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PREFACE

The Iowa Administrative Bulletin is published in pamphlet form biweekly pursuant to Iowa Code Chapter 17A 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 Coordinator 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 Iowa Code section 17A.6. 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 coordinator and published in the Bulletin.

PHYLLIS BARRY, Deputy Code Editor
LAVERNE SWANSON, Administrative Code Assistant

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
6	Friday, August 24, 1984	September 12, 1984
7	Friday, September 7, 1984	September 26, 1984
8	Friday, September 21, 1984	October 10, 1984

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RULEMAKING SCHEDULE

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	May 2	July 30
Jan. 27	Feb. 15	Mar. 6	Mar. 21	May 16	Aug. 13
Feb. 10	Feb. 29	Mar. 20	Apr. 4	May 30	Aug. 27
Feb. 24	Mar. 14	Apr. 3	Apr. 18	June 13	Sep. 10
Mar. 9	Mar. 28	Apr. 17	May 2	June 27	Sep. 24
Mar. 23	Apr. 11	May 1	May 16	July 11	Oct. 8
Apr. 6	Apr. 25	May 15	May 30	July 25	Oct. 22
Apr. 20	May 9	May 29	June 13	Aug. 8	Nov. 5
May 4	May 23	June 12	June 27	Aug. 22	Nov. 19
May 18	June 6	June 26	July 11	Sep. 5	Dec. 3
June 1	June 20	July 10	July 25	Sep. 19	Dec. 17
June 15	July 4	July 24	Aug. 8	Oct. 3	Dec. 31
June 29	July 18	Aug. 7	Aug. 22	Oct. 17	Jan. 14 '85
July 13	Aug. 1	Aug. 21	Sep. 5	Oct. 31	Jan. 28 '85
July 27	Aug. 15	Sep. 4	Sep. 19	Nov. 14	Feb. 11 '85
Aug. 10	Aug. 29	Sep. 18	Oct. 3	Nov. 28	Feb. 25 '85
Aug. 24	Sep. 12	Oct. 2	Oct. 17	Dec. 12	Mar. 11 '85
Sep. 7	Sep. 26	Oct. 16	Oct. 31	Dec. 26	Mar. 25 '85
Sep. 21	Oct. 10	Oct. 30	Nov. 14	Jan. 9 '85	Apr. 8 '85
Oct. 5	Oct. 24	Nov. 13	Nov. 28	Jan. 23 '85	Apr. 22 '85
Oct. 19	Nov. 7	Nov. 27	Dec. 12	Feb. 6 '85	May 6 '85
Nov. 2	Nov. 21	Dec. 11	Dec. 26	Feb. 20 '85	May 20 '85
Nov. 16	Dec. 5	Dec. 25	Jan. 9 '85	Mar. 6 '85	June 3 '85
Nov. 30	Dec. 19	Jan. 8 '85	Jan. 23 '85	Mar. 20 '85	June 17 '85
Dec. 14	Jan. 2 '85	Jan. 22 '85	Feb. 6 '85	Apr. 3 '85	July 1 '85
Dec. 28	Jan. 16 '85	Feb. 5 '85	Feb. 20 '85	Apr. 17 '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.

The Administrative Rules Review Committee will hold its regular statutory meeting Tuesday, September 11, 1984, 10:00 a.m., in Committee Room 22, State Capitol, Wednesday, September 12, 1984, and Thursday, September 13, 1984, in Committee Room 24, State Capitol. The following rules will be reviewed:

DIVISION I

Rules under Notice and Emergency Filed Rules

Bulletin

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Location, duties, revisions to area plan, reports, elderly care grants, fiscal requirements, 2.1(2), 2.5(4)"u," 6.9(1)"g," 6.9(2), 6.9(2)"a" through "d," 7.3(1)"n," 8.42(2), 9.22(2) **ARC 4898** 8/15/84

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COMMERCE COMMISSION[250]

Practice and procedure, responsive filings, 7.8(2)"c" **ARC 4935** 8/29/84

Customer deposits for gas and electric service, 19.4(2)"a" and "d," 19.4(6), 20.4(3)"a" and "d," 20.4(7) **ARC 4913** 8/15/84

Credit procedures and accounting practices for uncollectibles, 19.4(2)"a" through "d," 20.4(3)"a" through "d," 22.4(2), 19.4(15)"k," 20.4(15)"k," 22.4(5)"i," 19.4(11), 20.4(12), 22.4(3)"k," 16.5(48), 16.5(49) **ARC 4912** 8/15/84

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Intrastate access charge elements, 22.14(1)"b," 22.14(3) **ARC 4915** 8/15/84

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Fishing regulations, 108.1, 108.2 **ARC 4921** 8/29/84

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Employer's contribution and charges, claims and benefits, 3.6(1)"a" through "d," 3.6(2)"a" through "d," 3.7(2), 3.40(2), 3.61, 4.13(2)"o," 4.28(5) **ARC 4917** 8/29/84

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GENERAL SERVICES DEPARTMENT[450]

Parking, ch 10 **ARC 4923** 8/29/84

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Sexual assault examination and reimbursement, ch 8 **ARC 4932** 8/29/84

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Physician's assistants, 136.3(2)"a" **ARC 4931** 8/29/84

Podiatry examiners, application fees, 139.1(2), 139.3(6) **ARC 4933** 8/29/84

Psychology examiners, educational qualifications, 140.5(10) to 140.5(12) **ARC 4892** 8/15/84

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Temporary designation as a controlled substance, 8.20, filed emergency **ARC 4922** 8/29/84

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Community development block grant nonentitlement program, ch 23 **ARC 4909** 8/15/84

Iowa rental rehabilitation program, ch 26 **ARC 4906** 8/15/84

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- Signing manual, (06,K) 2.1 **ARC 4884** 8/15/84
- Vehicle registration and certificate of title, (07,D) 11.2(11), 11.2(12), 11.38 **ARC 4875**, also filed emergency **ARC 4874** .. 8/15/84

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- Barber examiners, continuing education, 152.102(4) **ARC 4894** 8/15/84

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- Administration, determination of net income, determination of taxable income, withholding, 38.10(3) to 38.10(5), 40.4, 41.5(4)"c," 46.3(3)"a"(1) **ARC 4899** 8/15/84
- Small business defined, interest on refunds due, statute of limitations for claiming a refund, 40.21, 40.21(2)"b" and "c," 43.3(6), 44.4(3), 52.6(8), 53.11, 53.11(2)"b" and "c," 55.3(4), 58.6(7), 59.8, 59.8(2)"b" and "c," 60.3(4) **ARC 4900** 8/15/84
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AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
AGING, COMMISSION ON THE[20] Commission designation, location, organization and functions; amendments to ch 2 IAB 8/15/84 ARC 4898	Aging Conference Room 914 Grand Ave. Des Moines, Iowa	September 4, 1984 10:00 a.m.
AGRICULTURE, DEPARTMENT OF[30] Bulk food operation, ch 36 IAB 8/15/84 ARC 4880	First Floor Conference Room Henry A. Wallace Bldg. Des Moines, Iowa	September 6, 1984 1:00 p.m.
COMMERCE COMMISSION[250] Credit procedures and accounting practices for uncollectibles for utilities, 19.4, 20.4, 22.4, 16.5 IAB 8/15/84 ARC 4912	Commission Hearing Room First Floor Lucas State Office Bldg. Des Moines, Iowa	September 24, 1984 10:00 a.m.
Common line charge for closed-end circuits, rates for access services 22.14(1), 22.14(3) IAB 8/15/84 ARC 4915	Commission Hearing Room First Floor Lucas State Office Bldg. Des Moines, Iowa	September 13, 1984 10:00 a.m.
Management efficiency standards, ch 29 IAB 8/29/84 ARC 4936	Commission Hearing Room First Floor Lucas State Office Bldg. Des Moines, Iowa	September 20, 1984 10:00 a.m.
CONSERVATION COMMISSION[290] Trotlines where permitted, 20.1 IAB 8/29/84 ARC 4920	Conference Room Fourth Floor Wallace State Office Bldg. Des Moines, Iowa	September 25, 1984 10:30 a.m.
Fishing regulations, 108.1, 108.2 IAB 8/29/84 ARC 4921	Conference Room Fourth Floor Wallace State Office Bldg. Des Moines, Iowa	September 25, 1984 10:00 a.m.
EMPLOYMENT SECURITY[370] Employer's contribution, ch 3 amendments; claims and benefits, ch 4 amendments; IAB 8/29/84 ARC 4917	Department of Job Service 1000 East Grand Ave. Des Moines, Iowa	September 19, 1984 9:30 a.m.
HEALTH DEPARTMENT[470] WIC check distribution, appeal process, 73.7, 73.12 IAB 8/15/84 ARC 4891	Fourth Floor Conference Room Lucas State Office Bldg. Des Moines, Iowa	September 4, 1984 10:00 a.m.
Sexual assault examination and reimbursement, ch 8 IAB 8/29/84 ARC 4932	Fourth Floor Conference Room Lucas State Office Bldg. Des Moines, Iowa	September 11, 1984 2:00 p.m.

PLANNING AND PROGRAMMING[630]

Community development block
grant nonentitlement program, ch 23
IAB 8/15/84 ARC 4909

Conference Room
Office for Planning
and Programming
523 East 12th Street
Des Moines, Iowa

September 4, 1984
7:00 p.m.

Rental rehabilitation program,
ch 26
IAB 8/15/84 ARC 4906

Conference Room
Office for Planning
and Programming
523 East 12th Street
Des Moines, Iowa

September 4, 1984
2:00 p.m.

TRANSPORTATION, DEPARTMENT OF[820]

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[06,K] 2.1
IAB 8/15/84 ARC 4884

Department of
Transportation Complex
800 Lincoln Way
Ames, Iowa

September 25, 1984

Vehicle registration and
certificate of title, [07,D]
11.2(11), 11.2(12), 11.38
IAB 8/15/84 ARC 4875

Department of
Transportation Complex
800 Lincoln Way
Ames, Iowa

September 25, 1984

VETERINARY MEDICINE, BOARD OF[842]

Standards of practice, ch 9
IAB 8/15/84 ARC 4881

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

September 6, 1984
10:00 a.m.

ARC 4935

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 August 10, 1984, the Commission issued an order in Docket No. RMU-84-23, In Re: Responsive Filings, Iowa Administrative Code 250, "Order Commencing Rulemaking," pursuant to the authority of Iowa Code sections 474.5 and 476.2, amending Iowa Administrative Code 250—7.8(2)"c." Under our present rules, a party may file a responsive filing within fifteen days after notice of appeal from a decision of a hearing examiner. The Commission finds that the fifteen-day requirement of subrule 7.8(2)"c" is inconsistent with the provisions of subrule 7.9(3), which provides that an answer or objection to an application for rehearing must be filed within fourteen days after the day on which an application for rehearing is filed. We therefore propose to amend 7.8(2)"c" by changing the number of days in which to file a responsive pleading to fourteen days. The proposed amendments will confer a benefit on the public by providing more up-to-date, internally consistent rules.

