be made by either the commission or the hearing officer prior to or on the date of the scheduled hearing regardless of which one will ultimately preside at the hearing.

**MERIT EMPLOYMENT DEPARTMENT**[570] (cont'd)**12.3(2) Conduct of appeal hearings.**

a. The person presiding at the hearing shall convene the hearing at the time, place and date specified in the written notice of hearing.

b. The person presiding shall state for the hearing record her or his identity and title, the case number, the time of day, the date and place of the hearing, and, if applicable, the members of the commission in attendance. The parties to the hearing and the persons presenting their cases shall also identify themselves for the record.

c. The person presiding may entertain any preliminary motions or stipulations by the parties. The presiding body may rule on those motions or stipulations.

d. The person presiding shall determine the order in which the parties shall present their cases. In cases involving disciplinary actions, this will normally be the appointing authority. In all other cases, this will normally be the appellant.

e. The person presiding shall direct the parties to make their opening statements which shall include a clear and concise statement of the contested issues and the remedy or action sought.

f. The person presiding shall direct the parties to present their cases, which may include the testimony of witnesses and the introduction of records, documents, data and other relevant materials, followed by cross examination by the opposing party and informational questioning or inquiry by the members of the commission or person presiding.

g. The person presiding may permit, without regard to sequence, the redirect, recross, or recall of witnesses as well as the introduction of further pertinent materials for the purpose of a full presentation of the facts of the case.

h. The person presiding may entertain motions for written closing statements by the parties. If so presented, the presiding body may rule on those motions.

**12.3(3) Hearing decisions.**

a. When fewer than three commission members, or a hearing officer, hear an appeal under these rules, the decision shall be considered to be a proposed decision. Within thirty calendar days after the close of the hearing record, the written proposed decision shall be sent to the parties by registered U.S. mail and to all the commission members by regular U.S. mail. All proposed decisions will be reviewed by the commission in accordance with Iowa Code 17A.15(3). The proposed decision will be placed on the agenda of the next available commission meeting at which a quorum (three members) will be present for consideration of a final decision by the commission, and the parties so notified. The parties may file written exceptions to the proposed decision with the commission. Written exceptions will be made a part of the permanent record of the hearing and will be considered in the commission's final decision. Oral arguments to the proposed decision will not be accepted unless requested in advance of the scheduled commission meeting at which the final decision is to be considered and approved by the commission. Issues not raised in written exceptions shall be deemed waived. By a majority of its members voting, the commission may affirm, modify and affirm, or reverse the proposed decision and adopt its decision as final. The decision by one or more commission members present to abstain from voting shall not constitute a vote for these purposes.

b. Three commission members shall constitute a quorum for hearing and rendering a final decision in an

appeal hearing. By a majority of its members voting in open session, the commission may affirm, modify and affirm, or reverse the action of the appointing authority. The decision by one or more commission members present to abstain from voting shall not constitute a vote for these purposes. Within thirty calendar days after the close of the hearing record, the written final decision of the commission shall be mailed to the parties by registered U.S. mail.

c. The commission may, in accordance with Iowa Code chapter 28A, convene in closed session to discuss its decision to be rendered in a contested case. The closed session shall be tape recorded and minutes taken. These shall be sealed and not open to inspection, except that upon an order of the court in an action brought to enforce Iowa Code chapter 28A, they shall be unsealed and examined by the court in camera to determine what part, if any, shall be disclosed to the party seeking enforcement.

**12.3(4) Application for rehearing.** Any party to an appeal hearing may file an application for rehearing with the commission stating the specific grounds therefor and the relief sought within twenty calendar days after the issuance of a written final decision by the commission. A copy of the application shall be mailed at the same time by the applicant to all parties of record. The application for rehearing may be placed upon the agenda of the next available commission meeting for action. By a majority of its members voting, the commission may accept or reject the application for rehearing. The decision by one or more commission members present to abstain from voting shall not constitute a vote for these purposes. An application for rehearing shall be deemed to be denied unless the commission grants the application within twenty days after its filing.

**12.3(5) Scheduling of hearings.** The department shall schedule all appeal hearings as soon as time permits, except those involving suspension, reduction in pay step/rate within pay grade, disciplinary demotion, or discharge which shall be scheduled within thirty calendar days after the receipt of the request for hearing.

The parties to the hearing may, for good cause, request the department to postpone or continue a scheduled hearing. A request for postponement or continuance must be made in writing to the department at least five working days prior to the scheduled hearing date, unless otherwise approved by the department. The department shall reserve the right to deny the request for postponement or continuance and order the hearing to proceed as scheduled if sufficient cause is not established or if the delay would result in undue hardship for any of the parties. A request to review the department's decision may be made to the person presiding at the hearing by the requesting party at the time of the hearing.

**12.3(6) Judicial review.** The parties to an appeal hearing may obtain judicial review of the commission's decision in accordance with Iowa Code chapter 17A.

**570—12.4(19A) Administrative decisions.** The department may, on jurisdictional or other grounds, deny a request for hearing provided that the parties are notified in writing of the reasons for the decision. The requesting party may, within fourteen calendar days following the issuance of the department's decision, seek a review of that decision by filing a written "request for reconsideration" with the commission. The request for reconsideration will be placed upon the commission's next available meeting agenda and the parties so notified. By a majority

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

of its members voting, the commission may affirm the department's decision, or reverse the decision and order the hearing to be scheduled. The decision by one or more commission members present to abstain from voting shall not constitute a vote for these purposes. All remedies provided for in rules 12.4(19A) and 12.2(19A) must be exhausted pursuant to Iowa Code subsection 17.19(1), in order to obtain judicial review.

**570—12.5(19A) Costs associated with hearings.**

**12.5(1)** Parties to the hearing and their witnesses, if state employees, shall be in paid status for that time spent at or traveling to and from the hearing during their regularly scheduled hours of work. In addition, those state employees required to attend the hearing by the appointing authority shall, if eligible for overtime pay, be in paid status for that time spent at or traveling to and from the hearing outside of their regularly scheduled hours of work.

**12.5(2)** The appointing authority shall not authorize mileage, salary or the use of a state vehicle for employees to attend or participate in a hearing, except for those employees who are required to attend or participate in the hearing by the appointing authority.

**12.5(3)** The appellant shall be held liable for the cost of representation and witness fees for persons who are subpoenaed by the appellate under paragraph 12.3(1)"n" of these rules. Witness fees shall be limited to the amounts provided in Iowa Code section 622.69.

**12.5(4)** The arrangements for and costs associated with transcripts of the hearing proceedings shall be the responsibility of the requesting party.

**570—12.6(19A) Access to hearing records.** In the case of appeal hearings involving suspension, reduction in pay step/rate within pay grade, disciplinary demotion, or discharge, the tape recordings of the proceedings and all exhibits, motions, briefs and written correspondence between the parties and the commission or the hearing officer shall be deemed to be confidential records and shall not be open to public inspection. When a request is received from the appellant for such a hearing to be open to the public, these documents shall no longer be considered as confidential and shall be open to public inspection, except as provided elsewhere in these rules or the Code. In the case of all other appeal hearings, the tape recording of the proceedings and all exhibits, motions, briefs and written correspondence between the parties and the commission or the hearing officer shall be considered as public records and open to inspection during normal business hours. The tape recorded discussion and minutes of the commission's appeal hearing decision deliberations held in closed session shall be sealed and not open to public inspection except under the circumstances provided for in paragraph 12.3(3)"c" of these rules.

**570—12.7(19A) Retroactivity.** Final appeal decisions by the commission may or may not be retroactive as the equities of the particular case may indicate.

ITEM 3. 570—Chapter 15(19A) is rescinded and reserved for future use.

**ARC 4367****REAL ESTATE COMMISSION[700]****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 117.9, the Iowa Real Estate Commission proposes action by amending Chapter 1, "Brokers and Salespersons" in order to clarify current confusing and misworded rules relative to conversion of licenses and part-time brokers.

Persons interested in commenting on the proposed rule changes shall submit same to the Iowa Real Estate Commission no later than 4:30 p.m. February 15, 1984. Comments shall be submitted to the Commission by sending or delivering them to the Commission office at 1223 E. Court Avenue, Suite 205, Des Moines, Iowa 50319.

The Iowa Real Estate Commission will hold a public hearing concerning these rules at which time oral comments may be made to the Commission. The public hearing will be held at 9:00 a.m. February 16, 1984, in the Commission office at 1223 E. Court Avenue, Suite 205, Des Moines, Iowa. Any individual wishing to present oral comments should notify the Commission office of their intent no later than the time prescribed for submitting written comments.

These rules are intended to implement Iowa Code sections 117.5, 117.15, 117.24 and 117.33.

ITEM 1. Rule 1.11(117) is amended as follows:

**700—1.11(117) Conversion of licenses.** A broker license cannot be converted to a ~~salesman's salesperson~~ license or vice versa without the consent of the commission. A salesperson license may not be converted to a broker license.

ITEM 2. Rule 1.21(117) is amended as follows:

**700—1.21(117) Part-time brokers or Broker Salesmen broker-associates.** A duly licensed broker whose principal business is other than that of a real estate broker, or one who operates as a salesman for another duly licensed broker may not sponsor a salesman for his twelve month apprenticeship period: salesperson during the salesperson's first twelve months of licensure. A broker-associate may not sponsor a sales person at any time.

**ARC 4389****REVENUE DEPARTMENT[730]  
NOTICE OF INTENDED ACTION**

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

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

Pursuant to the authority of Iowa Code sections 421.14 and 422.68(1), the Iowa Department of Revenue hereby gives Notice of Intended Action to amend Chapter 52, "Filing Returns, Payment of Tax and Penalty and Interest"; Chapter 53, "Determination of Net Income"; Chapter 54, "Allocation and Apportionment"; Chapter 55, "Assessments, Refunds, Appeals"; Chapter 58, "Filing Returns, Payment of Tax, Penalty and Interest, and Allocation of Tax Revenues"; and Chapter 60, "Assessments, Refunds, Appeals", Iowa Administrative Code.

Subrule 52.1(3) is amended to eliminate a court case cited in support of the subrule. This case was subsequently overturned on appeal, and no longer supports the examples in the subrule.

Subrules 52.2(3) and 58.2(2) are amended because only one extension of time to file need be filed to request an additional six months to file the return. The Internal Revenue Service earlier adopted a single extension form to request an extension of time to file a federal return.

Subrules 52.3(1) and 58.3(1) are amended to allow faster processing of tax returns. Currently, Department personnel are spending extra time transferring data from the taxpayer's federal return onto the state return to allow the returns to be computer processed.

Subrules 52.4(4) and 58.4(3) are amended to update the reference for penalty and interest on unpaid tax to include tax payments due on or after January 1, 1981.

Subrules 52.6(12) and 58.6(11) are amended because they conflict with the Iowa Code provisions on waiver of penalty for failure to pay.

Subrule 53.12(4) is amended to cite a recent Iowa Supreme Court decision dealing with this subrule.

Subrule 53.15(4) is amended to clarify how the apportionment factor for a consolidated Iowa return should be computed.

Subrule 54.3(2) is amended to clarify that the examples only set forth how directly related expense to nonbusiness income is to be computed and in no way do the examples set forth factual situations which are considered to be determinative in classifying income as either business or nonbusiness income.

Rule 54.6(422) is amended to clearly state how construction contractors should apportion income within and without Iowa.

New rule 54.8(422) is added to conform to provisions of the Iowa Code.

Subrules 55.3(3) and 60.3(3) are amended to clearly make elections of crediting estimated payments to a subsequent year binding, and to make the corporate and franchise tax rules consistent with individual income tax rules. See subrule 43.3(5).

None of the amendments in these rules will necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any interested person may make written suggestions or comments on these proposed amendments on or before February 3, 1984. Such written comments should be directed to the Policy Section, Technical Services Division, Iowa Department of Revenue, Hoover State Office Building, Des Moines, Iowa 50319.

Persons who want to orally convey their views should contact Clair R. Cramer, Policy Section, Technical Services Division at 515/281-4250 or at the Policy Section offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by January 27, 1984.

These rules are intended to implement Iowa Code Chapter 422.

The following amendments are proposed.

ITEM 1. Subrule 52.1(3) paragraph "k" is amended as follows:

k. Corporate personnel repairing or replacing faulty or damaged goods. *Olympia Brewing Co. v. Department of Revenue, supra; Miles Laboratories v. Department of Revenue, supra; Indiana Department of Revenue v. Kimberly-Clark Corp., 375 N.E.2d 1148(1978).*

ITEM 2. Subrule 52.1(3) paragraph "m" is amended as follows:

m. Corporate personnel rectifying or assisting in rectifying any product complaints, credit complaints, shipping complaints, etc. *Indiana Department of Revenue v. Kimberly-Clark Corp., supra; Briggs & Stratton v. Commission, supra; Cal-Roof Wholesale v. State Tax Commission, supra.*

ITEM 3. Subrule 52.1(3) paragraph "s" is amended as follows:

s. Salesman conveying information to customers concerning out-of-stock conditions or delays in shipments, verifying the destruction of damaged merchandise, and co-ordinating delivery of merchandise, and co-ordinating delivery of merchandise for special promotions. *Indiana Department of Revenue v. Kimberly-Clark Corporation, Indiana Court of Appeals, First District, No. 2-1076A 368, May 23, 1978, 375 N.W.2d 1148.*

ITEM 4. Subrule 52.2(3) is amended by striking unnumbered paragraphs two and three and inserting in lieu thereof the following:

Form IA 7004 (Application for Automatic Extension of Time to File) shall be used to request a six-month extension of time for filing. The request for an extension of time to file must be received on or before the due date of the return. Only one copy of form IA 7004 need be filed. If the taxpayer wishes acknowledgement of receipt by the department of form IA 7004, two copies and a self-addressed envelope shall be filed with the department.

Under no circumstances will an extension of time to file be granted for a period greater than six months.

ITEM 5. Subrule 52.3(1) is amended by adding the following new unnumbered paragraph.

Returns received which are not completed, but merely state "see schedule attached" are not considered to be a properly filed return and may be returned to the taxpayer for proper completion. This may result in the imposition of penalties and interest due to the return being filed after the due date.

## REVENUE DEPARTMENT[730] (cont'd)

ITEM 6. Subrule 52.4(4) is amended to read as follows:  
**52.4(4) Penalty and interest on unpaid tax.** In computing penalty and interest on unpaid tax, refer to ~~subrules 52.6(1) and 52.6(2) rule 52.6(422).~~

ITEM 7. Subrule **52.6(12)** is amended by striking the fifth unnumbered paragraph.

ITEM 8. Subrule **53.12(4)** is amended by adding the following at the end of the first unnumbered paragraph:  
Internorth, Inc., and Northern Propane Gas Company v. Iowa State Board of Tax Review, Iowa Department of Revenue and Gerald D. Bair, Director of Revenue, 333 N.W.2d 471 (Iowa 1983).

ITEM 9. Amend subrule **53.15(4)"c"** by adding the following unnumbered paragraph:

The gross receipts of each corporation which joins in the filing of an Iowa consolidated corporation income tax return shall be included in the computation of the business activity ratio. The gross receipts of each corporation shall be included in the numerator of the business activity ratio to the extent that it has nexus in Iowa and its gross receipts are not eliminated by intercompany adjustments and are considered Iowa gross receipts by rules 54.2(422) through 54.8(422). The gross receipts of each corporation shall be included in the denominator of the business activity ratio to the extent its gross receipts are not eliminated by intercompany adjustments.

ITEM 10. Amend subrule **54.3(2)** by amending examples i, ii, and iii as follows:

Example (i): *For purposes of this example, it is assumed that the taxpayer has nonbusiness rental income.* The taxpayer invests in a 20-story office building, ~~and uses the first two floors in its business. The remaining 18 floors are leased to others.~~ Under the terms of the lease agreements, the taxpayer provides heat, electricity, janitorial services and maintenance. The taxpayer also pays the property taxes. Construction of the building was funded through borrowings which meet the criteria of a direct expense under the provisions of this paragraph. The directly related expenses to the operation of the property are:

Interest expense	\$ 1,200,000
Property taxes	500,000
Depreciation	500,000
Electricity	300,000
Heat	200,000
Insurance	150,000
Janitorial services	100,000
Repairs	50,000
Total expense	<u>\$3,000,000</u>

The directly related expense to the allocable non-business rental income is: \$3,000,000.

$$\frac{18}{20} \times \$3,000,000 = \$2,700,000$$

Example (ii): *For purposes of this example, it is assumed that the taxpayer has nonbusiness income.* The taxpayer is a multistate manufacturer of processed foods. It has a nonbusiness investment portfolio which is managed by an investment firm for a fee. The fee paid for the management of the portfolio is a directly related expense to the dividends and interest income received. The fee is attributed to the various types of income on the ratio that the various types of income bear to the total income produced.

Example (iii): Same as example (ii), except that in addition to the investments described, the taxpayer also has investments in oil properties. The depletion expense is a directly related expense to the oil royalty income.

ITEM 11. Amend rule 54.6(422) by adding new subrule 54.6(4) and renumbering the subsequent subrules:

**54.6(4) Net business income of construction contractors** shall be attributed to Iowa in the proportion which Iowa gross receipts bear to total gross receipts. Iowa gross receipts are those gross receipts from contracts performed in Iowa.

ITEM 12. Chapter 54 is amended by adding new rule 730-54.8(422) and renumbering the subsequent rules.  
**730-54.8(422) Apportionment of income derived from more than one business activity carried on within a single corporate structure.** Net income from corporations where more than one business activity is conducted within a single unitary corporate structure shall be apportioned by combining gross receipts or gross revenues of each business activity in the business activity ratio. Where necessary, formulas authorized by the department's rules or statute shall be used to ascertain the gross receipts from such business activities.

EXAMPLE: The taxpayer is engaged in the business of both manufacture of tangible personal property and trucking. During the tax year, the taxpayer received \$1,000,000 in gross receipts, \$400,000 of which was from its manufacturing operations and \$600,000 of which was from its trucking operations. In its trucking operations, taxpayer traveled 100,000 miles in Iowa and 400,000 everywhere, and in its manufacturing operations, \$300,000 of sales were attributable to this state. The numerator of the business activity ratio would be \$450,000, which includes \$300,000 from manufacturing operations and \$150,000

$$\frac{(100,000)}{(400,000)} \times 600,000 = 150,000$$
 from trucking operations. See subrule 54.7(2). The denominator of the business activity ratio would be \$1,000,000.

This rule is intended to implement Iowa Code section 422.33.

ITEM 13. Amend subrule 55.3(3) as follows:

**55.3(3)** When an overpayment of estimated tax is indicated on the face of the return, the overpayment will ordinarily be refunded to the taxpayer by the department without the filing of a formal claim for refund. If a refund of the indicated overpayment is not received within a reasonable period of time, a claim for refund may be filed by the taxpayer on an official form obtainable from the Iowa Department of Revenue, Corporation Audit Section, Hoover State Office Building, Des Moines, Iowa 50319.

*If an overpayment of income tax is claimed as a credit against estimated tax for the succeeding taxable year, such amount shall be considered as a payment of the income tax for the succeeding taxable year and no claim for credit or refund shall be allowed.*

*When a taxpayer elects to have an overpayment credited to estimated tax for the succeeding year, interest may be properly assessed on a deficiency of income tax for the year in which the overpayment arose. If a taxpayer elects to have all or part of an overpayment shown on the return applied to the estimated income tax for the succeeding taxable year, such election is binding to the taxpayer.*

## REVENUE DEPARTMENT[730] (cont'd)

*An overpayment of tax may be used to offset any outstanding tax liability owed by the taxpayer, but once an elected amount is credited as a payment of estimated tax for the succeeding year, it loses its character as an overpayment for the year in which it arose and thereafter cannot offset any subsequently determined tax liability.*

ITEM 14. Subrule 58.2(2) is amended by striking unnumbered paragraphs two and three and inserting in lieu thereof the following:

Form IA 7004F (Application for Automatic Extension of Time to File) shall be used to request a six-month extension of time for filing. The request for an extension of time to file must be received on or before the due date of the return. Only one copy of form IA 7004F need be filed. If the taxpayer wishes acknowledgement of receipt by the department of form IA 7004F, two copies and a self-addressed envelope shall be filed with the department.

Under no circumstances will an extension of time to file be granted for a period greater than six months.

ITEM 15. Subrule 58.3(1) is amended by adding the following unnumbered paragraph.

Returns received which are not completed, but merely state "see schedule attached" are not considered to be a properly filed return and may be returned to the taxpayer for proper completion. This may result in the imposition of penalties and interest due to the return being filed after the due date.

ITEM 16. Subrule 58.4(3) is amended to read as follows:

58.4(3) Penalty and interest on unpaid tax. In computing penalty and interest on unpaid tax, refer to ~~subrules 58.6(1) and 58.6(2)~~ rule 58.6(422).

ITEM 17. Subrule 58.6(11) is amended by striking the fifth unnumbered paragraph.

ITEM 18. Amend subrule 60.3(3) as follows:

60.3(3) When an overpayment of estimated tax is indicated on the face of the return, the overpayment will ordinarily be refunded to the taxpayer by the department without the filing of a formal claim for refund. If a refund of the indicated overpayment is not received within a reasonable period of time, a claim for refund may be filed by the taxpayer on an official form obtainable from the Iowa Department of Revenue, Corporation Audit Section, Hoover State Office Building, Des Moines, Iowa 50319.

*If an overpayment of income tax is claimed as a credit against estimated tax for the succeeding taxable year, such amount shall be considered as a payment of the income tax for the succeeding taxable year and no claim for credit or refund shall be allowed.*

*When a taxpayer elects to have an overpayment credited to estimated tax for the succeeding year, interest may be properly assessed on a deficiency of income tax for the year in which the overpayment arose. If a taxpayer elects to have all or part of an overpayment shown on the return applied to the estimated income tax for the succeeding taxable year, such election is binding to the taxpayer.*

*An overpayment of tax may be used to offset any outstanding tax liability owed by the taxpayer, but once an elected amount is credited as a payment of estimated tax for the succeeding year, it loses its character as an overpayment for the year in which it arose and thereafter cannot offset any subsequently determined tax liability.*

ARC 4388

REVENUE DEPARTMENT[730]  
NOTICE OF INTENDED ACTION

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

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

Pursuant to the authority of Iowa Code sections 421.14 and 422.68(1), the Iowa Department of Revenue hereby gives Notice of Intended Action to amend Chapter 52, "Filing Returns, Payment of Tax and Penalty and Interest", and Chapter 58, "Filing Returns, Payment of Tax, Penalty and Interest, and Allocation of Tax Revenues", Iowa Administrative Code.

The 1983 Iowa Acts, Chapter 207, provides for a tax credit equal to five percent of a corporation's investment in the initial offering of securities by the Iowa Venture Capital Fund. New subrule 52.4(4) is amended to allow this tax credit.

The 1983 Iowa Acts, Chapter 179, provides for an increase in the Iowa minimum tax from twenty-five to seventy percent of the federal minimum tax on tax preference items effective for tax years beginning on or after January 1, 1983. Rules 52.5(422) and 58.5(422) are amended to reflect this change in the Iowa minimum tax.

None of the amendments in these rules will necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any interested person may make written suggestions or comments on these proposed amendments on or before February 3, 1984. Such written comments should be directed to the Policy Section, Technical Services Division, Iowa Department of Revenue, Hoover State Office Building, Des Moines, Iowa 50319.

Persons who want to orally convey their views should contact Clair R. Cramer, Policy Section, Technical Services Division at 515/281-4250 or at the Policy Section offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by January 27, 1984.

These rules are intended to implement Iowa Code Chapter 422 as amended by 1983 Iowa Acts, Chapters 179 and 207.

The following amendments are proposed.

ITEM 1. Amend rule 52.4(422) by adding new subrule 52.4(4) and renumbering the subsequent subrules.

52.4(4) Iowa venture capital fund credit. A corporation is allowed a tax credit equal to five percent of the corporation's investment in the initial offering of securities by the Iowa venture capital fund established under Iowa Code chapter 28. Any credit in excess of the tax liability for the taxable year may be credited to the tax liability for the following three taxable years or until depleted in less than three years.

This subrule is intended to implement 1983 Iowa Acts, chapter 207, section 90.

## REVENUE DEPARTMENT[730] (cont'd)

ITEM 2. Rule 52.4(422) is amended by changing the last paragraph to read as follows:

This rule is intended to implement Iowa Code sections 422.21, 422.24, 422.25, ~~422.33~~, 422.86 and 422.110.

ITEM 3. Rule 52.5(422) is amended to read as follows:

**730-52.5(422) Minimum tax.** Effective for tax years beginning on or after January 1, 1982, an Iowa minimum tax is imposed in addition to the tax computed under Iowa Code section 422.33. The Iowa minimum tax on tax preference items is ~~twenty-five percent~~ a percentage of the federal minimum tax on tax preference items.

"Federal minimum tax" means the federal minimum tax for tax preference computed under sections 55 through 58 of the Internal Revenue Code of 1954 for the tax year.

For a corporation conducting one hundred percent of its business within Iowa as defined in rule 54.1(422), the Iowa minimum tax is ~~twenty-five percent~~ a percentage of the federal minimum tax. For a corporation doing business both within and without Iowa, the state's portion of the federal minimum tax shall be determined based upon the apportionment provisions of rule 54.5(422) through ~~54.7~~ 54.8(422) unless an alternative method more accurately reflects that portion of minimum tax attributable to Iowa.

When a corporation joins with at least one other corporation in the filing of a consolidated federal income tax return, ~~but and~~ files a separate Iowa corporation income tax return, the consolidated federal minimum tax shall be allocated to the separate corporations. The allocation of the consolidated federal minimum tax shall be as follows: The consolidated federal minimum tax is multiplied by a fraction, the numerator of which is the sum of the taxpayer's federal tax preference items and the denominator of which is the total of the federal tax preference items of each corporation included in the consolidated federal income tax return.

~~In computing penalty and interest on unpaid minimum tax, refer to subrules 52.6(1) and 52.6(2). No estimate payments are required for minimum tax.~~

*52.5(1) Penalty and interest. In computing penalty and interest for failure to file a timely return or to pay the minimum tax, refer to subrule 52.6(4). No estimate payments are required for minimum tax.*

*52.5(2) Minimum tax rates. For tax years beginning on or after January 1, 1982 and prior to January 1, 1983, the Iowa minimum tax is twenty-five percent of the state's apportioned share of the federal minimum tax on tax preference items.*

*For tax years beginning on or after January 1, 1983, the Iowa minimum tax is seventy percent of the state's apportioned share of the federal minimum tax on tax preference items.*

This rule is intended to implement 1982 Iowa Acts, chapter 1023, section 12, Iowa Code section 422.33 as amended by 1983 Iowa Acts, chapter 179.

ITEM 4. Rule 58.5(422) is amended to read as follows:

**730-58.5(422) Minimum tax.** Effective for tax years beginning on or after January 1, 1982, an Iowa minimum tax is imposed in addition to the tax computed under Iowa Code section 422.60. The Iowa minimum tax on tax preference items is ~~twenty-five percent~~ a percentage of the federal minimum tax on tax preference items.

"Federal minimum tax" means the federal minimum tax for tax preference computed under sections 55 through 58 of the Internal Revenue Code of 1954 for the tax year.

When a ~~corporation~~ financial institution joins with at least one other corporation in the filing of a consolidated federal income tax return, ~~but and~~ files a separate Iowa ~~corporation income franchise~~ tax return, the consolidated federal minimum tax shall be allocated to the separate ~~corporations~~ entities included in the consolidated federal return. The allocation of the consolidated federal minimum tax shall be as follows: The consolidated federal minimum tax is multiplied by a fraction, the numerator of which is the sum of the taxpayer's federal tax preference items and the denominator of which is the total of the federal tax preference items of each ~~corporation~~ entity included in the consolidated federal income tax return.

~~In computing penalty and interest on unpaid minimum tax, refer to subrules 58.6(1) and 58.6(2). No estimate payments are required for minimum tax.~~

*58.5(1) Penalty and interest. In computing penalty and interest for failure to file a timely return or to pay the minimum tax, refer to subrule 58.6(4). No estimate payments are required for minimum tax.*

*58.5(2) Minimum tax rates. For tax years beginning on or after January 1, 1982 and prior to January 1, 1983, the Iowa minimum tax is twenty-five percent of the state's apportioned share of the federal minimum tax on tax preference items.*

*For tax years beginning on or after January 1, 1983, the Iowa minimum tax is seventy percent of the state's apportioned share of the federal minimum tax on tax preference items.*

This rule is intended to implement 1982 Iowa Acts, chapter 1023 section 16, Iowa Code section 422.60 as amended by 1983 Iowa Acts, chapter 179.

## ARC 4399

TRANSPORTATION,  
DEPARTMENT OF[820]

## AMENDED NOTICE OF INTENDED ACTION

In a Notice of Intended Action ARC 4351 published December 21, 1983, the Iowa Department of Transportation, Transportation Regulation Authority, announced its intention to rescind 820-[07,F]3.8(8), Iowa Administrative Code, "Truck Operators and Contract Carriers". That Notice incorrectly stated that the subrule "currently provides that the department is to set rates on moves of household goods under thirty miles." In fact, the subrule currently provides that the department is to set rates in moves of household goods for distances of thirty miles and over.

As a result of this error, the deadline for comments on the proposed rescission will be extended to January 24, 1984.

Written comments regarding the proposed action should be directed to the Director of Rate Analysis and Compliance, Transportation Regulation Authority, 507 Tenth Street, Des Moines, Iowa 50319. Oral comments may be conveyed to the Director of Rate Analysis and Compliance at (515)281-6368.

## ARC 4356

### TRANSPORTATION DEPARTMENT[820]

#### 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 325.3, the Iowa Department of Transportation, Transportation Regulation Authority, hereby gives notice of its intended action to amend 820—[07,F] Chapter 4, "Motor Carriers and Charter Carriers," Iowa Administrative Code.

The Report of the Governor's Blue Ribbon Transportation Task Force, issued December 1982, recommended that the Authority's eased entry requirements for certificated motor carriers be incorporated into statutory form. Accordingly, the Authority has proposed the following rule, which preserves basic Code requirements for market entry, yet at the same time reflect a relaxation of government control in this area.

The proposed rule conforms to Code requirements that applicants show a need for the proposed service and demonstrate financial and general fitness to conduct the proposed operations. However, applicants are initially required to make only a general showing of sufficiency in each of these areas, and thereby create a presumption of need for the proposed service. A party opposing the application may offer evidence to rebut that presumption. The rule also sets forth the type of information required from the applicant and the criteria used by the Authority in evaluating that information for market entry purposes.

It is important to emphasize that the rule introduces no new procedures into the motor or liquid carrier certificate application process; rather, they reflect procedures used and criteria followed by the Authority for several years.

Any interested person may make comments on the proposed rule prior to January 31, 1984. Written comments should be directed to Jane Phillips, Counsel, Transportation Regulation Authority, 507 Tenth Street, Des Moines, Iowa 50319. Oral comments may be directed to Ms. Phillips at telephone number (515) 281-3631. The rule is intended to implement Iowa Code chapter 325.

The following new rule is proposed:

#### 820—[07,F]4.15(325) Requirements for a certificate of public convenience and necessity.

**4.15(1) Basic entry requirements.** In order to obtain a certificate of public convenience and necessity authorizing transportation service under Iowa Code chapters 325 and 327A, the applicant must prove the following:

a. There is a present and future public need for the proposed service.

b. The applicant has and will continue to have the financial ability to conduct the proposed operations.

c. The applicant is otherwise fit to conduct the proposed operations.

**4.15(2) Need for the proposed service.** In order to prove that a public need exists for the proposed service, the applicant must submit verified statements from representative shippers or passengers who expect to use the

proposed service. These sponsors must state the following information:

a. For what purpose or occasion they expect to use the proposed service.

b. To and from what points they expect to use the proposed service.

c. How often they expect to use the proposed service.

d. For liquid and freight shippers only, the volumes of product they expect to ship using the proposed service.

Sponsors may also supply additional information explaining how the proposed service will meet needs that are not currently being met by existing service.

**4.15(3) Verification of sponsor statements.** Statements filed by sponsoring shippers and passengers must be signed and verified by the sponsoring individual, or an authorized employee thereof who is knowledgeable about the sponsor's business and operations. All statements must be notarized. The authority may require the sponsor to supply additional information, and may reject statements that, in the judgment of the authority, lack authenticity.

**4.15(4) Financial fitness.** To determine financial capability, the authority shall assess the applicant's overall liquidity, capital structure and profitability, based on the most recent income statement and balance sheet available. The authority shall consider the following ratios in assessing the applicant's overall financial capability:

a. Liquidity.

(1) Current ratio:  $\frac{\text{Current assets}}{\text{Current liabilities}}$

(2) Quick ratio:  $\frac{\text{Current assets less merchandise inventory}}{\text{Current liabilities}}$

(3) Working capital ratio:  $\frac{\text{Current assets less current liabilities}}{\text{Average daily operating expenses}}$

b. Capital structure.