Pursuant to the authority of Iowa Code sections 17A.4(1)"a" and 17A.4(1)"b," all interested persons may file written comments on the proposed rules no later than September 18, 1984, by filing an original and six copies of the comments, substantially complying with the form prescribed in Iowa Administrative Code 250—2.2(2). All comments and requests shall clearly indicate the author's name and address and refer to this docket and the rule upon which comment is submitted. All communications shall be directed to the Executive Secretary, Iowa State Commerce Commission, Lucas State Office Building, Des Moines, Iowa 50319.

Amend subrule 7.8(2), paragraph "c" to read as follows:

c. Responsive filings. Within ~~fifteen~~ *fourteen* days after the filing of a notice of appeal, all parties shall file with the commission the original and six copies of a response to the notice and serve a copy of the response on all other parties. A response filed in opposition to the appellant's position shall specifically respond to each of the substantive paragraphs of the notice of appeal and shall state whether an opportunity to file responsive briefs or to participate in oral arguments is requested.

ARC 4936

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, pursuant to Iowa Code section 17A.4(1), that on August 10, 1984, the Commission issued an order in Docket No. RMU-84-24, In Re: Adoption of Standards for Public Utility Management Efficiency, "Order Commencing Rulemaking."

By errata order issued August 21, 1984, the Commission corrected its order to reflect that this Notice of Intended Action is a new rulemaking proceeding, identified as RMU-84-24. **ARC 3997** published in 8/17/83 IAB and **ARC 4101** published in 9/28/83 IAB are hereby terminated.

Pursuant to the authority of Iowa Code section 476.2, the Commission intends to consider the adoption of rules which may be necessary to conform to the requirements of 1983 Iowa Code Supplement section 476.52, which requires that the Commission adopt rules and policies to implement a program for the analysis of management efficiency of public utilities. The Commission is directed to adopt (1) rules establishing a methodology for the analysis of management efficiency, and (2) rules for determining the level of profit or revenue requirement adjustment appropriate in light of the efficiency of the utility management.

The Commission initiated this rulemaking by order issued July 21, 1983. At that time, no specific rules were proposed. Instead, general comments were invited. Written statements were filed and a hearing was held on October 27, 1983. Based on the comments received, the Commission is now proposing rules establishing a methodology for the analysis of public utility management efficiency. For the present, the Commission will not propose rules for determining the level of profit or revenue requirement adjustment, but will instead leave that step for a later rulemaking, after the Commission has gained experience with the ratings procedure proposed here. In the meantime, the results of the currently proposed rules will be considered in rate case proceedings.

The proposed rules will apply to natural gas and electric utilities only. Because telephone utilities present such dissimilar issues, a separate rulemaking will be initiated for the purpose of considering the application of management efficiency standards to telephone utilities. Water utilities will probably also be the subject of a separate rulemaking, as the Commission finds that there are too few investor-owned water utilities to make any meaningful comparisons.

COMMERCE COMMISSION[250] (cont'd)

The proposed rules are based on a report issued by the Commission's Operations Review Division in November 1983, identified as ORD-83-10, "Simulated Competition as an Incentive for Utility Efficiency," modified in response to certain comments filed in the earlier proceedings in this docket. The proposed rules measure management efficiency based on (a) the three-year average revenues per kWh or Btu weighted for composition of sales, and (b) the three-year average growth rate of operation and maintenance expenses, per kWh or Btu. The results of these calculations for each utility will be compared to specified groups of utilities. For electric utilities, the comparison group will include all privately owned MAPP utilities. For natural gas utilities, the comparison group will include all distribution utilities in adjoining states.

Any interested person may file a written statement of position pertaining to the adoption of the proposed rules. The statement may be filed on or before September 18, 1984, by filing an original and six copies of the written statement of position, in a form substantially complying with Iowa Administrative Code 250—2.2(2). All communications will clearly indicate the author's name and the rule upon which the comment is submitted. All communications will be directed to the Executive Secretary, Iowa State Commerce Commission, Lucas State Office Building, Des Moines, Iowa 50319.

Although the Commission has proposed specific rules, parties filing comments are encouraged to present alternative methods for evaluating the management efficiency of public utilities. Any such proposals should be specific and should include an example of the application of the proposal using actual utility data, so that the Commission may fully evaluate the usefulness and manageability of the proposal.

An oral presentation in this docket is scheduled for 10:00 a.m. on September 20, 1984, in the Commission's Hearing Room on the First Floor of the Lucas State Office Building, Des Moines, Iowa 50319.

The Commission has determined that this proposed rule may have an impact on small business. The Commission has considered the factors listed in 1984 Iowa Acts, Senate File 475, section 1(4)(a-l). The Commission will issue a regulatory flexibility analysis as provided in 1984 Iowa Acts, Senate File 475 if a written request is filed by delivery or by mailing postmarked at least twenty days from publication of notice to the Executive Secretary, Iowa State Commerce Commission, Lucas State Office Building, Des Moines, Iowa 50319. The request may be made by the administrative rules review committee, the governor, a political subdivision, at least twenty-five persons who qualify as a small business under the Act, or an organization of small businesses representing at least twenty-five persons which is registered with this Commission under the Act.

CHAPTER 29 MANAGEMENT EFFICIENCY STANDARDS

250—29.1(476) Purpose. It is the policy of the commission that public utilities shall be operated in a reasonably efficient manner. This chapter describes the methodology which will be used for evaluating the efficiency of public utility management and the manner in which these evaluations will be used. This chapter is intended to implement 1983 Iowa Code Supplement section 476.52.

250—29.2(476) Management efficiency methodology for investor-owned electric and natural gas utilities

with 21 or more full-time equivalent employees or more than one million dollars in annual gross revenues. Management efficiency will be measured and rated as follows:

29.2(1) Performance measure. Utility performance is measured using a combination of two factors. The first factor is the three-year weighted average revenues per kWh or Btu. The second factor is the three-year average growth rate of operation and maintenance expenses per kWh or Btu.

a. The three-year average revenue per kWh or revenue per Btu is weighted for composition of sales as follows:

(1) The electric revenues for the current year of each utility in the comparison group are divided into residential (FERC-1, p. 301, item 2b), commercial (FERC-1, p. 301, item 4b), industrial (FERC-1, p. 301, item 5b), and all other (FERC-1, p. 301, items 6b, 7b, 8b, 9b, 11b, and 24b).

(2) The percentage of residential, commercial, and industrial revenues of each utility are adjusted to what they would have been if the company had had the same percentage residential kWh sales, the same percentage commercial kWh sales, and the same percentage industrial kWh sales as the comparison group. "All other" revenues are not adjusted.

(3) Each electric utility's weighted residential revenue is then calculated using that utility's own average price per residential kWh. Likewise, each utility's weighted commercial and weighted industrial revenue is then calculated using that utility's own average prices per commercial kWh and per industrial kWh.

(4) The sum of an electric utility's weighted residential, weighted commercial, weighted industrial, and "all other" revenues are divided by that utility's total kWh sales for the year to determine the weighted annual average revenues in cents per kWh.

(5) The weighted average annual electric revenues for the current year and the two prior years, as determined by (1) through (4) above, are averaged.

(6) The gas revenues for the current year of each utility in the comparison group are divided into residential (FERC-2, p. 301, item 2b), commercial (FERC-2, p. 301, item 4b), industrial (FERC-2, p. 301, item 5b), and all other (FERC-2, p. 301, items 6b, 7b, 9b, 11b, 23b).

(7) The weighted average annual gas revenues are determined the same as items (2) through (5) above.

b. Three-year growth rate of operation and maintenance expenses per kWh per year (or operation and maintenance expenses per Btu/year) shall be calculated using an exponential curve fit model as follows:

(1) The electric total annual operation and maintenance expense (FERC-1, p. 323, item 168(c)) is divided by total kWh sold (FERC-1, p. 301, item 12(d)) for the current year and the three prior years.

(2) The annual compound growth rate is estimated by an exponential curve fit using the four quotients of (1) above. A program which finds the least-squares fit for an exponential function of the form $y = ae^{bx}$ ($a > 0$) computing the problem according to the linear equation $\ln y = \ln a + bx$, is preferred.

(3) The three-year compound growth rate of operation and maintenance expenses per kWh per year is "b" of (2) above.

(4) The gas total annual operation and maintenance expense (FERC-2, p. 323, item 168b) is divided by the total MCF sold (FERC-2, p. 301, item 10d) times 1000 cu. ft. per MCF times 1000 Btu/cu. ft. for the current year and the three prior years.

COMMERCE COMMISSION[250] (cont'd)

(5) The three-year average growth rate of operation and maintenance expenses per Btu is then determined the same as items (2) and (3) above.

29.2(2) Comparison group. The data for each investor-owned electric utility will be compared to the same data from all other privately owned utilities participating in the Mid-Continent Area Power Pool (MAPP). The natural gas utilities will be compared to the other natural gas distribution utilities in Iowa and the adjoining states and served by the same pipelines that serve Iowa.

29.2(3) Performance rating. A company will be rated "A" if it performs better than the group average with respect to both of the factors of 29.2(1)a and b above. A company will be rated "B" if it performs better than the group average with respect to either of the factors, but not both. A company will be rated "C" if its performance is worse than the group average with respect to both factors.

250—29.3(476) Operations review division report. Based on the factors listed in commission rule 29.2(476) the operations review division will file with the commission ratings for investor-owned electric and natural gas utilities on or before September 1 of the succeeding year.

250—29.4(476) Profit or revenue requirement adjustment. The ratings prepared by the operations review division may be used in evaluating the relative efficiency of management of each utility in rate proceedings conducted under Iowa Code chapter 476. A rating indicating management efficiency which is detrimental to the interests of ratepayers may result in a reduction of the utility's level of profit or revenue requirement. A rating indicating excellent efficiency resulting in tangible benefits to ratepayers may result in an increase in the utility's level of profit or revenue requirement.

ARC 4920**CONSERVATION COMMISSION[290]****NOTICE OF INTENDED ACTION**

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

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

Pursuant to the authority of Iowa Code section 107.24, the State Conservation Commission hereby gives Notice of Intended Action to amend Chapter 20, "Trotlines," Iowa Administrative Code.

This rule establishes areas open to trotlines.

Any interested person may make written suggestions or comments on this proposed rule prior to October 1, 1984. Such written materials should be directed to the Fisheries Section, State Conservation Commission, Wallace State Office Building, Des Moines, Iowa 50319. Persons who wish to convey their views orally should contact the fisheries section at 515/281-5208 or at the fisheries offices on the fourth floor of the Wallace State Office Building. Also, there will be a public hearing on Tuesday, September 25, 1984, at 10:30 a.m. in the fourth

floor conference room of the Wallace State Office Building, at which time persons may present their views either orally or in writing.

At the hearing, persons will be asked to give their names and addresses for the record, and to confine their remarks to the subject of the rule.

This rule is intended to implement Iowa Code chapter 109.

The following amendments are proposed.

Rule 290—20.1(109) is amended to read as follows:

290—20.1(109) Trotlines where permitted: It shall be lawful to use trotlines or throw lines in all rivers and streams of the state, except in Mitchell, Howard, Winneshie, Allamakee, Fayette, Clayton, Delaware, Dubuque, and Jackson Counties. Trotlines or throw lines may be used in the above nine counties in the Maquoketa River, ~~Jackson County, mouth to Buchanan-Fayette County line;~~ Turkey River, mouth to state highway 13; and Upper Iowa River, mouth to state highway 76 52.