(1) Capitalization ratio:  $\frac{\text{Net Capitalizable assets}}{\text{Total Capitalization including long-term debt}}$

(2) Debt to Equity ratio:  $\frac{\text{Long term debt}}{\text{Long term debt plus equity}}$

c. Profitability.

(1) Operating ratio:  $\frac{\text{Operating expenses}}{\text{Operating revenues}} \times 100$

(2) Return on stockholder's equity:  $\frac{\text{Net income after interest and taxes}}{\text{Stockholder's equity less intangibles}}$

(3) Return on net transportation investment:  $\frac{\text{Net operating income}}{\text{Average net investment plus working capital}}$

**4.15(5) Applicant's performance.** The authority shall evaluate each applicant's financial capability individually on the basis of overall performance in the three major categories analyzed. The applicant need not prove sufficiency under each ratio to be considered financially capable. The applicant shall have the opportunity to

## TRANSPORTATION DEPARTMENT[820] (cont'd)

submit additional relevant information addressing deficiencies in any of the areas identified by the authority. The staff of the authority shall advise applicants requesting assistance in providing the necessary financial information.

**4.15(6) General fitness.** The applicant must indicate a general knowledge of, and good faith intent to comply with, applicable state statutes and regulations. Proof of past failure to comply with those laws may constitute sufficient grounds upon which to restrict a grant of authority or deny an application.

**4.15(7) Burden of proof.** The applicant must make an initial showing that the entry requirements set forth in subrule 4.15(1) above have been met. If the application is protested, the burden of proof shifts to protestants to present evidence tending to disprove a material element of the applicant's initial showing. Protestants challenging the application based on lack of need for the proposed service must make an affirmative showing that existing service is sufficient to meet the public convenience and necessity.

If the application is not protested, the authority may presume that existing service is not adequate for the points requested and that the proposed service is needed.

This rule is intended to implement Iowa Code chapter 325.

demonstrate financial and general fitness to conduct the proposed operations. However, applicants are initially required to make only a general showing of sufficiency in each of these areas, and thereby create a presumption of need for the proposed service. A party opposing the application may offer evidence to rebut that presumption. The rule also sets forth the type of information required from the applicant and the criteria used by the Authority in evaluating that information for market entry purposes.

It is important to emphasize that the rule introduces no new procedures into the motor or liquid carrier certificate application process; rather, they reflect procedures used and criteria followed by the Authority for several years.

Any interested person may comment on the proposed rule prior to January 31, 1984. Written comments should be directed to Jane Phillips, Counsel, Transportation Regulation Authority, 507 Tenth Street, Des Moines, Iowa 50319. Oral comments may be directed to Ms. Phillips at telephone no. (515) 281-3631. The rule is intended to implement Iowa Code chapter 327A.

The following new rule is proposed:

**820—[07,F]13.13(327A) Requirements for a certificate of public convenience and necessity.**

**13.13(1) Basic entry requirements.** In order to obtain a certificate of public convenience and necessity authorizing transportation service under Iowa Code chapters 325 and 327A, the applicant must prove the following:

- a. There is a present and future public need for the proposed service.
- b. The applicant has and will continue to have the financial ability to conduct the proposed operations.
- c. The applicant is otherwise fit to conduct the proposed operations.

**13.13(2) Need for the proposed service.** In order to prove that a public need exists for the proposed service, the applicant must submit verified statements from representative shippers or passengers who expect to use the proposed service. These sponsors must state the following information:

- a. For what purpose or occasion they expect to use the proposed service.
- b. To and from what points they expect to use the proposed service.
- c. How often they expect to use the proposed service.
- d. For liquid and freight shippers only, the volumes of product they expect to ship using the proposed service.

Sponsors may also supply additional information explaining how the proposed service will meet needs that are not currently being met by existing service.

**13.13(3) Verification of sponsor statements.** Statements filed by sponsoring shippers and passengers must be signed and verified by the sponsoring individual, or an authorized employee thereof who is knowledgeable about the sponsor's business and operations. All statements must be notarized. The authority may require the sponsor to supply additional information, and may reject statements that, in the judgment of the authority, lack authenticity.

**13.13(4) Financial fitness.** To determine financial capability, the authority shall assess the applicant's overall liquidity, capital structure and profitability, based on the most recent income statement and balance sheet available. The authority shall consider the following ratios in assessing the applicant's overall financial capability:

## ARC 4357

### TRANSPORTATION DEPARTMENT[820]

#### 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 327A.17, the Iowa Department of Transportation, Transportation Regulation Authority, hereby gives notice of its intended action to amend 820—[07,F] Chapter 13, "Liquid Transport Carriers," Iowa Administrative Code.

The Report of the Governor's Blue Ribbon Transportation Task Force, issued December 1982, recommended that the Authority's eased entry requirements for certificated liquid carriers be incorporated into statutory form. Accordingly, the authority has proposed the following rule, which preserves basic Code requirements for market entry, yet at the same time reflects a relaxation of government control in this area.

The proposed rule conforms to Code requirements that applicants show a need for the proposed service, and

## TRANSPORTATION DEPARTMENT[820] (cont'd)

## a. Liquidity.

- (1) Current ratio:  $\frac{\text{Current assets}}{\text{Current liabilities}}$
- (2) Quick ratio:  $\frac{\text{Current assets less merchandise inventory}}{\text{Current liabilities}}$
- (3) Working capital ratio:  $\frac{\text{Current assets less current liabilities}}{\text{Average daily operating expenses}}$

## b. Capital structure.

- (1) Capitalization ratio:  $\frac{\text{Net capitalizable assets}}{\text{Total capitalization including long-term debt}}$
- (2) Debt to Equity ratio:  $\frac{\text{Long term debt}}{\text{Long term debt plus equity}}$

## c. Profitability.

- (1) Operating ratio:  $\frac{\text{Operating expenses}}{\text{Operating revenues} \times 100}$
- (2) Return on stockholder's equity:  $\frac{\text{Net income after interest and taxes}}{\text{Stockholder's equity less intangibles}}$
- (3) Return on net transportation investment:  $\frac{\text{Net operating income}}{\text{Average net investment plus working capital}}$

**13.13(5) Applicant's performance.** The authority shall evaluate each applicant's financial capability individually on the basis of overall performance in the three major categories analyzed. The applicant need not prove sufficiency under each ratio to be considered financially capable. The applicant shall have the opportunity to submit additional relevant information addressing deficiencies in any of the areas identified by the authority. The staff of the authority shall advise applicants requesting assistance in providing the necessary financial information.

**13.13(6) General fitness.** The applicant must indicate a general knowledge of, and good faith intent to comply with, applicable state statutes and regulations. Proof of past failure to comply with those laws may constitute sufficient grounds upon which to restrict a grant of authority or deny an application.

**13.13(7) Burden of proof.** The applicant must make an initial showing that the entry requirements set forth in subrule 13.13(1) above have been met. If the application is protested, the burden of proof shifts to protestants to present evidence tending to disprove a material element of the applicant's initial showing. Protestants challenging the application based on lack of need for the proposed service must make an affirmative showing that existing service is sufficient to meet the public convenience and necessity.

If the application is not protested, the authority may presume that existing service is not adequate for the points requested and that the proposed service is needed.

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

## ARC 4374

WATER, AIR AND WASTE  
MANAGEMENT DEPARTMENT[900]

WATER, AIR AND WASTE MANAGEMENT COMMISSION

## NOTICE OF TERMINATION

Pursuant to Iowa Code sections 17A.4(1)"b" and 455B.133 (1983), the Water, Air and Waste management Commission hereby terminates proposed rules previously filed under Notice of Intended Action in IAB Volume V, Number 26, on June 22, 1983 as ARC 3813.

The proposed amendment to Chapter 23, "Emission Standards for Contaminants", specifically paragraph 900-23.3(3)"a", was to have provided for the reduction of sulfur dioxide emissions from existing solid fuel burning units. By this proposed amendment, all existing sources in the 10 eastern Iowa counties would have been limited to emitting 6 lbs. of SO<sub>2</sub> per million Btu's and all other existing sources would have been limited to 5 lbs. of SO<sub>2</sub> per million Btu's. By this action, paragraph 900-23.3(3)"a" will continue to provide that all solid fuel burning facilities in the 10 eastern counties are limited to 6 lbs. per million Btu's, that existing facilities in the 89 other counties with capacities of greater than 500 million Btu's per hour are limited to 8 lbs. per million Btu's and that facilities of less than 500 million Btu's per hour are not limited by this paragraph.

Therefore, ARC 3813 is hereby terminated.

## ARC 4379

WATER, AIR AND WASTE  
MANAGEMENT DEPARTMENT[900]

WATER, AIR AND WASTE MANAGEMENT COMMISSION

## 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 authority of Iowa Code sections 455B.105 and 455B.173, the Water, Air and Waste Management Commission intends to adopt rules providing engineering design standards for several aspects of wastewater disposal systems, in Chapter 64, "Wastewater Construction and Operation Permits", of Title IV, "Wastewater Treatment and Disposal."

Division III, Part 1 of Iowa Code chapter 455B (455B.171-.187) authorizes the department to administer, among other things, a construction permit program for wastewater disposal systems. Iowa Code section 455B.173(3) requires the Commission to adopt rules relating to location and construction of disposal systems. Several years ago the department's predecessor agencies began a process of drawing together all pertinent design

## WATER, AIR AND WASTE MANAGEMENT DEPARTMENT[900] (cont'd)

standards into a single manual which could be used by the public, especially design engineers. The rules being proposed mark the addition of three more chapters of the design manual, which is adopted by reference in 900—64.2(9)“b”.

The three new chapters of 64.2(9)“b” which are proposed to be adopted are Chapter 14 - Wastewater Treatment Works; Chapter 16 - Settling; and Chapter 18b - Activated Sludge Biological Treatment. Again, these rules primarily draw together standards from various sources used by the department in the past, but also reflect a thorough review of the necessity and propriety of these standards, in co-operation with a committee of private consulting engineers.

Any interested person may file written comments on the proposed rule changes through February 3, 1984, with the Executive Director of the Department of Water, Air and Waste Management, 900 East Grand Avenue, Des Moines, Iowa 50319. Persons are also invited to present oral or written comments at a public hearing which will be held on January 24, 1984, at 10:00 a.m. in the 5th Floor Conference Room, Henry A. Wallace Building, at the above address. A copy of the proposed design standards may be obtained from the records center of the department (Ph.: 515-281-8895).

These rules are intended to implement Iowa Code sections 455B.172 and 455B.174.

Amend subrule 900—64.2(9), paragraph “b”, Chapters 14, 16 and 18b by striking the word “Reserved” and inserting the date of final adoption, projected to be around March 1984.

## 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:

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%
February 1, 1983 - February 28, 1983	12.50%
March 1, 1983 - March 31, 1983	12.50%
April 1, 1983 - April 30, 1983	12.75%
May 1, 1983 - May 31, 1983	12.50%
June 1, 1983 - June 30, 1983	12.50%
July 1, 1983 - July 31, 1983	12.50%
August 1, 1983 - August 31, 1983	12.75%
September 1, 1983 - September 30, 1983	13.50%
October 1, 1983 - October 31, 1983	13.75%
November 1, 1983 - November 30, 1983	13.75%
December 1, 1983 - December 31, 1983	13.50%
January 1, 1984 - January 31, 1984	13.75%

## ARC 4397

## COMMERCE COMMISSION[250]

The Iowa State Commerce Commission gives notice, in accordance with Iowa Code section 17A.4, that on December 16, 1983, the Commission issued an order in Docket No. RMU-83-26, In Re: Natural Gas Procurement And Contracting Practices, "Order Adopting Rules And Implementing On An Emergency Basis," amending Iowa Administrative Code 250—Chapter 19, "Service Supplied by Gas Utilities."

Notice of Intended Action was published in the September 28, 1983, Iowa Administrative Bulletin as ARC 4102. Written statements of position were filed on or before October 18, 1983. An oral presentation was held on October 25, 1983.

Rules proposed in the Notice of Intended Action have been revised to incorporate some changes proposed by those filing comments. The gas procurement plan and forecast filing requirements have been separated from the purchased gas adjustment rules to avoid any confusion with the two sets of filing requirements for those proceedings. In addition, the information required to be filed with the forecasts has been expanded to provide more complete information concerning the forecast methodology employed by each utility. The modifications adopted make the forecasting report requirements consistent with the requirements for the electric generating capacity needs forecasting rules in Iowa Administrative Code 250—23.4(476,476A). These and other revisions to the proposed rules are more fully discussed in the Commission's order adopting the rules issued December 16, 1983, in Docket No. RMU-83-26.

These rules are intended to implement Iowa Code sections 476.1 and 476.6, as amended by 1983 Iowa Acts, chapter 127, sections 21 and 25.

These rules will become effective on January 1, 1984, in accordance with Iowa Code section 17A.5(2)"b"(1).

These rules are also being filed as Notice of Intended Action, ARC 4398.

ITEM 1. Amend subrule 19.1(3) by eliminating the letters preceding each definition. Further amend by adding the following new definition in alphabetical sequence.

"Loss factor" as used in rule 19.10(476) means test-year purchases less test-year sales. A five-year average of purchases less sales may be used if the test year is determined by the commission to be abnormal.

ITEM 2. Amend rule 250—19.10(476) to read as follows:

## 250—19.10(476) Purchased gas adjustments.

ITEM 3. Insert the following as 19.10(1) and renumber the remaining subrules accordingly: Further amend 19.10(476) by correcting the cross-references to coincide with the renumbering.

19.10(1) A rate-regulated utility's automatic adjustments for the cost of gas purchased shall be based on purchased gas adjustment clauses for each originating pipeline supplier (or for each pipeline supplier zone, if appropriate).

If some components of purchased gas adjustment clauses for an originating pipeline supplier are estimated because the information for those components is unavailable, the utility must provide the methodology by which the estimates are derived.

Renumber previous 19.10(1) as new 19.10(2) and amend to read as follows:

19.10(2) Applicability. Unless otherwise ordered by the commission, a rate-regulated utility's purchased gas adjustment rate factors may be adjusted upward by the rate-regulated utility, but shall be adjusted downward if costs decrease, as purchased gas costs change and shall recover from customers only the costs of purchased gas, which costs are reflected in a pipeline supplier's tariffed filings which have been allowed to become effective by the Federal Energy Regulatory Commission or its successor entities, or such other costs which are expressly approved for inclusion in purchased gas adjustments on tariff filings with the commission.

In its filing of the proposed purchased gas adjustments, the utility shall file the expenses charged to each account of the Uniform Systems of Accounts, individually.

ITEM 4. Renumber previous 19.10(2) as 19.10(3). Rescind the formulas in newly renumbered 19.10(3)"a" and insert the following in lieu thereof:

$$\begin{aligned} & \text{NONDIRECTLY ASSIGNED CUSTOMER} \\ & \text{PGA}_A = \frac{P_C \times R_C + (P_{D_A} \times R_{D_A}) + (P_{T_A} \times R_{T_A}) + E_A - K_A}{S - S_D} \\ & \text{DIRECTLY ASSIGNED CUSTOMER} \\ & \text{PGA}_{B_n} = \frac{P_C \times R_C + (P_{D_{B_n}} \times (R_{D_{B_n}} - K_{D_{B_n}})) + (P_{T_{B_n}} \times (R_{T_{B_n}} - K_{T_{B_n}}))}{S} \\ & \qquad \qquad \qquad + E_{B_n} - K_{B_n} \qquad \qquad \qquad S_{B_n} \end{aligned}$$

Further amend 19.10(3)"a" by inserting the following definition after the definition of  $S_{B_n}$ :

K is the base cost of gas for each PGA class.

ITEM 5. Amend newly renumbered 19.10(3)"c"(8) as follows:

(8) All worksheets and accompanying data used to determine the purchased gas adjustment volumes and factors, including sales and purchase data from bills or internal reports, and contracts for purchases and sales.

ITEM 6. Amend 19.10(476) by rescinding the old 19.10(3) and inserting the following as new subrules 19.10(4) and 19.10(5):

## 19.10(4) Reconciliation.

a. The rate-regulated utility shall file with the commission on or before October 1 of each year a purchased gas adjustment reconciliation. This reconciliation shall be the actual net invoiced costs of purchased gas less the actual revenue collected through its purchased gas adjustment clause net of the prior year's reconciliation dollars. Actual net costs for purchased gas shall be applicable costs associated with the time period of usage, included in accounts 728 and 729 (including only those expenses cleared through account 151) and 800 to 813 of the Uniform System of Accounts less the cost of gas included in the base rates for that same period as defined in 19.10(3)"a". Negative differences in the reconciliation shall be considered overcollections by the utility and positive differences shall be considered undercollections, for the prior twelve-month period which began September 1 of the previous year. This reconciliation shall be filed with accompanying data and worksheets, under 19.10(3)"c", including a listing of the costs of gas according to accounts 728 and 729 (including only those expenses cleared through account 151) and 800 to 813 of the Uniform System of Accounts and any remainder due to losses. Penalty purchases shall only be includable where

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

the utility clearly demonstrates a cost savings over peak shaving avoided costs.

Any overcollections (up to a specified "maximum" limit) or undercollections determined from the reconciliation shall be refunded or collected, respectively, through ten-month adjustments to the particular purchased gas adjustment clauses from which they were generated. The overcollection or undercollection generated from each purchased gas adjustment clause shall be divided by: The anticipated sales volume for the prospective ten-month period beginning November 1 for the class of customers or individuals served by that particular purchased gas adjustment clause. The negative or positive quotient, determined to the nearest .001 cent per therm or ccf or on the decimal basis of the rate-regulated utility's tariffed gas rates, shall be added to that particular purchased gas adjustment clause for the prospective twelve-month period beginning September 1.

If, for a purchased gas adjustment clause, the net overcollection from the purchased gas adjustment annual reconciliation exceeds the "maximum" limit amount, the rate-regulated utility shall refund the overcollection by bill credit or check, with interest as stated in 19.10(5) "a"(6) for the time period beginning November 1 of the current year to the date of the refund. The "maximum" limit amount shall be two percent of the annual cost of purchased gas subject to recovery.

b. If a utility uses automatic adjustments of rates and charges, the adjustment must be reduced to zero with the September 1 filing and all appropriate charges collected by the automatic adjustment shall be incorporated in the utility's other rates at that time.

#### 19.10(5) Refunds.

a. The rate-regulated utility shall refund to customers, by bill credit or check, an amount equal to a refund received from a supplier, plus accrued interest, if the refund exceeds one dollar per average pipeline residential customer. The rate-regulated utility may retain undistributed refund amounts in a special commodity, demand, or storage refund accounts, for each pipeline supplier; which shall all subsequently be refunded when the balance of a given refund account exceeds the one dollar per average pipeline residential customer refund minimum.

Within thirty days of receipt of a refund from a pipeline supplier, the rate-regulated utility shall file with the commission for its approval a refund plan which shall include the following information:

(1) The amount of the supplier refund received.  
 (2) A statement of the reason for the supplier refund.  
 (3) The supplier refund report.  
 (4) The intended period of refund distribution; or a statement of intention to retain a refund amount in special applicable commodity, demand, or storage refund accounts, to accrue interest at the rates specified in this subrule, until refunded.

(5) For refund retentions: The interest accrued to the date of filing (including interest calculations) for both the present refund amount and any applicable refund account amounts.

(6) For refund distributions: The estimated interest accrued through the proposed refund period (including interest calculations) for both the present refund amount and any applicable refund account amounts.

(7) For refund distributions: The total amount to be refunded, and the amount of refund per ccf or therm, to be distributed to nondirectly assigned customers and to each directly assigned customer class.

The supplier commodity refund to each customer shall be calculated by dividing an amount equal to the total amount of the commodity refund, plus any amount from the commodity refund account, by the total ccf or therms of gas consumed by that customer during the same period.

The supplier demand or storage refund(s) to each directly assigned customer shall be calculated by multiplying the total amount of the demand or storage refund(s), plus any amount(s) from the demand or storage refund account(s), by each directly assigned customers' proportion of the total demand quantity sold by the rate-regulated utility during the period for which the refund is applicable or the last twelve months for which records are available.

The demand or storage refund(s) to each nondirectly assigned customer shall be calculated by subtracting the amount of the demand or storage refund(s) to directly assigned customers from the total refund(s) amount, dividing this remainder by the total ccf or therms of gas consumed by nondirectly assigned customers during the period for which the refund is applicable or the last twelve months for which records are available, and multiplying this resulting quotient by the ccf or therms of gas consumed by that nondirectly assigned customer during the same period.

b. The rate-regulated utility shall refund to customers by bill credit or check, an amount equal to an overcollection due to a rate-regulated utility's inability to track the proper cost of gas prior to billing from supplier, plus accrued interest, if the refund exceeds one dollar per average pipeline residential customer. The rate-regulated utility may retain undistributed refund amounts in special commodity, demand, or storage refund accounts, for each pipeline supplier; which shall all subsequently be refunded when the balance of a given refund account exceeds the one dollar per average pipeline residential customer refund minimum. Within thirty days of first knowledge of such an overcollection, the rate-regulated utility shall file with the commission for its approval a refund plan which shall include the following information:

(1) The amount of over collection.  
 (2) A statement of the reason for the overcollection.  
 (3) Supporting documentation from supplier and rate-regulated utility billing records, showing overcollections.  
 (4) The intended period of refund distribution.  
 (5) The estimated interest accrued through the proposed refund period.

(6) The total amount to be refunded, and the amount of refund per ccf or therm to be distributed to nondirectly assigned customers and to each directly assigned customer class.

For overcollections associated with the rate-regulated utility's inability to track the proper cost of gas, the refund to each customer shall be determined by the amount that customer was overcharged.

c. The interest rate on refunds distributed under this subrule, compounded annually, shall be the quarterly interest rate at commercial banks for twenty-four-month loans for personal expenditures (as set forth in the Federal Reserve Statistical Release G.19). This federal

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

reserve quarterly rate shall be deemed to be effective for these purposes as of the first day of the month following the availability of the published data to the rate-regulated utility. For time periods less than a year, a weighted average of the published quarterly rates is applicable. Interest shall accrue from the date the rate-regulated utility receives the refund or billing from the supplier to the date the refund is distributed to customers.

Administrative costs of refund processing shall not be deducted from refund amounts.

d. Any other refunds from the rate-regulated utility to its customers attributable to purchased gas adjustments (excluding incremental pricing refunds) shall be filed and calculated according to the provisions in 19.10(5) "a".

e. The rate-regulated utility shall make a reasonable effort to forward refunds, by check, to eligible recipients who are no longer customers.

f. The minimum amount to be refunded by check shall be one dollar.

ITEM 7. Renumber old 19.10(4) "Purchased gas adjustments annual reports." as new 19.10(6).

ITEM 8. Create a new rule 19.11(70GA, ch127) to read as follows:

**250—19.11(70GA, ch127) Gas procurement plan and requirement forecast.**

**19.11(1) Procurement plan.** A rate-regulated utility shall prepare and file with the commission between July 1 and August 1 of each year a complete natural gas procurement plan for the period commencing September 1. A utility's initial procurement plan shall include all required information and documents. If any of the information or documents required to be filed under this subrule in a subsequent procurement plan has been filed in a previous procurement plan with the commission, the utility may specifically identify the document or information by reference in lieu of refileing it in its procurement plan. A utility's procurement plan shall be organized and shall include information required as follows:

a. Introduction. An introductory paragraph shall preface the plan stating on whose behalf the report is filed.

b. Index. An index of all documents and information required to be filed in the plan and the identification of the commission file(s) in which the document(s) incorporated by reference is located.

c. Purchase contracts and arrangements. The initial procurement plan shall include all contracts and gas supply arrangements entered into by the utility or in effect for obtaining gas during the previous twelve-month period, and all contracts or supply arrangements which the utility is planning to enter into during the prospective twelve-month period. All subsequent plans filed by the utility shall include all contracts and gas supply arrangements to be entered into by the utility during the prospective twelve-month period.

d. Other reasonably available contracts. The initial procurement plan shall include a list and description of all other contracts or arrangements for obtaining gas reasonably available to the utility during the previous twelve-month period which the utility did not enter into and all contracts or arrangements for obtaining gas which are or may be reasonably available to the utility during the prospective twelve-month period which the utility will not enter into.

All subsequent plans filed by the utility shall include all other contracts or arrangements for obtaining gas reasonably available to the utility during the prospective twelve-month period which the utility will not enter into.

e. Studies or investigation reports. The initial procurement plan shall include all studies or investigation reports considered by the utility in deciding whether to enter into a gas purchase contract or arrangement in the previous or prospective twelve-month period. All subsequent plans filed by the utility shall include all studies or investigation reports which have been considered by the utility in deciding whether to enter into gas purchase contracts or arrangements in the prospective twelve-month period.

f. Legal and regulatory actions. An explanation of the legal and regulatory actions taken by the utility to minimize cost.

**19.11(2) Gas requirement forecast.** A rate-regulated utility shall prepare and file with the commission between July 1 and August 1 of each year a complete five-year gas requirement forecast for the period commencing September 1. A utility's initial requirement forecast report shall include all required information and documents. If any of the information or documents required to be filed under the subrule in a subsequent requirement forecast report have been filed in a previous requirement forecast report with the commission, the utility may specifically identify the document or information by reference in lieu of refileing it in its requirement forecast report. A utility's gas requirement forecast report shall be organized and shall include information required as follows:

a. Introduction. An introductory paragraph shall preface the forecast report stating on whose behalf the forecast report is filed.

b. Index. An index of all documents and information required to be filed in the forecast and the identification of the commission file(s) in which the document(s) incorporated by reference is located.

c. Chapter 1 — Existing system capacity. Chapter 1 of the report shall include the following information, presented in the same order as required herein, specifying existing system capacity in each of the five plan-years:

(1) System pipeline delivery capacity in volume.

(2) Additional capacity in volume through existing or expected interconnection to other systems.

(3) Certified storage capacities in volume for underground storage and storage in liquefied form.

d. Chapter 2 — Demand forecast. Chapter 2 of the report shall include the following information, presented in the same order as required herein, specifying forecasted growth in demand within each utility's system. All forecasts shall include the gas requirements of the utility in matrix form by pipeline supplier and by customer classes of: Residential; commercial; and industrial, and if applicable, into subclasses of interruptible, off-peak and firm:

(1) The forecast of total demand, peak demand, and weather-normalized demand for each of the five years.

(2) A statement of the utility's actual total, peak, and weather-adjusted demand, and a statement of what that demand was forecasted to be in the year preceding the experienced peak(s) reported. The first report filed pursuant to this rule shall also include a statement of what that demand was forecasted to be in each of the four years preceding the previous year.

(3) An explanation of any significant differences between the utility's current five-year forecast and the

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five-year forecast made in the preceding year and, in the first report filed pursuant to this rule, between the current five-year forecast and the five-year forecasts made in the four years preceding the previous year. A table of previous and present year-by-year forecasts should be provided for comparison.

(4) An explanation of all forecasting methodology/technique used, types and sources of data used, as well as all major assumptions made in the current five-year forecast(s) and all significant changes in any method, data or assumptions from previous reports or being considered by the utility filing the report. This explanation should be complete and detailed and may be provided by reference to an attachment including reports, excerpts from authoritative treatises or other documents available to the utility.

e. Chapter 3 — Supply forecast. Chapter 3 of the report shall include the following information, presented in the same order as required herein, specifying what alternative supply options are available and how they were evaluated:

(1) A list of all alternative suppliers available or expected to be available.

(2) A list of supplier-mix options (combination of one or more sources of supply) available with supply forecast and financial projections of purchase costs for each mix.

(3) A list of major supply contracts, arrangements, or both entered into or contemplated between the utility and its suppliers for the supplier-mix option selected.

(4) A description of all gas supply arrangements which the gas utility knows have been, or expects will be, entered into between the utility's principal pipeline suppliers and their major sources of gas.

f. Chapter 4 — Sensitivity analysis. Chapter 4 of the report shall include the following information, presented in the same order as required herein, specifying what analysis has been made of the sensitivity to error of forecasts and quantifications of planning options:

(1) A list of all assumptions or forecasts which could significantly alter either the demand for gas, the estimate of the supply of gas, or projections of purchase costs, or all of the above.

(2) A statement of the reasonable margins of error for each assumption or forecast listed in response to the requirement of subparagraph (1) above.

(3) A statement in quantified terms of the effect of potential errors and assumptions in forecasts exceeding the reasonable margin levels set forth in response to subparagraph (2) above on projected delivery of service.

(4) A description of any contingency situations and plans to meet those situations possible from changes in:

i. Major contracts, arrangements, or both with the utility's suppliers; and

ii. The utility's suppliers' contracts, arrangements, or both with its suppliers.

g. Chapter 5 — Conclusion and recommendation. Chapter 5 of the report shall include a statement describing the supply option each utility has decided is best to meet the demand forecast in the subsequent five-year period, and explain the basis for that decision.

**19.11(3) Omitted information.** The report shall include all information required by this rule. If the utility filing the report is unable to provide all information required by the subrules above, a statement explaining why the information has not been included shall be set out in the report in place of the information omitted therefrom.

Supplemental filings of omitted information may be required by the commission on its own motion or upon request of any other party to the proceeding.

**19.11(4) Summary of report.** The report of forecasting information filed pursuant to this rule shall be accompanied by a five-page summary briefly and accurately summarizing all essential information included in the report.

**19.11(5) Evidence submitted.** The utility shall submit all factual evidence and exhibits in support of its evaluation of the reasonableness and prudence of its decisions to obtain gas in the manner described in its procurement plan and its gas requirement forecast with the filing of its gas procurement plan and requirement forecast.

**19.11(6) Annual review proceeding.** The commission shall annually conduct a proceeding to evaluate the reasonableness and prudence of a rate-regulated utility's natural gas procurement practices and to evaluate the five-year gas requirement forecast filed by the utility. The commission shall docket the matter as a contested case within thirty days of the utility's filing of its procurement plan and requirement forecast in accordance with subrules 19.11(1) and 19.11(2).

a. On or before October 15 each year, the office of consumer advocate and any intervenors shall file prepared direct testimony and exhibits.

b. On or before November 15 of each year the rate-regulated utility shall file prepared rebuttal testimony and exhibits.

c. The commission will schedule a public hearing to be held within five months after the filing of the procurement plan for the purpose of cross-examining all filed testimony. The hearing shall be conducted in accordance with the provisions of rule 250—7.7(476). The commission shall establish briefing schedules on a case-by-case basis. The burden shall be on the utility to prove it is taking all reasonable actions to minimize its purchase gas costs, consistent with assuring long-term supply of natural gas.

d. The commission may, in its discretion, modify the procedural schedule for an annual review proceeding.

[Filed emergency after Notice 12/16/83, effective 1/1/84]  
[Published 1/4/84]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 1/4/84.

**ARC 4375****DENTAL EXAMINERS,  
BOARD OF[320]**

Pursuant to Iowa Code sections 147.10, 147.76, 147.80, and 258A.2, the Iowa State Board of Dental Examiners adopts the following emergency rules amending chapters 6, 10, 11, 13, 14, 15, and 25 of the Iowa Administrative Code relative to biennial renewals, continuing education, and adjusting fees.

In compliance with Iowa Code section 17A.4(2), the agency finds that public notice and participation is impracticable in that 147.10 expressly states that every license to practice a profession shall expire in multiyear intervals and be renewed as determined by the agency

## DENTAL EXAMINERS, BOARD OF[320] (cont'd)

upon application by the licensee without examination. The present rules of the board, provide for annual renewals, and are in conflict with the statutory mandates.

The agency also finds, pursuant to 17A.5(2)"b"(2) that the normal effective date of this rule thirty-five days after publication should be waived and the rule be made effective upon filing with the Administrative Rules Coordinator on December 16, 1983 as it confers a benefit upon the public to ensure speedy and uniform compliance with the agency's legislative mandate. The agency also finds that a delay in effective date of these rules could have an adverse effect by delaying the issuance of applications for renewals. The agency also finds that uniform submission of fees for applications for licensure would eliminate confusion by licensees. Moreover, the proposed amendments are of limited public interest and of narrow application relating as they do only to a change from annual to biennial licensing of dentists and dental hygienists.

The agency adopted these rules at a regular meeting on October 31, 1983.

These rules implement Iowa Code section 147.10.

These rules are being filed as a Notice of Intended Action, ARC 4376, to allow public comment.

ITEM 1. Rule 320—6.4(153) is amended to read as follows:

**320—6.4(153) Forms.** The following board forms are the official forms to be used for the purposes indicated and are available from the department board office.

10. Board Form 10: Application for Annual Renewal of Dental License

11. Board Form 11: Application for Annual Renewal of Dental Hygiene License

17. Board Form 17: Annual Report of Claimed Continuing Education Hours (by licensee) Continuing Education Record for Dentists and Dental Hygienists

ITEM 2. Rule 320—10.2(153) is amended to read as follows:

**320—10.2(153) Display of license and annual license renewal.** The license to practice dentistry or dental hygiene and the current annual license renewal must be prominently displayed by the licensee at each the principal office of employment.