This rule is intended to implement Iowa Code section 109.74; The Code.

ARC 4921**CONSERVATION COMMISSION[290]****NOTICE OF INTENDED ACTION**

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

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

Pursuant to the authority of Iowa Code section 107.24, the State Conservation Commission hereby gives Notice of Intended Action to amend Chapter 108, "Fishing Regulations," Iowa Administrative Code.

These rules establish season dates, daily catch limits, possession limits, and minimum length limits for sport fishing.

Any interested person may make written suggestions or comments on these proposed rules prior to October 1, 1984. Such written materials should be directed to the Fisheries Section, State Conservation Commission, Wallace State Office Building, Des Moines, Iowa 50319. Persons who wish to convey their views orally should contact the fisheries section at 515/281-5208 or at the fisheries office on the fourth floor of the Wallace State Office Building. Also, there will be a public hearing on Tuesday, September 25, 1984, at 10:00 a.m. in the conference room on the fourth floor of the Wallace State Office Building, at which time persons may present their views either orally or in writing.

At the hearing, persons will be asked to give their names and addresses for the record, and to confine their remarks to the subject of the rule.

These rules are intended to implement Iowa Code chapter 109.

The following amendments are proposed.

ITEM 1. Rule 290—108.1(109) is rescinded and replaced with the following in lieu thereof:

CONSERVATION COMMISSION[290] (cont'd)

290—108.1(109) Seasons, daily catch limits, possession limits, and minimum length limits.

KIND OF FISH	INLAND WATERS OF THE STATE				BOUNDARY RIVERS	
	OPEN SEASON	DAILY CATCH LIMIT	POSSESSION LIMIT	MINIMUM LENGTH LIMITS	MISSISSIPPI RIVER	MISSOURI RIVER BIG SIOUX RIVER
Rock Sturgeon	Closed	0	0		Same as inland waters	
Paddlefish*	Continuous	2	4	None	Same as inland waters	
Yellow Perch	Continuous	25	50	None	Same as inland waters except no catch or possession limit.	
Trout	Continuous*	5	10	None*	Same as inland waters	
Catfish	Continuous	8	16	None	Same as inland waters except no catch or possession limit.	
Black Bass [Largemouth Bass] [Smallmouth Bass] [Spotted Bass]	Continuous	5 In Aggregate	10	See below*	Same as inland waters See below*	
Combined Walleye and Sauger	Continuous*	5	10	None	Continuous open season; aggregate daily catch limit 10, aggregate possession limit 20.	
Northern Pike	Continuous*	3	6	None	Continuous open season; daily catch limit 5; possession limit 10.	
Muskellunge or Hybrid Muskellunge	Continuous*	1	1	30"	Same as inland waters	
Ocean Striped Bass	Continuous	1	1	None	Same as inland waters	
All other fish species	Continuous	None	None	None	Same as inland waters	
Frogs (except Bullfrogs)	Continuous	48	96	None	Same as inland waters	
Bullfrogs (Rana Catesbeiana)	Continuous	12	12	None	Same as inland waters	

*Also see 108.2(109), Exceptions.

ITEM 2. Rule 290—108.2(109) is amended by changing subrule 108.2(1) as follows:

108.2(1) Natural lakes. In Lakes West Okoboji, East Okoboji, and Spirit Lake, there shall be a closed season on walleye, muskellunge or tiger muskie, and northern pike from February 15, 1984 through May 4, 1984, the first Friday in May each year. The annual opening for these species shall be the first Saturday in May.

ITEM 3. Rule 290—108.2(109) is amended by rescinding subrules 108.2(2) and 108.2(3) and inserting the following in lieu thereof:

108.2(2) Length limits - black bass. A length limit on black bass shall apply on selected lakes as posted. A twelve-inch length limit shall apply on black bass in all interior streams and border rivers, except that no length limit shall apply to that portion of the Mississippi River in Iowa which borders Wisconsin.

Renumber the following subrules in accordance with the above.

These rules are intended to implement Iowa Code sections 109.39 and 109.67.

ARC 4917**EMPLOYMENT SECURITY[370]
(JOB SERVICE)****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 96.11(1) and 17A.3, the Iowa Department of Job Service hereby gives Notice of Intended Action to amend Chapter 3, "Employer's Contribution and Charges," and Chapter 4, "Claims and Benefits," Iowa Administrative Code.

The amendments are as follows: Item 1 - Removes obsolete starting dates and one-time procedures that are no longer in effect. Also removes cumbersome language. Item 2 - Removes obsolete starting dates and outdated reference to former tax bases which are no longer germane. In addition, Iowa Code section 96.19(20), as amended, 1983 Iowa Acts, Chapter 190, section 24, specifies an amount which is to be added to the tax base each year starting in 1984 which has a specific termination date after December 31, 1985, as soon as tax table 1 is no longer in effect. Item 3 - Removes unnecessary reference to the old tax base amounts in former years. Item 4 - Iowa Code section 96.7(3)"d," as amended, 1983 Iowa Acts, Chapter 190, section 18, increased the negative balance surcharge from 0.5% to 1.0% per year with a maximum combination of tax and surcharge not to exceed 9.0%. Item 5 - Iowa Code section 96.7(6) clearly states that an appeal to district court must be made within thirty days, not sixty days. Item 6 - Deduction from job insurance payments are always on a current basis of when earned rather than when received and this conforms to Iowa Code section 96.19(9). Item 7 - The Supreme Court ruled that even though "better employment" must be accepted and terminated that a claimant was not actually required to perform services in that "better employment."

Interested persons, governmental agencies, and associations may present written comments or statements on the proposed amendments not later than 4:30 p.m., September 19, 1984, to James A. Hunsaker III, Iowa Department of Job Service, 1000 East Grand Avenue, Des Moines, Iowa 50319. A public hearing will be held at 9:30 a.m., September 19, 1984, at the above address. The proposed amendments are subject to revisions after the department considers all written and oral presentations. Persons who want to convey their views orally should contact Mr. Hunsaker at 515/281-8093 or at the above address.

EMPLOYMENT SECURITY[370] (cont'd)

These rules are intended to implement Iowa Code sections 96.7(3)"d," as amended, 1983 Iowa Acts, Chapter 190, section 18; 96.19(20), as amended, 1983 Iowa Acts, Chapter 190, section 24; 96.5(1)"a"; 96.7; 96.7(3)"b"; 96.7(6); 96.8(16); 96.19(9) and 96.19(20).

The following amendments are proposed:

ITEM 1. Rescind subrule 3.6(1), paragraphs "a," "b" and "c" and insert in lieu thereof the following:

a. The term "taxable wages" means the higher of the federal taxable wage base for federal unemployment tax (FUTA) or sixty-six and two-thirds percent of the statewide average annual wage paid to employees in insured employment, rounded to the next highest multiple of one hundred dollars, based upon the computation made during the previous calendar year to determine the maximum weekly benefit amounts for job insurance benefits. Provided, however, that starting with the calendar year 1984, the following amounts will be added to the taxable wage base:

(1) Calendar year 1984, add six hundred dollars to the taxable wage base.

(2) Calendar year 1985, add one thousand one hundred dollars to the taxable wage base.

(3) Calendar year 1986 and subsequent years, add one thousand six hundred dollars to the taxable wage base until the first year after December 31, 1985 that table 1 is no longer in effect.

b. If an individual has more than one employer, each employer must pay contributions (tax) on the employee's wages up to the taxable wage limit. A successor employer who receives a transfer of experience in accordance with Iowa Code section 96.7(3)"b" will be considered to be the same employer as the predecessor for the purpose of this rule.

c. The employer shall not deduct any part of the contributions (tax) due on taxable wages from an employee's pay.

d. Taxable wages paid in another state by the same employer during the same calendar year prior to an employee being transferred to Iowa, may be used in computing the employee's taxable wages in Iowa. Provided, however, that the other state will reciprocate by allowing Iowa employers who transfer employees to the other state to use the taxable wages reported to Iowa in computing that state's taxable wages.

This rule is intended to implement Iowa Code sections 96.7, 96.8(16) and 96.19(20).

ITEM 2. Rescind subrule 3.6(2), paragraphs "a" and "b" and insert in lieu thereof the following:

a. A contributing employer, as referred to in Iowa Code chapter 96, means all employers other than employers who have elected, or are required by law, to reimburse the department for benefits paid in lieu of paying contributions. An employer who has earned a "zero" rate is still considered to be a contributing employer.

b. A nonconstruction employer, who has not yet qualified for a computed rate as provided in Iowa Code section 96.7(3)"c," will be assigned the rate specified in rank 9 of the rate table in effect, but not less than one and eight-tenths percent, each year until they qualify for a computed rate.

c. A construction employer, who has not yet qualified for a computed rate as provided in Iowa Code section 96.7(3)"d," will be assigned the rate in rank 21 of the table in effect for all years from 1978 through 1983 and nine

percent for 1984 and subsequent years until they qualify for a computed rate.

d. Once an employer has qualified for a computed rate, the rate will be computed in accordance with the formula given in Iowa Code section 96.7(3)"d." Rates will vary from zero percent to nine percent (including negative balance surcharges) depending on how each employer's experience compares to the experience of all other employers. Temporary emergency surcharges to pay interest on federal loans to pay job insurance benefits may be assigned on a quarterly basis as required in addition to the rates computed by the formula in Iowa Code section 96.7(3)"d." (See subrule 3.40(7))

This rule is intended to implement Iowa Code section 96.19(20), as amended, 1983 Iowa Acts, Chapter 190, section 24.

ITEM 3. Amend subrule 3.7(2) as follows:

3.7(2) A successor employer who receives a transfer of experience in accordance with Iowa Code section 96.7(3)"b" may, at such successor employer's option, use the taxable wages reported by the predecessor to compute the taxable wages for the balance of the year or may report the first \$4200 in wages paid to employees as taxable (\$6000 in 1976 and 1977). The computation for taxable wages for 1978 and future years will be described in subrule 3.6(2)"b" and section 96.7(3)"d". The Code compute taxable wages as if the employees acquired from the predecessor were new employees.

This rule is intended to implement Iowa Code sections 96.7(3)"b" and 96.19(20).

ITEM 4. Amend subrule 3.40(2) as follows:

3.40(2) Experience rate and negative balance surcharge.

a. An employer's experience rate shall be computed by dividing the excess of contributions paid over benefits charged, or excess of benefits charged over contributions paid, as of July 1 each year, by such the employer's average annual taxable payroll to arrive at the ratio (percent of excess contributions paid or percent of excess of benefits paid). This ratio shall be applied to the appropriate rate table, as determined by the department in accordance with section 96.7(3)"d," to determine the employer's contribution rate for the next calendar year. Payments of contributions after September 30 for a period prior to the computation date of July 1 will not be used in computing contribution rates for the following calendar year. Beginning with the calendar year of 1982 rate computation, all contributions received between July 1 and September 30 for the period prior to the computation date shall be used in determining the employer experience rating.

For the calendar years 1982 and 1983 beginning January 1, 1984, an employer eligible for a computed rate, whose account has a negative balance on the computation date and also had a negative balance on the previous computation date, will receive a surcharge of one half of one percent added to the rate assigned by the appropriate rate table. For each subsequent year beginning with calendar year 1984, that the employer's account has a negative balance on the computation date, an additional surcharge of one percent will be added to the rate assigned. However, the rate plus the additional surcharge shall not exceed a maximum of nine percent.

b. Contributions for the purpose of crediting the employer's account shall not include penal ties and interest on delinquencies.

EMPLOYMENT SECURITY[370] (cont'd)

c. Refunds on contribution previously credited shall be deducted from the credits as of the date of the refund.

d. Benefits chargeable to the employer's account shall be computed on all benefit warrants issued on or before the cutoff date for rate computation date.

e. The cutoff date for the July 1 computation of contribution rates for the ensuing calendar year shall be June 30 for charges and September 30 for contributions. If September 30 falls on Saturday, Sunday or legal holiday, the cutoff date for contributions shall be the next following business date.

This rule is intended to implement Iowa Code section 96.7(3)"d," as amended, 1983 Iowa Acts, Chapter 190, section 18.

ITEM 5. Amend rule 370—3.61(96) as follows:

370—3.61(96) Appeal of assessment. An assessment may be appealed by an employer within thirty days of its mailing date. Such appeal shall be made in writing and directed to the administrative office of the department. Upon receipt of such appeal, a hearing shall be held by the department at which the employer may appear with such witnesses as the employer desires. A written decision shall be rendered and mailed to the employer which may be appealed to district court by the employer within sixty thirty days of said decision.

This rule is intended to implement Iowa Code section 96.7(6).

ITEM 6. Amend subrule 4.13(2) by adding new paragraph "o" as follows:

o. Deferred wage compensation. Remuneration received by the claimant for wages earned in a prior period shall not be deductible in a subsequent period.

This rule is intended to implement Iowa Code section 96.19(9).

ITEM 7. Amend subrule 4.28(5) as follows:

4.28(5) The claimant shall be eligible for benefits even though ~~such~~ the claimant voluntarily left employment if ~~such claimant~~ they left for the purpose of accepting better employment ~~with a designated start date, which such claimant did accept, and the better employment lasted one week but less than six consecutive weeks.~~

a. ~~The claimant was laid off or terminated by the employer before employment was started; or~~

b. ~~After having started employment, the claimant is terminated prior to the expiration of six weeks; or~~

c. ~~After having started employment, the claimant is laid off after the first week but prior to the expiration of six weeks.~~

This rule is intended to implement Iowa Code section 96.5(1)"a."

ARC 4923

GENERAL SERVICES
DEPARTMENT[450]

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 18.11, the Iowa Department of General Services hereby gives

Notice of Intended Action to amend Chapter 10, "Parking," Iowa Administrative Code.

The purpose of this rule change is to provide more detailed rules relating to handicapped parking, car pooling and ride sharing, and procedures for appeals of parking violations. Other minor changes are made to clarify and correct language of the current rule.

Any interested person may make written suggestions or comments on these proposed rules prior to September 18, 1984. Such written materials should be directed to the Director, Payroll and Personnel, Iowa Department of General Services, Hoover State Office Building, Des Moines, Iowa 50319. Persons who want to convey their views orally should contact the Director, Payroll and Personnel, at 515/281-8646 or in the Department offices on Level A, Hoover State Office Building.

The following amendments are proposed:

Amend Chapter 10, "Parking," as follows. In addition, amend rule 10.1(18) by eliminating the assigned subrule numbers and arranging the definitions in alphabetical order.

450—10.1(18) General provisions - definitions. To provide citizens with the most convenient access to Iowa state offices in the capitol complex, to provide to state employees the benefit of a parking space within a reasonable distance of their offices and to remove the hazards inherent in unregulated parking, the director adopts the following rules that will establish a system of for parking vehicles within the capitol complex.

"Capitol complex" means an area within the city of Des Moines within which the Iowa state capitol building is located. This area includes all real estate owned by the state of Iowa adjacent to or within 2000 feet of the capitol building and includes the real estate upon which Terrace Hill is situated.

"Director" means the director of the department of general services of the state of Iowa.

"Driver" means every person who drives or is in actual physical control of a vehicle.

"Employee" means any person employed by the state of Iowa regularly assigned to work in the capitol complex and includes legislators, judges, and persons who are contractors; ~~or employees of contractors,~~ with the state, ~~and their employees,~~ and who regularly work within the capitol complex.

"Handicapped identification device" means an identification device bearing the international symbol of accessibility.

"Handicapped parking space" means a parking space designated for use only by motor vehicles displaying a handicapped identification device that meets the requirements of Iowa Code section 601E.10.

"Handicapped person" means an individual who is confined to a wheelchair or is otherwise so physically handicapped that he or she has there is significant difficulty or insecurity in walking.

"Officer" means a peace officer member of the capitol security division of the Iowa department of public safety.

"Owner" means a person who is named on the legal title of a vehicle as the owner or, in the case of vehicles without title certificates, the person who is lawfully seized of the vehicle.

"Peace officer" means those persons defined as peace officers by Iowa Code section 748.3 chapter 80 of the Code.

"Ridesharing" means a group of not less than four state employees who arrive and depart from work in one vehicle.

"Vehicle" means any and every device in, upon, or by which any person or property is or may be transported or

GENERAL SERVICES DEPARTMENT[450] (cont'd)

drawn, whether self-propelled or moved by animal or human power.

"Visitor" means a person who is not included in the definition of employee.

450—10.2(18) Parking space assignments.

10.2(1) ~~As of January 1977, e~~Each parking space in the capitol complex will be assigned, on an individual or lot basis, by the director, ~~or the director's designee.~~

10.2(2) The assignment of spaces will be indicated and designated by ~~official~~ traffic control devices including ~~but not limited to~~ signs, instructions, ~~lines~~ or symbols painted on curbs or on parking surfaces, ~~lines or symbols on parking surfaces~~ or by curbs, barricades, blocks, and lights.

10.2(3) Spaces or lots will be assigned to three classes of drivers: Handicapped, visitors and employees.

450—10.3(18) Handicapped persons.

10.3(1) Spaces designated for handicapped visitors shall be used only by handicapped visitors or by ~~those persons~~ transporting handicapped visitors. Such visitors are ~~encouraged~~ required to display ~~upon their vehicle an indication or symbol of the fact that the driver or passenger is handicapped.~~ a handicapped identification device from the rearview mirror or dashboard, so as to be in view when looking through the windshield from outside the vehicle.

10.3(2) A handicapped visitor or ~~one~~ a person transporting a handicapped visitor may use a space or lot assigned to visitors if the handicapped visitor spaces near the building to be entered are occupied.

10.3(3) Spaces designated for handicapped employees shall be used only by drivers who are handicapped employees: ~~and who display upon their vehicle a handicapped identification device.~~

10.3(4) ~~The director may make available, upon request, appropriate decals indicating that the driver of a vehicle is a handicapped employee or that the driver or passenger is a handicapped person.~~

450—10.4 Reserved.

450—10.5(18) Deliveries. Most buildings in the capitol complex have delivery entrances for vehicle use and delivery vehicles shall use these entrances. Each of the restrictions and regulations contained in these rules, all traffic control devices and state law shall apply to delivery vehicles. The director may, upon application showing such information the director deems advisable, issue a sign, symbol or device to be used by delivery vehicles to park in spaces or areas designated on such sign, symbol or device for such temporary periods as the director may determine.

450—10.6(18) Employees.

10.6(1) The director ~~may~~ will issue each employee a permit, state parking decal or device to use a space or to enter a controlled parking lot. The decals will be coded and shall only be used in the assigned space or lot. Vehicles with such decals shall not park in spaces reserved for visitors.

10.6(2) All employees who ~~will~~ park any vehicle, except a bicycle, ~~or moped, within the capitol complex shall within two days~~ register the vehicle and obtain a parking decal and space or lot assignment: ~~within two days after commencing to park said vehicle in capitol complex.~~ No employee who ~~will park any vehicle, except a bicycle, or moped,~~ is exempt from this registration for any reason.

10.6(3) No employee who fails to obtain a parking decal and space or lot assignment shall park in the capitol complex.

10.6(4) No ~~parked~~ vehicle operated by a state employee may display more than one state capitol complex parking decal on the same vehicle.

10.6(5) Parking decals shall be permanently affixed within forty-eight hours of issuance to the lower left of the rear window of a sedan, pickup, van, or similar vehicle. *If a topper is placed on the pickup, the decal shall be placed on the lower windshield on the driver's side.* In convertibles, it shall be placed on the lower windshield on the driver's side. On station wagons, it shall be placed on the lower corner of the rear side window on the driver's side. In vehicles with rear window defrosters, the decal may be placed on the lower windshield on the driver's side. The use of tape or adhesive other than that found on the decal ~~in~~ to affixing said decal is prohibited. On a motorcycle, such decal shall be placed upon the back side (nonreflecting) of the rearview mirror.

10.6(6) A lost decal may be replaced upon application to the director.

10.6(7) Decals which become damaged or unidentifiable, or which are attached to a vehicle being released for the purchase of a new vehicle, ~~or which are on a vehicle which is being assigned to a different parking lot requiring a new decal may~~ will be replaced upon application to the director and return of the remnants of the old decal. *New parking decals will be affixed within forty-eight hours of issuance.* If keys, cards or other devices used for operating automatic parking gates are issued and lost or damaged to the extent that they are no longer operational they may be replaced upon paying a fee prescribed by the director.

450—10.7(18) Temporary parking. If for some reason a person is unable to find a space in his or her ~~an~~ assigned parking space or lot, ~~or an individual who is a visitor on the capitol complex drives a vehicle with a decal assigned to a specific lot, he or she the individual~~ may park in another space or lot provided that the department of general services capitol security is immediately telephoned and given the registration (license plate) number of the vehicle and the lot or space which is being used. ~~This privilege is not for convenience but for necessity.~~ Emergency Temporary personnel, summer interns and other part-time personnel ~~may obtain a temporary decal and assignment to a space or lot.~~ The temporary decal may be used only for the space or lot assigned. ~~The parking of a vehicle with a temporary decal in a space or lot not assigned or the use of the temporary decal after employment has been terminated is prohibited.~~ shall park in gravel overflow lots.

450—10.8(18) Prohibited parking.

10.8(1) No vehicle shall be parked in a manner that violates any of these rules or state law.

10.8(2) No vehicle shall be parked in a manner that causes:

- a. Two spaces to be occupied.
- b. A street or traffic lane to be blocked.
- c. A building entrance to be blocked or obstructed.
- d. Access to fire hydrants or emergency equipment or vehicles to be blocked or obstructed.
- e. Another vehicle to be blocked in.
- f. Pedestrian walkways or sidewalks to be obstructed or blocked.

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g. The view of an intersection, crosswalk, traffic control sign or signal to be blocked or obstructed.

h. An area to be occupied in which ~~vehicle parking is prohibited to vehicle parking.~~

10.8(3) No vehicle shall be parked in a space designated for use by a handicapped visitor unless the driver is handicapped or is transporting a handicapped visitor.