ITEM 3. Chapter 11 is amended as follows:

Subrule 11.2(2), paragraph "e", is amended to read as follows:

e. A fee of fifty dollars which is refundable to applicants who are ineligible to take the exam or whose application is incomplete. A statement of reasons for rejection shall be sent to the applicant. *The fee as specified in chapter 15 of these rules is nonrefundable to applicants whose applications are considered by the board. A statement of reasons for rejection shall be sent to the applicant.*

Subrule 11.3(2), paragraph "j", to read as follows:

j. A fee of two hundred fifty dollars for credential verification payable to the Iowa State Department of Health. This fee is not refundable.

*The fee for licensure by credentials verification as specified in chapter 15 of these rules shall be made payable to the Iowa State Board of Dental Examiners. Applications considered by the board are nonrefundable.*

Subrule 11.5(2) paragraph "e" is amended to read as follows:

e. A fee of twenty-five dollars which is refundable to applicants who are ineligible to take the exam or whose

application is incomplete. A statement of reasons for rejection shall be sent to the applicant. *The fee as specified in chapter 15 of these rules is nonrefundable to applicants whose applications are considered by the board. A statement of reasons for rejection shall be sent to the applicant.*

ITEM 4. Subrule 13.1(3) is amended to read as follows:

**13.1(3)** Application for the resident dentist license ~~or the renewal thereof~~ shall be on official board forms and shall be filed with the board together with a fee of ten dollars ~~the appropriate fee as specified in chapter 15 of these rules.~~

ITEM 5. Amend chapter 14 as follows:

Rule 320—14.1(153) is amended to read as follows:

**320—14.1(153) Renewal of license to practice dentistry or dental hygiene.** A license to practice dentistry or a license to practice dental hygiene must be renewed ~~annually~~ biennially.

**14.1(2)** The appropriate fee as specified in chapter 15 of these rules shall accompany the application for renewal of a license at least thirty days before the current license expires. A penalty shall be assessed by the board for late renewal.

**14.1(3)** Completion of continuing education is required for renewal of a active license. Failure to comply will automatically result in an inactive renewal.

*This rule is intended to implement section 147.10 of the Code and Acts of the Sixty-seventh General Assembly, chapter 95.*

Subrule 14.4(2) is amended to read as follows:

**14.4(2)** The application shall be accompanied by payment of all renewal fees then due and reinstatement fee as specified in chapter 15 of these rules.

ITEM 6. Amend chapter 15 as follows:

Rules 15.1 and 15.2 are amended to read as follows:

**320—15.1(153) License application fees.** All fees are nonrefundable. Applications considered by the board are nonrefundable.

**15.1(1)** The fee for a license application to practice dentistry shall be ~~seventy-five~~ one hundred dollars.

**15.1(2)** The fee for a license application to practice dental hygiene shall be ~~thirty-five~~ fifty dollars.

**15.1(3)** The fee for a resident dentist license application shall be ~~thirty~~ forty dollars.

**15.1(4)** The fee for a faculty permit application shall be ~~forty-five~~ fifty dollars.

**15.1(5)** The fee for a reciprocal license application to practice dentistry issued on the basis of credentials shall be two hundred ~~fifty~~ seventy-five dollars.

**15.1(6)** The fee for a reciprocal license application to practice dental hygiene issued on the basis of credentials shall be one hundred dollars.

**15.1(7)** The fee for a reinstatement application shall be fifty dollars.

**320—15.2(153) Renewal fees.** All fees are nonrefundable.

**15.2(1)** The fee for renewal of a license to practice dentistry for a biennial period shall be ~~forty-five~~ one hundred dollars for an active practitioner and ~~twenty~~ fifty dollars for an inactive practitioner.

**15.2(2)** The fee for renewal of a license to practice dental hygiene for a biennial period shall be ~~twenty~~ fifty dollars for an active practitioner and ~~twenty-five~~ dollars for an inactive practitioner.

## DENTAL EXAMINERS, BOARD OF[320] (cont'd)

ARC 4362

HEALTH DEPARTMENT[470]  
BOARD OF PSYCHOLOGY EXAMINERS

**15.2(3)** The fee for renewal of a resident dentist license shall be thirty dollars.

**15.2(4)** The fee for renewal of a faculty permit shall be forty-five dollars.

Rule 320—15.3(153) is rescinded and the following inserted in lieu thereof:

**320—15.3(153) Late renewal fees.** All fees are non-refundable.

**15.3(1)** Failure to renew a dentist license within thirty days after expiration shall require a renewal fee of one hundred fifty dollars for active practitioners and seventy-five dollars for inactive practitioners.

**15.3(2)** Failure to renew a dental hygiene license within thirty days after expiration shall require a renewal fee of seventy-five dollars for an active practitioner and thirty-five dollars for an inactive practitioner.

Rule 320—15.4(153) is added to read as follows:

**320—15.4(153) Miscellaneous fees.**

**15.4(1)** The fee for issuing a duplicate license shall be ten dollars.

**15.4(2)** The fee for a certification of the Iowa license shall be ten dollars.

ITEM 7. Chapter 25 is amended as follows:

Subrule 25.2(1) is amended to read as follows:

**25.2(1)** Beginning January 1, 1979, each person licensed to practice dentistry or dental hygiene in this state shall complete during each calendar year a minimum of fifteen hours of continuing education approved by the board. Compliance with the requirement of continuing education is a prerequisite for license renewal in each subsequent license renewal year.

*Beginning January 1, 1984 each person licensed to practice dentistry or dental hygiene in this state shall complete during the biennium ending December 31, 1986 and each biennium thereafter a minimum of thirty hours of continuing education approved by the board.*

Subrule 320—25.2(2) is amended to read as follows:

**25.2(2)** The continuing education compliance year shall extend from January 1 to December 31, during which period attendance at approved continuing education programs may be used as evidence of fulfilling continuing education requirements for the subsequent license renewal year beginning July 1 and expiring June 30.

*The biennial continuing education compliance period shall extend from January 1 to December 31 of the second following year during which period attendance at approved continuing education programs may be used as evidence of fulfilling continuing education requirements for the subsequent biennial license renewal period beginning July 1 and expiring June 30 of the second year thereafter.*

Rule 320—25.6(153) is amended to read as follows:

**320—25.6(153) Report of licensee.** Each licensee shall file a signed report continuing education record form with the annual biennial renewal application no later than April 1 of the year following the calendar year end of the two-year period in which claimed continuing education hours were completed. The report form shall be sent to the Iowa State Department of Health, Lucas State Office Building, Iowa State Board of Dental Examiners, Executive Hills West, 1209 East Court, Des Moines, Iowa 50319.

[Filed emergency 12/16/83, effective 12/16/83]

[Published 1/4/84]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 1/4/84.

Pursuant to the authority of Iowa Code sections 147.10, 147.11, 147.80(4), and 258A.2, the Board of Psychology Examiners hereby amends chapter 140 of the Iowa Administrative Code. The Board adopted the amendments December 3, 1983.

Notice of Intended Action regarding the proposed action was published in the Iowa Administrative Bulletin October 12, 1983 as ARC 4132.

The rules adjust fees to pay for the cost of licensing as required by Iowa Code section 147.80. The rules also provide a procedure of application for and renewal of a limited permit to practice psychology. No comments were received.

The rules are the same as published under Notice of Intended Action.

The Board of Psychology Examiners finds that the rules are required by statute, and, therefore, the rules are filed pursuant to Iowa Code section 17A.5(2)“b”(1). This will permit the fees to be collected for the April 1984 examination.

The rules are intended to implement Iowa Code sections 147.10, 147.11, 147.80(4), and 258A.2.

The rules shall become effective December 5, 1983 upon filing.

ITEM 1. Subrule 140.4(3) is amended to read as follows:

**140.4(3)** Each application must be accompanied by a check or money order for ~~forty one~~ *one hundred* dollars, nonrefundable, payable to the Iowa state department of health.

ITEM 2. Subrule 140.4(9) is rescinded and the following adopted in lieu thereof:

**140.4(9)** Psychologists residing outside the state of Iowa and intending to practice in Iowa under the provisions of Iowa Code section 154B.3(5) shall file an application for a limited permit to practice at least sixty days in advance of such practice on a form provided by the board. The limited permit expires one year after issuance and may be renewed only once for an additional twelve-month period.

The following fees, which are nonrefundable, shall be submitted payable to the Iowa state department of health:

a. The application for a limited permit to practice shall be accompanied by a check or money order in the amount of one hundred dollars.

b. The renewal fee of seventy dollars by check or money order shall be submitted at least thirty days prior to the expiration of the initial limited permit if the person intends to continue to practice in Iowa under the provisions of Iowa Code section 154B.3(5).

ITEM 3. Subrule 140.8(3) is amended to read as follows:

**140.8(3)** Examination dates will be announced by the board. The schedule for the written examination will establish the time, place, the final date by which the board must receive the applicant's written intention to be examined, and other pertinent information or instructions. The examination fee is ~~sixty one~~ *one hundred* dollars and is to be paid by check or money order to the Iowa state department of health.

ITEM 4. Subrule 140.9(1) is amended to read as follows:

**140.9(1)** At least two months before the renewal date, a renewal notice will be sent to each license holder at the

## HEALTH DEPARTMENT[470] (cont'd)

last address in the board's file. Failure to receive the notice shall not relieve the license holder of the obligation to pay renewal fees on or before the renewal date. The biennial renewal fee is ~~eighty one hundred forty~~ *eighty one hundred forty* dollars.

ITEM 5. Subrule 140.9(2) is amended to read as follows:

**140.9(2)** Renewal fees shall be received by the board on or before the end of the last month of the renewal period. Whenever renewal fees are not received as specified, the license lapses and the practice of psychology must cease until all renewal fees are received by the board. In addition thereto a penalty fee of ~~twenty five fifty~~ *twenty five fifty* dollars shall be paid.

ITEM 6. Rule 470—140.9(154B) is amended by adding a new subrule:

**140.9(3)** If the renewal fees are not received by the board within one hundred eighty days after the end of the last month of the renewal period, an application for reinstatement must be filed with the board with a reinstatement fee of seventy dollars in addition to the renewal fee and the penalty.

ITEM 7. Chapter 140 is amended by adding the following new rule:

**470—140.10(154B) Other fees.** All fees are nonrefundable.

**140.10(1)** Delinquent penalty for failure to submit the report of continuing education within the time required by rule 470—140.105(258A) is twenty-five dollars.

**140.10(2)** Fee for a certified statement that a licensee is licensed in this state is ten dollars.

**140.10(3)** Fee for a duplicate license is ten dollars.

[Filed emergency after notice 12/5/83, effective 12/5/83]  
[Published 1/4/84]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 1/4/84.

## ARC 4365

HIGH TECHNOLOGY  
COUNCIL, IOWA[485]

Pursuant to the authority of 1983 Iowa Acts, Chapter 207, Division VII, section 35, subsection 5 unnumbered paragraph 3, and Iowa Code section 17A.3, the Iowa High Technology Council adopts emergency rules. The chapters clarify and interpret the Act and provide procedures for the regulation of the council's business. Although the sections within Division VII will be placed in Iowa Code chapter 28, the council is promulgating rules as a separate agency due to the separate governing structure of the council from the Iowa Development Commission.

In compliance with Iowa Code section 17A.4(2), the council finds that public notice and participation is impracticable in that 1983 Iowa Acts, Chapter 207, Division VII was enacted to encourage the development of high technology industries and research in Iowa which will establish net new employment opportunities for Iowa workers or assist in improving the efficiency, productivity, and viability of family farm operations which will improve the quality of life in an environmentally sound

manner, and to ensure the development of a technology transfer system and is part of a larger package enacted for the purpose of improving the Iowa economy and employment. Since this division of the Act created a new council, it is necessary to promulgate rules at the earliest possible time to provide a procedural code for the council's operation, to notify the public of their right of access to the council, and to provide a mechanism for submitting grant proposals so that the council may commence receiving and disbursing funds for eligible projects as soon as possible.

The council also finds, pursuant to Iowa Code section 17A.5(2)"b"(2) that the normal effective date of this rule thirty-five days after publication should be waived and the rule made effective upon filing with the Administrative Rules Coordinator on December 15, 1983, as it establishes rules for the implementation of the Act and confers a benefit on the public to ensure access.

The members of the Iowa High Technology Council adopted these rules at a regular meeting on December 15, 1983.

These rules are intended to implement 1983 Iowa Acts, Chapter 207, Division VII.

These rules are also being filed as Notice of Intended Action published as ARC 4366.

The following chapters are adopted and implemented and will become effective December 15, 1983.

IOWA HIGH TECHNOLOGY COUNCIL  
CHAPTER 1  
GENERAL DESCRIPTION

**485—1.1(70GA, ch207) Authority and function.** The Iowa high technology council was created by 1983 Iowa Acts, chapter 207, division VII. The purpose of the council is to encourage the development of high technology industries and research in Iowa which will establish net new employment opportunities for Iowa workers, assist in improving the efficiency, productivity, and viability of family farm operations or other existing operations, encourage the development of research capabilities, and improve the quality of life in an environmentally sound manner.

**485—1.2(70GA, ch207) General definitions.** The following definitions shall serve to clarify 1983 Iowa Acts, chapter 207, division VII:

"Commission" means the Iowa development commission created by Iowa Code section 28.1.

"Council" means the Iowa high technology council.

"Eligible applicant" means an Iowa educational institution or a commercial entity in Iowa in which an educational institution has an ownership interest. Commercial entities, private citizens, and venture capitalists are encouraged to discuss their interests with educational institutions to arrive at collaborative research and development projects.

"Eligible project" means a project which shall emphasize research and development of an idea, process or product with potential for commercially feasible application, development of new technologically advanced products, analysis of capability for development, and public and private investment in the development of high technology products.

"Grant proposal" means the written document submitted to the council as part of the application for funding.

"High technology" means research, development, technology, or production which requires a higher level of

**HIGH TECHNOLOGY COUNCIL, IOWA[485] (cont'd)**

scientific orientation and which is in fields including but not limited to biotechnology, microelectronics, productivity enhancement, and energy alternatives.

"Presiding officer" means the chairperson of the council or their designee if the chairperson is not present at the meeting.

"Technology transfer" means a mechanism to transfer information on technology and research from existing services to Iowa's industry.

**485—1.3(70GA,ch207) Powers and duties.** In addition to any other powers and duties of the council granted by statute or these rules, the council shall do the following:

**1.3(1) Award of grants.** The award of grants shall be determined by majority vote of the council based on their review of the grant proposals and the recommendations of the evaluators.

**1.3(2) Contracts.** The council shall have the right to enter into contracts with the educational institution, company or person who will be the recipient of a grant award under the provisions of the Act or chapters 3 and 4 of these rules. The contract shall set forth the terms and conditions of the grant award and shall be agreed to and signed by all concerned parties prior to any disbursement of funds by the council.

**1.3(3) Annual report.** The council shall submit a report to the governor and the general assembly on or before September 1 of each calendar year outlining all grants awarded by the council during the previous fiscal year. The report shall include an analysis of how the grants meet the purposes of section 36, 1983 Iowa Acts, chapter 207, reports on projects completed during the fiscal year, and status reports on current projects.

**1.3(4) Right to audit.** The council shall have at all times the right to audit the records of the recipient of a grant award related to the grant proposal to ensure that the grant is being used in accordance with the grant proposal and the contract. The council or a designee acting under the instruction of the council may exercise this right. The council shall conduct a post-grant audit of all projects upon their completion, or in the event a contract is terminated for any reason prior to completion, and shall include the results of any audits conducted in the annual report prepared pursuant to subrule 1.3(3).

**CHAPTER 2****ORGANIZATION AND OPERATION**

**485—2.1(70GA,ch207) Organization.** The Iowa high technology council is a separate and distinct entity of the state of Iowa, however it is administratively integrated into the Iowa development commission for staff support and assistance.

**485—2.2(70GA,ch207) Membership.** The council is composed of thirteen members appointed by the governor and confirmed by the senate to serve four-year terms. The chairperson shall be designated by the governor from the membership of the council. The council may elect other officers as necessary.

**485—2.3(70GA,ch207) Location and method of obtaining information.** For administrative purposes the council is located in the offices of the commission at 600 East Court Avenue, Suite A, Des Moines, Iowa 50309; telephone 515/281-3925. The official mailing address for the council shall be David H. Swanson, Chairperson, Iowa High Technology Council, 205 Engineering Annex, Iowa State University, Ames, Iowa 50011, 515/294-3420. Requests for information or assistance may be made to

the chairperson personally, by telephone, mail or any other medium available, between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday, excluding state and university holidays. Special arrangements for accessibility to the council at other times may be provided as needed.

**485—2.4(70GA,ch207) Meetings.** The council meets at least once each quarter and shall hold special meetings at the call of the chairperson. Notice of a meeting will be given not less than twenty-four hours prior to the meeting. The notice will contain the specific date, time and place of the meeting and a tentative agenda. The notice will be posted at the commission office and will be mailed to any interested person who has filed a request for notice with the chairperson of the council. All meetings will be open to the public, unless a closed session is voted by two-thirds of the entire membership or by all members present pursuant to Iowa Code section 28A.5. The operation of the council meetings will be governed by the following rules of procedure:

**2.4(1)** Seven members of the council constitute a quorum.

**2.4(2)** An affirmative vote of the majority of the members of the council is necessary before an action may be taken by the council.

**2.4(3)** Members of the public who wish to appear before the council shall contact the chairperson. Requests must be received by the chairperson not less than twenty-four hours prior to the meeting and shall outline the subject to be addressed. The chairperson or designee shall notify the requester by telephone call or other appropriate means as to their approximate placement on the agenda. Presentations may be made at the discretion of the presiding officer. The council may take up matters not appearing on the agenda.

**2.4(4)** At the discretion of the chairperson, a public forum may be scheduled on the agenda of a regularly scheduled meeting.

**2.4(5)** Members of the public who wish to submit written material, other than grant proposals as described in rules 3.4(70GA,ch207) and 4.4(70GA,ch207), should do so at least seven days prior to the scheduled meeting to assure the council has adequate time to receive and evaluate the material.

**2.4(6)** At the conclusion of each meeting the council shall set the time, date and place of the next meeting.

**2.4(7)** Special or electronic meetings may be called by the chairperson upon a finding of good cause and shall be held in accordance with Iowa Code section 28A.4 or 28A.8.

**2.4(8)** Cameras and recording devices may be used at open meetings provided they do not obstruct the meeting. The presiding officer may request a person using such a device to discontinue its use when it is obstructing the meeting. If the person fails to comply with this request, the presiding officer shall order that person excluded from the meeting.

**2.4(9)** The presiding officer may exclude any person from the meeting for repeated behavior that disrupts or obstructs the meeting.

**2.4(10)** Cases not covered by these rules shall be governed by Roberts Rules of Order, Revised (1970 ed.).

**485—2.5(70GA,ch207) Minutes.** Minutes of council meetings are prepared and are available at the office of the commission or the office of the chairperson for inspection during normal business hours. Copies may be ob-

## HIGH TECHNOLOGY COUNCIL, IOWA[485] (cont'd)

tained without charge by contacting the commission or the chairperson.

**485—2.6(70GA,ch207) Rulemaking.** The council will promulgate rules and provide the opportunity for public participation under the provisions of Iowa Code chapter 17A. Any interested person or legal entity may petition the council requesting promulgation, amendment or repeal of a rule.

**2.6(1) Petition to promulgate, amend or repeal a rule.** The petition shall be in writing signed by or on behalf of the petitioner and filed with the chairperson. The petition shall include:

a. A statement of the rule proposed to be promulgated, amended or repealed. A rule proposed to be amended shall be stated in full with the proposed deletions enclosed in brackets and proposed additions underlined.

b. A statement of why the rule is being proposed, amended or repealed.

c. The name and address of the petitioner.

**2.6(2) Action on petition.** The petition shall be deemed filed when received by the chairperson. Upon receipt of the petition the chairperson or designee shall:

a. Within seven days, acknowledge receipt of the petition to the petitioner.

b. Submit the petition to the council at the next scheduled meeting with a recommendation for action. However, if the petition is received less than seven days prior to the next scheduled meeting the chairperson may delay the submission to the following meeting. If delayed, the chairperson or designee will provide a copy of the petition and recommendation to the council members prior to the following meeting.

c. Within sixty days after the receipt of the petition, the council shall either deny the petition or initiate rulemaking proceedings in accordance with Iowa Code chapter 17A. In the event of a denial of a petition, the council shall issue an order setting forth the reasons in detail for denial of the petition. The decision of the council shall be mailed to the petitioner within seven days of its issuance.

**485—2.7(70GA,ch207) Declaratory rulings.** Upon petition by an interested person the council may issue a declaratory ruling as to the applicability of any statutory provision, rule or other written statement of law or policy, decision or order of the council.

**2.7(1) Filing of petition.** Requests for declaratory ruling shall be submitted in writing to the chairperson of the council and shall include:

a. The name and address of the person requesting the declaratory ruling. If the request is at the behest or order of a corporation, association, governmental subdivision, public or private organization, educational institution, or state agency, it shall be noted on the request.

b. A detailed statement of the question presented for declaratory ruling including references to specific section of law or administrative rule. If multiple issues are presented for declaratory ruling, they should be so numbered.

**2.7(2) Action on petition.** The petition shall be deemed filed when received by the chairperson. Upon receipt of the petition the chairperson or designee shall:

a. Within seven days, acknowledge receipt of the petition to the petitioner.

b. Within sixty days of receipt, the council shall consider the petition. If, upon consideration of the petition, the council determines additional facts and information

are required, it shall, within seven days, make a written request of the person or organization to supply needed information. The council shall make a declaratory ruling within sixty days of receiving such additional information. The declaratory ruling shall be in writing and shall be mailed to the person or organization requesting it within seven days of its issuance. Rulings shall be available for public inspection.

c. The council may decline to rule in whole or in part when, in the judgment of the council, the ruling would be beyond the statutory jurisdiction of the council, when no clear answer is determinable, when a ruling is not in the best public interest, or when the issue presented is pending resolution by a court or an opinion of the attorney general. In the event the council declines to make a ruling, the petitioner shall be notified in writing that the request has been declined in whole or in part and the reasons therefor.

**2.7(3) Effect of declaratory ruling.** A declaratory ruling by the council shall have a binding effect upon subsequent council decisions and orders which pertain to the party requesting the ruling and in which the factual situation and applicable law are indistinguishable from that presented in the petition for declaratory ruling. To all other parties and in factual situations which are distinguishable from that presented in the petition, a declaratory ruling shall serve merely as precedent.

**485—2.8(70GA,ch207) Informal settlements in contested cases.** Unless precluded by statute, informal settlement of disputes over rules of the council that may result in contested case proceedings as prescribed in Iowa Code section 17A.12 shall be encouraged. All such informal settlements shall be made by the chairperson, subject to ratification by the council, and by the parties contesting the rule in question. The settlement shall be expressed in written stipulation representing an informed mutual consent. If the stipulation provides for the amendment or repeal of a rule, rulemaking procedures under Iowa Code section 17A.4 shall be followed.

### CHAPTER 3 GRANTS PROGRAM

**485—3.1(70GA,ch207) Grant awards.** Consistent with the purposes defined in the Act and these rules, the council shall award grants on a project basis to eligible applicants to further the overall development and growth of technology in Iowa.

**485—3.2(70GA,ch207) Amount of individual grants.** There are no minimum or maximum amounts specified for individual awards and no specific limitations are set on the size of a total budget that may be considered as part of a grant proposal.

**485—3.3(70GA,ch207) Timing and submission of proposals.** Proposals will be accepted and grant awards will continue to be made until all funds are expended or committed.

**3.3(1) Deadline for submission.** Proposals may be submitted for consideration at any time during the year. However, to apply for a grant for the fiscal year ending June 30, 1984, all proposals must be received by the chairperson no later than May 1, 1984.

**3.3(2) Procedure for submission.** The submission shall include a summary data sheet and a grant proposal containing the information required by rule 3.4 (70GA,ch207).

## HIGH TECHNOLOGY COUNCIL, IOWA[485] (cont'd)

a. Fifteen copies of each proposal shall be forwarded to David H. Swanson, Chairperson, Iowa High Technology Council, 205 Engineering Annex, Iowa State University, Ames, Iowa 50011.

b. Proposals shall be single stapled in the upper left-hand corner of the document with the summary data sheet as the first page and all additional pages typed on one side only, double spaced. Proposals shall not be enclosed in plastic covers or notebooks.

c. Researchers shall follow routine procedures for routing their proposals through their educational institution or company prior to submission.

**485—3.4(70GA,ch207) Grant proposal.** The grant proposal shall contain a summary data sheet and supporting documentation defining and describing the proposed research, the investigator(s) and justification for consideration of the proposal within the scope of the council's stated purposes. Manufacturers' brochures should not be included. The summary data sheet and biographical data sheet may be obtained from the chairperson or the commission. The following information shall be required as a part of the grant proposal:

**3.4(1) Summary data sheet.**

- a. Title of project.
- b. Name, address and telephone number of educational institution, company or person submitting the proposal.
- c. Name, address and telephone number of principal investigator(s) including designation of investigator with primary responsibility.
- d. Proposed budget.
- e. Description of major equipment or instrumentation requested and its proposed use.
- f. Anticipated starting and completion dates.
- g. Signature of person authorized by the educational institution or company to sign grant proposals; or signature of applicant if a private citizen.

**3.4(2) Abstract.** A concise summary, not to exceed one page, describing the proposal, its significance and how it will be accomplished.

**3.4(3) Table of contents.**

**3.4(4) Narrative.** A description, not to exceed fifteen pages, including:

- a. Specific objectives.
- b. Background of the project including prior research undertaken or completed by this investigator or others on the topic.
- c. Facilities and equipment available.
- d. Work plan including procedures to be used, timetable describing activity schedule and significant milestones, and key decisions necessary to execute the program.
- e. Specific areas of risk.
- f. How the proposal meets the purposes of the council including an indication of potential opportunities that exist to introduce the proposed product or idea into a business venture including qualitative estimates of size, potential customers and market needs to be fulfilled.

**3.4(5) Bibliography of relevant literature.**

**3.4(6) Budget.** List in detail proposed income, including income from other sources, and proposed expenditures. Proposed expenditure categories shall include, at the minimum:

- a. Personnel, including salary and fringe benefits. If student or other outside support is requested, it must be justified.
- b. Equipment and instrumentation. If equipment costing in excess of \$500.00 for any one item is included,

include a justification for the equipment and a current price quotation.

**c. Supplies.**

**d. Animals for experimentation, if required.**

**e. Miscellaneous expenditures including printing, computer time, etc.** If the project will have continuing maintenance costs, state by whom they will be paid.

**3.4(7) Biographical data of investigator(s).** Include, if applicable, educational or business credentials, referenced publications or published works, juried exhibits or performances, patents, responsibilities, and percentage of time allocated to research.

**3.4(8) Prior proposal submissions.** List, if applicable, other proposals submitted to outside funding agencies within the previous twenty-four months. Include title of the proposal, source to whom it was submitted, date of submission, amount requested and date of rejection or award.

**3.4(9) Future proposal plans, if any, based on results of this investigation.**

**3.4(10) Appendix. (optional)**

**485—3.5(70GA,ch207) Evaluation of proposals.** The responsibility for review and evaluation of proposals lies solely with the council. The council, at its discretion, may contract with outside sources or consultants to assist in the evaluation. Upon completion of the evaluation the evaluator(s) shall submit a report to the council with a recommendation for funding the proposal.

The evaluation shall include but not be limited to the following general criteria:

**3.5(1) Consistency of the proposal to the accomplishment of the purposes of the Act and these rules.**

**3.5(2) Objectives and scope of the research.**

**3.5(3) Significance of the proposal in its field.**

**3.5(4) Project design/work plan including background work, methodology, facilities, feasibility and schedule.**

**3.5(5) Investigation team and institutional support.**

**3.5(6) Budget, including contingencies.**

**3.5(7) Other items that the council may determine are significant evaluation criteria for the proposal.**

**485—3.6(70GA,ch207) Conditions of grant awards.**

**3.6(1) Use of funds.** Expenditures of funds awarded pursuant to the Act shall be consistent with the approved budget. Any change in proposed expenditures shall be approved in advance by the council. Approvable expenditures may include:

a. Equipment, instruments, computer time, animals, field work or other services or labor essential to the research. Equipment costing in excess of \$500.00 shall remain property of the state of Iowa and may be made available at the discretion of the council for other projects funded by the council or may be offered by the council for purchase in a follow-up business venture.

b. Domestic travel, including subsistence, that is essential to the research.

c. Salaries and fringe benefits covering that portion of the investigator's(s') time actually spent on this project.

**3.6(2) Annual reports.** The recipient of funds awarded shall be required to submit annual reports to the council. The first report shall be due one calendar year following the date the award is made and shall be due annually thereafter. The annual report shall describe the results of the research to date and outline the work plan and anticipated results during the following year.

## HIGH TECHNOLOGY COUNCIL, IOWA[485] (cont'd)

**3.6(3)** Final report. The final report shall be due within three months following the completion of the project and shall include the following information:

- a. Results of the research including descriptions and analyses of the process.
- b. Description of how the research furthered the goals of the program consistent with the purposes defined in the Act and these rules.
- c. Future plans and recommendations for utilizing the results of this research including feasibility of and potential for commercial application.
- d. Recommendations, if any, for further research on the topic.

**3.6(4)** Credit in publications. Any publications resulting from research financed in whole or in part by the council shall credit the council and the state of Iowa.

**3.6(5)** Ownership interest. The council shall have the right to obtain a public ownership interest in conjunction with its investment. The public ownership interest shall be negotiated with the other investing interests, including but not limited to educational institutions, inventors and private investors. A provision relating to the terms of ownership and the circumstances of disposal of the public ownership interest shall be made at the time of the investment by the council and shall be stipulated in the contract. Any proceeds from the public interest beyond the original investment shall be disposed of pursuant to 1983 Iowa Acts, chapter 207, section 39.

**485—3.7(70GA,ch207) Receipt of funds and contributions.** The council may receive and expend funds and equipment from available sources pursuant to 1983 Iowa Acts, chapter 207, sections 37 and 38, to achieve its purposes. Any funds received shall be deposited in the general fund of the state of Iowa and shall be available exclusively by the council for the purposes stated by the Act and these rules. Any equipment or tangible property shall become property of the state of Iowa and shall be available for use or appropriation by the council for the purposes stated by the Act and these rules.

#### CHAPTER 4 TECHNOLOGY TRANSFER

**485—4.1(70GA,ch207) Duties of council.** The council shall ensure the proper development of an effective mechanism to transfer information on technology, research and innovation to Iowa's existing industry and may contract with individuals or organizations to achieve this purpose.

**485—4.2(70GA,ch207) Purpose of system.** A technology transfer system responds to technical inquiries by investigation to discover, define, evaluate and provide the data, theory, method, practice, sources, resources, capabilities and expertise that will allow technical solutions to a problem to evolve. The system relies on the transfer of information on research, technology and other scientific endeavors among industry, laboratories, governments and the public. The specific objectives of the system are:

- 4.2(1)** To promote greater use of scientific and technical knowledge.
- 4.2(2)** To provide information and analysis services for users in industry, government and education.

**4.2(3)** To develop improved methods for organizing and disseminating information for encouraging innovation.

**4.2(4)** To provide technical assistance to users who need assistance in learning how to use information resources effectively.

**485—4.3(70GA,ch207) Components of system.** The mechanism to be developed should facilitate the dialogue and exchange of information and personnel between education, research facilities, public and private organizations and industry and include but not be limited to developing or utilizing and providing the following information systems:

- 4.3(1)** Literature searches.
- 4.3(2)** Access to available data bases.
- 4.3(3)** System to evaluate ideas and processes.
- 4.3(4)** Inter-university and inter-institutional communication.
- 4.3(5)** Mechanism to facilitate the understanding of technology and science.

**485—4.4(70GA,ch 207) Submission of proposals.** Proposals for grants for development of a technology transfer system shall be submitted to the council no later than March 1, 1984, to apply for a grant for the fiscal year ending June 30, 1984, which is the only fiscal year during which grants will be available for this purpose.

**485—4.5(70GA,Ch207) Form of submission.** Individuals or organizations applying for grants pursuant to this chapter may submit proposals in the form of their own choosing. Proposals should, however, be in accordance with the stated purposes of the Act and these rules.

**485—4.6(70GA,ch207) Evaluation.** Evaluation of applications pursuant to this chapter shall follow the same guidelines as defined in rule 3.5(70GA,ch207). In addition, the evaluation will focus on:

**4.6(1)** The extent to which the system will meet the needs of Iowa industry and facilitate communication between industry and the providers of information.

**4.6(2)** The method by which potential users will be trained and encouraged to use the system and how referrals will be developed.

**4.6(3)** The means by which information will be gathered and disseminated.

**4.6(4)** The approach that will be employed in problem solving and analysis.

**4.6(5)** The effectiveness of the follow-up system and how it will be used to evaluate and, if necessary, refine the system.