10.8(4) No vehicle shall be parked in a space or lot unless that space or lot is designated for use by or assigned to the driver. However, spaces or lots that are not otherwise designated (by sign or symbol that indicates a restricted or continuous reserved status such as legislator, emergency vehicle or handicapped person) may be used between 6:00 p.m. and 6:00 a.m. and during weekends and state government holidays.

10.8(5) No vehicle shall be parked on curbs, upon grass or in any area not intended for vehicle parking.

10.8(6) No delivery vehicle shall be parked in a manner or for a period of time that does not comply with the restrictions established for that vehicle by the director or with a traffic control device.

10.8(7) *No vehicle for which there remains unpaid parking tickets for a period exceeding thirty calendar days shall be allowed to park on the capitol complex.*

450—10.9(18) Waiver. As the design of these rules is to facilitate the system of parking, encourage compliance and reduce conflict, any rule contained herein, unless otherwise provided by law, may be suspended or waived by the director to aid law enforcement, to prevent undue hardship in any particular instance or to prevent surprise, unnecessary conflict or injustice. The director will change space and lot designations, temporarily or permanently, as appropriate to maintain an integrated parking system. Changes may occur during legislative sessions, periods of construction and special events.

450—10.10(18) Enforcement.

10.10(1) The capitol security officers will be primarily responsible for the enforcement of these rules.

10.10(2) The officers may *in their discretion* enforce these rules, ~~in their discretion~~, by:

a. Issuing oral or written orders or directions to a driver or owner.

b. Removing or causing to be removed a vehicle *in accordance with subrule 10.10(6). A vehicle may be removed for nonpayment of parking fines whether or not it is illegally parked at that time.*

c. Commencing the procedure established by the director to impose a fine.

d. Arresting the driver if a public offense is being committed.

e. Issuing a citation (summons to appear in court) if a public offense is being committed.

10.10(3) *At the discretion of the director, the privilege to park on the capitol complex may be rescinded for any vehicle or driver having unpaid parking tickets.*

10.10(3)(4) Whenever the violation of any of these rules or the disobedience of any official traffic-control device constitutes a public offense, any peace officer may take appropriate law enforcement action.

10.10(4)(5) If an officer determines that a vehicle is to be removed, the officer shall have the vehicle removed by the use of state equipment or by a private contractor.

10.10(5)(6) The director may contract with an individual or firm to provide services for removing (towing) vehicles found in violation of these rules or state law, and to store such vehicles until claimed by the owner, or disposed of as abandoned vehicles.

10.10(6)(7) ~~The towing contractor, Capitol security,~~ upon impounding a vehicle, shall give notice in person or by ordinary mail to the owner of the vehicle. The notice shall state the specific violation claimed or other reason for which it was impounded, its location and the fee for the removal, storage and notice. The towing contractor shall release the vehicle to the owner upon receipt of the ~~foregoing fee.~~ *notification by the department of general services that the driver has paid all outstanding citations and the service fee has been paid to the towing contractor.* The amount of this fee will be determined by the contract executed by the director and an individual or firm.

10.10(7)(8) If an owner returns to ~~his or her~~ the vehicle prior to its removal but after the towing contractor has been summoned, the capitol security officer may require that the vehicle not be taken from the capitol complex until the service vehicle arrives. Upon the service vehicle's arrival, the vehicle may be allowed to leave after the owner or driver pays to the service vehicle operator the cost of the service call: *and after notification by the department of general services to the security officer that all outstanding citations have been paid.* The operator shall issue a receipt for such payment to the owner or driver and the capitol security officer.

10.10(8)(9) If an owner wishes to contest the fees paid because of the removal or attempted removal of ~~his or her~~ the vehicle, the owner shall immediately notify the office of the director. Upon such notification, the owner will be provided with written instructions that describe the procedure, ~~consistent with chapter 17A of the Code,~~ the director will use to conduct a hearing to consider the owner's evidence and arguments. Upon such notification, the fees paid by the owner shall be considered a bond that will be held to assure the appearance of the owner or representative at such hearing. The director or other person chosen by the director to act as the hearing officer may determine after the hearing that such bond will be returned, in whole or in part, to the owner or may continue to be retained as fees. If the bond, or part thereof, is returned to the owner, the state shall pay said moneys and the towing contractor ~~may be required to return part or all of said moneys to the state.~~ *will be required to return a part or all of said moneys to the state and the state will reimburse both the owner and towing contractor.*

10.10(9)(10) If any vehicle is found stopped, standing or parked in any manner violative of the provisions of these rules and the identity of the operator cannot be determined, the owner or person or corporation in whose name said vehicle is registered shall be held ~~prima facie~~ responsible for said violation.

A fine of ~~two three~~ dollars is hereby established for the violation of ~~each any~~ of these rules. A violator may be notified ~~that he or she is charged with of a violation by~~ being served with a parking violation ticket ~~that which:~~

a. May be served personally on the violator or placed upon the vehicle parked in violation of a rule.

b. Will advise the violator of the rule violated.

c. Will instruct the violator that the violator is required to pay ~~two three~~ dollars, for each violation charged, to the department of general services within ten days by submitting the ticket or the ticket number and the fine or fines in cash, check or money order (preferably a check payable to the department of general services) to the main office in the ~~capitol~~ Hoover Building or by mailing said amount to that office.

d. *Will warn the violator that the director may rescind the parking privilege of any vehicle or driver having unpaid parking tickets. When the parking privilege is*

GENERAL SERVICES DEPARTMENT[450] (cont'd)

rescinded, the vehicle will not be allowed to park in any employee, visitor or overflow lot on the capitol complex until all fines are paid. The director may authorize capitol security to tow any vehicle found to be parked on the capitol complex for which parking privileges have been rescinded.

de. Will warn the violator that failure to pay the fine will may result in the director proceeding against the violator in an Iowa district court.

ef. Will advise the violator how to obtain a hearing on the charges.

A person who wishes a hearing on charges that he or she has violated these rules shall, within ten days after receiving the ticket, notify the director by appearing at the director's office during ordinary business hours and providing whatever information the director may require or by writing to: Director, General Services, Capitol Hoover Building, Des Moines, Iowa 50319. Such writing shall contain the name, address and telephone number, if any, of the person charged and the number of the ticket.

Upon receipt of a notice that a person wishes a hearing on such charges, the director will provide that person with written instructions as described here, consistent with Iowa Code chapter 17A. The director will set a time and place for a hearing. The director or designee will conduct an informal hearing. The director or designee will preside at this hearing. Continuances will be granted by the director, for good cause but no ex parte, if requested at least three days prior to the hearing. that describe the procedure, consistent with chapter 17A of the Code, the director will use to conduct a hearing to consider that person's evidence and argument.

The failure of the defendant to appear, at the time and place of the hearing designated by the director, will result in a finding that the defendant did commit the violation if:

Evidence that defendant committed the violation is introduced by the state, and

No evidence that defendant did not commit the violation is introduced.

The failure of the complaining officer to appear, at the time and place of the hearing designated by the director, will result in a finding that defendant did not commit the violation if:

Evidence that defendant did not commit the violation is introduced, and

No evidence that defendant did not commit the violation is introduced by the state.

When both the complaining officer and the defendant or witnesses or representatives for both are present at the hearing, the procedure described below will be followed.

The presiding officer will allow the complaining officer to describe in a narrative manner the facts tending to prove the defendant committed the violation. The presiding officer may allow the complaining officer to introduce any other evidence tending to prove defendant committed the violation.

The presiding officer will then allow the defendant to ask questions of the complaining officer, but will prohibit the defendant from asking any questions intended to harass or badger the officer.

If the state has other witnesses, this procedure will be repeated.

The presiding officer will then allow the defendant an opportunity to describe in a narrative manner the facts tending to show:

That the violation did not occur, and

That although the violation did occur, it was excusable and no fine should be assessed.

The presiding officer may allow the defendant to introduce any other evidence in support of the defense.

The presiding officer will then allow the state to ask questions of the defendant but will prohibit the state from asking any questions intended to harass or badger the defendant.

If the defense has other witnesses, this procedure will be repeated.

Defendant has the right to be represented by an attorney at the hearing.

The presiding officer may:

Accept any written briefs or motions offered by a party. Ask any of the participants questions.

Refuse to allow questions, testimony or evidence that is irrelevant, immaterial, or unduly repetitious.

Take notice of commonly known facts or facts within the specialized knowledge of the department of general services.

Continue the hearing after it has begun if necessary to prevent surprise, undue hardship or an unjust result.

The decision may be made at the hearing and must be made within ten days after the hearing. Notice of the decision shall be immediately mailed to all parties.

450-10.11(18) Ride sharing. In order to provide incentives for ride sharing, the director may designate specific parking spaces for assignment to car pools. Only those car pools which have four or more people, including the driver, will be given preferred parking space. Each car pool will be issued an identification device which must be hung from the rearview mirror of the vehicle. Only the access card of one member of the car pool will be programmed to provide access to the assigned lot and access to parking lots will be denied all other members of the car pool. The names of those who wish to apply for preferred car pool parking will be maintained by the director or the designee of the director.

These rules are intended to implement Iowa Code section 18.11.

ARC 4932**HEALTH DEPARTMENT[470]****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 135.11(15), the Iowa State Department of Health hereby gives Notice of Intended Action to create a new chapter "Sexual Assault Examination and Reimbursement," Iowa Administrative Code.

These rules create a new Chapter 8 setting out the items to be reimbursed in sexual assault cases and the amount thereof.

A public hearing will be held on the proposed rules on September 18, 1984 in the fourth floor conference room at 2:00 p.m., Lucas State Office Building, Des Moines, Iowa.

Written submissions will be accepted until 4:30 p.m. on September 18, 1984. Submissions should be addressed to Mark W. Wheeler, Hearing Officer, Iowa State Depart-

HEALTH DEPARTMENT[470] (cont'd)

ment of Health, 4th Floor, Lucas State Office Building, Des Moines, Iowa 50319.

These rules are intended to implement Iowa Code section 709.10.

Add the following as a newly created Chapter 8 "Sexual Assault Examination and Reimbursement."

**CHAPTER 8
SEXUAL ASSAULT EXAMINATION
AND REIMBURSEMENT**

470—8.1(135) Reimbursable services. The following services will be reimbursed as items essential to a sexual assault claim examination:

8.1(1) Physician's fee.

- a. History,
- b. Physical,
- c. Collection of specimens,
- d. One return-visit for completion of service when necessary,
- e. Treatment for the purpose of preventing venereal disease.

8.1(2) Emergency department.

- a. Emergency room fee,
- b. Supplies (State of Iowa Sexual Abuse Evidence Kit),
- c. Pelvic tray.

8.1(3) Laboratory.

- a. Wet mount for sperm,
- b. Fixed smear for sperm (Pap),
- c. Swabs for:
 1. Acid phosphatase,
 2. ABH antigen.
- d. Blood typing,
- e. Serology,
- f. Gonorrhea cultures,
- g. Pregnancy testing,
- h. Urinalysis.

470—8.2(135) Claim for reimbursement. A claim for reimbursement, which identifies the individual either by name or hospital number, must be submitted indicating that the claim is for the collection of evidence in a suspected sexual abuse, and must itemize all services rendered and the fee for each service. Claims must be submitted within forty-five days from date of service.