**4.6(6)** The over-all potential of the system for achieving results that will have long-term, positive effects for Iowa industry and the Iowa economy in general.

**4.6(7)** How the system will be maintained.

These rules are intended to implement 1983 Iowa Acts, Chapter 207, Division VII.

[Filed emergency 12/15/83, effective 12/15/83]  
[Published 1/4/84]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 1/4/84.

**ARC 4386****HUMAN SERVICES  
DEPARTMENT[498]**

Pursuant to the authority of Iowa Code section 239.18 rules of the Department of Human Services relating to application for aid (Chapter 40) are hereby amended.

The current rule defines "no recent work history" as being unemployed for less than six months.

This rule redefines "no recent work history" as being unemployed for less than three months.

This rule reduces the number of months that recipients must continue to complete a monthly report form after the last month of employment.

Food stamp rules currently define not having a recent work history as being unemployed for less than three months. This rule change will allow the aid to dependent children and food stamp rules to be consistent.

This rule change is based on a waiver by the department of health and human services received November 2, 1983.

The Department of Human Services finds that notice and public participation regarding this rule is impracticable and contrary to the public interest. If the regular rulemaking procedure were followed recipients would be required to unnecessarily continue to complete monthly reporting forms for six months. Therefore, this rule is filed pursuant to Iowa Code section 17A.4(2).

The Department of Human Services finds that this rule confers a benefit on the public. The elimination of the additional three months of reporting will ease reporting requirements for some recipients and also reduce the potential for monthly reporting errors. Therefore, this rule is filed pursuant to Iowa Code section 17A.5(2)"b"(2).

The Council on Human Services adopted this rule December 15, 1983. This rule is intended to implement Iowa Code section 239.6. This rule shall become effective January 1, 1984.

ITEM 1. Paragraph 40.7(1) "a" is amended to read as follows:

a. The following eligibility groups shall be exempt from monthly review: Those with no income, or only very constant unearned income, and no recent work history; or those with no earned income or recent work history whose adult members are sixty years old or older, or are receiving disability or blindness payments under Titles I, II, X, XIV, or XVI of the Social Security Act; and those with no earned income and no recent work history, whose adult member(s) receives supplemental security income. These cases shall be reviewed at least every six months. When the source or amount of the nonexempt unearned income, such as social security benefits, is not expected to change more often than annually, the income shall be considered very constant unearned income. An individual who has been unemployed for ~~six~~ *three* full calendar months or longer shall be considered to have no recent work history. Income disregarded in accordance with 41.7(2)"e" shall not be considered earned income for the purpose of exemption. Otherwise, any month in which income, including income in kind, is received as compensation for services shall be considered as a month of employment.

ITEM 2. Subparagraph 40.7(1)"a"(1) is amended to read as follows:

(1) The exempt status which relates to recent work history shall be attained in the ~~sixth~~ *third* month of unemployment.

[Filed emergency 12/16/83, effective 1/1/84]

[Published 1/4/84]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 1/4/84.

**ARC 4371****COLLEGE AID COMMISSION[245]**

Pursuant to the authority of Iowa Code sections 261.15(2), 261.2(4), 261.17(6)"b", and 261.1, and 1983 Iowa Acts, Chapter 197, section 5, the College Aid Commission adopts amendments to Chapters 2, 4, 5, and 9, Iowa Administrative Code.

The amendments restrict students from receiving grants if they have defaulted on a Guaranteed Student Loan or a National Direct Student Loan or if they owe a repayment on any Title IV grant assistance or state award.

Notices of Intended Action were published in IAB Volume VI, Number 6, September 14, 1983, as ARC's 4052, 4050, 4054, and 4056.

These rules were adopted in final form on December 13, 1983, and will become effective on February 8, 1984. The emergency rules filed as ARC's 4049, 4051, 4053 and 4055 published in IAB September 14, 1983, will be rescinded February 8, 1984.

ITEM 1. Subrule 2.1(5) paragraph "b" is amended by adding the following subparagraph:

(6) A student who is in default on a guaranteed student loan or a national direct student loan or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for assistance under the state of Iowa scholarship program. A loan which has been discharged in bankruptcy shall not be considered in default. Eligibility for state aid may be reinstated upon payment in full of the delinquent obligation or by commission ruling on the basis of adequate extenuating evidence presented in an appeal under the procedures set forth in chapter 11.

ITEM 2. Subrule 2.1(8) is amended by adding the following paragraph "f".

f. A renewal applicant who is in default on a guaranteed student loan or a national direct student loan or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for assistance under the state of Iowa scholarship program. A loan which has been discharged in bankruptcy shall not be considered in default. Eligibility for state aid may be reinstated upon payment in full of the delinquent obligation or by commission ruling on the basis of adequate extenuating evidence presented in an appeal under the procedures set forth in chapter 11.

ITEM 3. Rule 245—4.1(261) is amended by adding the following:

4.1(8) Restriction. A student who is in default on a guaranteed student loan or a national direct student loan or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for assistance under the Iowa tuition grant program. A loan which has been discharged in bankruptcy shall not be considered in default. Eligibility for state aid may be reinstated upon payment in full of the delinquent obligation or by commission ruling on the basis of adequate extenuating evidence presented in an appeal under the procedures set forth in chapter 11.

ITEM 4. Rule 245—5.1(261) is amended by adding the following:

5.1(8) Restriction. A student who is in default on a guaranteed student loan or a national direct student loan

or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for assistance under the Iowa vocational-technical tuition grant program. A loan which has been discharged in bankruptcy shall not be considered in default. Eligibility for state aid may be reinstated upon payment in full of the delinquent obligation or by commission ruling on the basis of adequate extenuating evidence presented in an appeal under the procedures set forth in chapter 11.

ITEM 5. Subrule 9.1(1) is amended by adding the following new paragraph:

h. An applicant who is in default on a guaranteed student loan or a national direct student loan or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for assistance under the national guard educational benefits program. A loan which has been discharged in bankruptcy shall not be considered in default. Eligibility for state aid may be reinstated upon payment in full of the delinquent obligation or by commission ruling on the basis of adequate extenuating evidence presented in an appeal under the procedures set forth in chapter 11.

These rules are intended to implement Iowa Code sections 261.15(2), 261.2(4), 261.17(6)"b" and 261.15.

[Filed 12/16/83, effective 2/8/84]

[Published 1/4/84]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 1/4/84.

**ARC 4372****COLLEGE AID COMMISSION[245]**

Pursuant to the authority of 1983 Iowa Acts, chapter 184, sections 2 and 6, the Iowa College Aid Commission adopts Chapter 14, "Iowa Guaranteed Loan Payment Program", and Chapter 15, "Iowa Science and Mathematics Loan Program".

The rules provide for the application requirements and procedures, selection criteria and reimbursement provision for the two programs.

Notice of Intended Action was published in IAB Volume VI, number 2, July 20, 1983, as ARC 3912.

The rules proposed in the Notice of Intended Action have been revised to incorporate several changes. Subrule 14.1(3) was changed from "the third or fourth year of the sequential mathematics program in the school district" to "a course which requires, as a minimum, two courses in the mathematics sequence". The date in paragraph 15.1(1)"d" was changed from October 1 to December 1. Subrule 15.1(7) was changed from "for which the loan was received" to "for which assistance under this program was received". Paragraph 15.1(8)"a" was changed from "for which the loan was made" to "for which assistance under this program was received". In paragraph 15.1(9)"a" the word "balance" was added to the last sentence following the word "loan".

These rules were adopted in final form on December 13, 1983, and will become effective on February 8, 1984. The emergency rules filed as ARC 3911 published in IAB July 20, 1983 will be rescinded February 8, 1984.

These rules implement 1983 Iowa Acts, chapter 184, sections 2 and 6.

## COLLEGE AID COMMISSION[245] (cont'd)

ITEM 1. Chapter 14 is adopted to read as follows:

## CHAPTER 14

**IOWA GUARANTEED LOAN PAYMENT PROGRAM  
245—14.1(261) Iowa guaranteed loan payment for  
new teachers of advanced mathematics and specified  
science programs in approved Iowa postsecondary  
schools.**

**14.1(1) Application for loan payments.**

a. Application forms shall be provided by the commission for distribution through school districts and teacher preparation institutions in the state.

b. In the appropriate section of the application form the superintendent of the school district which has contracted with the applicant shall certify the teaching assignment of the applicant for the forthcoming school year.

c. The applicant shall file the completed application with the commission.

**14.1(2) Criteria for selection of beneficiaries.** Eligible teachers who file completed applications shall be granted loan payment benefits in rank order of the date the application was received by the commission.

**14.1(3) Definitions.**

a. For purposes of this program, a "sequential mathematics course at the advanced algebra level or higher" (1983 Iowa Acts, chapter 184, section 2, subsection 4, paragraph "a") shall be defined as a course which requires, as a minimum prerequisite, two courses in the mathematics sequence.

b. For purposes of this program, "graduated from college" is defined as the occasion of the individual's award of the first baccalaureate degree.

c. For purposes of this program, a major in mathematics or science is defined as a major in one or more of the courses of study specified in 670—16.17(257) or 670—16.23(257) of the Iowa administrative rules adopted by the department of public instruction, as amended from time to time.

d. "Outstanding debt" is defined as an Iowa guaranteed student loan insured by the commission.

**14.1(4) Certifications required for reimbursement of loan payments.**

a. After the close of the school year and before July 15, the superintendent of the school district which has employed the teacher shall certify to the commission that the teacher served throughout the school year in an eligible teaching assignment. The certification form provided by the commission for this purpose shall include a section in which the superintendent will indicate renewal status of the teacher's contract and anticipated teaching assignment for the forthcoming school year.

b. After the close of the school year and before July 15, the lending institution which holds the teacher's student loan notes shall certify to the commission the total amount paid on principal and interest during the preceding state fiscal year. The form provided by the commission for this purpose shall include a section to report any delinquencies in loan payment. If two or more lenders are holders of the teacher's Iowa guaranteed student loan notes, all lenders must provide certification.

**14.1(5) Reimbursement of loan payments.**

a. Upon receipt of the necessary certifications, the commission shall reimburse the teacher for loan payments made during the preceding fiscal year within the limitations of the maximum amount specified by law.

b. A teacher shall not be reimbursed for payments made more than sixty days after the due date.

ITEM 2. Chapter 15 is adopted to read as follows:

## CHAPTER 15

**IOWA SCIENCE AND MATHEMATICS  
LOAN PROGRAM**

**245—15.1(261) Cancelable loans to aid teachers in  
obtaining authorization to teach mathematics and  
science.**

**15.1(1) Application for mathematics and science loans.**

a. Application forms shall be provided by the commission for distribution through school districts and approved teacher preparation institutions in the state.

b. In the appropriate section of the application form, the educational institution shall certify the applicant's enrollment or acceptance for enrollment in a course of study eligible for loan benefits, the anticipated period of enrollment, the number of credit hours to be earned, and the related tuition and fees.

c. In the appropriate section of the application form, the board of educational examiners shall certify the applicant's current teaching authorization and the number of credit hours needed by the applicant in order to receive authorization as a teacher of mathematics or science.

d. The applicant must file the completed application form and college transcripts for receipt by the commission by December 1, 1983, and by May 1 in subsequent years in order to receive priority consideration.

**15.1(2) Criteria for selection of loan recipients.**

a. If available loan funds are insufficient to aid all eligible applicants who file by the deadline date, priority rankings shall be established according to the number of credit hours needed for approval as a teacher of a sequential mathematics course at the advanced algebra level or higher, chemistry or advanced chemistry, physics or advanced physics. Applicants who need the fewest credit hours for approval shall receive highest priority.

b. In the event of tied rankings, applicants shall be given priority in rank order of the date their applications were received.

c. If loan funds are available after all eligible applicants filing by the deadline date have been aided, loans shall be offered to applicants who filed after the deadline date in rank order of the date their applications were received.

**15.1(3) Promissory note.** The recipient of a loan under this program shall sign a promissory note payable to the commission agreeing to repay the loan on terms established by the commission in conformity with statutory provisions. A repayment schedule shall be agreed upon between the commission and the borrower within three months after completion of the course of study for which the loan was made.

**15.1(4) Interest rate.** The rate of interest on loans under this program shall be equivalent to the interest rate paid by first-time borrowers under the guaranteed student loan program at the time the promissory note is signed.

**15.1(5) Disbursement of loan proceeds.**

a. The loan will be disbursed only after the educational institution certifies that the borrower is enrolled and in good standing. The necessary certification forms will be provided to the institution by the commission.

## COLLEGE AID COMMISSION[245] (cont'd)

b. The loan check made payable to the borrower will be sent to the educational institution by the commission promptly after enrollment certification is received.

c. The institution will deliver the check to the student if the student has already paid tuition for the course of study. If tuition has not been paid, the institution may require that the loan check be endorsed to the educational institution.

d. If the student withdraws from attendance and is entitled to a refund on tuition and fees, the pro rata share of the refunds attributable to the state loan must be refunded to the commission.

**15.1(6) Eligible courses of study.** Courses of study eligible for loan benefits shall be designated by the board of educational examiners as set forth in 670—Chapter 16 of the Iowa Administrative Code.

**15.1(7) Loan cancellations.**

a. Ten months following completion of the course of study for which assistance under this program was received, the borrower shall notify the commission of the nature of the borrower's employment during the proceeding year. To certify eligibility for cancellation the teacher must submit an affidavit from the superintendent of an Iowa school district verifying that the teacher has been employed for at least four months of the period as a teacher of eligible subject matter in an approved school. Such affidavit shall entitle the teacher to cancellation of fifty percent of the loan and accumulated interest.

b. If the borrower qualifies for partial loan cancellation, the commission shall notify the borrower promptly and revise the repayment schedule accordingly.

**15.1(8) Loan payments.**

a. Prior to the start of the repayment period the commission shall provide the borrower with a repayment schedule, modified to reflect any applicable cancellation benefits.

b. It shall be the borrower's responsibility to remit payments to the commission by the twentieth day of each month.

c. In the event of a delinquency in loan payment exceeding one hundred twenty days, the account will be referred to the attorney general or a collection agency for appropriate legal action.

d. The borrower is responsible for notifying the commission immediately of any change in name, place of employment, or home address.

**15.1(9) Loan payment reimbursement.**

a. At the end of the second year after completion of the educational program for which assistance under this program was received, the teacher shall notify the commission of the nature of the teacher's employment during the preceding year. If the teacher provides an affidavit from the superintendent of an Iowa school district verifying the teacher's employment for at least nine months of the year as a teacher of eligible subject matter in an approved Iowa school, the remainder of the loan balance will be canceled and the payments made during the second year will be refunded.

b. Eligibility for refund of loan payments shall be limited to a period of three years.

c. Any payments made more than sixty days after the date due shall not be subject to reimbursement by the commission.

[Filed 12/16/83, effective 2/8/84]

[Published 1/4/84]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 1/4/84.

**ARC 4373**

**COLLEGE AID COMMISSION[245]**

Pursuant to the authority of 1983 Iowa Acts, Chapter 184, section 11, the Iowa College Aid Commission adopts Chapter 16, "Iowa Science and Mathematics Grant Program".

The rules incorporate application procedures for state grants to Iowa high school seniors who have successfully completed the required number of science and mathematics courses and plan to enroll in eligible Iowa colleges or universities.

Notice of Intended Action was published in IAB, volume VI, number 8, October 12, 1983, as ARC 4111.

This rule was adopted in final form on December 13, 1983, and will become effective on February 8, 1984.

This rule is intended to implement 1983 Iowa Acts, Chapter 184, section 11.

Chapter 16 is adopted to read as follows:

**CHAPTER 16**

**IOWA SCIENCE AND  
MATHEMATICS GRANT PROGRAM**

**245—16.1(261) State funded grants for Iowa high school graduates who have earned a specified number of credits in science and mathematics courses and who are enrolling at eligible Iowa postsecondary institutions.**

**16.1(1) Definitions.**

a. Science and mathematics courses which may be included among the seven units required for grant eligibility will be defined by the department of public instruction in its rulemaking capacity.

b. For purposes of this program, a "sequential mathematics course at the advanced algebra level or higher" shall be defined as a course which requires, as a minimum prerequisite, two courses in the mathematics sequence.

c. The term "high school" shall be defined as grades nine to twelve.

d. Courses taken at the ninth grade level or above shall be eligible for inclusion among the seven mathematics and science units required of grant recipients.

e. Mathematics and science courses completed at Iowa postsecondary institutions under special contract with the school district and credited on the student's high school transcript shall be eligible for inclusion among the seven mathematics and science units required of grant recipients.

**16.1(2) Application procedure.**

a. No later than October of each year the Iowa college aid commission will provide application forms and instructions to all Iowa high school guidance offices. Application forms shall be distributed to all high school seniors who have successfully completed the required number of mathematics and science courses or who anticipate completing the required number of courses before graduation.

b. Eligible students who plan to enroll at eligible Iowa postsecondary institutions shall complete the appropriate section of the application form and, if they are minors, their parent(s) or guardian shall sign the authorization for the high school to release the requested information to the commission or the department of public instruction.

c. The students shall return the application forms to the counselor, who shall complete the school section of the form and mail the application forms to the commission by December 1.

## COLLEGE AID COMMISSION[245] (cont'd)

d. Refugee students enrolled at Iowa secondary schools may be credited with an appropriate number of units in mathematics and science if, in the professional judgment of the school administration, the student has completed the equivalent of these units before immigrating to the United States.

**16.1(3) Announcement of awards.**

a. The Iowa college aid commission shall notify the student and each of the Iowa colleges or universities indicated by the student on the application form of the approval of the grant. If a grant is denied, the applicant also shall be notified. Such notifications will be mailed in January prior to the recipient's matriculation in college.

b. Award approvals shall be subject to confirmation that the student has graduated from high school and has completed the required number of mathematics and science courses. Such confirmation shall be secured by the department of public instruction and provided to the commission no later than July 1 of each year.

**16.1(4) Acceptance of awards.** It is the responsibility of the recipient to notify the commission of acceptance or rejection of the grant within thirty days following the date of award approval. The student also is responsible for informing the commission promptly of any change in college plans. Failure to fulfill these responsibilities on a timely basis may result in withdrawal of the award.

**16.1(5) Certification of enrollment.** At the beginning of the third week of each school term the postsecondary institution will be asked to certify to the Iowa college aid commission that the grant recipient is enrolled and in attendance.

**16.1(6) Payment of awards.**

a. Upon receipt of enrollment certification from the postsecondary institution, the Iowa college aid commission shall disburse the portion of the award which is due for each school term.

b. The grant payment may be credited toward the student's tuition, fees, room and board, or any other education expenses which are due the school. If the student has no unpaid balance due the school, the grant payment will be transmitted by the school to the student.

**16.1(7) Extension of grant.** Grants may not be reserved for future use but must be used during the year following the recipient's graduation from high school.

**16.1(8) Award transfers.** Upon the written request of the recipient by no later than twenty-one days after classes begin at the college to which the student has transferred, a grant may be transferred from one eligible institution to another.

**16.1(9) Funding.** If funding is not sufficient to provide maximum grants to all eligible applicants, the commission shall ratably reduce each award.

This rule is intended to implement 1983 Iowa Acts, chapter 184, section 11.

[Filed 12/16/83, effective 2/8/84]

[Published 1/4/84]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 1/4/84.

**ARC 4396****COMMERCE COMMISSION[250]**

The Iowa State Commerce Commission hereby gives notice, pursuant to Iowa Code section 17A.4, that on December 16, 1983, the Commission issued an order in Docket No. RMU-83-21, In Re: Notice of Disconnect — Customer Rights and Remedies, "Order Adopting Rules," amending Iowa Administrative Code 250—chapters 19 and 20. Notice of Intended Action was published in the September 14, 1983, Iowa Administrative Bulletin as ARC 4048.

The adopted rules contain several changes from the rules published in the Notice of Intended Action. In the final adopted rules, the phrase "on a weekend, holiday, or after 2:00 p.m. on a nonholiday weekday" in the section explaining when disconnection may take place, is deleted to clarify the intent that disconnection may not take place unless the utility is prepared to reconnect service on the same day if payment or other arrangements are made. Under the health section of the customer's rights and remedies, the word "one" in "one additional thirty-day delay" is deleted to clarify the intent that more than one additional thirty-day disconnection delay may be obtained if the health problem still exists. A new paragraph has been added to Iowa Administrative Code 250—20.4(15)"h"(4) to notify customers of the availability of service limitation rather than disconnection.

Other changes in the finally adopted rules are discussed in the Commission's "Order Adopting Rules" issued December 16, 1983. The amendments to Iowa Administrative Code 250—chapters 19 and 20 are intended to implement Iowa Code section 476.2.

The rules will become effective February 8, 1984, pursuant to Iowa Code section 17A.5.

ITEM 1. Rescind subparagraph 19.4(15)"h"(2) and insert in lieu thereof the following:

(2) Given the customer, and any other person or agency designated by the customer, written notice that the customer has at least twelve days in which to make settlement of the account, together with a written summary of the rights and remedies available to avoid disconnection. The written notice shall also include a toll-free or collect telephone number where a utility representative qualified to provide additional information about the disconnection can be reached. Each utility representative must provide their name to the caller, and have immediate access to current, detailed information concerning the customer's account and previous contacts with the utility.

ITEM 2. Insert the following new subparagraph as 19.4(15)"h"(3) and renumber the remaining subparagraphs accordingly:

(3) The summary of the rights and remedies must be approved by this commission. Any utility providing gas service and defined as a public utility in Iowa Code section 476.1 which does not use the standard form set forth below shall submit to the commission an original and six copies of its proposed form for approval.

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

CUSTOMER RIGHTS AND REMEDIES  
TO AVOID DISCONNECTION

The following is a summary of your rights and remedies under the rules of the Iowa State Commerce Commission to avoid disconnection of utility service.

Disconnection can be avoided by paying the past due amount or by making arrangements to pay on or before the date listed on the notice.

Disconnection for nonpayment may occur only after we have sent a written notice of disconnection by regular mail postmarked at least twelve days before service is to be shut off. This notice must include the reason for disconnection. We must try to contact you by phone or in person prior to disconnection. If disconnection is scheduled between November 1 and April 1 and it has not been possible to contact you by phone or in person, a notice must be placed on the door of the home at least one day before service is disconnected.

Disconnection may not take place unless we are prepared to reconnect your service that same day if payment or other arrangements are made. Between November 1 and April 1, we cannot require you to pay a deposit before service is reconnected or as part of an agreement for service to be continued.

Delinquent bill. If you are unable to pay a past due bill in full, you will be given an opportunity to enter into a payment agreement to avoid disconnection of service. The agreement will be negotiated to meet your individual needs and you may spread payments for the past due bill over at least twelve months. You must also agree to pay each new monthly bill as it comes due. If we refuse an agreement, you will be told in writing why we refused, and you may continue to pay under your proposed agreement without disconnection of service if you ask the Commission (within ten days after receiving the written refusal) for assistance in working out an agreement with us. (Iowa State Commerce Commission, Lucas State Office Building, Des Moines, Iowa 50319, (515) 281-5979). If you break the payment agreement, we are not required to offer you a second payment agreement and may disconnect service on one day's notice.

Health. Disconnection for nonpayment will be delayed thirty days if a physician or public health official determines that a permanent resident in your house has a serious health problem and will be endangered if service is shut off. At our request, a telephone call from the physician or public health official to our office must be followed up by a letter within five days. During the thirty-day delay, you must work out a payment agreement. If the physician or health official states that the health problem still exists at the end of the initial thirty days, you may receive additional thirty-day delays.

Disputed bill. If you disagree with the accuracy of your bill, you may pay the undisputed portion and notify our office of the disagreement. Disconnection will be delayed for up to 45 days from the date the bill was mailed so that the disagreement may be settled. If you file a written complaint with the Commission (address and telephone number listed previously), disconnection may be further postponed, should the Commission request the extension.

Winter energy assistance. (November 1 - April 1) You may be eligible for low-income energy assistance or weatherization funds. If you tell us that you may qualify for energy assistance, disconnection will be postponed for thirty days to allow you time to apply for and obtain

assistance. During this period, you must also enter into a payment plan for the part of your bill not paid by assistance funds. For further information on how to apply for assistance and qualifications, contact our business office, your local community action agency, or the Iowa Energy Policy Council, Lucas State Office Building, Des Moines, Iowa 50319 (1-800-532-1584).

ITEM 3. Rescind subparagraph 20.4(15) "h"(2) and insert in lieu thereof the following:

(2) Given the customer, and any other person or agency designated by the customer, written notice that the customer has at least twelve days in which to make settlement of the account, together with a written summary of the rights and remedies available to avoid disconnection. The written notice shall also include a toll-free or collect telephone number where a utility representative qualified to provide additional information about the disconnection can be reached. Each utility representative must provide their name to the caller, and have immediate access to current, detailed information concerning the customer's account and previous contacts with the utility.

ITEM 4. Insert the following new subparagraphs as 20.4(15)"h"(3) and (4) and renumber the remaining subparagraphs accordingly:

(3) The summary of the rights and remedies must be approved by this commission. Any utility providing electric service and defined as a public utility in Iowa Code section 476.1 which does not use the standard form set forth below shall submit to the commission an original and six copies of its proposed form for approval.

CUSTOMER RIGHTS AND REMEDIES  
TO AVOID DISCONNECTION

The following is a summary of your rights and remedies under the rules of the Iowa State Commerce Commission to avoid disconnection of utility service.

Disconnection can be avoided by paying the past due amount or by making arrangements to pay on or before the date listed on the notice.

Disconnection for nonpayment may occur only after we have sent a written notice of disconnection by regular mail postmarked at least twelve days before service is to be shut off. This notice must include the reason for disconnection. We must try to contact you by phone or in person prior to disconnection. If disconnection is scheduled between November 1 and April 1 and it has not been possible to contact you by phone or in person, a notice must be placed on the door of the home at least one day before service is disconnected.

Disconnection may not take place unless we are prepared to reconnect your service that same day if payment or other arrangements are made. Between November 1 and April 1, we cannot require you to pay a deposit before service is reconnected or as part of an agreement for service to be continued.

Delinquent bill. If you are unable to pay a past due bill in full, you will be given an opportunity to enter into a payment agreement to avoid disconnection of service. The agreement will be negotiated to meet your individual needs and you may spread payments for the past due bill over at least twelve months. You must also agree to pay each new monthly bill as it comes due. If we refuse an agreement, you will be told in writing why we refused, and you may continue to pay under your proposed

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

agreement without disconnection of service if you ask the Commission (within ten days after receiving the written refusal) for assistance in working out an agreement with us. (Iowa State Commerce Commission, Lucas State Office Building, Des Moines, Iowa 50319, (515) 281-5979). If you break the payment agreement, we are not required to offer you a second payment agreement and may disconnect service on one day's notice.

**Health.** Disconnection for nonpayment will be delayed thirty days if a physician or public health official determines that a permanent resident in your house has a serious health problem and will be endangered if service is shut off. At our request, a telephone call from the physician or public health official to our office must be followed up by a letter within five days. During the thirty-day delay, you must work out a payment agreement. If the physician or health official states that the health problem still exists at the end of the initial thirty days, you may receive an additional thirty-day delay.

**Disputed bill.** If you disagree with the accuracy of your bill, you may pay the undisputed portion and notify our office of the disagreement. Disconnection will be delayed for up to forty-five days from the date the bill was mailed so that the disagreement may be settled. If you file a written complaint with the Commission (address and telephone number listed previously), disconnection may be further postponed, should the Commission request the extension.

**Winter energy assistance.** (November 1 - April 1). You may be eligible for low-income energy assistance or weatherization funds. If you tell us that you may qualify for energy assistance, disconnection will be postponed for thirty days to allow you time to apply for and obtain assistance. During this period, you must also enter into a payment plan for the part of your bill not paid by assistance funds. For further information on how to apply for assistance and qualifications, contact our business office, your local community action agency, or the Iowa Energy Policy Council, Lucas State Office Building, Des Moines, Iowa 50319 (1-800-532-1584).

(4) If the utility has adopted a service limitation policy pursuant to subrule 20.4(22), the following paragraph shall be appended to the end of the standard form for the summary of rights and remedies, as set forth in subparagraph 20.4(15)"h"(3):

**Service limitation.** We have adopted a policy of service limitation before disconnection. You may be qualified for service limitation rather than disconnection. To see if you qualify, contact our business office.

[Filed 12/16/83, effective 2/8/84]

[Published 1/4/84]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 1/4/84.

## ARC 4401

## CORRECTIONS, DEPARTMENT OF[291] CLARIFICATION

The Department of Corrections transferred chapters of rules from the Department of Human Services to the Department of Corrections in ARC 4057 published September 14, 1983 IAB. It was indicated that Chapter 770-25, Community-Based Corrections, was rewritten as Chapter 40, Community-Based Corrections. The Notice did not adequately state that Chapter 770-25, Community-Based Corrections, be rescinded. This is a note to clarify that the chapter was rescinded. This is not to be confused with Chapter 291—25, Correctional Treatment Unit, as it appears in IAC 12/7/83.

## ARC 4360

## HEALTH DEPARTMENT[470]

### BOARD OF CHIROPRACTIC EXAMINERS

Pursuant to the authority of Iowa Code sections 147.76, 258A.2, and 258A.5, the Board of Chiropractic Examiners hereby adopts amendments to chapter 141 of the Iowa Administrative Code.

Item 1 requires that a student treat patients under the license of the clinic director of an approved chiropractic college, and that the clinic be operated under the license of the designated clinic director whose identity shall be given in written notification to the board of examiners.

Item 2 reflects a Council on Chiropractic Education (CCE) term change from diplomate status to successful completion of the required examination.

Item 3 expands the grounds for disciplinary action of subrule 141.24(10) to include failure by the licensee to file written notification of action against his/her license in another state, territory or country.

Item 4 requires a sponsor of continuing education to reimburse board members for travel and other expenses when monitoring and/or evaluation of continuing education programs becomes necessary.

Notice of Intended Action was published in the IAB, Vol. VI, No. 3, August 3, 1983, as ARC 3949 and was adopted at their October 20, 1983 board meeting.

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

These rules become effective on February 8, 1984.

These rules are intended to implement Iowa Code sections 151.2, 147.76, 258A.2 and 258A.5.

The following amendments are adopted:

## HEALTH DEPARTMENT[470] (cont'd)

ITEM 1. Rule 141.11(151) is amended by adding the following new subrule:

**141.11(4)** The student enrolled at an approved chiropractic college in the state of Iowa will be able to treat patients under the license of the clinic director or designated licensed doctor associated with the clinic of the college who must be a currently licensed Iowa chiropractor and the board so notified of the name of the doctor. The clinic will operate under the license of the clinic director or designated licensed doctor associated with the clinic.

ITEM 2. Subrule 141.13(1), paragraph "d", is amended as follows:

d. The applicant shall have achieved diplomat status with the National Board of Chiropractic Examiners received certification from the National Board of Chiropractic Examiners attesting to the successful completion of the required examination after July 1, 1973, or a basic science certificate issued prior to July 1, 1973; and after August 1, 1976 it shall include all electives of the National Board, existing as of July 1, 1976.

ITEM 3. Subrule 141.24(10) is rescinded and the following inserted in lieu thereof:

**141.24(10)** Revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country; or failure by the licensee to report in writing to the board of chiropractic examiners revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country; or both.

ITEM 4. Rule 141.64(151) is amended by adding the following new subrule:

**141.64(5)** When it is necessary to monitor a sponsor of continuing education, the sponsor shall reimburse the board member for necessary traveling and other expenses in accordance with the guidelines of the state of Iowa for board members and per diem at the rate of forty dollars per day for each day actually spent in travel and monitoring of the program.

[Filed 12/14/83, effective 2/8/84]

[Published 1/4/84]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 1/4/84.

Notice of Intended Action regarding these rules was published in the IAB November 9, 1983 as ARC 4228.

The department is implementing an automated benefit calculation (ABC) system. The objectives of this system are to provide for uniform application of policy, save workers' time, increase the availability of management information and increase the operational efficiency of existing systems. Among the advantages of this system are that prospective and retrospective budgeting calculations will be done automatically, most notices of decision will be generated by the computer, the preprinted information on monthly reports will be expanded and review forms sent automatically, and mass changes, such as Social Security cost-of-living adjustments, will be implemented automatically. In order for this system to work, certain changes need to be made in the rules governing the programs and must be done before the system is activated. These changes are necessary because of the ABC system. All policies and procedures to implement the ABC system will be tested in a pilot area and will become operational a month later for the remainder of the state.

Item 1 redefines what is required on an adequate notice. The current rule has been interpreted to mean a page number should be included. It would be prohibitively expensive and time-consuming to update page references on the computer program. This rule will allow reference to the subject in the chapter.

Because notices of decision will now be sent by the computer, the worker will not always know the exact date they are mailed. Item 4 redefines when eligibility is determined and when the department considers that an applicant has become a recipient. Items 8, 9, 10 and 11 make changes to correspond.

Items 2, 3, 5, 6 and 12 allow an individual to be added to an ADC case the same month he or she applies to be added rather than the first of the following month.

Items 13 to 19 clarify and simplify recoupment procedures. Simplification will facilitate the implementation of the ABC system.

Items 20, 21 and 22 simplify food stamp policies to reduce errors and make them more consistent with ADC policies. They specify when a monthly report is complete, specify when household membership is determined, add verification requirements, and specify how to treat certain income.

Items 23 to 26 clarify eligibility for medical assistance and add coverage of a new group. Language for medical coverage of pregnant women conforms with federal regulations. The rules eliminate the category for serving children not eligible because of age or school attendance and place these children under the child medical assistance program. Coverage is added for persons who would be eligible for a cash assistance payment, but decide to only accept medical assistance.

Subrule 40.4(4) was changed to specify that eligibility is determined when information is entered on the data processing document and the client becomes a recipient when determined eligible by the system. Subrules 41.2(6)"b"(4), 41.2(7), 41.4(4) and 41.7(1)"h"(1) were added because corresponding changes needed to be made. Revisions in 40.4(1), 40.4(2), 498—40.6(239), 40.7(4)"e" and 41.7(9)"e" were developed from the subject matter placed under notice in item 3 of ARC 4228. Rules 498—46.3(239), 498—46.5(239) and subrule 46.5(3)"b" were reworded and 498—46.4(239) was added. Changes were made to 65.19(2)

## ARC 4383

HUMAN SERVICES  
DEPARTMENT[498]

Pursuant to the authority of Iowa Code sections 17A.22, 217.6, 234.6, 239.18, and 249A.4, the Department of Human Services amends rules appearing in the IAC relating to Fair Hearings and Appeals (Chapter 7), Aid to Dependent Children (Chapters 40, 41, and 46), Food Stamps (Chapter 65), and Medical Assistance (Chapter 75) are hereby amended. The Council on Human Services adopted these rules December 15, 1983.

## HUMAN SERVICES DEPARTMENT[498] (cont'd)

as a result of the subject matter placed under notice in item 10 of ARC 4228 and a sentence was added to 65.19(18). The catchwords were changed in 75.1(14) and duplicate wording removed.

These rules are intended to implement Iowa Code sections 17A.12, 234.12, 239.3, 239.5, 239.14, 239.17 and 249A.3. These rules shall become effective February 8, 1984.

Notice is hereby given that the Department of Human Services is terminating further rulemaking proceeding under the provisions of Iowa Code section 17A.4(1)"b" for proposed rules on fair hearings and appeals (chapter 7). The proposed change redefined an adequate notice. Notice of Intended Action was published in the IAB October 12, 1983 as ARC 4114. That notice was the same as item 1 of ARC 4228 which is being adopted herein.

ITEM 1. Subrule 7.7(1), paragraph "b", is amended to read as follows:

b. Adequate means a written notice that includes:

- (1) ~~a~~ A statement of what action is being taken,
- (2) ~~the~~ The reasons for the intended action,
- (3) ~~the~~ The specific manual reference chapter number and subheading supporting such the action,
- (4) ~~an~~ An explanation of the recipients' right to request a fair hearing, and
- (5) ~~the~~ The circumstances under which assistance is continued when a hearing is requested.

ITEM 2. Subrule 40.4(1) is amended by adding new paragraphs:

a. In those instances where an application has been filed to add an individual to an existing eligible group, the five-day requirement for reporting changes shall be waived. Such applicants and eligible groups shall be subject to the recipient's ten-day-reporting requirement as defined in 40.7(4).

b. Reserved.

ITEM 3. Subrule 40.4(2) is amended by adding a new paragraph:

c. In those instances where an application has been filed to add an individual to an existing eligible group, the face-to-face interview requirement shall be waived.

ITEM 4. Subrule 40.4(4) is amended to read as follows:

**40.4(4)** The decision with respect to eligibility shall be based on the applicant's eligibility or ineligibility on the date ~~the decision is made in~~ the local office enters eligibility information on the Data Processing Turnaround Document, except as described in 40.4(3). The applicant shall become a recipient on the date the local office automated benefit calculation system determines the applicant is eligible for aid and sends a notice to this effect.

ITEM 5. Rule 498—40.6(239) is amended to read as follows:

**498—40.6(239) Effective date of grant.** New approvals shall be effective as of the date the applicant becomes eligible for assistance, but in no case shall the effective date be earlier than seven days following the date of application. *In those instances where an application has been filed to add an individual to an existing eligible group, approval for that individual shall be effective as of the date the applicant becomes eligible for assistance, but in no case shall the effective date be earlier than seven days following the date of application.*

ITEM 6. Subrule 40.7(4), paragraph "e", is amended to read as follows:

e. The recipient, or an applicant applying to be added to an existing eligible group, shall timely report any changes in the following circumstances:

ITEM 7. Subrule 40.7(5), paragraph "a", is amended to read as follows:

a. When the recipient timely reports, as defined in 40.4(1) or 40.7(4), completes an application to add a new person entered the home the preceding month to the eligible group, and that person meets eligibility requirements, a payment adjustment shall be made for the month of application, ~~the recipient reports the change subject to the effective date of grant limitations prescribed in 498—40.6(239).~~

ITEM 8. Subrule 41.2(6), paragraph "b", subparagraph (4), is amended to read as follows:

(4) Paying to the department any nonexempt cash support payments received by a recipient after the application for assistance has been approved date of decision as defined in 40.4(4).

ITEM 9. Subrule 41.2(7) is amended to read as follows:

**41.2(7)** Assignment of support payments. Each applicant for or recipient of assistance shall assign to the department any rights to support from any other person as the applicant or recipient may have. This shall include rights to support in the applicant or recipient's own behalf or in behalf of any other family member for whom the applicant or recipient is applying for or receiving assistance and which have accrued at the time the assignment is executed. An assignment is effective the same date the local office reaches a decision on eligibility enters eligibility information on the Data Processing Turnaround Document and is effective for the entire period for which assistance is paid.

ITEM 10. Subrule 41.4(4) is amended to read as follows:

**41.4(4)** Registration/deregistration. Any mandatory registrant shall be considered to be registered effective the same date the local office reaches a decision on eligibility for aid to dependent children enters eligibility information on the Data Processing Turnaround Document for aid to dependent children or determines the individual is no longer exempt. Any voluntary registrant shall be considered to be registered effective the same date that the voluntary registrant requests registration except as specified in 41.4(8). A registrant shall be deregistered by the local office when the aid-to-dependent children case is closed, a sanction is imposed by the local office, the registrant regains exempt status or a voluntary registrant withdraws.

ITEM 11. Subrule 41.7(1), paragraph "h", subparagraph (1), is amended to read as follows:

(1) Any nonexempt cash support payment, for a member of the eligible group, made while the application is pending shall be treated as unearned income and deducted from the initial assistance warrant(s). Any nonexempt cash support payment, for a member of the eligible group, received by the recipient after assistance has been approved after the date of decision as defined in 40.4(4) shall be refunded to the child support recovery unit.

ITEM 12. Subrule 41.7(9), paragraph "e", is amended to read as follows:

e. In any month for which an individual is determined eligible to be added to a currently active aid-to-dependent-children case, the individual's needs shall be included prospectively subject to the effective date of grant

## HUMAN SERVICES DEPARTMENT[498] (cont'd)

limitations as prescribed in 498—40.6(239). When adding an individual to an existing eligible group, any income of that individual shall be considered prospectively for the initial two months of that individual's eligibility and retrospectively for subsequent months. Any income considered in prospective budgeting shall be considered in retrospective budgeting only when the income is expected to continue. The needs of an individual determined to be ineligible to remain a member of the eligible group shall be removed prospectively effective the first of the following month.

ITEM 13. Subrule 46.1(5) is rescinded and reserved.

ITEM 14. Rule 498—46.3(239) is amended to read as follows:

**498—46.3(239) Notification.** All clients shall be promptly notified ~~of when it is determined that an overpayment exists.~~ Notification shall include the dates of the overpayment, the amount of an overpayment subject to recoupment, and the reason for the overpayment ~~and the action being taken.~~ The local office shall notify the client by means of the Notice of Overpayment, form PA-3170-0, when an overpayment exists. The client shall simultaneously be sent a worksheet showing the computation of the overpayment.

ITEM 15. Rule 498—46.4(239) is amended to read as follows:

**498—46.4(239) Determination of overpayments.** All overpayments due to agency or client error or due to assistance paid pending an appeal decision shall be recouped. A procedural error does not result in an overpayment.

ITEM 16. Subrule 46.4(3), paragraph "b", is amended to read as follows:

b. Overpayments due to failure to refund payments received from the absent parent shall be the total support payment made for members of the eligible group at the time the support payment was received. In addition, assistance payments made to meet the needs of the recipient or eligible group may also be subject to recoupment under provisions in 41.2(6) and 41.7(8).

ITEM 17. Rule 498—46.5(239) is amended to read as follows:

**498—46.5(239) Source of recoupment.** Recoupment shall be made from liquid resources considered in determining eligibility, earned income disregarded, the basic needs of or the resources of a sponsor or sponsor's spouse which were deemed available to the alien according to 41.6(9). The minimum recoupment amount shall be the amount prescribed in 46.5(3). Regardless of the source, the client may choose to make a lump sum payment, make periodic installment payments when an agreement to do this is made with the office of investigations, or have repayment withheld from the warrant. The client shall sign either form PA-3164-0, Agreement to Repay Overpayment or form PA-3167-0, Agreement to Repay Overpayment after Probation, when requested to do so by the office of investigations. When the client refuses to designate a method of recoupment or fails to make the agreed upon payment, the agency shall reduce the warrant. Recoupment, whether it be by a lump sum payment, periodic installment payments, or withholding from the warrant, can be made from one or any combination both of the following sources:

ITEM 18. Subrules 46.5(1) and 46.5(2) are rescinded and reserved and subrules 46.5(3) and 46.5(4) are amended to read as follows:

**46.5(3) Basic needs.**

a. Recoupment by withholding from basic needs for overpayments due to client error or a combination of client and agency errors shall be ten percent of the basic needs standard in accordance with the schedule in subrule 41.8(2), unless the client elects to have more withheld.

b. Recoupment by withholding from basic needs for overpayments due to the continuation of benefits pending a decision on an appeal as provided under rule 7.9(217) or a combination of continued benefits and agency or client errors shall be ten percent of the basic needs standard in accordance with the schedule in subrule 41.8(2), unless the client elects to have more withheld.

c. Recoupment by withholding from basic needs for overpayments due to agency error shall be one percent of the basic needs standard in accordance with the schedule in subrule 41.8(2), unless the client elects to have more withheld.

**46.5(4) Recoupment in special alien cases.** Recoupment shall be made from the resources deemed to be an alien according to 41.6(9) when

a. The sponsor is financially responsible for the alien according to 41.7(10),

b. The alien and sponsor failed to provide accurate information regarding the sponsor's income or resources, and

c. An overpayment resulted.

When recoupment is to be made from the resources deemed to an alien, the case shall be referred to the office of investigations for investigation, recoupment, or referral for possible prosecution.

ITEM 19. Rule 498—46.6(239) is rescinded and reserved.

ITEM 20. Subrule 65.19(2) is amended to read as follows:

**65.19(2) Reporting responsibilities of monthly reporting households.**

a. The Public Assistance Eligibility Report, form PA-2140-0 will be supplied to the recipient, by the department, as needed or requested. The department shall provide a postage-paid envelope for return to the local office of form PA-2140-0, the Public Assistance Eligibility Report.

b. The household shall return the completed form to the local office by the fifth calendar day of the month which precedes the issuance month, when the form was issued in the department's regular end-of-month mailing. The household shall return the completed form to the local office by the seventh day after the date of the issuance of the form when the form was not issued in the department's regular end-of-month mailing.

c. Failure to return a completed form shall result in cancellation of assistance. A completed form is a form with all items answered, accompanied by verification as required in 65.19(14) and 65.19(15), and signed and dated by a responsible household member on or after the last day of the budget month. When the PA-2140-0 is used as a food stamp monthly report and a person in the household is also required to report monthly for another public assistance program, the form shall also be signed by all individuals required to sign for that program to be considered complete.

## HUMAN SERVICES DEPARTMENT[498] (cont'd)

ITEM 21. Rule 498—65.19(234) is amended by adding a new subrule.

**65.19(18) Household membership.** Except for applications received during a period of time when the household was not certified to receive food stamps, household membership shall be determined as it was or is anticipated to be on the first day of the issuance month. Changes in household membership occurring on or after the first day of the month which are reported during the month in which the change occurs, will not be considered until the following month. Except for qualified residents of a shelter for battered women and children, individuals shall not be added to the household prior to their being removed from another household where they were receiving food stamps.

ITEM 22. Add the following new rules to 498—chapter 65.

**498—65.22(234) Verification.**

**65.22(1) Income.** Households shall be required to verify income (except interest income and the public assistance grant) at time of recertification and when income is reported or when income changes.

**65.22(2) Dependent care costs.** Households shall be required to verify dependent care costs at time of certification, when reported in the monthly reporting system, and when a change is reported (when a household is not in the monthly reporting system).

**65.22(3) Medical expenses.** Households shall be required to verify medical expenses at recertification and when reported.

**65.22(4) Shelter costs.** Households shall be required to verify shelter costs (other than utility expenses) at application and when the household reports moving or a change in its shelter costs.

**65.22(5) Utilities.** Actual utilities (for households required or choosing to use actual utility expenses) shall be verified at time of certification and when reported.

**498—65.23(234) Weekly or biweekly income and prospective budgeting.** Households receiving benefits determined by prospective budgeting shall have the actual amount of income that is received on a weekly or biweekly basis considered for that benefit month.

**498—65.24(234) Failure to verify.** When the household does not verify an expense as required, no deduction for that expense will be allowed.

ITEM 23. Subrule 75.1(2) is rescinded and reserved.

ITEM 24. Subrule 75.1(14) is amended to read as follows (the paragraphs are retained):

**75.1(14) Aid to dependent children ~~related unborn children~~ — pregnant women.** Medical assistance shall be available to ~~individuals pregnant women~~ who would be eligible for aid to dependent children if ~~that program included payment for the needs of an unborn child during the entire pregnancy the child was born.~~

The pregnancy shall be verified in writing by a licensed physician. The verification shall attest to the fact of pregnancy and establish the probable date of conception. When an examination is required and other medical resources are not available to meet the expense of the examination, the physician shall be authorized to make the examination and submit the claim for payment.

ITEM 25. Subrule 75.1(15) is amended to read as follows (the paragraphs are retained):

**75.1(15) Child medical assistance program. ~~Individuals~~ Medical assistance shall be available to individuals** under age twenty-one including unborn children who would be eligible for aid to dependent children if ~~they were deprived of parental support according to 41.1(5) or were living with a specified relative according to 41.1(3) or if the aid to dependent children program provided for payment for the needs of the unborn during the entire term of pregnancy shall be eligible for medical assistance but do not qualify as dependent children as defined in 41.1(1), 41.1(3), 41.1(5), and 41.4(1).~~ Individuals under age twenty-one who are voluntarily excluded from an aid to dependent children eligible group shall be eligible for medical assistance if the individual meets the financial criteria set forth below.

ITEM 26. Rule 498—75.1(249A) is amended by adding a new subrule.

**75.1(17) Individuals who would be eligible for but are not receiving cash assistance.** Medical assistance shall be available to individuals who would be eligible for aid to dependent children, supplemental security income, or state supplementary assistance but who choose not to receive payments.

[Filed 12/16/83, effective 2/8/84]

[Published 1/4/84]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 1/4/84.

**ARC 4380**

**HUMAN SERVICES  
DEPARTMENT[498]**

Pursuant to the authority of Iowa Code section 239.18, rules of the Department of Human Services appearing in the IAC relating to aid to dependent children (chapter 41) are hereby amended. The Council on Human Services adopted these rules December 15, 1983.

The Council adopted and implemented emergency rules on February 24, 1983, which were effective on March 1, 1983.

Notices of Intended Action regarding these rules were published in the IAB March 16, 1983 as ARC 3633, May 11, 1983 as ARC 3733 and June 8, 1983 as ARC 3786 [Social Services Department(770)].

These rules will allow for the reduction of a recipient's ineligibility period by reducing countable earned and unearned income and by allowing recipients receiving nonrecurring lump sum income to expend moneys for necessary expenses in life threatening circumstances.

The substance of these amendments is identical to that published under notice.

These rules are intended to implement Iowa Code section 239.5.

These rules shall become effective March 1, 1984.

ITEM 1. Subrule **41.6(1)**, paragraph "j", is rescinded and the following inserted in lieu thereof:

j. Settlements for payment of medical expenses.

**HUMAN SERVICES DEPARTMENT**[498] (cont'd)

ITEM 2. Subrule 41.6(4) is rescinded and the following inserted in lieu thereof (the paragraphs are retained):

**41.6(4)** Liquidation. When proceeds from the sale of resources or conversion of a resource to cash, together with other nonexempted resources, exceed the property limitations, the recipient is ineligible to receive assistance until the amount in excess of the resource limitation has been expended unless immediately used to purchase a homestead, or reduce the mortgage on a homestead. Property settlements which are part of a legal action in a dissolution of marriage or palimony suit are considered as resources upon receipt.

ITEM 3. Subrule 41.7(1) is rescinded and the following inserted in lieu thereof (the paragraphs are retained):

**41.7(1)** Unearned income. Unearned income is any income in cash or in kind that is not gained by labor or service. Net unearned income, from investments and nonrecurring lump sum payments, shall be determined by deducting reasonable income producing costs from the gross unearned income. Money left after this deduction shall be considered gross income available to meet the needs of the eligible group.

ITEM 4. Subrule 41.7(7), paragraph "c", subparagraphs (3) and (5), are rescinded and the following inserted in lieu thereof:

(3) Settlements for the payment of medical expenses.

(5) That part of a lump sum received and expended for funeral and burial expenses.

ITEM 5. Subrule 41.7(9), paragraph "c", subparagraphs (1) and (2), are rescinded and the following inserted in lieu thereof:

(1) Lump sum income other than nonrecurring. Recurring lump sum earned and unearned income, except for the income of the self-employed, shall be prorated over the number of months for which the income was received and applied to the grant for the same number of months. Income received by an individual employed under a contract shall be prorated over the period of the contract. Income received at periodic intervals or intermittently shall be prorated over the period covered by the income and applied to the grant for the same number of months, except periodic or intermittent income from self-employment shall be treated as described in 41.7(9)"i". When the lump sum income is earned income, appropriate disregards, deductions and diversions shall be applied to the monthly prorated income. Income is prorated when a lump sum is received before the month of decision and is anticipated to recur; or a lump sum is received during the month of decision or anytime during the receipt of assistance.

(2) Nonrecurring lump sum income. Nonrecurring lump sum income, except as specified in 41.7(7)"c", shall be considered as income in the budget month, and counted in computing eligibility and the amount of the grant for the payment month. Nonrecurring lump sum unearned income is defined as a payment which is a one-time distribution of funds from a single source such as an inheritance, certain insurance settlements, or a retroactive payment of benefits, such as social security, job insurance or workers' compensation. A lump sum pay-

ment of earned income credit shall be treated as a non-recurring lump sum payment of earned income. When countable income, exclusive of the aid-to-dependent-children grant but including countable lump sum income, exceeds the needs of the eligible group, the case shall be canceled or the application rejected. The eligible group shall be ineligible for the number of full months derived by dividing the income by the standard of need for the eligible group. Any income remaining after this calculation shall be applied as income to the first month following the period of ineligibility and disregarded as income thereafter.

The period of ineligibility shall be shortened when it is established that a life-threatening circumstance exists and the countable lump sum income causing the period of ineligibility has been or will be expended in connection with the life-threatening circumstance. Furthermore, until that time, the nonrecurring income must have been used to meet those needs as defined in subrules 41.8(2) and 41.8(3). The former eligible group must have no other income or resources sufficient or available to meet the life-threatening circumstance. Expenditure of funds for the following are to be considered as life threatening: Payments made on medical services for the former eligible group or their dependents for services listed in 498—chapters 78, 81, 82, and 770—chapter 85 at time of claiming relief under this provision; the cost of necessary repairs to maintain habitability of the homestead requiring the spending of over twenty-five dollars per incident; cost of replacement of exempt resources as defined in subrule 41.6(1) due to fire, tornado, or other natural disaster; or funeral and burial expenses of a member or dependent of the former eligible group. The cost of the life-threatening circumstance shall be verified. A dependent is an individual who is claimed or could be claimed by another individual as a dependent for federal income tax purposes.

When countable income, including the lump sum income, is less than the needs of the eligible group, the lump sum shall be counted as income for the budget month. For purposes of applying the lump sum provision, the eligible group is defined as all eligible persons and any other individual whose lump sum income is counted in determining the period of ineligibility. During the period of ineligibility, individuals not in the eligible group when the lump sum income was received may be eligible for aid-to-dependent children as a separate eligible group. Income of this eligible group plus income, excluding the lump sum income already considered, of the parent or other legally responsible person in the home shall be considered as available in determining eligibility and the amount of the grant.

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[Published 1/4/84]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 1/4/84,

**ARC 4382****HUMAN SERVICES  
DEPARTMENT[498]**

Pursuant to the authority of Iowa Code sections 249A.4 and 217.6, rules of the Department of Human Services appearing in the IAC relating to facility participation (Chapter 54), intermediate care facilities (Chapter 81), and intermediate care facilities for the mentally retarded (Chapter 82) are hereby amended. The Council on Human Services adopted these rules December 15, 1983.

Notice of Intended Action regarding these rules was published in the IAB November 9, 1983 as ARC 4226.

These rules define allowable interest charges which can be claimed in establishing costs in facilities providing residential care, intermediate care, and intermediate care for the mentally retarded.

These amendments align the wording in the IAC with policy as set forth in the Health Insurance Manual (HIM)-15. The amendments also maintain the alignment of rules concerning allowable interest rates for residential care facilities with the intermediate care and intermediate care for the mentally retarded facilities' rules.

Quotation marks were added around "proper" in subparagraphs (3) and "existing at the time" in subparagraphs (3) and "at the time" in subparagraphs (4) were changed to "on the date."

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

These rules shall become effective March 1, 1984.

ITEM 1. Subparagraphs 54.3(11)"k"(3) and 54.3(11)"k"(4) are amended to read as follows:

(3) "Proper" requires that interest be incurred at a rate not in excess of what a prudent borrower would have had to pay in the money market ~~existing at the time on the date~~ the loan was made, and be paid to a lender not related through control or ownership, ~~or personal relationship~~ to the borrowing organization.

(4) Interest on loans ~~to providers by lenders or lending organizations related through control, ownership or personal relationship to the borrower,~~ is allowable as cost at a rate not in excess of the amount an investor could receive on funds invested in the locality ~~at the time on the date~~ the loan was made.

ITEM 2. Subparagraphs 81.6(11)"k"(3) and 81.6(11)"k"(4) are amended to read as follows:

(3) "Proper" requires that interest be incurred at a rate not in excess of what a prudent borrower would have had to pay in the money market ~~existing at the time on the date~~ the loan was made, and be paid to a lender not related through control or ownership, ~~or personal relationship~~ to the borrowing organization.

(4) Interest on loans ~~to providers by lenders or lending organizations related through control, ownership or personal relationship to the borrower,~~ is allowable as cost at a rate not in excess of the amount an investor could receive on funds invested in the locality ~~at the time on the date~~ the loan was made.

ITEM 3. Subparagraphs 82.5(11)"h"(3) and 82.5(11)"h"(4) are amended to read as follows:

(3) "Proper" requires that interest be incurred at a rate not in excess of what a prudent borrower would have had to pay in the money market ~~existing at the time on the~~

~~date~~ the loan was made, and be paid to a lender not related through control or ownership, ~~or personal relationship~~ to the borrowing organization.

(4) Interest on loans ~~to providers by lenders or lending organizations related through control, ownership or personal relationship to the borrower,~~ is allowable as cost at a rate not in excess of the amount an investor could receive on funds invested in the locality ~~at the time on the date~~ the loan was made.

[Filed 12/16/83, effective 3/1/84]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 1/4/84.

**ARC 4384****HUMAN SERVICES  
DEPARTMENT[498]**

Pursuant to the authority of Iowa Code section 237A.12, rules of the Department of Human Services appearing in the IAC relating to child care centers (chapter 109) are hereby amended. The Council on Human Services adopted these rules December 15, 1983.

Notice of Intended Action regarding these rules was published in the IAB November 9, 1983 as ARC 4229.

These rules provide for several minor changes plus new requirements for the onsite director or administrator.

1. Provide for maintaining criminal record checks in the employee's personnel file. The previous rule was silent on the disposition of the required report.

2. Provide for allowing a statement of health signed by a physician or designee annually rather than the previous more costly requirement of an annual physical examination for each child as a condition of continued registration.

3. Provide for more flexibility to centers who use volunteers in the staff/child ratios. Previous rules required all volunteers who were included in the ratio to meet all of the requirements for personnel. This rule imposes these requirements only when the individual volunteer is included in the staff ratio in excess of ten hours per month.

4. Standardize ceiling heights. Previous rules required that rooms above the ground be at least seven feet six inches, and if below ground level, the rooms were to have a ceiling height of 7 feet. This rule provides for a standard ceiling height of seven feet for all program rooms despite their location.

5. Increase flexibility for the grouping of children. The previous rule required the separation of infants from children who were two years or older. This rule allows children who are eighteen months or older to be grouped outside the area.

6. Provide for discretion on the part of a center as to whether an individual child of eighteen months or more requires a crib or a cot. Previous rule required a crib for all infants. This rule limits the requirement to a crib for children up to eighteen months of age.

The most significant change to the day care rules occurs in requirements for the onsite director or administrator. The previous rule provided for minimum requirements which are applied to all centers irrespective of the

## HUMAN SERVICES DEPARTMENT[498] (cont'd)

size of the center. This rule maintains the current requirements for the director/administrator for facilities of twenty or less children. However for those facilities licensed for more than twenty children, the directors or administrators are to meet requirements designed to give assurances that the person has the experience and training to carry out responsibilities in large centers. These requirements are effective April 1, 1984.

The rules were written in consultation with the State Day Care Advisory Committee.

The rules are the same as those published under notice except that the word "fewer" was substituted for the word "less" in 109.4(1) and paragraph "c" was retained and the phrasing of 109.4(2)"c", "f", and "h" was amended. Another wording change has been made to 109.4(6).

These rules are intended to implement Iowa Code section 237A.12. The rules shall become effective March 1, 1984.

ITEM 1. Subrule 109.2(1) is amended by adding a new paragraph as follows:

g. A copy of Child Day Care Staff Criminal Records Check, Form SS-1207-3, and Department of Public Safety Check, Form SS-2203.

ITEM 2. Subrule 109.3(1) is amended to read as follows:

**109.3(1)** The child care center shall require each preschool age child to have an admission physical examination report signed by a licensed physician or designee in a clinic supervised by a licensed physician. This report shall include an immunization record that is in compliance with the Iowa state health department regulations. This written report shall include past health history, status of present health and recommendations for continued care when necessary. ~~A new physical examination and report shall be obtained annually. A statement of health condition signed by a physician or designee shall be submitted annually thereafter.~~ For the school age child, a copy of the most recent school physical examination and immunization record shall be acceptable.

Nothing in this rule shall be construed to require medical treatment or immunization for staff or the minor child of any person who is a member of a church or religious organization which is against medical treatment for disease. In such instances, an official statement from the organization shall be incorporated in the record.

ITEM 3. Subrule 109.4(1) is amended to read as follows:

**109.4(1)** The onsite director or administrator ~~shall~~ *for a facility licensed for twenty or fewer children shall be an adult and shall:*

a. Have two years of administrative or program experience in a child care center, or be able to demonstrate an equivalent amount of other child development related experience, employment or educational experience.

b. Have completed high school or an equivalent program. Persons who do not meet this educational requirement, and who possess unusual qualifications or experience in the child age group with which they will be working, could be employed with the approval of the department of human services.

c. Be at least eighteen years of age.

ITEM 4. Subrules 109.4(2), 109.4(3) and 109.4(4) are renumbered as 109.4(3), 109.4(4) and 109.4(5) and a new subrule 109.4(2) inserted as follows:

**109.4(2)** The onsite director or administrator employed after April 1, 1984 by a facility licensed for more than twenty children shall be an adult and shall

have a valid first aid certificate. The director or administrator shall also have three semester hours of coursework in administration, or, one year on the job business related experience in finance, personnel, supervision, recordkeeping or budgeting. The director or administrator shall also meet all of the requirements in one of the following paragraphs:

a. Three years' experience working with children in a child care center; high school graduate or have passed a General Education Development Test (GED), and ten continuing educational units (CEU's) in a child care related field or one of the following:

(1) Education documentation equivalent to ten CEU's in a child related field,

(2) Six semester or equivalent quarter hours of coursework in child development, lower elementary or early childhood education,

(3) A combination of CEU's or the equivalent education and semester or quarter hours of college work in areas listed above.

b. Child care center employee with a child development associate (CDA) credential or a technical or community college one-year training program; high school education or GED and three years' experience working with children in a child care center (experience can be concurrent with obtaining a CDA).

c. Six years' experience as a family day care home provider with a minimum of two years as a licensed or registered family day care home; high school graduate or GED; and ten CEU's in a child related field or one of the following:

(1) Education documentation equivalent to ten CEU's in a child care related field.

(2) Six semester or equivalent quarter hours of coursework in child development, lower elementary or childhood education.

(3) A combination of CEU's or equivalent education and semester or quarter hours of college work in areas listed above.

d. A two-year associate college degree in early childhood education or child development and two years of noncollege related experience working with children in a child care facility.

e. Two years of a four-year degree program in child development, early education or lower elementary education, minimum of twelve semester hours of coursework in child development, early childhood education or lower elementary education and two years of noncollege related experience working with children in a child care facility.

f. Four-year degree in child development, lower elementary or early childhood education and one of the following:

(1) One year of noncollege related experience working with children in a child care facility.

(2) Four years' experience working with child care centers in a consulting or training capacity.

g. Four-year degree in a nonchild related field; twelve semester hours in child development, early childhood education or lower elementary education; and two years' experience in a child care facility.

h. A master's degree in behavioral sciences, and three years' experience working with child care centers in a consulting or training capacity.

ITEM 5. Rule 498—109.4(237A) is amended by adding a new subrule as follows:

## HUMAN SERVICES DEPARTMENT[498] (cont'd)

109.4(6) When a volunteer is included in the staff ratio count for more than ten hours in any calendar month, the volunteer shall meet all the personnel requirements in this chapter and Iowa Code chapter 237A.

ITEM 6. Paragraph 109.5(4)"a" is amended to read as follows:

a. Ceiling height for all program rooms shall be a minimum of seven feet; ~~six inches for rooms above ground level, and a minimum of seven feet for rooms below ground level.~~

ITEM 7. Subrule 109.5(7) is amended to read as follows:

109.5(7) An area shall be provided properly and safely equipped for the use of infants and free from the intrusion of children over two years of age. *Children over eighteen months may be grouped outside this area.*

ITEM 8. Subrule 109.7(4) paragraph "e" is amended to read as follows:

e. A crib shall be provided for each infant up to eighteen months of age. Each crib shall be of sturdy construction with bars closely spaced so a child's head cannot be caught, and have clean, individual bedding, including sheets and blankets. Crib railings shall be fully raised and secured when the child is in the crib. Each mattress shall be completely and securely covered with waterproof material. When plastic materials are used, they shall be heavy, durable and not dangerous to children. A child shall not be placed directly on the waterproof cover. A crib shall be provided for the number of children present at any one time and shall be kept in a clean and sanitary manner and always cleaned and changed upon the change of an occupant. There shall be no restraining devices of any types used in cribs. The minimum spacing between cribs shall be two feet on any side except that which is next to the wall.

ITEM 9. Subrule 109.7(4) shall be renumbered as 109.7(5).

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## ARC 4381

HUMAN SERVICES  
DEPARTMENT[498]

Pursuant to the authority of Iowa Code sections 217.6 and 234.6, rules of the Department of Human Services appearing in the IAC relating to general provisions (chapter 130) are hereby amended. The Council on Human Services adopted these rules December 15, 1983.

Notice of Intended Action regarding these rules was published in the IAB October 26, 1983 as ARC 4208.

These rule amendments correct a form number, clarify the eligibility factors for services, explain what is meant by the term "without regard to income", include the "300 percent group" clients in the eligibility group for services, and delete a rule.

The eligibility factors and without regard to income changes clarify current policy. The 300 percent group

changes confer a benefit on clients in that group who may be ineligible using a strict definition of the income maintenance eligibility group.

These rules are identical to those published under notice.

These rules are intended to implement Iowa Code section 234.6.

These rules shall become effective March 1, 1984.