ARC 4930

HEALTH DEPARTMENT[470]

**MEDICAL EXAMINERS, BOARD OF
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 147.76, 258A.3 and 258A.4, the Iowa Board of Medical Examiners hereby gives Notice of Intended Action to amend Chapter 135, "Medical Examiners," Iowa Administrative Code.

The present rules regarding peer review committees contain redundancies and do not allow the flexibility required to be effective.

The proposed changes would allow the Board to establish, on an as needed basis, specialty peer review committees which should be workable and helpful to the Board. The changes would also streamline the procedures and delete unnecessary language.

Any interested person may make written comments or suggestions on these proposed rules prior to September 18, 1984. Such written materials should be directed to Ronald V. Saf, Executive Director, Iowa Board of Medical Examiners, Executive Hills West, Capitol Complex, Des Moines, Iowa 50319. Persons who want to convey their views orally should contact Ronald V. Saf at 515-281-5171 or in the offices at Executive Hills West.

These rules are intended to implement Iowa Code chapter 258A.

The following amendments are proposed.

ITEM 1. Rule 470—135.206(258A) is amended to read as follows:

470—135.206(258A) Peer review committees.

135.206(1) The board shall ~~may~~ within thirty days after the effective date of these rules and on the first day of July of each year thereafter, establish and register two peer review committees in each Iowa congressional district. Each committee shall consist of at least three licensees appointed by the board for a term of one year. The board may establish and register other peer review committees in an emergency or under unusual circumstances requiring the appointment of a three-member committee by the board.

135.206(2) The board shall determine which peer review committee will review a case and what complaints or other matters shall be referred to a peer review committee for investigation, review, and report to the board. Each report shall contain the recommendations of the peer review committee relative to disciplinary action by the board.

135.206(3) The board may provide investigatory and related services to peer review committees upon request.

135.206(4) A peer review committee may determine the method to be used in making its investigation or that it is unable to investigate the report upon a complaint, and return the complaint together with an explanation to the board.

135.206(5) The peer review committees shall observe the requirements of confidentiality imposed by section 258A.6 of the Code.

135.206(6)(4) Members of the peer review committees shall not be liable for acts, omissions or decisions made in connection with service on the peer review committee. However, such immunity from civil liability shall not apply if such act is done with malice.

ITEM 2. Rule 470—135.207(258A) is amended to read as follows:

470—135.207(258A) Duties of peer review committees.

135.207(1) The peer review committees shall submit to the board for approval the procedures to be used for review, investigation and handling of all complaints. The peer review committees shall observe the requirements of confidentiality imposed by Iowa Code section 258A.6.

135.207(2) The peer review committees shall thoroughly investigate all complaints and make written recommendations to the board.

HEALTH DEPARTMENT[470] (cont'd)

a. Written recommendations shall contain a statement of facts, the recommendations for disposition, and the rationale supporting the recommendation.

b. The written recommendations shall be signed by the members of the peer review committees concurring in the report.

c. *If the peer review committee finds that it is unable to investigate the complaint, the complaint shall be returned together with an explanation to the board.*

ITEM 3. Rule 470—135.208(258A) is amended to read as follows:

470—135.208(258A) Board review of recommendations. The board shall consider and act upon the recommendations of the peer review committees at the next board meeting held after submission of the written recommendations. ~~If the board finds that reasonable basis exists for further action, it shall notify the licensee who is the subject of the complaint and the complainant that further action will be taken and stating the reasons for its determination. Unless informal stipulation and settlement is arrived at, the board shall proceed to a hearing on the matter in accordance with the procedural process set out in 135.301(9); provided that the peer review report is received by the board twenty days prior to the next scheduled board meeting.~~

These rules are intended to implement Iowa Code sections 258A.3, and 258A.4.

ARC 4931

HEALTH DEPARTMENT[470]

MEDICAL EXAMINERS, BOARD OF

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 148C.7, the Iowa Board of Medical Examiners hereby gives Notice of Intended Action to amend Chapter 136, "Physician's Assistants," Iowa Administrative Code.

The proposed changes would allow some individuals who are otherwise qualified to receive temporary approval as a physician's assistant. Due to the specific wording of the present rules, surgeon's assistants who are graduates of AMA approved schools cannot qualify since they are not graduates of an AMA program for the assistant to the primary care physician.

The Physician's Assistant Advisory Committee has made an extensive investigation in this matter and has concluded that graduates of AMA approved surgeon's assistants schools do receive equivalent training and should be treated equally with graduates of primary care programs.

Any interested person may make written comments or suggestions on these proposed rules prior to September 18, 1984. Such written materials should be directed to Ronald V. Saf, Executive Director, Iowa Board of Medical Examiners, Capitol Complex, Executive Hills West,

Des Moines, Iowa 50319. Persons who want to convey their views orally should contact Ronald V. Saf at 515-281-5171 or in the offices at Executive Hills West.

These rules are intended to implement Iowa Code chapter 148C.

The following amendments are proposed.

Subrule 136.3(2), paragraph "a" is amended to read as follows:

a. Temporary approval may be granted only for assistants who meet the following criteria:

(1) A graduate of an accredited educational program for the assistant to the ~~primary care~~ physician which is approved by the American Medical Association (AMA); and:

Subrule 136.3(2) is further amended by adding new subparagraph (2) and renumbering the existing subparagraphs (2) and (3) to (3) and (4).

(2) *The assistant is eligible to take the national physician assistant certifying examination; and*

(2)(3) The assistant has not taken the national certifying examination; or:

(3)(4) The assistant has not received notification regarding the results of his/her ~~their~~ national certifying examination.

These rules are intended to implement Iowa Code section 148C.3.

ARC 4933

HEALTH DEPARTMENT[470]

BOARD OF PODIATRY 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 147.76 and 149.7, the Board of Podiatry Examiners hereby gives Notice of Intended Action to amend Chapter 139 of the Iowa Administrative Code relating to the Board of Podiatry Examiners.

The proposed rules require an application to be submitted thirty days prior to the examination, define the fee as an application fee, and provide for an annual renewal fee of seventy dollars for a temporary certificate for an academic staff member of a podiatry school.

Any interested person may make written comments prior to September 19, 1984 addressed to Peter J. Fox, Hearing and Compliance Officer, Professional Licensure, Iowa State Department of Health, Lucas State Office Building, Des Moines, IA 50319.

The proposed rules are intended to implement Iowa Code sections 147.80 and 149.7.

ITEM 1. Subrule 139.1(2) is amended to read as follows:

139.1(2) These application forms properly filled out shall be filed with the state department of health together with the applicant's diploma and the ~~fee of fifty dollars~~ *required fee* at least ~~fifteen~~ *thirty* days before the date of examination.

HEALTH DEPARTMENT[470] (cont'd)

ITEM 2. Subrule 139.3(6) is amended to read as follows:
139.3(6) Application Fee fee for a temporary certificate for an academic staff member of a podiatry school is one hundred dollars. The annual renewal fee for a temporary certificate for an academic staff member is ~~thirty-five~~ *seventy* dollars.

The following amendment is proposed.

Amend subrule **3.1(6)**, paragraph "j" to read as follows:
 j. For a check returned for any reason, ~~\$20.00~~ *\$10.00*.

ARC 4918**NURSING, BOARD OF[590]****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 chapters 17A, 152, and 258A, and Iowa Code section 147.76, the Iowa Board of Nursing hereby gives Notice of Intended Action to adopt an amendment to Chapter 3, "Licensure to Practice — Registered Nurse/Licensed Practical Nurse" appearing in the Iowa Administrative Code.

This amendment changes the fee for a returned check from \$20.00 to \$10.00.

Any interested person may make written suggestions or comments prior to September 18, 1984. Such written materials should be directed to the Executive Director, Iowa Board of Nursing, State Capitol Complex, 1223 East Court Avenue, Des Moines, Iowa 50319. Persons who want to convey their views orally should contact the Executive Director at 515/281-3256 or in the office at 1223 East Court Avenue.

These rules implement Iowa Code chapters 17A, 152, and 258A, and Iowa Code section 147.76.

NOTICE - USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph "a," the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

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%
February 1, 1984 - February 29, 1984	13.75%
March 1, 1984 - March 31, 1984	13.75%
April 1, 1984 - April 30, 1984	13.75%
May 1, 1984 - May 31, 1984	14.25%
June 1, 1984 - June 30, 1984	14.75%
July 1, 1984 - July 31, 1984	15.50%
August 1, 1984 - August 31, 1984	15.50%
September 1, 1984 - September 30, 1984	15.25%

ARC 4922**PHARMACY EXAMINERS,
BOARD OF[620]**

Pursuant to Iowa Code section 204.201(4) the Iowa Board of Pharmacy Examiners emergency adopts and implements a rule amending Chapter 8, "Controlled Substances."

The purpose for the amendment is to provide for the temporary designation of a controlled substance to bring Iowa law in conformance with federal law. The controlled substance involved, Sufentanil, has been rescheduled by the United States Department of Justice, Drug Enforcement Administration from schedule I to schedule II effective May 25, 1984. This federal action was taken upon determination by the Federal Food and Drug Administration of the Department of Health and Human Services that Sufentanil was safe and effective for use in medical treatment in the United States.

In compliance with Iowa Code section 17A.4(2) the board finds that public notice and participation is unnecessary in that the board concurs with the findings of the Federal Food and Drug Administration and with the Federal Drug Enforcement Administration that the drug Sufentanil:

- (1) Has a high potential for abuse
- (2) Has a currently accepted medical use treatment in the state of Iowa
- (3) Has an abuse potential which may lead to severe psychological and physical dependence.

The above findings are consistent with the placement of Sufentanil into Schedule II of the Iowa Uniform Controlled Substances Act.

The board also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of this rule be waived and the rule be made effective upon filing with the Administrative Rules Coordinator on August 10, 1984 as it confers a benefit upon the public to ensure the availability of the drug Sufentanil to the medical and pharmacy profession at the earliest possible date.

The Iowa Board of Pharmacy Examiners adopted this rule at a regular meeting on July 11, 1984.

Chapter 8 is amended by adding the following new rule:

620—8.20(204) Temporary designation as a controlled substance. Transfer controlled substance Sufentanil codified in Iowa Code section 204.204, subsection 2, paragraph "a" to Iowa Code section 204.206(3) as follows:

w. Sufentanil

[Filed emergency 8/10/84, effective 8/10/84]
[Published 8/29/84]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/29/84.

ARC 4929**PUBLIC INSTRUCTION,
DEPARTMENT OF[670]**

Pursuant to the authority of Iowa Code sections 257.9(2) and 281.6, the Iowa Department of Public Instruction emergency adopts rules to Chapter 12 creating a new

Division XI, "Special Education Appeal Procedures" to provide the public with an appeal procedure which conforms to state and federal law.

In compliance with Iowa Code section 17A.4(2), the department finds that public notice and participation is impracticable in that no procedure currently exists.

The department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2) that the normal effective date of these rules thirty-five days after publication should be waived and the rule be made effective upon filing with the Administrative Rules Coordinator on August 10, 1984, as it provides an appeal procedure for the public which might result from a special education decision by a local school district or an area education agency.

The Department of Public Instruction adopted these rules at a regular meeting on August 10, 1984.

These rules implement Iowa Code section 281.6, as amended by the 1984 Iowa Acts, Senate File 2263.