ITEM 1. Subrule 130.2(1) is amended to read as follows:

130.2(1) Application for social services shall be made at the local office of the department of human services on the form Application for Social Services, RS-1120-0, SS-1120-0, available at the office.

ITEM 2. Subrule 130.3(1) and paragraph 130.3(1)"a" are amended to read as follows:

130.3(1) ~~Eligibility for services is based on individual need for services, financial eligibility and service availability in the pre-expenditure report or service availability through other department resources.~~

*Eligibility factors for services available through the department are individual need for a service and family income except when services are provided without regard to income or when services are directed in a valid court order.*

a. Individual need is established when the service to be provided is directed at and will facilitate an individual in reaching or maintaining one of the goals and objectives in 130.7(1). ~~The department shall establish need for service and~~ *Except when the court establishes need, the department shall do so in accordance with individual service chapters. The department shall determine the number of units to be provided.*

ITEM 3. Subparagraph 130.3(1) "d"(1) is amended to read as follows:

(1) Income maintenance status. They are recipients of aid to dependent children, or ~~their those whose~~ *those whose* needs were taken into account in determining the needs of aid to dependent children recipients, or ~~they are~~ recipients of supplemental security income or state supplementary assistance, or ~~those in the 300 percent group as defined in IAC 498-75.1(7).~~

ITEM 4. Subrule 130.3(1) is amended by adding new paragraphs "e" and "f" as follows:

e. Certain services are provided without regard to income which means family income is not considered in determining eligibility. The services provided without regard to income are information and referral, child abuse investigation, child abuse treatment, child abuse prevention services and dependent adult abuse investigation.

f. In certain cases the department shall provide services directed in a valid court order. In these cases the court may determine the need for service and may direct that services are provided without regard to income.

ITEM 5. Subrule 130.3(4) is deleted and reserved.

These rules are intended to implement Iowa Code section 234.6.

[Filed 12/16/83, effective 3/1/84]

[Published 1/4/84]

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**ARC 4385****HUMAN SERVICES  
DEPARTMENT[498]**

Pursuant to the authority of Iowa Code sections 217.6 and 234.6, rules of the Department of Human Services appearing in the IAC relating to purchase of service (Chapter 145) are hereby amended. The Council on Human Services adopted these rules December 15, 1983.

Notice of Intended Action regarding these rules was published in the IAB November 9, 1983 as ARC 4230.

The rules allow providers to submit client progress reports according to existing service rules. This will eliminate inconsistencies in reporting requirements. The rules also remove discriminatory language by changing the term chairman to chairperson.

The word "collateral" was added into the second paragraph of 145.3(3)"j"(2) to make wording the same as the existing rule.

These rules are intended to implement Iowa Code section 234.6.

These rules shall become effective March 1, 1984.

ITEM 1. Subparagraph 145.3(3)"j"(2) is amended to read as follows:

(2) Quarterly progress reports. Quarterly progress reports shall be sent to the department caseworker responsible for the client. The first report shall be submitted to the department three months after service is initiated and quarterly thereafter, *unless provided for otherwise in rules for a specific service*. The progress report shall include a description of the specific service components provided, their frequency, and who provided them; the client's progress with respect to the goals and service objectives; any recommended changes in the service plan/individual program plan and for all placement cases; interpretation of client's reaction to placement; a summary of medical or dental services that were provided; a summary of educational/vocational progress and participation; and a summary of the involvement of the family with the client and the services.

Reports for mental health services, purchased foster family home services, and independent living service shall also include supporting documentation including dates of client and collateral contacts, type of contact, person(s) contacted, and a brief explanation of the focus of each contact. Each unit of service for which payment is sought should be the subject of a written progress note.

ITEM 2. Subparagraph 145.6(1)"a"(1) is amended to read as follows:

(1) ~~Chairman~~ Chairperson, county board of supervisors.

[Filed 12/16/83, effective 3/1/84]

[Published 1/4/84]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 1/4/84.

**ARC 4369****PUBLIC SAFETY  
DEPARTMENT[680]**

Pursuant to the authority of Iowa Code Chapter 80, the Iowa Department of Public Safety hereby adopts amendments to Chapter 1, "The Department", Iowa Administrative Code.

Notice of Intended Action was published in IAB, September 14, 1983 as ARC 4026.

Changes from such notice are as follows:

1.4(5) first sentence delete, "by check or money order payable" so the rule reads . . . "The payment of a \$4.00 fee for each copy, paid to the department of public safety." This will allow for payment in the form of cash, or check or money order, rather than just check or money order.

This rule will become effective on February 9, 1984.

This rule is intended to implement Iowa Code section 321.271, as amended by 1983 Iowa Acts, Chapter 72.

The following amendment is adopted.

Amend rule 680—1.4(17A) by adding a new subrule 1.4(5).

1.4(5) Accident reports filed as required by Iowa Code section 321.266 and which are retained by the department are available to any party to an accident, the party's insurance company or its agent, or the party's attorney on written request and the payment of a \$4.00 fee for each copy, paid to the department of public safety. Such request shall be made to the state patrol district headquarters in the district in which the accident occurred.

[Filed 12/16/83, effective 2/9/84]

[Published 1/4/84]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 1/4/84.

**ARC 4368****REAL ESTATE COMMISSION[700]**

Pursuant to the authority of Iowa Code section 117.9, the Iowa Real Estate Commission adopted the amendments December 15, 1983, to Chapter 1 "Brokers and Salespersons," Iowa Administrative Code.

Notice of Intended Action was published in IAB, October 26, 1983, Volume VI, Number 9, as ARC 4193.

These rules are to clarify for the industry and general public certain business practices of real estate licensees for the protection of the public.

Rules 1.19(117) and 1.35(117) were clarified due to confusing language and rule 1.20(117) has been removed for further review.

These rules become effective February 9, 1984.

These rules are intended to implement Iowa Code sections 117.29 and 117.34.

ITEM 1. Rule 1.9(117) is amended as follows:

700—1.9(117) Licensee acting as *buyer principal*. A licensee shall not buy either directly or indirectly property listed with the licensee nor shall the licensee acquire any interest therein in any property nor shall the licensee sell any property in which the licensee has an interest without first making licensee's true position clear to the owner other party. Satisfactory proof of this fact must be produced by the licensee upon request of the commission.

## REAL ESTATE COMMISSION[700] (cont'd)

ITEM 2. Rule 1.19(117) is amended as follows:

**700—1.19(117) Enforcing a protective clause.** To enforce a protective clause beyond the expiration of an exclusive listing contract, *there must be a provision for the protective clause in the listing contract which establishes a definite protection period, and the broker must furnish to the owner prior to the expiration of the listing the names and addresses of all persons to whom the property was presented during the active term of the listing and for whom protection is sought.*

ITEM 3. Chapter 1 is amended by adding the following new rules:

**700—1.34(117) Loan finder fees.** The acceptance of a fee or anything of value by a real estate licensee from a lender or financing company for the referral or steering of a client to the lender for a loan, shall be considered not in the best interest of the public and shall constitute a violation of Iowa Code sections 117.29(3) and 117.34(8).

**700—1.35(117) Distribution of executed instruments.** Upon execution of any instrument in connection with a real estate transaction, a licensee shall, as soon as practicable, deliver a legible copy of the original instrument to each of the parties thereto. It shall be the responsibility of the licensee to prepare sufficient copies of such instruments to satisfy this requirement.

[Filed 12/15/83, effective 2/9/84]

[Published 1/4/84]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 1/4/84.

The rule amendment in this chapter will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

This rule amendment is identical to that published under Notice of Intended Action. The amendment will become effective February 8, 1984, after filing with the administrative rules coordinator and publication in the Iowa Administrative Bulletin.

This rule is intended to implement Iowa Code section 421.7.

The following amendment is adopted.

Rule 730—10.2(421) is amended by adding the following new subrule 10.2(3).

**10.2(3)** Calendar year 1984. The rate of interest upon all unpaid taxes which are due as of January 1, 1984, will be nine percent per annum (0.8% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after, January 1, 1984. In addition, this interest rate will accrue on tax refunds which by law accrue interest, regardless whether the tax to be refunded is due before, on, or after January 1, 1984. This interest rate of nine percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 1984.

[Filed 12/16/83, effective 2/8/84]

[Published 1/4/84]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 1/4/84.

## ARC 4390

## REVENUE DEPARTMENT[730]

Pursuant to the authority of Iowa Code section 421.14, the Iowa Department of Revenue hereby adopts amendments to Chapter 10, "Interest", Iowa Administrative Code.

Notice of Intended Action was published in IAB, Volume VI, Number 10, on November 9, 1983, as ARC 4220.

This amendment is proposed in order to implement Iowa Code section 421.7. This legislation, which became effective on July 1, 1981, requires the director of revenue to determine the interest rate for each calendar year. The director has determined that the rate of interest on interest bearing taxes arising under Code Title XVI, shall be nine percent for calendar year 1984. The rate is two percent below the average prime rate charged by banks on short-term business loans as published in the Federal Reserve Bulletin for the twelve-month period ending September 30, 1983. For the past twelve months, the average prime rate was eleven percent.

The nine percent annual rate is equivalent to an interest rate of 0.8 percent per month on outstanding taxes. The rate will be applied to all taxes owing or becoming payable on or after January 1, 1984. Under Iowa law, each fraction of a month is considered a whole month when interest is computed. When required to pay interest on taxpayers' refunds, the Department will also pay interest at the nine percent rate on refunds owing or becoming payable on or after January 1, 1984.

## ARC 4391

## REVENUE DEPARTMENT[730]

Pursuant to the authority of Iowa Code sections 421.14 and 422.68(1), the Iowa Department of Revenue hereby adopts amendments to Chapter 39, "Filing Return And Payment Of Tax"; Chapter 41, "Determination Of Taxable Income"; Chapter 42, "Adjustments To Computed Tax"; and Chapter 43, "Assessments And Refunds", Iowa Administrative Code.

Notice of Intended Action was published in IAB, Volume VI, Number 10, on November 9, 1983, as ARC 4221.

The 1983 Iowa Acts, chapters 16, 176, 179 and 207 adopted numerous changes to the Iowa Code regarding individual tax. These changes include revising the minimum tax rate and child care percentage; disallowing a political contribution deduction but allowing a credit instead; providing a credit for certain investments in the Iowa venture capital fund; providing that additional residents may claim a credit for taxes paid to another state on income reportable to Iowa; and allowing additional contributions to the Iowa election campaign fund. Present rules do not provide for these changes to the Iowa Code.

These rules are identical to those published under Notice of Intended Action. The amendments will become effective February 8, 1984 after filing with the administrative rules coordinator and publication in the Iowa Administrative Bulletin.

REVENUE DEPARTMENT[730] (cont'd)

None of the amendments to these rules will necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

These rules are intended to implement Iowa Code chapters 56, 107 and 422, as amended by 1983 Iowa Acts, chapters 16, 176, 179 and 207.

The following amendments are adopted.

ITEM 1. Amend rule 730—39.6(422) as follows:

730—39.6(422) Minimum tax. For tax years beginning on or after January 1, 1982 an Iowa minimum tax is imposed in addition to the tax computed under Iowa Code section 422.5. The Iowa minimum tax on tax preference items is ~~twenty-five percent~~ a percentage of the state's apportioned share of the federal minimum tax(es) on tax preference items. For residents, the state's apportioned share of the federal minimum tax is one hundred percent. For part-year residents and nonresidents, see subrule 39.6(3). "Federal minimum tax" means the federal minimum tax(es) for tax preferences computed under sections 55 to 58 of the Internal Revenue Code of 1954 for the tax year. No estimate payments are required for minimum tax. No Iowa minimum tax will be imposed except to the extent the federal minimum tax is based on tax preference items as defined in sections 55 to 58 of the Internal Revenue Code of 1954.

39.6(1) Five thousand dollar exemption. The Iowa minimum tax is imposed without regard to the exemption from paying Iowa income tax under section 422.5 given to individuals whose net income as computed under section 422.7 is five thousand dollars or less. The Iowa minimum tax is not a payment of tax for purposes of the provisions of section 422.5 which limits the amount of tax on incomes slightly above \$5,000 to the amount the income exceeds \$5,000. The minimum tax may reduce the income to less than \$5,000.

39.6(2) Married filing separately. When a husband and wife file a joint federal return and elect to file separate Iowa income tax returns, the Iowa minimum tax shall be allocated between spouses in the ratio of the net income of each spouse to the total net income of both spouses, unless an alternative formula more accurately reflects the amount of Iowa minimum tax to be paid by each spouse.

39.6(3) Part-year residents and nonresidents. For part-year resident and nonresident taxpayers, the Iowa minimum tax is ~~the a percentage of the federal minimum tax times twenty-five percent~~ times the ratio of the net income allocable to Iowa under section 422.8 to the federal adjusted gross income, unless the taxpayer can show that an alternative formula more accurately reflects the amount of minimum tax attributable to Iowa.

39.6(4) Penalty and interest. In computing penalty and interest for failing to file a timely return or to pay the minimum tax, refer to chapter 44 of the rules.

39.6(5) Personal exemption credits. Personal and dependent exemption credits may be applied against the separate minimum tax to the extent that the credits are not fully applied against the computed tax on income reported under Iowa Code section 422.7.

39.6(6) Minimum tax rates. For tax years beginning on or after January 1, 1982 and prior to January 1, 1983, the Iowa minimum tax is twenty-five percent of the state's apportioned share of the federal minimum tax on tax preference items.

For tax years beginning on or after January 1, 1983, the Iowa minimum tax is seventy percent of the state's apportioned share of the federal minimum tax on tax preference items.

This rule is intended to implement 1982 Iowa Acts, ~~chapter 1023~~ Iowa Code section 422.5 as amended by 1983 Iowa Acts, chapter 179.

ITEM 2. Amend subrule 41.5(2) by adding the following new paragraph:

c. For tax years beginning on or after January 1, 1983, no deduction shall be allowed for political contributions as defined in section forty-one c [41(c)] of the Internal Revenue Code of 1954. A credit shall be allowed pursuant to subrule 42.2(4).

ITEM 3. Amend subrule 42.2(3) as follows:

42.2(3) Child care credit. Effective for tax years beginning on or after January 1, 1977,

a. Iowa resident taxpayers are allowed a tax credit equal to five percent of the for 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 the tax years beginning on or before December 31, 1981, a nonresident of Iowa is allowed a child care credit of five percent of the qualifying employment-related expenses incurred to allow the taxpayer 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:

Iowa earned income (wages, salaries, self-employment income, etc.) x qualifying employment related expenses x 5%
Federal earned income (wages, salaries, self-employment income, etc.)

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 each spouse's respective Iowa net income bears to the total combined Iowa net income.

The computation of the child care credit for non-resident 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:

Table with 3 columns: Income Category, Husband, Wife. Rows include Wages, Self-employment income, Interest income, and Net rental income.

## REVENUE DEPARTMENT[730] (cont'd)

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
$\frac{\$20,000}{\$30,000} \times \$120 = \$80$	$\frac{\$10,000}{\$30,000} \times \$120 = \$40$

For tax years beginning on or after January 1, 1982, nonresidents or part-year residents of Iowa shall compute their child care credit in the same manner as residents of Iowa.

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 taxpayers' Iowa income tax liability.

b. For tax years beginning on or after January 1, 1977, and prior to January 1, 1983, the percentage of qualifying employment-related expenses paid for child and dependent care which is allowable as a tax credit shall be five percent. For tax years beginning on or after January 1, 1983, the percentage of qualifying employment-related expenses paid for child and dependent care which is allowable as a tax credit shall be ten percent.

This rule is intended to implement Iowa Code section 422.12 as amended by 1983 Iowa Acts, chapter 179.

ITEM 4. Amend rule 730-42.2(422) by adding the following new subrule.

**42.2(4)** Political contributions credit. Effective for tax years beginning on or after January 1, 1983, a taxpayer is allowed a tax credit equal to five percent of the first one hundred dollars donated as a political contribution as defined in section 41(c) of the Internal Revenue Code of 1954. In the case of a married couple filing a joint return, a political contribution credit equal to five percent of the first two hundred dollars donated shall be allowed. The credit may not exceed the computed tax less the amount of exemption credits and child care credits for any taxable year.

ITEM 5. Amend rule 730-42.2(422) by adding the following new subrule:

**42.2(5)** Iowa venture capital fund investment credit. A taxpayer is allowed a tax credit equal to five percent of the taxpayer's investment in the initial offering of securities by the Iowa venture capital fund established by the Iowa development commission. Any credit in excess of the computed tax less exemption credits, child care credits, and political contribution credits may be credited to the tax liability for the following three taxable years or until depleted in less than three years.

This rule is intended to implement Iowa Code section 422.10 and section 422.12 as amended by 1983 Iowa Acts chapters 179 and 207.

ITEM 6. Amend subrule 42.4(3) and the implementation clause at the end of the rule as follows:

**42.4(3)** Computation of tax credit.

a. For tax years beginning before January 1, 1983. The limitation on the tax credit must be computed according to the following formula: Income earned in another state or country and taxed by such other state or country shall be divided by the total income of the Iowa resident

taxpayer. Said quotient multiplied times the net Iowa tax as determined on the total income of the taxpayer as if entirely earned in Iowa shall be the maximum tax credit against the Iowa net tax.

b. For tax years beginning on or after January 1, 1983. The limitation on the tax credit must be computed according to the following formula: Income taxed by another state or country shall be divided by the total income of the Iowa resident taxpayer. Said quotient multiplied times the net Iowa tax as determined on the total income of the taxpayer as if entirely earned in Iowa shall be the maximum tax credit against the Iowa net tax.

This rule is intended to implement Iowa Code section 422.8 as amended by 1983 Iowa Acts, chapter 16.

ITEM 7. Rule 730-43.4(422) is amended to read as follows:

**730—43.4(422)(56, 107, 422) Optional designations of funds by taxpayer.**

**43.4(1)** Iowa fish and game protection fund. The taxpayer may designate a portion or all of the overpayment of tax indicated on the face of the return to be donated to the Iowa fish and game protection fund. The donation must be one dollar or more, and the designation must be made on the original return for the current year. The donation is allowed only after obligations of the taxpayer to the Iowa department of revenue, the child support recovery unit of the Iowa department of social services, and the college aid commission have been satisfied. The designation to the fund is irrevocable and cannot be made on an amended return. If the amount of refund as claimed on the original return is adjusted by the department, the amount of the designation to the fund may be adjusted accordingly.

Example A: Overpayment as shown on the original return is \$50. \$25 is designated to the fund. Due to an error on the return, only \$20 is an overpayment. The taxpayer would not receive any refund and all \$20 of the overpayment would be credited to the fund.

Example B: Overpayment as shown on the original return is \$50. \$25 is designated to the fund. Due to an error on the return, no overpayment occurred, but instead the taxpayer owes \$20. No money would be credited to the fund in this instance.

This rule is intended to implement 1982 Iowa Acts, chapters 1015 and 1196.

**43.4(2)** Iowa election campaign fund. For tax years beginning on or after January 1, 1983, any taxpayer who directs that one dollar of the taxpayer's tax liability be paid over to the Iowa election campaign fund may also donate an additional two dollars to be allocated to or among the qualifying political parties in the same manner as the taxpayer's one dollar designation. If a husband and wife file a joint return each spouse may direct that an additional two dollars be donated pursuant to the provisions of this paragraph. The two dollar donation will reduce the taxpayer's refund or increase the amount due with the return, and must be made on the original return for the current year. The donation is allowed only after the taxpayer's obligations to the Iowa department of revenue, the child support recovery unit, foster care recovery unit, public assistance overpayments, the college aid commission, and the Iowa fish and game protection fund have been satisfied. The designation to the fund is irrevocable and cannot be changed on an amended return. If the refund due on the return or the payment remitted with the return is

## REVENUE DEPARTMENT[730] (cont'd)

insufficient to pay the additional two dollars designated by the taxpayer, the amount designated shall be adjusted accordingly.

*Example A. Overpayment as shown on the original return is \$50. \$25 is designated to the Iowa fish and game protection fund and \$2 to the Iowa election campaign fund. Due to an error on the return, only \$26 is an overpayment. The taxpayer would not receive a refund and \$25 would be credited to the Iowa fish and game protection fund and \$1 would be credited to the Iowa election campaign fund.*

*Example B. Tax due as shown on the original return is \$10. An additional \$2 is designated to the Iowa election campaign fund and a payment of \$12 is made with the return. Due to an error on the return an additional \$20 tax is due. No money would be credited to the fund in this instance.*

*Example C. Overpayment as shown on original return is \$100. \$25 is designated to the Iowa fish and game protection fund and \$2 to the Iowa election campaign fund. The taxpayer owes either the department for previously unpaid taxes, the child support recovery unit, or the college aid commission \$80. The taxpayer would not receive a refund and \$20 would be credited to the Iowa fish and game protection fund and no contribution to the Iowa election campaign fund would be allowed.*

This rule is intended to implement Iowa Code section 107.16 and section 56.18 as amended by 1983 Iowa Acts chapter 176.

[Filed 12/16/83, effective 2/8/84]

[Published 1/4/84]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 1/4/84.

## ARC 4392

## REVENUE DEPARTMENT[730]

Pursuant to the authority of Iowa Code sections 421.14 and 422.68(1), the Iowa Department of Revenue hereby adopts amendments to Chapter 46, "Withholding", Iowa Administrative Code.

Notice of Intended Action was published in IAB, Volume VI, Number 10, on November 9, 1983 as ARC 4222.

The 1983 Iowa Acts, chapter 179, provide for additional withholding allowances if taxpayers have itemized deductions. Present rules do not allow any additional withholding allowances. Second, this proposed rule requires employers to notify the Department of Revenue if employees claim withholding allowances in excess of fourteen. This amendment would bring the Department of Revenue rules in conformance with federal guidelines for notification by employers.

None of the amendments to these rules will necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

This rule is identical to that published under Notice of Intended Action. The amendments will become effective February 8, 1984, after filing with the rules coordinator and publication in the Iowa Administrative Bulletin.

This rule is intended to implement Iowa Code chapter 422, as amended by 1983 Iowa Acts, chapter 179.

The following amendments are adopted.

ITEM 1. Subrule 46.1(1), paragraph "c" is amended as follows:

c. Exemption from withholding. An employer may be relieved of his responsibility to withhold Iowa income tax on an employee who had no Iowa income tax liability the prior tax year and who does not anticipate an Iowa income tax liability for the current tax year.

An employee who had no Iowa income tax liability for the prior tax year and who anticipates no Iowa income tax liability for the current tax year shall file an "Exemption From Withholding" form a withholding allowance certificate with his or her employer claiming exemption from withholding. An employee who meets this criteria may claim an exemption from withholding at any time; however, this exemption from withholding must be renewed by February 15 of each tax year that the criteria is met. If the employee wishes to discontinue or is required to revoke the exemption from withholding, he or she the employee must file an a new "Employee's Withholding Exemption Certificate" withholding allowance certificate within ten days from the date the employee anticipates a tax liability or on or before December 31 if a tax liability is anticipated for the next tax year. See 46.3(2).

ITEM 2. Subrule 46.3(2) is amended as follows:

46.3(2) Exemption Allowance certificate.

a. General rules. On or before the date on which an individual commences employment with an employer, the individual shall furnish the employer with a signed Iowa employee's withholding exemption allowance certificate indicating the number of withholding exemptions allowances which he or she the individual claims, which in no event shall exceed the number to which he or she the individual is entitled. The employer is required to request a withholding exemption allowance certificate from each employee; however, if the employer feels that the employee has furnished a fraudulent exemption certificate, or if If the employee fails to furnish such certificate, such employee shall be considered as claiming no withholding exemptions.

The employer must submit to the department of revenue a copy of a withholding allowance certificate received from an employee if:

(1) The employee claimed more than a total of fourteen withholding allowances, or

(2) The employee is claiming an exemption from withholding and it is expected that the employee's wages from that employer will normally exceed \$200 per week.

Employers are required to submit such withholding certificates on at least a calendar quarter basis.

The department will notify the employer whether to honor the withholding certificate or to withhold as though the employee is claiming no withholding exemptions.

b. Form and content. The "Employee's Iowa Withholding Exemption Allowance Certificate", is the form prescribed to be filed under this section. A withholding exemption allowance certificate shall be prepared in accordance with the instructions applicable thereto, and shall set forth fully and clearly the required data. The exemption allowance form will be supplied to employers upon request to the department. In lieu of the prescribed form, employers may use the federal allowance exemption certificate, however, it should be noted that Iowa law does not recognize the "special withholding allowance"

## REVENUE DEPARTMENT[730] (cont'd)

and "allowances for itemized deductions" estimated tax credits and estimated deductions which are allowable for federal withholding tax purposes. These allowances cannot be claimed when computing the Iowa withholding tax liability, except that taxpayers are permitted to claim additional withholding allowances for itemized deductions in excess of the allowable standard deduction. One additional withholding allowance is allowable for each \$200 that estimated itemized deductions exceed the standard deduction.

c. Change in exemptions allowances which affect the current calendar year.

(1) Decrease. If, on any day during the calendar year, the number of withholding allowances exemptions to which an employee is entitled is less than the number of withholding allowances exemptions claimed by him or her the individual on a withholding certificate then in effect, the employee must furnish the employer with a new Iowa withholding exemption allowance certificate relating to the number of withholding exemptions allowances which the employee then claims, which must in no event exceed the number to which he or she the employee is entitled on such day.

(2) Increase. If, on any day during the calendar year, the number of withholding allowances exemptions to which an employee is entitled is more than the number of withholding allowances exemptions claimed by him or her the employee on the withholding exemption allowance certificate then in effect, the employee may furnish the employer with a new Iowa withholding exemption allowance certificate on which the employee must in no event claim more than the number of withholding allowances exemptions to which he or she the employee is entitled on such day.

d. Change in exemptions allowances which affect the next calendar year. If, on any day during the calendar year, the number of withholding exemption allowances to which the employee will be, or may reasonably be expected to be, entitled to for his the employee's taxable year which begins in, or with, the next calendar year is different from the number to which the employee is entitled on such day, the following rules shall apply:

(1) If such number is less than the number of withholding exemption allowances claimed by an employee on an Iowa withholding exemption allowance certificate in effect on such day, the employee must within a reasonable time furnish his or her their employer with a new withholding exemption allowance certificate reflecting the decrease.

(2) If such number is greater than the number of withholding exemption allowances claimed by the employee on an Iowa withholding exemption allowance certificate in effect on such day, the employee may furnish his or her their employer with a new withholding exemption allowance certificate reflecting the increase.

e. Duration of exemption allowance certificate. An Iowa withholding exemption allowance certificate which is in effect pursuant to these regulations shall continue in effect until another withholding allowance exemption certificate takes effect.

[Filed 12/16/83, effective 2/8/84]

[Published 1/4/84]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 1/4/84.

## ARC 4393

## REVENUE DEPARTMENT[730]

Pursuant to the authority of Iowa Code sections 421.14 and 422.68(1), the Iowa Department of Revenue hereby adopts amendments to Chapter 54, "Allocation and Apportionment", Iowa Administrative Code.

Amended Notice of Intended Action was published in IAB, Volume VI, Number 10, on November 9, 1983, as ARC 4223.

The present rules of the department can produce in some factual situations a conflict with recent decisions of the United States Supreme Court in ASARCO, Inc. v. Idaho State Tax Commission, 458 U.S. \_\_\_\_\_, 73 L.Ed.2d 787 (1982) and F. W. Woolworth Co. v. Taxation and Revenue Department, 458 U.S. \_\_\_\_\_, 73 L.Ed.2d 819 (1982). These cases provide, that in order to tax the investment income of a single taxpayer corporation, as is done by Code section 422.33(1), the income recipient and the income payor must either conduct a unitary business or the income itself must be a part of the unitary stream of income, of the income recipient, where the recipient and the payor do not have a unitary relationship. The current rules of the department are based, to some extent, upon a "business purpose" test to determine a unitary relationship which the United States Supreme Court recently found to be an erroneous legal standard. In addition, the present rules, to some extent, apply a "potential to control" test which the Supreme Court has also condemned. These rules adopt the actual "functional relationship" or "centralized management" tests which have been approved by the U.S. Supreme Court.

The present rules may be broader in scope than the unitary income guidelines adopted by the U.S. Supreme Court allow and could tax an excessive portion of investment income, which is determined to be a part of the single taxpayer corporation's unitary income. The adopted rule makes it clear that the determination of unitary business income is based upon the facts and circumstances in each case. The adopted rules do not purport to change Iowa's application of the unitary concept as it applies to single corporate entities in the determination of unitary business income and these proposed rules do not require or authorize the filing of a combined report. Iowa has never historically required or allowed the filing of a combined report and, under the Container case, such requirement or authorization is discretionary with the taxing state. These rules are amended to bring the department's rules into compliance with these two Supreme Court cases and the recent decision of the United States Supreme Court in Container Corporation of America v. Franchise Tax Board, \_\_\_\_\_ U.S. \_\_\_\_\_, \_\_\_\_\_ L.Ed.2d \_\_\_\_\_, 51 U.S.L.W. 4987 (1983).

None of the amendments in this rule will necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

These rules are identical to those published under amended Notice of Intended Action. The amendments will become effective February 8, 1984, after filing with the administrative rules coordinator and publication in the Iowa Administrative Bulletin.

This rule is intended to implement Iowa Code chapter 422.

## REVENUE DEPARTMENT[730] (cont'd)

The following amendments are adopted.

Rule 730—54.2(422) is amended by striking the entire rule and inserting in lieu thereof the following new rule:

**730—54.2(422) Allocation or apportionment of investment income.**

**54.2(1)** The classification of investment income by the labels customarily given them, such as interest, dividends, rents, and royalties, is of no aid in determining whether that income is business or nonbusiness income. Interest, dividends, rents and royalties shall be apportioned as business income to the extent the income was earned as a part of a corporation's unitary business, a portion of which is conducted in Iowa. Mobil Oil Corp. v. Commissioner of Taxes, 445 U.S. 425 (1980); ASARCO, Inc. v. Idaho State Tax Commission, 458 U.S. \_\_\_\_\_, 73 L.Ed.2d 787 (1982); F.W. Woolworth Co. v. Taxation and Revenue Dept., 458 U.S. \_\_\_\_\_, 73 L.Ed.2d 819 (1982); Container Corporation of America v. Franchise Tax Board, \_\_\_\_\_ U.S. \_\_\_\_\_, \_\_\_\_\_ L.Ed.2d \_\_\_\_\_, 51 U.S.L.W. 4987 (1983). Whether investment income is part of a corporation's unitary business income depends upon the facts and circumstances in the particular situation. The burden of proof is upon the taxpayer to show that the treatment of investment income on the return as filed is proper. There is a rebuttable presumption that an affiliated group of corporations in the same line of business have a unitary relationship, although that is not the only element used in determining unitariness.

**54.2(2)** All business income, except for capital gains and the receipts therefrom, may at the taxpayer's election be included in the computation of the denominator of the business activity formula. For a tax year which begins on or after January 1, 1984, if the taxpayer has investment income which is deemed to be business income under the provisions of this rule, a written election shall be made. The election must state whether the taxpayer wishes to include or exclude investment income which is deemed to be business income under the provisions of this rule in the computation of the business activity formula. The election shall be signed by a duly authorized officer of the corporation. The election is binding on all future tax years unless the taxpayer is granted permission by the director to change the election. If the taxpayer fails to make a written election, the fact that investment income was or was not included in the computation of the business activity formula shall be deemed to be the taxpayer's election for all future tax years.

If the taxpayer makes an election to include investment income deemed to be business income in the computation of the denominator of the business activity ratio, the computation of the business activity ratio is as follows:

a. Interest income from accounts receivable—Accounts receivable interest income is included in the numerator of the business activity formula if the taxpayer receives accounts receivable interest income from customers located in Iowa. Accounts receivable interest income which cannot be segregated by geographical source shall be included in the numerator of the business activity ratio applying the same ratio as gross receipts within Iowa bear to total gross receipts.

**EXAMPLE:** The taxpayer operates a multistate chain of gasoline service stations, selling for cash and on credit. Interest is charged on credit sales, but the interest income

cannot be segregated by geographical source. During the tax year, the taxpayer had gross receipts within Iowa of \$300,000, total gross receipts everywhere of \$1,000,000, and accounts receivable interest income everywhere of \$10,000. \$10,000 would be included in the denominator of the business activity formula, and 30% of \$10,000, or \$3,000, would be included in the numerator of the business activity formula.

b. Interest income other than accounts receivable—All other interest income determined to be business income, except nontaxable interest income, shall be included in the numerator of the business activity formula if the taxpayer's commercial domicile is in Iowa.

c. Dividend income—All dividend income (net of special deductions) determined to be business income shall be included in the numerator of the business activity formula if the taxpayer's commercial domicile is in Iowa.

d. Rental income—All rental income determined to be business income shall be included in the numerator of the business activity formula to the extent that property is utilized in Iowa or in its entirety if the taxpayer's commercial domicile is in Iowa and the taxpayer is not taxable in the state in which the property is utilized. The extent of utilization of tangible personal property in a state is determined by multiplying the rent by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental periods in the taxable year. If the physical location of the property during the rental period is unknown or not ascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental payor obtained possession.

e. Royalty income—All royalty income from intangible personal property determined to be business income shall be included in the numerator of the business activity formula if the taxpayer's commercial domicile is in Iowa. All royalty income from tangible personal property or real property determined to be business income shall be included in the numerator of the business activity formula if the situs of the tangible personal property or real property is within Iowa.

f. Other miscellaneous income—All other miscellaneous income determined to be business income shall be included in the computation of the business activity formula to the extent such income items do not represent a recapture of expense.

g. Income which is not subject to Iowa tax shall not be included in the computation of the business activity ratio.

Subrules 54.2(1) and 54.2(2) are effective for tax years beginning on or after January 1, 1983.

**54.2(3)** Grossed-up foreign income. For purposes of administration of the Iowa corporation income tax law, section 78 of IRC of 1954 (gross-up) shall be considered to be nonbusiness income, irrespective of the fact that the income creating the gross-up may be business income, and shall be allocated to the situs of the income payor.

This rule is intended to implement Iowa Code section 422.33.

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**ARC 4394****REVENUE DEPARTMENT[730]**

Pursuant to the authority of Iowa Code sections 421.14 and 450.12, the Iowa Department of Revenue hereby adopts amendments to Chapter 86, "Inheritance Tax", Iowa Administrative Code.

Notice of Intended Action was published in IAB, Volume VI, Number 10, on November 9, 1983, as ARC 4224.

The purpose for the creation of these rules is to implement the new inheritance tax legislation enacted by 1983 Iowa Acts, chapter 177. This legislation combined the preliminary inheritance tax return with the final inheritance tax return and the rules provided for a single inheritance tax return, which is patterned after the federal estate tax return form 706. The rules also implement the sections of chapter 177, which provide that values for inheritance tax purposes are to be determined by agreement. The rules specify the methods for reaching an agreement and provide for the remedies available to estates if an agreement is not reached as to values. The rules contain examples of determining the value of life estates and remainders in property inherited.

The rules also correct the reference in the existing rules to the "preliminary" and "final" inheritance tax returns which were abolished by the legislation. The rules also define the nature and effect of the inheritance tax clearance which releases the inheritance tax lien and which is required for the closing of an estate.

None of the rule amendments in this chapter will necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

These rules are identical to those published under Notice of Intended Action, except for three typographical errors corrected in subrules 86.3(3), 86.6(4) and 86.11(5). The rules will become effective February 8, 1984, after filing with the administrative rules coordinator and publication in the Iowa Administrative Bulletin.

These rules are intended to implement 1983 Iowa Acts, chapter 177, Iowa Code chapter 17A, and sections 450.7, 450.44 to 450.58, 450.64, 450B.2, 450B.3, 450B.6 and 633.479.

The following amendments are adopted.

ITEM 1. Amend subrule 86.2(2) as follows.

**86.2(2)** Form and contents ~~preliminary inheritance~~ tax return.

a. *Estates of decedents dying prior to July 1, 1983.* The report and inventory required by Iowa Code section 633.361; ~~The Code~~, shall constitute the preliminary inheritance tax report and return to the department. The report and return shall be in such form as the director may prescribe. It shall provide for a listing of information required by law and sufficient other information relating to the property subject to tax to enable the department to determine the extent and value of the property subject to tax. It shall provide schedules for categorizing property subject to tax which conform as nearly as possible possible to the asset schedules of the federal estate tax return.

b. *Estates of decedents dying on or after July 1, 1983.* For estates of decedents dying on or after July 1, 1983, the preliminary inheritance tax return is abolished and a single inheritance tax return is substituted in lieu thereof. The return shall provide for schedules listing the assets includable in the gross estate, a listing of the liabilities

deductible in computing the net estate and a computation of the tax due, if any, on each share of the net estate. The return shall conform as nearly as possible to the federal estate tax return form 706. If the estate has filed a federal estate tax return a copy must be submitted with the Iowa return. If the federal estate return includes the schedules of assets and liabilities, the taxpayer may omit the Iowa schedules of assets and liabilities from the return. When Iowa schedules are filed with the return, only those schedules which apply to the particular assets and liabilities of the estate are required. A return merely listing the assets and their values when the gross estate is in excess of \$10,000 is not sufficient in nontaxable estates. In this case the return must be amended to list the schedule of liabilities and the computation of the shares of the net estate before an inheritance tax clearance will be issued.

ITEM 2. Amend subrule 86.2(3) to read as follows:

**86.2(3)** This subrule is applicable only to estates of decedents dying prior to July 1, 1983. Amendments—preliminary return and probate inventory. The preliminary inheritance tax return and probate inventory must be amended to list newly discovered assets subject to tax and also, to correct an erroneous value placed on an asset of readily determinable value, if an appraisal is to be avoided which has been requested by the department. An amendment is also required to correct any listing of the heirs, beneficiaries, transferees and surviving joint tenants and their relationship to the decedent. The preliminary inheritance tax report and probate inventory may be amended to correct any other erroneous information relating to property subject to tax. However, amendments are not permitted simply to change or second guess the value placed on an asset if sixty days has elapsed after the filing of the preliminary inheritance tax report and probate inventory with the clerk and appraisal of the asset has not been requested or has been waived by the department. *Bair v. Randall*, 258 N.W.2d 333 (Iowa 1977); *In re Estate of Harrington*, Department of Revenue Hearing Officer decision, Docket No. 78-15-3-A (1978). Unless the value of an asset has been determined by the appraisal proceedings, the preliminary inheritance tax report and probate inventory may be amended to list the correct market value of an asset. Provided, in no event will an amendment be permitted which would result in a refund of tax more than five years after the tax became due or one year after the tax was paid, whichever time is the later. *Welp v. Department of Revenue*, 333 N.W. 2d 481 (Iowa 1983).

ITEM 3. Amend subrule **86.2(4)** by adding the following new sentence after the catchwords of the subrule.

*This subrule is only applicable to estates of decedents dying prior to July 1, 1983.*

ITEM 4. Amend subrule **86.2(5)** by adding the following new sentence after the catchwords of the subrule.

*This subrule is only applicable to estates of decedents dying prior to July 1, 1983.*

ITEM 5. Amend subrule **86.2(6)** by striking the subrule and renumbering the remaining subrules accordingly.

ITEM 6. Amend subrule **86.2(7)** by striking the subrule and substituting in lieu thereof the following subrule.

**86.2(6)** Mandatory filing — inheritance tax return. The inheritance tax return provided for in subrule 86.2(2) must be filed if the gross share of any heir, beneficiary, transferee or surviving joint tenant exceeds the exemp-

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tions allowable in Iowa Code sections 450.4 and 450.9. In addition, if Iowa real estate is includable in the gross estate, the return must be filed, even if no tax is due, prior to the issuance of a no tax due certificate.

ITEM 7. Amend subrule 86.2(8) as follows.

**86.2(8)(7)** Who must file — ~~final inheritance tax~~ return. If the decedent's estate is probated, the personal representative of the estate shall have the duty of filing the ~~final~~ return with the department. If the personal representative of the estate fails to file the ~~final~~ return or if the estate is not probated, it shall be the duty of those heirs, beneficiaries, transferees, surviving joint tenants and trustees who receive shares in excess of the allowable exemptions or which are taxable in whole or in part, without the deduction of liabilities, either jointly or severally to file the ~~final~~ return with the department.

ITEM 8. Amend subrule 86.2(9) as follows.

**86.2(9)(8)** Supplemental return—deferred interest. When the tax has been deferred on a property interest to take effect in possession or enjoyment after the termination of a prior property interest, it shall be the duty of the owner of the future interest to file a supplemental ~~final~~ inheritance tax return with the department, reporting the future interest for taxation.

ITEM 9. Amend subrule 86.2(10) as follows.

**86.2(10)(9)** Amended ~~final~~ return. If additional assets or liabilities deductible are discovered or incurred, as the case may be, after the filing of the ~~final~~ inheritance tax return increasing the amount of tax due, an amended ~~final~~ inheritance tax return must be filed with the department, reporting the additional assets or liabilities. If additional assets or liabilities are discovered or incurred after the filing of the ~~final~~ inheritance tax return, which results in an overpayment of tax, an amended ~~final~~ inheritance tax return may be filed, in lieu of a claim for refund.

ITEM 10. Amend subrule 86.2(11) to read as follows.

**86.2(11)(10)** Due date for filing — return on present property interests. Unless an extension of time has been granted, the final inheritance tax return, or the inheritance tax return in case of decedents dying on or after July 1, 1983, must be filed and any tax due paid, for all property in present possession and or enjoyment:

- a. Within nine months after death for estates of decedents dying on or after July 1, 1981.
- a- b. Within twelve months after death for estates of decedents dying on or after July 1, 1976 during the period beginning July 1, 1976, and ending June 30, 1981.
- b- c. Within fifteen months after death for estates of decedents dying during the period beginning July 1, 1973, and ending June 30, 1976.
- c- d. Within eighteen months after death for estates of decedents dying prior to July 1, 1973.

ITEM 11. Amend subrule 86.2(13) as follows.

**86.2(13)(12)** Mandatory due date—return on a future property interest. If the tax due on a property interest to take effect in possession or enjoyment at a future date has been deferred, the deferred tax due must be paid within ~~one year 9 months~~ (one year for future property interests created prior to July 1, 1981) after the termination of the prior estate. If the termination is due to the death of a life tenant or the expiration of a term, the return and deferred tax is due ~~one year 9 months~~ (one year for future property interests created prior to July 1, 1981) after the death of the life tenant or the expiration of the term, as the

case may be. If the termination of the prior estate is due to the sale of the property (when the prior estate is not preserved in the proceeds) or upon the relinquishment of the prior estate, the deferred tax is due ~~one year 9 months~~ (one year for future property interests created prior to July 1, 1981) after sale or the relinquishment of the prior estate. If the prior estate is terminated by exhaustion of the corpus under a testamentary power of invasion, a supplemental ~~final~~ inheritance tax return must be filed with the department within ~~one year 9 months~~ (one year for future property interests created prior to July 1, 1981) after the termination and must provide an accounting of the corpus, even though no tax is due. If an extension of time has been granted by the department to file the ~~final~~ inheritance tax return and pay the tax due, and the prior estate terminates before the expiration of the extension, the tax shall be due on the future estate either at the expiration of the extension, or ~~one year 9 months~~ (one year for future property interests created prior to July 1, 1981) after the prior estate terminates, whichever time is the later.

ITEM 12. Amend subrule 86.2(14) as follows.

**86.2(14)(13)** Extension of time—~~final~~ return and payment. For good cause, the department may grant an extension of time to file the ~~final~~ inheritance tax return and pay the tax due on a property interest in present possession or enjoyment for a period not to exceed ten years after the decedent's death. The ~~one year nine months~~ (one year for future property interests created prior to July 1, 1981) period to file a supplemental ~~final~~ inheritance tax return and pay the deferred tax due on a future estate cannot be extended if the prior estate terminates after the expiration of a previously granted extension of time. Application for an extension of time must be on forms prescribed by the director and must be made prior to the time the tax is due.

ITEM 13. Amend subrule 86.2(15) as follows.

**86.2(15)(14)** Penalty—delinquent returns and payment. Effective for estates of decedents dying on or after January 1, 1981, a penalty of five percent per month, not to exceed twenty-five percent in the aggregate, is imposed for failure to file the ~~final~~ return or failure to pay 90 percent of the tax required to be shown as due within the time prescribed by law (taking into consideration any extensions of time to file and pay), unless failure is due to reasonable cause. In case there is both a failure to file and a failure to pay, the penalty for failure to file shall be in lieu of the penalty for failure to pay. A request for waiver of penalty must be in writing and submitted to the Estates and Trusts Division, Iowa Department of Revenue, Hoover State Office Building, Des Moines, Iowa 50319 and must identify the estate and set forth the reasons for the failure. Delinquent returns draw interest at the rate of eight percent per annum until December 31, 1981. See rule 730—10.2(421) for the statutory interest rate commencing on or after January 1, 1982. All payments are first credited to penalty and interest and the balance, if any, to the tax due. For estates of decedents dying prior to January 1, 1981, all tax not paid within the time prescribed by law (taking into consideration any extensions of time to file and pay) shall draw interest at the rate of eight percent per annum until December 31, 1981. See rule 730—10.2(421) for the statutory interest rate commencing on or after January 1, 1982. There is no penalty for failure to file and pay the tax for estates of decedents dying prior to January 1, 1981.

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ITEM 14. Amend subrule 86.2(16) as follows.

~~86.2(16)~~(15) What constitutes reasonable cause. What constitutes reasonable cause for failure to timely file the final return and pay the tax due depends on the facts and circumstances in each particular case. Factors which tend to establish reasonable cause are, but not limited to:

a. When the return and payment of the tax was timely filed, but filed erroneously with the internal revenue service or another state agency.

b. When the return and payment were timely mailed, but were not received by the department until after the due date (if the due date falls on a Saturday, Sunday or holiday, the due date shall be the next day which is not a Saturday, Sunday or holiday).

c. When the delay was caused by the death or serious illness of the taxpayer.

d. When the delay was caused by the prolonged unavoidable absence of the taxpayer.

e. When the delay was caused by the destruction of the taxpayer's records due to fire or other unavoidable casualty.

f. When the taxpayer has good reason to believe that the gross share of none of the heirs, beneficiaries, transferees or joint tenants is of a sufficient amount for a tax to be owing.

g. When the taxpayer exercised ordinary business care and prudence in providing for the timely filing of the return and payment of the tax due. What constitutes ordinary business care and prudence must be determined by the particular facts and circumstances in each case. See Armstrong v. Department of Revenue, 320 N.W.2d 623 (Iowa 1982).

These amendments to the rule are intended to implement 1983 Iowa Acts, chapter 177.

ITEM 15. Amend subrule 86.3(1) as follows.

**86.3(1) Audits.** Upon filing of the final inheritance tax return, the department shall audit and examine it and determine the correct tax due. A copy of the federal estate tax return shall be filed with the final inheritance tax return in those estates where federal law requires the filing of a federal estate tax return. The department may request the submission of wills, trust instruments, contracts of sale, deeds, appraisals and such other information as may reasonably be necessary to establish the correct tax due. Tiffany v. County Board of Review, 188 N.W.2d 343, 349; (Iowa 1971). The person, or persons liable for the payment of the tax imposed by *Iowa Code* chapter 450; ~~The Code~~, shall keep the records relating to the gross and net estate required for federal estate tax purposes under 26 U.S.C. Section 6001 of the Internal Revenue Code and regulation section 20.6001-1 thereunder.

ITEM 16. Amend subrule 86.3(2) as follows.

**86.3(2) Assessments for additional tax.** If the audit and examination of the final inheritance tax return discloses the correct tax to be in excess of the tax paid, or if the return is submitted without remittance, the department shall notify the taxpayer of the correct tax and make an assessment for the amount of tax due together with any penalty and interest. The amount of the assessment shall be a sum certain if paid on or before the last day of the month in which the notice of assessment is postmarked, or on or before the last day of the following month if the notice is postmarked after the twentieth day of a month and before the first day of the following month. If the final inheritance tax return is not filed within the time pre-

scribed by law, taking into consideration any extensions of time, the department may make an assessment for the tax and any penalty and interest due based on the inventories, wills, trust instruments and other information available.

ITEM 17. Amend subrule 86.3(3) as follows.

**86.3(3) Refunds.** If the examination and audit of the final inheritance tax return discloses an overpayment of tax the department shall refund the excess, without the necessity of an amended return or claim being filed, to the taxpayer with interest at six percent per annum after sixty days from the date of payment until December 31, 1981. See rule 730-10.2(421) for the statutory interest rate commencing on or after January 1, 1982. Interest on refunds shall only be paid on overpayment of tax made in estates of decedents dying on or after July 1, 1975. (Acts of the Sixty-fifth General Assembly (1973) Chapter 224.) No interest shall be allowed on refunds due the estates of decedents dying prior to July 1, 1975. Weiting v. Morrow, 151 Iowa 590, 132 N.W. 4988 193(1911). Also 1976 O.A.G. 871. If the taxpayer, after the tax has been paid, discovers additional liabilities which, when offset by any additional assets results in an overpayment of the tax, the excess payment shall be refunded to the taxpayer upon filing with the department either an amended final inheritance tax return or a claim for refund. No refund for excessive tax paid shall be made by the department unless a claim or an amended final return is filed with the department within five years after the tax payment upon which the claim is made became due, or one year after the tax was paid, whichever time is the later.

These amendments to the rule are intended to implement 1983 Iowa Acts, chapter 177.

ITEM 18. Amend subrule **86.6(1)** by adding the following new sentence after the catchwords of the subrule.

For estates of decedents dying prior to July 1, 1983.

ITEM 19. Amend subrule **86.6(2)** by adding the following new sentence after the catchwords of the subrule.

For estates of decedents dying prior to July 1, 1983.

ITEM 20. Amend subrule **86.6(3)** by adding the following new sentence after the catchwords of the subrule.

For estates of decedents dying prior to July 1, 1983.

ITEM 21. Amend rule 86.6(450) by adding the following new subrule.

**86.6(4) Liabilities deductible — Estates of decedents dying on or after July 1, 1983.**

a. In general — subrules 86.6(1) to 86.6(3) apply to the liabilities deductible in estates of decedents dying on or after July 1, 1983, except as otherwise provided in this subrule.

b. Residents and nonresident distinction abolished. Effective for estates of decedents dying on or after July 1, 1983, the domicile of the decedent is not relevant in determining whether a liability is deductible in computing the net estate. The case of In Re Estate of Evans, 246 Iowa 893, 68 N.W.2d 289 (1955) only applies to estates of decedents dying prior to July 1, 1983. However, the amount of the liability that is deductible depends upon the situs of the property in the gross estate.

If part of the property included in the gross estate has a situs in a jurisdiction other than Iowa, only a pro rata amount of the liabilities specified in Iowa Code section 450.12, with the exception of liabilities secured by a lien on property, is deductible in computing the net estate for Iowa inheritance tax purposes. The amount deductible is

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computed by multiplying the total amount of the unsecured liabilities by a fraction of which the Iowa situs property in the gross estate is the numerator and the total gross estate is the denominator. For the purpose of apportionment of the liabilities the term "gross estate" means the gross estate for federal estate tax purposes. Provided, if the federal gross estate formula produces a grossly distorted result then, subject to the approval of the department, an alternate apportionment formula may be used either by the department or the taxpayer which fairly represents the particular facts of the estate.

Liabilities secured by a lien on property are allocated to the state of situs. If the secured liability exceeds the value of the security, any excess is prorated in the same manner as an unsecured liability.

c. Liabilities that must be prorated—Estates of decedents dying on or after July 1, 1983.

If the gross estate includes property with a situs outside of Iowa, the liabilities that must be prorated are: (1) Court costs, both foreign and domestic; (2) Unsecured debts of the decedent regardless of where the debt was contracted; (3) Federal and state income tax, including the tax on the decedent's final return, federal estate, gift and excise tax, and state and local sales, use and excise tax; (4) Expenses of the decedent's funeral and burial, regardless of the place of interment; (5) Allowances for the surviving spouse and children allowed by the probate court in Iowa or another jurisdiction; (6) The expense of the appraisal of property for the purpose of assessing a state death or succession tax, if not otherwise included in court costs; (7) The fees and necessary expenses of the personal representative and his or her attorney allowed by order of court, both foreign and domestic; (8) The costs of the sale of real and personal property, both foreign and domestic, if not otherwise included in court costs; and (9) The amount paid by the personal representative for a bond, both foreign and domestic.

d. Liabilities that are not prorated—Estates of decedents dying on or after July 1, 1983.

Liabilities secured by a lien on property included in the gross estate are to be allocated in full to the state of situs. These are liabilities secured by: (1) Mortgages, mechanic's liens and judgments; (2) Real estate taxes and special assessments on real property; (3) Liens for an obligation to the United States of America, a state or any of its political subdivisions; and (4) Any other lien on property imposed by law for the security of an obligation.

e. Accrued taxes—For estates of decedents dying on or after July 1, 1983.

Effective for estates of decedents dying on or after July 1, 1983, state and local taxes that have accrued before the decedent's death are deductible in computing the net estate. This modifies subrule 86.6(2), paragraph "e" which allows a deduction only for state and local taxes that are due and payable during the fiscal year beginning July 1 in which the decedent's death occurs. In Iowa property taxes accrue on the date the county board of supervisors make the tax levy, even though they are not due and payable until the following July 1st. In Re Estate of Luke, 184 N.W.2d 42 (Iowa 1971). Death terminates the decedent's taxable year for income tax purposes. Federal Regulation Section 1.443-1(a)(2), department subrule 89.4(9), paragraph "b". As a result, the Iowa tax on the decedent's income for the taxable year ending with the decedent's death is accrued on date of death. In addition, any federal income tax for the decedent's final taxable

year is owing at death, even though it is not payable until a later date. Therefore, both the decedent's state and federal income tax, both for prior years and the year of death, are deductible in computing the taxable estate, if unpaid at death.

These amendments to the rule are intended to implement 1983 Iowa Acts, chapter 177.

ITEM 22. Amend chapter 86 by adding the following new rules.

**730—86.9(450) Market value in the ordinary course of trade.**

**86.9(1)** In general. With the exception of real estate which has been specially valued under Iowa Code chapter 450B, property included in the gross estate for inheritance tax purposes must be valued under the provisions of Iowa Code section 450.37 at its market value in the ordinary course of trade. See department rule 730—86.10(450) for the rule governing the market value in the ordinary course of trade if the alternate valuation date is elected. "Market value in the ordinary course of trade" and "fair market value" are synonymous terms. In Re Estate of McGhee, 105 Iowa 9, 74 N.W. 695 (1898). Fair market value is the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts. The fair market value of a particular item of property includable in the decedent's gross estate is not to be determined by a forced sale price. Nor is the fair market value of an item of property to be determined by the sale price of the item in a market other than that in which such item is most commonly sold to the public, taking into account the location of the item whenever appropriate. See Federal Regulation Section 20.2031(1)(b), and Iowa Code section 441.21(1)"b" for similar definitions of fair market value.

**86.9(2)** Values not to be used. Other kinds of value assigned to property such as, but not limited to, assessed value of real estate for property tax purposes, cost price, true value, or book value are only relevant in computing the value of the property for inheritance tax purposes, to the extent they may be properly used in the determination of fair market value or special use value. In Re Estate of McGhee, 105 Iowa 9, 74 N.W. 695 (1898). Fair market value cannot be determined alone by agreement between the persons succeeding to the decedent's property. Also, fair market value cannot be determined alone by setting out in the decedent's will the price for which property can be sold. In Re Estate of Fred W. Rekers, Probate No. 28654, Black Hawk County District Court, July 26, 1972.

**86.9(3)** Date of valuation. Unless the alternate valuation date is elected under Iowa Code section 450.37, or the tax has been deferred according to Iowa Code sections 450.44 to 450.49, all property includable in the gross estate must be valued at the time of the decedent's death for the purpose of computing the tax imposed by Iowa Code section 450.2. Subject to the two exceptions listed, any appreciation or depreciation of the value of an asset after the decedent's death is not to be taken into consideration. Insel v. Wright County, 208 Iowa 295, 225 N.W. 378 (1929).

**86.9(4)** Market value - how determined.

a. By agreement between the department, the estate and its beneficiaries. Iowa Code section 450.37 provides

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that the market value in the ordinary course of trade is to be determined by agreement between the estate and its beneficiaries and the department. The term "agreement" when used with reference to the value of an asset, whether it is real or personal property, has the same meaning as the term is used in the law of contracts. The agreement between the department, the estate and its beneficiaries may be contained in a single written instrument, or it may be made by an offer submitted by the estate and its beneficiaries and its acceptance by the department.

(1) Offer by the estate and the beneficiaries. It is the duty of the taxpayer to list on the inheritance tax return the values of the assets in the gross estate which the estate and those beneficially entitled to the decedent's property are willing to offer as the values for computing the taxable shares in the estate. The value of the assets listed on the return will constitute an offer for the department to accept or reject. Counteroffers may be made in the event an offer is rejected. This rule applies equally to real and personal property.

(2) Acceptance of values by the department. The values offered on the inheritance tax return by the estate and its beneficiaries are accepted by the department when:

1. The department has accepted the offered values in writing, or

2. A clearance certifying full payment of the tax due or a clearance certifying no tax due is issued by the department, or

3. The department does not request an appraisal within thirty days after the return has been filed in the case of the value of real estate. However, see subrule 86.9(4)"a"(3) for the rule governing values listed as "unknown" or "undetermined". See Iowa Code sections 622.105 and 622.106 for the law determining the filing date of a tax return that is mailed.

(3) Values listed on the return as "undetermined" or "unknown". If at the time the inheritance tax return is filed the information necessary to determine the value of an asset cannot be presently ascertained, the taxpayer may list the value of that asset as "unknown" or "undetermined". The return must contain a statement signed by the taxpayer on behalf of the estate and the beneficiaries with an interest in the property granting the department an extension of time for requesting an appraisal until thirty days after an amended return is filed listing a value for the real estate. Failure to grant an extension of time will subject the real estate to an immediate request for an appraisal. The amended return shall be accompanied with sufficient facts and other information necessary to substantiate the value offered. An agreement concerning the value of an asset presupposes that both the department, the beneficiaries and the estate have knowledge of the relevant facts necessary to determine value. There can be no meaningful agreement or appraisal until the relevant facts relating to value are known. See Bair v. Randall, 258 N.W.2d 333 (Iowa 1977) regarding the criteria that may be used to determine the value of an asset which was unknown at the time of the decedent's death.

b. Values established - no agreement.

(1) Real estate. If the department, the estate and the persons succeeding to the decedent's property have not reached an agreement as to the value of real estate under subrule 86.9(4), paragraph "a", the market value for inheritance tax purposes will be established by the

appraisal proceedings specified in Iowa Code sections 450.27 to 450.36. Use of the inheritance tax appraisers to determine value for other purposes such as, but not limited to, determining the share of the surviving spouse in the estate or for determining the fair market value of real estate for the purposes of sale, are not controlling in determining values for inheritance tax purposes. In Re Estate of Giffen, 166 N.W.2d 800 (Iowa 1969); In Re Estate of Lorimor, 216 N.W.2d 349 (Iowa 1974).

(2) Personal property. Effective for estates of decedents dying on or after July 1, 1983. If an agreement is not reached on the value of personal property under subrule 86.9(4), paragraph "a", the estate or any person beneficially receiving the personal property may appeal to the director under Iowa Code section 450.94, subsection 3, for a resolution of the valuation dispute, with the right of judicial review of the director's decision under Iowa Code chapter 17A.

c. Amending returns to change values.

(1) Amendment permitted or required. Unless value has been established by the appraisal or administrative proceedings, the inheritance tax return may be amended by the estate to change the value of an asset listed on the return as long as the amendment is filed before an agreement is made between the estate and the department as to the asset's value. The return must be amended to list the value of an asset omitted from the original return or to assign a value for an item listed on the original return as "unknown" or "undetermined".

If the facts and circumstances surrounding the value agreement would justify a reformation or rescission of the agreement under the law of contracts, the return may be amended by the estate, and must be amended at the department's request, to change the value of the item to its correct fair market value or its special use value as the case may be.

(2) Amendment not permitted. A return cannot be amended

1. To change the agreed value of an asset, if the facts and circumstances surrounding the agreement would not justify a reformation or rescission of the agreement,

2. To change a real estate value that has been established by the appraisal proceedings under Iowa Code sections 450.31 to 450.33, Insel v. Wright County, 208 Iowa 295, 225 N.W. 378 (1929),

3. To change the value of an item of personal property that has been established by the department's administrative procedure under chapter 7 of the department's rules of practice and procedure, or, if an appeal is taken from the director's decision, by judicial review under Iowa Code chapter 17A. Provided, in no event may the return be amended to lower the value of an asset that would result in a refund of tax more than five years after the tax became due or one year after the tax was paid, whichever time is the later. Iowa Code section 450.94, Welp v. Department of Revenue, 333 N.W.2d 481 (Iowa 1983).

This rule is intended to implement 1983 Iowa Acts, chapter 177, Iowa Code sections 450.27 to 450.37 and 450.44 to 450.49.

### 730—86.10(450) Alternate valuation date.

86.10(1) When available. The alternate valuation date allowed by 26 U.S.C. section 2032 is available for estates of decedents dying on or after July 1, 1983, on the same terms and conditions which govern the alternate valuation date for federal estate tax purposes. In general, the

## REVENUE DEPARTMENT[730] (cont'd)

alternate valuation date is the date six months after the decedent's death. If property is sold within the six-month period, the date of sale is the alternate date for valuing the property sold. See Federal Regulation Section 20.2032-1 for the rules governing the valuation of property in the gross estate at its alternate valuation date for federal estate tax purposes. If the election is made, all of the property included in the gross estate and not just a portion of the property, must be valued at the alternate valuation date. Provided, the estate may elect both the alternate valuation date and the special use value under Iowa Code chapter 450B, if the estate is otherwise qualified. See Federal Revenue Ruling 83-31(1983). It is a precondition for valuing the property at its alternate value for Iowa inheritance tax purposes, that the property has been valued at the alternate value for federal estate tax purposes. However, even if the property in the gross estate is valued at the alternate valuation date for federal estate tax purposes, the estate has the option either to elect or not to elect the alternate valuation date for Iowa inheritance tax purposes. If the alternate valuation date is elected, the value established for federal estate tax purposes shall also be the alternate value for inheritance tax purposes. The election is an affirmative act and must be made on a timely filed inheritance tax return, taking into consideration any extensions of time granted to file the return. Failure to indicate on the inheritance tax return whether the alternate valuation date is elected shall be construed as a decision not to elect the alternate valuation date.

**86.10(2) When not available.**

a. The alternate valuation date provided for in 26 U.S.C. section 2032, cannot be elected by the estate if the tax on a future property interest has been deferred under Iowa Code sections 450.44 to 450.49. The tax on a future property interest must be computed on the fair market value of the future property interest at the time the tax is paid. In Re Estate of Wickham, 241 Iowa 198, 40 N.W.2d 469 (1950).

b. Real estate which is subject to an additional inheritance tax imposed by Iowa Code section 450B.3 due to the early disposition or cessation of the qualified use, cannot be valued at the alternate valuation date for purposes of the recapture tax, unless the alternate valuation date was originally elected on the return for the decedent's estate.

c. The alternate valuation date cannot be elected if the size of the gross estate for federal estate tax purposes, based on the fair market value of the assets at the time of death, is less than the minimum filing requirements (\$275,000 for 1983) specified in 26 U.S.C. section 6018(a). The fact the gross estate for inheritance tax purposes is less than the minimum federal estate tax filing requirements is not relevant.

This rule is intended to implement 1983 Iowa Acts, chapter 177; Iowa Code section 450.37.

**730—86.11(450) Valuation - special problem areas.**

**86.11(1) Valuation of life estate and remainder interests.** In general. Life or term estates and remainders in property cannot be valued separately for inheritance tax purposes without reference to the value of the property in which the life or term estate and remainder exists. The first valuation step is to determine the value of the property as a whole. This rule applies equally to fair market value in the ordinary course of trade, whether it be valued at death or on the alternate valuation date six

months after death, or at its special use value under Iowa Code chapter 450B. The second step is to apply the life estate-remainder or term tables in department rule 730—86.7(450) to the whole value of the property in which the life estate-remainder or term exists. Iowa Code section 450.51 requires that value of annuities, life or term, deferred or future estates in property be computed on the basis that the use of the property is worth a return of four percent per year. The life estate-remainder tables in department rule 730—86.7(450) make no distinction between the life expectancy of males and females. See City of Los Angeles vs. Manhart, 435 U.S. 702, 98 S.Ct. 1370, 55 L.Ed. 657 (1978) and Arizona Governing Committee for Tax Deferred Annuity and Deferred Compensation Plans v. Norris, 51 U.S. Law Week 5243, 77 L.Ed.2d 1238 (1983) for the requirement that retirement annuities must not discriminate on the basis of sex. However, the actual life expectancy of the particular person receiving the life estate is not relevant in determining the value of the life estate for inheritance tax purposes. In Re Estate of Evans, 255 N.W.2d 99 (Iowa 1977), appeal dismissed 434 U.S. 805, 98 S.Ct. 34, 54 L.Ed.2d 62.

**86.11(2) Single life estate and remainder.** The value of a single life estate and remainder in property is computed by first determining the value of the property as a whole. The life estate is then computed by multiplying the value of the property as a whole by the life estate factor in department rule 730—86.7(450) for the age of the life tenant. The value of property remaining after the value of the life estate is subtracted is the value of the remainder interest in the property.

The computation of the value of a single life estate and remainder in property is illustrated by the following:

EXAMPLE: Decedent A, by will, devised to her surviving spouse B, age 68, a life estate in her 160 acre farm, with the remainder at B's death to daughter C. Special use value and the alternate value were not elected. The 160 acre farm at the time of the decedent's death had a fair market value of \$2,000 per acre, or \$320,000.