DIVISION XI**SPECIAL EDUCATION APPEAL PROCEDURES**

670—12.44(17A,281,290) Definitions. As used in this division only:

"Appellant" means the party bringing a special education appeal to the department.

"Appellee" means the party in a matter against whom an appeal is taken.

"Department" means the state department of public instruction.

"Director" means the director of special education of the area education agency in the area of the pupil's resident school district.

"Parties" means the appellant, appellee and third parties named or admitted as a party.

"Presiding officer" means an administrative hearing officer designated by the superintendent from the list of approved hearing officers to hear the presentation of evidence and oral arguments in the hearing. The above referenced hearing officers are selected under authority granted by the state board of public instruction. Such authority provides for the contracting with qualified personnel to serve as hearing officers who are not personally or professionally involved so as to conflict with objectivity and are not employees or board members of either state, intermediate or local education agencies involved in the education or care of the pupil. A listing of all hearing officers and their qualifications provided by the department shall be maintained by all public agencies having the responsibility of serving pupils requiring special education.

"Superintendent" means the state superintendent of public instruction.

670—12.45(17A,281) Manner of appeal.

12.45(1) A child, parent or a public educational agency may initiate a hearing on any matter relating to the identification, evaluation or educational placement of a pupil or the provision of a free appropriate public education to a pupil.

12.45(2) The hearing shall be conducted by the department.

12.45(3) An appeal shall be made in the form of an affidavit which generally sets forth the facts, the error or errors complained of or the reasons for the appeal in a plain and concise manner. An affidavit requires a sworn affirmation before a notary public or other officer authorized to administer oaths.

PUBLIC INSTRUCTION, DEPARTMENT OF[670] (cont'd)

12.45(4) The superintendent or designee shall, within five days after the filing of such affidavit, notify the proper school officials in writing of the appeal and the officials shall, within ten days, file with the board a complete certified transcript of any record and proceedings related to the decision appealed and all relevant education records.

12.45(5) The department shall notify parents of the availability of low cost or free legal and advocacy assistance.

12.45(6) The superintendent or designee shall send written notice by certified mail, return receipt requested, at least ten days prior to the hearing to all parties. Such notice shall include the time and the place where the matter of appeal will be heard. A copy of the appeal hearing rules shall be included with the notice.

12.45(7) Parties will be contacted by department staff persons to ascertain whether they wish to participate in a mediation conference. The involved parties shall be notified that participation in this conference is voluntary and that such a conference in no way will deny or delay a party's right to a full due process hearing. Such a conference, if held, will be scheduled at a time and place that is convenient to all involved persons. The mediation conference is designed to clarify the issues and, if possible, to resolve disagreements prior to a hearing. The mediation conference proceedings and offers of compromise during mediation shall not be entered as arguments or evidence in a hearing. However, the parties may stipulate to agreements reached in mediation.

12.45(8) A request for continuance may be made to the superintendent or administrative hearing officer, if appointed, upon reasonable cause.

12.45(9) Continuances may be granted upon the discretion of the superintendent or administrative hearing officer, if appointed.

12.45(10) The hearing will be conducted at a time and place reasonably convenient to the parents and the pupil involved.

670—12.46(17A,281) Participants in the hearing.

12.46(1) The hearing shall be conducted by the presiding officer.

12.46(2) Any party to a hearing has a right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of handicapped pupils.

12.46(3) The appellant or representative shall have the opportunity to be heard.

12.46(4) The appellee or representative shall have the opportunity to be heard.

12.46(5) The director or designee shall have the opportunity to be heard.

12.46(6) A person or representative who was neither the appellant nor appellee, but was a party in the original proceeding, may be heard at the discretion of the presiding officer.

12.46(7) Representatives of the department may be present as resource persons and may be heard at the discretion of the presiding officer.

12.46(8) The pupil who is the subject of the hearing may be present at the parent's discretion.

12.46(9) An eligible pupil may be present.

670—12.47(17A,281) Convening the hearing.

12.47(1) At the established time, the name and nature of the case are to be announced by the presiding officer. Inquiries shall be made as to whether the respective parties or their representatives are present.

12.47(2) When it is determined that parties or their representatives are present, or that absent parties have been properly notified, the appeal hearing may proceed. When any absent party has been properly notified, it shall be entered into the record. When notice to an absent party has been sent by certified mail, return receipt requested, the return receipt shall be placed in the record. If the notice was in another manner, sufficient details of the time and manner of notice shall be entered into the record. If it is not determined whether absent parties have been properly notified, the proceedings may be recessed at the discretion of the presiding officer.

12.47(3) The presiding officer shall establish with the parties that the hearing will be conducted as one of three types:

- a. A hearing based on the stipulated record.
- b. An evidentiary hearing.
- c. A mixed evidentiary and stipulated record hearing.

670—12.48(17A,281) Stipulated record hearing.

12.48(1) A hearing based on stipulated record is nonevidentiary in nature. No witnesses will be heard nor evidence received. The controversy will be decided on the basis of the record certified by the proper official and the arguments presented on behalf of the respective parties. The parties shall be so reminded by the presiding officer at the outset of the proceeding.

12.48(2) Materials such as charts and maps may be used to illustrate an argument, but may not be used as new evidence to prove a point in controversy.

12.48(3) Unless the presiding officer determines otherwise, each party shall have one spokesperson.

12.48(4) The appellant shall present first argument. The appellee then presents second argument and rebuttal of the appellant's argument. A third party, at the discretion of the presiding officer, may be allowed to make remarks. The appellant may then rebut the preceding arguments but may not introduce new arguments.

12.48(5) Appellant and appellee shall have equal time to present their arguments and appellant's total time shall not be increased by the right of rebuttal. The time limit of argument shall be established by the presiding officer.

12.48(6) At the conclusion of arguments, each party shall have the opportunity to submit written briefs or arguments or additional written briefs if they have already done so. Any party submitting a written brief or argument must deliver a copy to all other parties, preferably in advance of the hearing. In the event that all parties have not been furnished a copy of another party's brief at least two days in advance of the hearing, each party shall be afforded the opportunity to submit briefs and reply briefs within ten days of the conclusion of the hearing or at another mutually agreeable time. The opportunity to submit reply briefs may be waived by any party and shall be entered into the record. Submission of the briefs shall be treated as a continuance.

12.48(7) The hearing is then closed upon order of the presiding officer.

670—12.49(17A,281) Evidentiary hearing.

12.49(1) An evidentiary hearing provides for the testimony of witnesses, introduction of records, documents, exhibits or objects.

12.49(2) The appellant may begin by giving a short opening statement of a general nature which may include the basis for the appeal, the type and nature of the evidence to be introduced and the conclusions which the appellant believes the evidence will substantiate.

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12.49(3) The appellee may present an opening statement of a general nature and may discuss the type and nature of evidence to be introduced and the conclusions which the appellee believes the evidence will substantiate.

12.49(4) With the permission of the presiding officer, a third party may make an opening statement of a general nature.

12.49(5) The appellant may then call witnesses and present other evidence.

12.49(6) Each witness shall be administered an oath by the presiding officer. The oath may be in the following form: "You do solemnly swear or affirm that the testimony or evidence which you are about to give in the proceeding now in hearing shall be the truth, the whole truth and nothing but the truth."

12.49(7) The appellee may cross-examine all witnesses and may examine and question all other evidence.

12.49(8) Upon conclusion of the presentation of evidence by the appellant, the appellee may call witnesses and present other evidence. The appellant may cross-examine all witnesses and may examine and question all other evidence.

12.49(9) The presiding officer may address questions to each witness at the conclusion of questioning by the appellant and the appellee. The presiding officer may request to hear other witnesses and receive other evidence not otherwise presented by the parties.

12.49(10) At the conclusion of the initial presentation of evidence and at the discretion of the presiding officer, either party may be permitted to present rebuttal witnesses and additional evidence of matters previously placed in evidence. No new matters of evidence may be raised during this period of rebuttal.

12.49(11) The appellant may make a final argument not to exceed a length of time established by the presiding officer, in which the evidence presented may be reviewed, the conclusions outlined which the appellant feels most logically follow from the evidence and a recommendation of the action to the presiding officer.

12.49(12) The appellee may make a final argument for a period of time not to exceed that granted to the appellant in which the evidence presented may be reviewed, the conclusions outlined which the appellee believes most logically follow from the evidence and a recommendation of action to the presiding officer.

12.49(13) At the discretion of the presiding officer, a third party directly involved in the original proceeding may make a final argument.

12.49(14) At the discretion of the presiding officer, either side may be given an opportunity to rebut the other's final argument. No new arguments may be raised during rebuttal.

12.49(15) Any party may submit written briefs. Written briefs by a person who is not a party may be accepted at the discretion of the presiding officer. Any party submitting a written brief or argument must deliver a copy to all other parties, preferably in advance of the hearing. In the event that all parties have not been furnished a copy of another party's brief or argument at least two days in advance of the hearing, each party shall be afforded the opportunity to submit reply briefs within ten days of the conclusion of the hearing or at a mutually agreeable time. The opportunity to submit reply briefs may be waived by any party and such waiver shall be entered into the record. Submission of the briefs shall be treated as a continuance.

12.49(16) The hearing is closed upon order of the presiding officer.

670—12.50(17A,281) Mixed evidentiary and stipulated record hearing.

12.50(1) A written presentation of the facts or portions of the certified record which are not contested by the parties may be placed into the hearing record by any party, unless there is timely objection by the other party. Such evidence cannot later be contested by the parties and no introduction of evidence contrary to that which has been stipulated may be allowed.

12.50(2) All oral arguments, testimony by witnesses and written briefs may refer to evidence contained in the material as any other evidentiary material entered at the hearing. The hearing is conducted as an evidentiary hearing.

670—12.51(17A,281) Witnesses.

12.51(1) The superintendent shall have the power to serve subpoenas for witnesses, to compel the attendance of those thus served, and the giving of evidence by them.

12.51(2) Any party may compel by subpoena the attendance of witnesses.

12.51(3) Witnesses at the hearing or a person whose testimony has been submitted in written form, if available, shall be subject to cross-examination by any party as necessary for a full and true disclosure of the facts.

670—12.52(17A,281) Rules of evidence.

12.52(1) Because the presiding officer must decide each case fairly, based on the information presented, and must also decide what is best in the public interest, it is necessary to allow for the reception of all relevant evidence which will contribute to an informed result. The ultimate test of admissibility is whether the offered evidence is reliable, probative and relevant.

12.52(2) Irrelevant, immaterial or unduly repetitious evidence should be excluded. The kind of evidence which reasonably prudent persons rely on may be accepted even if it would be inadmissible in a jury trial. The hearing officer shall give effect to the rules of privilege recognized by law. Objections to evidence may be made and shall be noted in the record. When a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be required to be submitted in verified written form.

12.52(3) Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original, if available. Upon objection, documentary evidence which is not disclosed to the other parties at least five days before the hearing shall be prohibited.

12.52(4) If deemed necessary, the presiding officer may order an independent evaluation, which shall be provided at no cost to the parent and which meets criteria prescribed by the state education agency.