**COMPUTATION OF B'S LIFE ESTATE.** The life estate factor for a life tenant aged 68 under department rule 730—86.7(450) is .31829, that is, the use of the \$320,000 for life at the statutory rate of return of 4% is worth 31.829% of the value of the farm. Daughter C's remainder factor is .68171. The life estate-remainder factors when combined equal 100% of the value of the property. It is the age of the life tenant which governs the value of the remainder. The age of the person receiving the remainder is not relevant.

Value of B's			
<u>Life Estate</u>	\$320,000 x .31829	=	\$101,852.80
Value of C's			
<u>Remainder</u>	\$320,000 x .68171	=	\$218,147.20
Total Value			\$320,000.00

**86.11(3) Joint and succeeding life estates.** If property includable in the gross estate is subject to succeeding or joint life estates, the following general rules shall govern their valuation:

a. There can be no greater value assigned to all of the life estate interests than the value of the life estate of the youngest life tenant. The value of the life estate of the youngest life tenant fixes the value of the remainder interest in the property.

REVENUE DEPARTMENT [730] (cont'd)

b. If two or more persons share in a life estate, the life tenants are presumed to share equally in the life estate during the life of the older life tenant, unless the will or trust instrument specifically directs that the income or use may be allocated otherwise.

c. The age of a life tenant alone determines the value of that life tenant's interest in the property. The life tenant's state of health is not relevant to valuation. In Re Estate of Evans, 225 N.W.2d 99 (Iowa 1977), appeal dismissed 434 U.S. 805, 98 S.Ct. 34, 54 L.Ed. 62. As a result, if a succeeding life tenant is older than the preceding life tenant, the value of the succeeding life estate is zero. These general rules can be illustrated by the following examples:

EXAMPLE 1. Decedent A, by will, devised his 160 acre farm to his surviving spouse B, aged 68, for life, and upon B's death, to daughter C, aged 45 for life, and the remainder upon C's death to C's daughters D and E in equal shares. The 160 acre farm had a fair market value at A's death of \$320,000. Neither the alternate valuation date or special use value were elected.

COMPUTATION OF THE SUCCEEDING LIFE ESTATES AND REMAINDER

1. <u>Value of B's Life Estate</u>	
Life estate factor for age 68 is .31829	
\$320,000 x .31829 =	\$101,852.80
2. <u>Value of C's Succeeding Life Estate</u>	
Life estate factor for age 45 is .62044	
Remainder factor for a life tenant aged 45 is .37956	
\$320,000 x .62044 =	\$198,540.80
Less: B's life estate	<u>101,852.80</u>
Value of C's life estate	\$ 96,688.00
3. <u>Value of D's 1/2 remainder</u>	
1/2 of \$320,000 x .37956 =	\$ 60,729.60
4. <u>Value of E's 1/2 remainder</u>	
(same as D's)	\$ 60,729.60
Total Value-life estates and remainders	\$320,000.00

NOTE: In this example the value of C's succeeding life estate is reduced by the value of B's preceding life estate because C does not have the use of the farm during B's life-time. The value of the remainder to D and E is fixed by the age of their mother C, the succeeding life tenant.

EXAMPLE 2. Joint and survivorship life estates and remainder. In this example, the estate elected both the alternate valuation date and special use value. This is permitted by Federal Revenue Ruling 83-31 (1983), if the gross estate and the real estate are otherwise qualified.

Decedent A, a widow, by will devised her 240 acre Iowa farm to her son B, aged 52, and her daughter-in-law C, aged 48, for their joint lives and for the life of the survivor, with the remainder to D and E in equal shares. The farm had a fair market value at death of \$2,200 per acre, or \$528,000; the alternate value of the farm six months after death was \$2,100 per acre or \$504,000. Its special use value is \$1,000 per acre or \$240,000. The life estates and the remainder are computed on the basis of the special use value of \$240,000.

COMPUTATION OF JOINT LIFE ESTATE — REMAINDER VALUES

1. <u>B's share of joint life estate.</u>	
\$240,000 x .53412	
(life estate factor, age 52) =	\$128,188.80
1/2 as B's share =	\$ 64,094.40

2. <u>C's share of joint life estate.</u>	
\$240,000 x .58464	
(life estate factor, age 48) =	\$140,313.60
Less: value of life estate for B's life	<u>\$128,188.80</u>
	\$ 12,124.80
Plus: 1/2 value of life estate for B's life	
	\$ <u>64,094.40</u> \$ 76,219.20
3. <u>Value of the Remainder.</u>	
The value of the remainder is computed by using the remainder factor at the age of the youngest life tenant. In this example it is .41536, based on C's age of 48.	
<u>D's share of the remainder.</u>	
1/2 \$240,000 x .41536 =	\$ 49,843.20
<u>E's share of the remainder.</u>	
Same as D's	\$ 49,843.20
<u>Total value of joint life estates and the remainder</u>	\$240,000.00

NOTE: In this example B and C share equally in the life use of the farm during the life of B, who is the eldest. As a result, each life tenant's share during B's life is worth \$64,094.40. Since C is younger than B, the difference between the value of the life estates for B and C is set off to C alone. The age of the youngest life tenant (C in this example) fixes the value of the remainder interest in the farm.

86.11(4) Fixed sum annuity for life or for a term of years. The value of an annuity for a fixed sum of money, either for the life of the annuitant or for a specific period of time, shall be computed by determining the present value of the future annuity payments using the 4% annuity tables in department rule 86.7(450). A fixed sum annuity, either for life or for a term of years, is to be distinguished from a life estate and remainder in property. A life estate in property is the use of property and the present value of the life use cannot exceed the value of the property in which the life estate-remainder exists, regardless of the rate of return used to determine the life estate factor. A fixed sum annuity on the other hand is different. The amount of annuity does not necessarily bear any relationship to the earning capacity or value of the property which funds the annuity. The fixed sum annuity may be for an amount larger than the 4% used to compute a life estate. As a result, the present value of the fixed sum annuity computed at the statutory rate of 4% per year, may exceed the value of the property which funds the fixed annuity. In this case the present value of the future annuity payments cannot exceed the value of the property which funds the annuity. The remainder in this situation has no value for inheritance tax purposes.

This subrule is illustrated by the following examples:

EXAMPLE 1. Decedent A devises his 240 acre farm to daughter B, with the provision that B pay the sum of \$5,000 per year to C for life. The farm is subject to a lien as security for the payment of the annuity. C, the annuitant, is 54 years old. The fair market value of the farm at A's death is \$2,000 per acre, or \$480,000. Neither special use value or the alternate valuation date were elected.

COMPUTATION OF THE VALUE OF THE \$5,000 ANNUITY AND THE REMAINDER — REVERSION TO B.

## REVENUE DEPARTMENT[730] (cont'd)

Under department rule 86.7(450) the 4% annuity factor for life at age 54 is 12.697 for each dollar of the annuity received. Therefore, C's life annuity is computed as follows:

<u>C's Annuity</u>		
\$5,000 x 12.697 =		\$ 63,485
<u>B's Reversionary - Remainder Interest</u>		
Value of farm	\$480,000	
Less: C's annuity	63,485	\$416,515
Total annuity & reversion — remainder		\$480,000

NOTE: In this example the \$5,000 annuity is worth less than a life estate in the farm. A life estate would be worth \$243,782.40 because the use of \$480,000 at 4% per year would return \$19,200.00 per year, which is much greater than the \$5,000 annuity.

EXAMPLE 2: Decedent A, by will, directed that the sum of \$100,000 be set aside from the residuary estate to be held in trust to pay \$500.00 per month to B for life and upon B's death the remaining principal and income, if any, is to be paid to C and D in equal shares. B, the annuitant, was 35 years old at the time of A's death.

Under department rule 86.7(450) the annuity factor for a person 35 years of age is 18.098 for each dollar of the annuity. The annuity factor is based on the annual amount of the annuity, which in this case is \$6,000 per year.

COMPUTATION OF THE PRESENT VALUE OF B'S \$6,000 ANNUITY

$\$500.00 \times 12 = \$6,000 \times 18.098 = \$108,588$ , which exceeds the value of the property funding the annuity. As a result, the value for inheritance tax purposes is \$100,000, the maximum amount allowed by subrule 86.11(4). The remainder to C and D has no value for inheritance tax purposes.

**86.11(5) Valuation of remainder interests.** Iowa Code section 450.51 and department rule 86.7(450) require the value of a remainder interest in property to be computed by subtracting the present value of the preceding life or term estate from the total value of the property in which the remainder exists. Since age or time is the controlling factor in valuing life or term estates in property, the time when the preceding life or term estate is valued is crucial for determining the value of the remainder interests in the property. Iowa Code sections 450.6, 450.44 and 450.52 provide three alternative dates for valuing a remainder, or other property interest in future possession or enjoyment, for inheritance tax purposes. Each of the three dates requires valuing the preceding life or term estate on the date selected, thus in effect, valuing the remainder interest at the same time. The value of the remainder interest is based on the value of the property on the date elected for payment. In *Re Estate of Wickham*, 241 Iowa 198, 40 N.W.2d 469 (1950). The remainder or term factor in department rule 86.7(450) which is based on the age of the life tenant, or the number of years remaining in the term on the date of payment, is then applied to the value of the property to determine the value of the remainder interest. In *Re Estate of Millard*, 251 Iowa 1282, 105 N.W.2d 95 (1960). Therefore, the remainder, or other future property interest, shall be valued by the following general rules.

a. If the tax on a remainder or other future property interest is paid within nine months after the decedent's death (twelve months for estates of decedents dying prior

to July 1, 1981), the tax is to be based on the value of the property at the time of the decedent's death (whether it is fair market value or special use value) or the alternate value, six months after death, if elected. The age of the life tenant at the time of the decedent's death (the youngest life tenant in case of succeeding or joint life estates), or the term of years specified in the will or trust instrument, must be used to determine the value of the life estate or term estate in computing the tax on the remainder or other future property interests.

b. If the tax is paid after nine months from the date of the decedent's death (one year for estates of decedents dying prior to July 1, 1981), but before the termination of the previous life or term estate, the tax on the remainder or other future property interest, shall be computed on the fair market value of the property at the time of payment using the life estate or term factor based on the life tenant's age or term of years remaining at the time the tax is paid. Neither the alternate value or special use value can be used to value the property after nine months from the date of the decedent's death.

c. If the tax on the remainder or other future property interest is not paid under paragraphs "a" and "b", the tax must be paid within nine months (one year for future property interests created prior to July 1, 1981) after the termination of the prior estate. In this case the tax is based on the fair market value of the property and the life estate remainder or term factor corresponding with the time the prior estate is terminated. If the prior estate is terminated due to the death of the life tenant, or due to the expiration of the term of years, the remainder factor is 100% of the value of the property. If the prior estate terminates during the life of the life tenant or during the term of years, the tax is computed in the same manner as provided in paragraph "b". If the tax is not paid within nine months (one year for future property interests created prior to July 1, 1981) after the termination of the prior estate, the tax owing is delinquent and is subject to penalty and interest as provided by law. However, in this case the value of the remainder interest is not modified to reflect any change in the fair market value of the property or the life or term estate factor that may occur, due to the lapse of time between the due date of the tax and the date the tax is paid.

d. Iowa Code section 450.52 provides that the tax may be paid at any time on the present worth of the future property interest. The term "present worth" means the value of the future property interest at the time the tax is paid. Therefore, if the tax on the remainder or other future property interest is not paid within nine months after the decedent's death (one year for future property interests created prior to July 1, 1981), the estate or the beneficiary receiving the future interest cannot pay the tax on a delinquent basis using a value and a life estate or term factor which does not reflect the present worth of the future interest at the time of payment. In this situation the tax must be computed under option "b" or "c" of this subrule, whichever applies. In this respect failure to pay the tax within nine months after the decedent's death (one year for future property interests created prior to July 1, 1981) operates as a deferral of the tax on the future property interest. In *Re Estate of Dwight E. Clapp*, Probate No. 7251, Clay County Iowa District Court, July 2, 1980.

These rules can be illustrated by the following examples:

## REVENUE DEPARTMENT[730] (cont'd)

EXAMPLE 1. Decedent A, died July 1, 1983, and, by will, devised all of her personal property to her surviving spouse B and her 240 acre Iowa farm to B for his life with the remainder at B's death to C and D in equal shares. The surviving spouse B was 74 years of age when A died. The fair market value of the 240 acre farm was \$2,000.00 per acre, or \$480,000.00 on the date of A's death. Neither the alternate valuation date nor special use value was elected by the estate. On March 15, 1984, the inheritance tax return was filed and the tax paid.

COMPUTATION OF THE REMAINDER INTEREST OF C AND D

Since the return was filed and the tax paid within nine months after the decedent's death, the age of B, the life tenant, and the fair market value of the farm on July 1, 1983, control the value of the remainder. The remainder factor in department rule 86.7(450) for a life tenant 74 years old is .75519.

C's ½ remainder interest	½ \$480,000 x .75519 =	\$181,245.60
D's ½ remainder interest	same as C's	181,245.60
Total value of remainder		\$362,491.20

The difference between the value of the remainder and the total value of the farm is the value of B's life estate.

EXAMPLE 2. Same facts as in example 1, with the exception that only the tax on B's life estate was paid on March 15, 1984. The tax on the remainder to C and D was therefore deferred, to be paid no later than nine months after the death of B, the life tenant. However, on October 15, 1985, due to adverse economic circumstances, B, C, and D voluntarily sell the 240 acre farm at public auction to an unrelated person for \$2,100 per acre, or \$504,000. B's life estate was not preserved in the sale proceeds. The tax on the remainder in this fact situation must be computed under subrule 86.11(5); paragraph "b" when the life estate is terminated before the life tenant's death. The sale price of the farm and the life estate remainder factor reflecting B's age on October 15, 1985 (B's age is now 76) control the value of the remainder.

COMPUTATION OF THE REMAINDER INTEREST OF C AND D

The remainder factor in department rule 87.7(450) for a life tenant aged 76 is .77825.

C's ½ remainder interest	½ \$504,000 x .77825 =	\$196,119.00
D's ½ remainder interest	same as C's	196,119.00
Total value of remainder		\$392,238.00

NOTE: In this example, the value of C and D's remainder interest in the sale proceeds is greater than the value of the remainder at the time of A's death due to the increase in the remainder factor because of B's increased age and the increase in the fair market value of the farm. However, if B's life estate had been preserved in the sale proceeds, the tax could continue to be deferred on C and D's remainder interest. C and D cannot be required to pay the tax on their remainder until they come into possession or enjoyment of the property.

EXAMPLE 3. Decedent A at the time of her death on July 1, 1983, owned a vested remainder in a 240 acre Iowa

farm, which was subject to the life use of her mother B, who was 87 years old when A died. A's ownership of the remainder interest was not discovered until after the life tenant B's death on October 15, 1985. The fair market value of the farm was \$2,000 per acre or \$480,000 on July 1, 1983, and \$2,200 per acre or \$528,000 on October 15, 1985. Neither the alternate valuation date nor special use valuation can be used in this fact situation. See department rule 86.10(450) and subrule 86.8(4), paragraph "c". A's estate was reopened to include the omitted remainder in the 240 acre farm. An amended inheritance tax return was filed December 10, 1985, basing the tax on the fair market value and the remainder factor corresponding with the life tenant's age (87) on July 1, 1983. In this fact situation the tax on A's remainder is not computed correctly, even if A's estate has offered to pay a penalty and interest on the tax due. The tax must be computed on the basis of a fair market value of \$2,200 per acre and a remainder factor of 100% of the value of the farm. No penalty or interest would be assessed if the correct tax is paid prior to July 15, 1986, which is nine months after the life tenant's death. The life tenant's age at death is not relevant.

86.11(6) Valuation of contingent property interests. Contingent remainders, succeeding life estates and other contingent property interests, must be valued as if no contingency exists. As a result, department subrule 86.11(5) applies equally to the valuation of vested and contingent property interests. The tax on a contingent property interest may be deferred until such time as it can be determined who will come into possession or enjoyment of the property. By deferring the tax under Iowa Code sections 450.44 to 450.49, a person does not have to speculate as to who will be the probable owner of the contingent interest. As a result, no one is required to pay a tax on a property interest he or she does not have a vested right to receive. Therefore, if a person exercises the right to pay the tax during the period of the contingency, that person cannot obtain a tax advantage by asserting the value should be reduced due to a contingency, when the person would not be entitled to a reduction in value if the tax had been deferred until the ownership is determined.

This rule is illustrated by the following example.

Comprehensive Example. Decedent A, by will, devised a 240 acre Iowa farm to B for life and upon B's death, then to C for life and the remainder after C's death to D and E in equal shares. In this example C's succeeding life estate is contingent upon surviving B, the first life tenant. If C elects to pay the tax on the succeeding life estate within nine months after A's death, the tax is computed according to example 1, in subrule 86.11(3), with no discount for the contingency that C may not survive B. However, C may defer the tax to be paid no later than nine months after B's death. In this case, if C does not survive B, the succeeding life estate lapses, and D and E who own the remainder will come into possession or enjoyment of the 240 acre farm. No tax will be owing on the succeeding life estate because C receives nothing. D and E will owe tax on the remainder within nine months after the death of B, if the tax was not previously paid.

This rule is intended to implement Iowa Code sections 450.44 to 450.49, 450.51 and 450.52.

**730—86.12(450)The inheritance tax clearance.**

86.12(1) In general. The inheritance tax clearance is a written certificate of the department documenting the satisfaction of the inheritance tax obligation of the

## REVENUE DEPARTMENT[730] (cont'd)

persons succeeding to the property included in the gross estate and the personal representative of the estate and, also the obligation of the qualified heir, in case special use valuation is elected under Iowa Code chapter 450B. The clearance is either in the form of a full payment tax receipt or a statement that no tax is due on the shares of the estate. The clearance fulfills the statutory requirements of Iowa Code sections 450.58, 450B.2, 633.477 and 633.479.

**86.12(2) Limitations on the clearance.** Limitations on the inheritance clearance, include, but are not limited to:

a. If special use valuation has been elected under Iowa Code chapter 450B, a clearance certifying all inheritance tax has been paid in full, or that no inheritance tax is due, does not extend to any additional inheritance tax that may be imposed under Iowa Code section 450B.3 by reason of the early disposition or early cessation of the qualified use of the real estate specially valued. Provided, this limitation shall be null and void if:

(1) The real estate specially valued remains in qualified use for the ten-year period after the decedent's death, or

(2) There is an early disposition or early cessation of the qualified use and any additional inheritance tax imposed by Iowa Code section 450B.3 is paid in full.

b. The clearance does not extend to property that is not reported on the return.

c. The clearance does not extend to a fraudulently filed return or a return which misrepresents a material fact.

d. The clearance does not release an underlying tax obligation that remains unpaid, even though a clearance may release the liens imposed by Iowa Code sections 450.7 and 450B.6.

**86.12(3) The tax paid in full clearance.** Effective for estates of decedents dying on or after July 1, 1983, the distinction between full payment and partial payment clearances is abolished. For estates of decedents dying on or after July 1, 1983, in which a tax is due, only full payment clearances will be issued. The full payment clearance will be issued only after all the tax, penalty and interest has been paid in full. Provided, if the tax has been paid in full on some, but not all of the shares in the estate, the department will, upon request, issue a full payment clearance limited to those shares on which the tax has been paid in full. The inheritance tax is a separate tax on each share of the estate and not one tax on the estate itself. In Re Estate of Stone, 132 Iowa 136, 109 N.W. 455 (1906). However, see subrule 86.12(2), paragraph "a" for the limitation on clearances if the estate elected the special use valuation under Iowa Code chapter 450B.

**86.12(4) The no tax due clearance.** If no tax is found to be due on any of the shares of the estate, the department will issue a clearance certifying that no tax is due, subject to the limitations in subrule 86.12(2).

**86.12(5) Clearance releases the lien.**

a. In general. Two inheritance tax liens have been created by statute to secure the payment of an inheritance tax. The lien created by Iowa Code section 450.7 secures

the payment of the tax imposed by Iowa Code section 450.3, regardless of whether the tax is based on market value in the ordinary course of trade, the alternate value or special use value. Iowa Code section 450B.6 creates a second lien to secure the additional inheritance tax that may be due by reason of the early disposition or early cessation of the qualified use of special use valuation property.

b. The section 450.7 lien. A tax clearance which is not specifically limited to certain property or shares of the estate releases the lien imposed by Iowa Code section 450.7 on all of the property in the gross estate. If a full payment clearance is limited to some of the shares of the estate, but not all of the shares, the lien is only released as to those shares where the tax has been paid in full.

c. The section 450B.6 lien. This lien has no application to estates of decedents dying prior to July 1, 1982. In estates of decedents dying on or after July 1, 1982, the lien only applies to the property which has been specially valued under Iowa Code chapter 450B. A clearance certifying full payment of the additional inheritance tax imposed by Iowa Code section 450B.3 releases the lien on the property which was subject to the additional tax. Since the lien imposed by Iowa Code section 450B.6 expires automatically ten years after the decedent's death on property remaining in qualified use during the ten-year period, a tax clearance is not required.

**86.12(6) Distribution of the clearance.** Effective for estates of decedents dying on or after July 1, 1983, only an original inheritance tax clearance will be issued by the department. The personal representative is required to designate on the return who is to receive the clearance. If the return fails to designate a recipient, the clearance will be sent to the clerk of the district court.

ITEM 22. Subrule 8.1(5), paragraph "b" is amended by striking form numbers 60-001, 60-008, 60-023, 60-026 and 60-066 and their description.

ITEM 23. Further amend subrule 8.1(5), paragraph "b" by adding the following new forms:

60-008 Iowa Inheritance Tax Return.

Filed with the department for both taxable and non-taxable estates listing on schedules the assets of the estate and their values, the liabilities deductible, the taxable shares and a computation of the tax due. 13 pages.

60-087 Inheritance Tax Clearance.

Formal document issued by the department certifying that all inheritance tax due has been paid or that no inheritance tax is due from the estate. Required by Iowa Code section 450.64. 1 page.

These rules are intended to implement Iowa Code chapter 17A, and sections 450.5, 450.7, 450.58, 450.64, 450B.2, 450B.3, 450B.6, 633.477, 633.479 and 1983 Iowa Acts, chapter 177.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 1/4/84.

**ARC 4370**  
**VOTER REGISTRATION**  
**COMMISSION[845]**

Pursuant to the authority of Iowa Code section 47.8, the Voter Registration Commission hereby adopts amendments to Chapter 2 of the Iowa Administrative Code entitled "Voter Registration Forms and Instructions", which were approved by the Voter Registration Commission on December 15, 1983.

The proposed rule was published on November 9, 1983 as ARC 4212.

Subrules 2.1(1) and 2.3(2) are revised to be consistent with Iowa Code section 48.6, as amended by 1983 Iowa Acts, chapter 176. This revision included removing a phrase which allowed the telephone number to be provided at the option of the applicant.

Subrule 2.3(3) is proposed to allow County Commissioners of Registration an option to provide voter registration materials in minority languages based on the needs of the county.

Other changes are editorial clarifications of the rules.

The adopted rule is identical to the proposed rule which was published.

These rules are intended to implement Iowa Code sections 48.2, 48.3, 48.6 and 48.7, as amended by 1983 Iowa Acts, chapter 176.

This rule will be effective February 8, 1984.

ITEM 1. Amend subrule 2.1(1) to read as follows:

**2.1(1)** The voter registration forms shall provide for the following minimum information:

a. Name of applicant in full;

b. Address (residence number, street name, city, state, zip, rural route if applicable);

c. Date of birth;

d. Sex;

e. Telephone number (registrant's option);

f. Date of registration;

g. Ward, precinct, school district and other districts as necessary;

h. Name, if different from current name; and the address given on applicant's last previous registration;

i. Party affiliation;

j. A statement in substantially the following form: "I state that I am or will be an eligible elector at any election at which I attempt to vote and that all of the information I have given upon this voter registration form is true. I hereby authorize cancellation of any prior registration to vote in this or any other jurisdiction and my eligibility to vote in any jurisdiction where voter registration is not required. I am aware that fraudulently registering, or attempting to do so, is a felony under Iowa law";

k. Signature of applicant;

l. Signature of employee of the commissioner's office; and,

m. Social security number of the applicant (if available).

Rule 2.1(47) is intended to implement Iowa Code sections 48.2, 48.3, 48.4, and 48.6.

ITEM 2. Amend subrule 2.3(2) to read as follows:

**2.3(2)** A sample copy of the Revised Voter Registration by Mail form together with amended rules regulating the administration of this method of registration were mailed to the county commissioners on March 23, 1976. *Voter Registration by Mail forms which contain "(optional)" in the box for telephone number may be used until current supply is exhausted.* The following is a reproduction of this form:

VOTER REGISTRATION COMMISSION[845] (cont'd)

VOTER REGISTRATION BY MAIL FORM. See instructions on reverse side. Please type or print in ink.

_____ Soc. Sec. No. (if available)		_____ Month Day Year	_____ Birth Date	_____ Phone Number (optional)	Male <input type="checkbox"/> Female <input type="checkbox"/> (check one)	Republican <input type="checkbox"/> Democratic <input type="checkbox"/> (Check one, or you may decline to state party)
NAME _____ Last First Full Middle				COMPLETE EVERY ONE THAT IS KNOWN: School District _____ Township _____ Section _____ (Fill in only if you do <u>not</u> live within city limits)		
IOWA VOTING RESIDENCE _____ Street and number, including apartment number, or rural route				City _____ (Fill in only if you live <u>within</u> city limits)		
_____ City County State Zip Code				Ward/Precinct _____ Special District _____		
COMPLETE IF YOUR CURRENT NAME OR CURRENT ADDRESS (OR BOTH) DIFFERS FROM THE NAME OR ADDRESS GIVEN ON YOUR LAST PREVIOUS REGISTRATION. _____ Full name given on last previous registration				For Office Use Only Date of Registration: (Postmark Date)		
_____ Full address given on last previous registration				_____ Date of Registration: (Postmark Date)		
I state that I am or will be an eligible elector at any election at which I attempt to vote and that all of the information I have given upon this voter registration form is true. I hereby authorize cancellation of any prior registration to vote in this or any other jurisdiction and my eligibility to vote in any jurisdiction where voter registration is not required. I am aware that fraudulently registering, or attempting to do so, is a felony under Iowa law.						
_____ Other Signature (See instruction number 4)			_____ Applicant's Signature			
Signed this _____ day of _____, 19____						

Form 2E (Rev. 76)

INSTRUCTIONS:

1. To register to vote in Iowa you must be: a citizen of the United States, be 17½ years of age or older and declare Iowa as your voting residence. You must be 18 to vote.
2. You may register by this form at any time; however, this form or the envelope bearing the form must be postmarked no later than 25 days prior to an election to be valid for that election.
3. This form may also be used to record a change of name, address, or political party.
4. Two persons must sign this form: (1)the applicant (2) another eligible elector.
5. To be valid, this form must be delivered by the United States Postal Service.
6. Within a week you should receive a receipt of this registration. If you do not, contact your county auditor.
7. There are other ways to register. Contact your county auditor if assistance is needed.

Postmark Date Will Be Registration Date

PLACE STAMP HERE

County Auditor – Commissioner of Elections  
Courthouse

\_\_\_\_\_  
City (County Seat)  
IOWA \_\_\_\_\_  
Zip Code

ITEM 3. Rule 2.3(47) is amended by adding subrule 2.3(3) which reads as follows:

2.3(3) Notwithstanding the provisions of subrule 2.3(1), paragraph "a", any county may provide registration materials in a language other than English, subject to the following conditions and limitations:

a. Approval of the content and syntax of the form shall be made by the voter registration commission prior to the form's use. Such approval shall not be unreasonably withheld.

b. The county shall be responsible for all costs associated with the translation, production, and distribution of all such forms.

c. Any such form shall contain the words "FOR USE BY (county name) COUNTY RESIDENTS ONLY" clearly printed on its face in both English and the other language.

For the purposes of this sections, the words "registration materials" shall include, but not be limited to the registration by mail form, the newspaper registration form, and registration and change of address forms used by deputy registrars and office personnel, as well as related instructional or informational materials and brochures.

Rule 2.3(47) is intended to implement Iowa Code 48.3, 48.4, 48.6, and 48.7.

[Filed 12/16/83, effective 2/8/84]  
[Published 1/4/84]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 1/4/84.



State of Iowa  
Executive Department

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

EXECUTIVE ORDER NUMBER SIX

- WHEREAS, the Mississippi River has been and continues to be a critical natural resource of this state, vital to its commerce and important to the recreational and aesthetic needs of the people of this state; and
- WHEREAS, careful, coordinated planning and interstate communication and cooperation is essential to the continued ability of the Upper Mississippi River System to fulfill its historic functions; and
- WHEREAS, prior to the termination of the Upper Mississippi River Basin Commission, the Governors of the States of Iowa, Illinois, Minnesota, Missouri, and Wisconsin by joint resolution of August, 1981, endorsed the creation of a successor agency to the Commission to maintain communication and cooperation among the states on matters related to water resources planning and management; and
- WHEREAS, in December, 1981, representatives of the States of Iowa, Illinois, Minnesota, Missouri and Wisconsin met and adopted on behalf of these states Articles of Association creating the Upper Mississippi River Basin Association; and
- WHEREAS, pursuant to Presidential Executive Order Number 12319 the member states accepted the transfer of the assets of the Commission to the Association for its stated purpose; and
- WHEREAS, the Association fulfills the functions and activities recommended in the joint Governors' resolution; and
- WHEREAS, the State of Iowa wishes to continue and reaffirm its membership and participation in the Association.

NOW, THEREFORE, I, Terry E. Branstad, Governor of the State of Iowa, by virtue of the authority vested in me by the laws and Constitution of the State of Iowa do hereby order that:

1. Recognizing that the Upper Mississippi River Basin Association has been and continues to be an instrumentality of the states of Iowa, Illinois, Minnesota, Missouri and Wisconsin for water resources planning, communication, and coordination in the Upper Mississippi River System, this state's membership in the Association is reaffirmed and continued.

- II. The appropriate administrative agencies, boards, and commissions of this state and their respective employees are directed to cooperate with and assist the Association in its activities.
- III. The Association is authorized to undertake such activities and programs in regard to the Upper Mississippi River System as the state representatives to the Association may decide among themselves or as the states may be authorized by Congress provided those activities are consistent with its purposes as stated in its Articles of Association and provided they do not violate the Compact Clause of the United States Constitution.
- IV. The Association shall continue to operate according to its Articles of Association and By-laws as those documents now read and as they may, from time to time, be amended.
- V. In the event of the termination of the Association, its assets shall be distributed to the member states of the Association as provided in its Articles and By-laws.

IN TESTIMONY WHEREOF, I have here unto subscribed my name, and caused the Great Seal of the State of Iowa to be affixed. Done at Des Moines this 23rd day of November in the year of our Lord one thousand nine hundred eighty-three.



Terry E. Branstad  
GOVERNOR

ATTEST:

Mary Jane Odell  
SECRETARY OF STATE



IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

EXECUTIVE ORDER NUMBER SEVEN

WHEREAS, Iowa has always answered our nation's call, and Vietnam conflict was no exception; and

WHEREAS, 115,000 Iowans served during the Vietnam Era, 6,000 of those were wounded, 42 are still unaccounted, and 841 paid the supreme sacrifice; and

WHEREAS, on Veterans Day, November 11, 1982, Governor Robert D. Ray announced a seven-member Vietnam Veterans Memorial Ad hoc Committee to coordinate the development of a memorial on the State Capitol grounds.

NOW THEREFORE, I, Terry E. Branstad, Governor of the State of Iowa, by virtue of the authority vested in me by the laws and Constitution of the State of Iowa do hereby order that:

- I. The Vietnam Veterans Memorial Ad hoc Committee be officially established as the Iowa Vietnam Veterans Memorial Commission and that the chairperson of the Commission be designated by the Governor.
- II. The Iowa Vietnam Veterans Memorial Commission work with the Iowa Arts Council and the Department of General Services in erecting an Iowa Vietnam Veterans Memorial.

# IOWA ADMINISTRATIVE BULLETIN

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Des Moines, Iowa 50319

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## EXECUTIVE DEPARTMENT

IAB 1/4/8

III. The Iowa Vietnam Veterans Memorial be built with private funds raised by the Iowa Vietnam Veterans Memorial Commission, and a target date for its completion be set on Memorial Day, May 28, 1984, to coincide with the Vietnam Veterans Reunion in Des Moines, Iowa with appropriate ceremonies coordinated by the Iowa National Guard.

IN TESTIMONY WHEREOF, I have here unto subscribed my name, and caused the Great Seal of the State of Iowa to be affixed. Done at Des Moines this 16th day of December in the year of our Lord one thousand nine hundred eighty-three.



ATTEST:

Mary Jane Odell  
SECRETARY OF STATE

Tracy E. Branstad  
GOVERNOR