12.52(5) The presiding officer may take official notice of all facts of which judicial notice may be taken and of other facts within the specialized knowledge of the presiding officer. Parties shall be notified at the earliest practicable time, either before or during the hearing or by reference in preliminary reports, and shall be afforded an opportunity to contest such facts before the decision is announced unless the hearing officer determines as part

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of the record or decision that fairness to the parties does not require an opportunity to contest such facts.

12.52(6) The presiding officer's experience, technical competence and specialized knowledge may be utilized in the evaluation of the evidence.

12.52(7) A decision shall be made upon consideration of the whole record or such portions that are supported by and in accord with reliable, probative and substantial evidence.

670—12.53(17A,281) Communications.

12.53(1) The presiding officer shall not communicate directly or indirectly in connection with any issue of fact or law in that contested case with any person or party except upon notice and opportunity for all parties to participate. However, the presiding officer may communicate with staff members of the department and may have the aid and advice of persons other than those with personal interest in or those directly engaged in advocating the case under consideration or a pending similar case involving the same parties.

12.53(2) Parties or their representatives shall not communicate directly or indirectly in connection with any issue of fact or law with the presiding officer except upon notice and opportunity for all parties to participate as are provided for by departmental rules. The recipient of any prohibited communication shall submit the communication, if written, or a summary of the communication if oral, for inclusion in the record of the proceeding.

12.53(3) Any or all of the following sanctions may be imposed upon a party who violates the rules regarding ex parte communications: Censure, suspension or revocation of the privilege to practice before the department or the rendering of a decision against a party who violates the rules.

670—12.54(17A,281) Record.

12.54(1) The hearing shall be closed to the public, unless the parents desire that it be open, and shall be recorded by mechanized means or by certified shorthand reporters. Oral proceedings in whole or in part may be transcribed at the request of any party with the expense of the transcription charged to the requesting party. Copies of recorded tapes of oral proceedings will be provided at no cost to parties.

12.54(2) All recording or stenographic notes of oral proceedings or the transcripts thereof shall be maintained and preserved by the department for at least five years from the date of decision.

12.54(3) The record of a hearing under this division shall include:

- a. All pleadings, motions and intermediate rulings.
- b. All evidence received or considered and all other submissions.
- c. A statement of matters officially noted.
- d. All questions and offers of proof, objections and rulings thereof.
- e. All proposed findings and exceptions.
- f. Any decision, opinion or report by the presiding officer presented at the hearing.

670—12.55(17A,281) Decision and review.

12.55(1) The presiding officer, after due consideration of the record and the arguments presented shall make a decision on the appeal.

12.55(2) The decision shall be based on the laws of the United States and the state of Iowa, the regulations and policies of the department and shall be in the best interest of the education of the pupil.

12.55(3) The presiding officer's decision will be reached and mailed to the parties within forty-five days after the department receives the original request for a hearing, unless extended for good cause at the request of either party or by the department.

12.55(4) No individual who participates in the making of any decision shall have advocated in connection with the hearing, the specific controversy underlying the case or other pending factually related matters. Nor shall any individual who participates in the making of any proposed decision be subject to the authority, direction or discretion of any person who has advocated in connection with the hearing, the specific controversy underlying the hearing or a pending related matter involving the same parties.

670—12.56(17A,281) Finality of decision.

12.56(1) The decision of the hearing officer is final.

12.56(2) Any party who is aggrieved by the findings and decision can bring civil action.

670—12.57(17A,281) Pupil's status during proceedings.

12.57(1) Unless the parties agree otherwise, the pupil involved in the complaint must remain in the pupil's present educational placement during the pendency of any administrative or judicial proceedings.

12.57(2) If the hearing involves an application for initial admission to school or to special education, the pupil, with the consent of the parents, must be placed in the school program until the completion of all the proceedings.

[Filed emergency 8/10/84, effective 8/10/84]

[Published 8/29/84]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/29/84.

ARC 4937**REVENUE DEPARTMENT[730]**

Pursuant to the authority of Iowa Code section 421.14, the Iowa Department of Revenue hereby rescinds subrule 71.12(1), paragraph "a" relating to agricultural realty valuation productivity appearing in the Iowa Administrative Code.

Notice of Intended Action was published on June 20, 1984, as **ARC 4732** and the adopted version appeared in the Iowa Administrative Bulletin August 15, 1984 as **ARC 4902**.

Due to an oversight, the amendment was inadvertently filed prior to scheduled public hearings.

In compliance with Iowa Code section 17A.4(2), the department finds that public notice and participation is unnecessary.

The department also finds pursuant to Iowa Code section 17A.5(2)"b"(1) that the normal effective date of

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this rule amendment be waived and the rule amendment be made effective immediately upon filing, August 13, 1984.

Further action on these amendments will not be taken by the department until after oral presentations are made and informal meetings held pursuant to notice published August 1, 1984, as **ARC 4862**.

Subrule **71.12(1)**, paragraph "a" is hereby rescinded.

[Filed emergency 8/13/84, effective 8/13/84]
[Published 8/29/84]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/29/84.

ARC 4919

SECRETARY OF STATE[750]

Pursuant to the authority of Iowa Code section 17A.3(1)"b" the Secretary of State emergency adopts rules amending Chapter 4 "Forms," Iowa Administrative Code, which relates to the forms used by the Elections Division of the Office of the Secretary of State.

The purpose of the amendment is to reflect the repeal of the requirement that the affidavit of an absentee voter be notarized.

In compliance with Iowa Code section 17A.4(2), the agency finds that public notice and participation is

unnecessary because of the action of the 70th General Assembly, 1984 Session; the agency has no discretion concerning adoption of amendments to various sections of Iowa Code chapter 53 repealing the requirement for notarization of the affidavit for absentee voters 1984 Iowa Acts, House File 2468.

This rule is adopted in compliance with Iowa Code section 17A.5(2)"b"(1) in that 1984 Iowa Acts, House File 2468, requires that the notarization provision be repealed, effective July 1, 1984.

The agency also finds, pursuant to Iowa Code section 17A.2(2)"b"(2), that the normal effective date of this rule should be waived and the rule be made effective on August 3, 1984, to ensure speedy compliance with the legislative mandate.

The Secretary of State adopted this rule on August 3, 1984.

This rule implements 1984 Iowa Acts, House File 2468, sections 11, 13, 14, 15, 16, 18 and 20.

Amend 750—4.3(17A) Election forms line 7, as follows:
Form Number Description

3—B(Rev. 75 84) Absent or Disabled Voter's Affidavit

This rule is intended to implement 1984 Iowa Acts, House File 2468, sections 11, 13, 14, 15, 16, 18 and 20.

[Filed emergency 8/3/84, effective 8/3/84]
[Published 8/29/84]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/29/84.

ARC 4916**CITIZENS' AIDE[210]**

Pursuant to the authority of Iowa Code section 601G.9, the Citizens' Aide/Ombudsman adopts amendments to 210—Chapter 1, "Organization," Iowa Administrative Code.

Notice of Intended Action was published in Iowa Administrative Bulletin 26, June 20, 1984 as **ARC 4745**.

This rule is identical to that published as Notice of Intended Action.

This rule will become effective on October 3, 1984.

Subrule 1.2(2) is amended to read as follows:

1.2(2) Method of contacting citizens' aide/ombudsman. Citizens may contact the citizens' aide/ombudsman office by phone, mail or personal visit.

a. Citizens may call the office from within the state of Iowa station to station collect.

b. Collect calls may be limited to three minutes and, if necessary, the call will be returned on the state's phone lines (WATS line). Collect telephone calls from those confined in correctional or other institutional facilities may be exempt from this time limit. Due to the expense of collect calls, the number of calls accepted from any one particular citizen may be limited.

c. No appointment is necessary to visit the office of the citizens' aide/ombudsman. No specific form of complaint or inquiry shall be required. The citizens' aide/ombudsman may request that a complaint be reduced to writing. There is no charge to the citizen making the complaint to the citizens' aide/ombudsman office as provided in Iowa Code section 601G.19. The Code.

[Filed 8/1/84, effective 10/3/84]

[Published 8/29/84]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/29/84.

ARC 4934**HEALTH DEPARTMENT[470]****BOARD OF PODIATRY EXAMINERS**

Pursuant to the authority of Iowa Code section 147.80, the Board of Podiatry Examiners hereby adopts an amendment to Chapter 139, "Podiatry Examiners," Iowa Administrative Code. The rule was adopted July 16, 1984.

Notice of Intended Action was published in the Iowa Administrative Bulletin June 6, 1984 as **ARC 4702**. The rule was also emergency adopted and implemented as **ARC 4701**.

The rule provides for a one hundred dollar examination fee for an applicant for a license to practice podiatry.

The rule is the same as published under notice.

The rule is intended to implement Iowa Code section 147.80.

The rule shall become effective October 3, 1984.

Subrule 139.3(1) is rescinded and the following adopted in lieu thereof:

139.3(1) Examination fee for a license to practice podiatry is one hundred dollars. License fee for a license to practice podiatry is one hundred dollars.

[Filed 8/10/84, effective 10/3/84]

[Published 8/29/84]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/29/84.

ARC 4928**PUBLIC SAFETY
DEPARTMENT[680]**

Pursuant to the authority of Iowa Code sections 103A.7 and 103A.11, the Building Code Commissioner, with the approval of the Building Code Advisory Council as required by Iowa Code subsection 103A.14(3) adopts rules amending Chapter 16, "State of Iowa Building Code."

Notice of Intended Action was published in IAB Volume VI, Number 24, May 23, 1984 as **ARC 4680**.

Public hearings were held on June 13, 1984 and June 14, 1984.

As a result of comments received, the adopted rules have been changed from those published in the notice as follows:

Subrule 16.500(1), paragraph "a" - the frost depth was changed to 3.5 feet and an additional footnote added to permit an additional method of computing wind loads.

The additions to subrules 16.626(1)"a" and 16.626(2) were changed from subrules to notes of advice because enforcement as a rule would be impossible.

Subrule 16.705(3) was reworded to clarify that the exceptions are noted in the footnotes of Table 705A and an additional sentence was added explaining that the construction of a skywalk corridor through an existing building would not require additional accessibility provisions in the existing building.

Table 705A footnote 8 was revised by striking the phrase "and not segregated" from the first sentence.

These rules are intended to implement Iowa Code chapters 103A and 104A.

These rules will become effective on October 3, 1984.

ITEM 1. Rescind subrule 16.121(1) and insert in lieu thereof the following:

16.121(1) The CABO One and Two Family Dwelling Code, 1983 Edition, published by the Building Officials and Code Administrators International, Inc., International Conference of Building Officials and the Southern Building Code Congress International.

ITEM 2. Rescind rule 680—16.200(103A) and insert in lieu thereof the following:

DIVISION II

680—16.200(103A) Electrical rules and regulations.

16.200(1) Adoption. The National Electrical Code, 1984 Edition, NFPA No. 70 as published by the National Fire Protection Association, 40 Atlantic Avenue, Boston, Mass. 02210 are hereby adopted by reference as the electrical rules and regulations, Division 2.

16.200(2) Reserved.

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16.201 to 16.299 Reserved.

ITEM 3. Rescind rule 680—16.500(103A) and insert in lieu thereof the following:

DIVISION V

680—16.500(103A) One- and two-family dwelling rules and regulations.

16.500(1) Adoption. The CABO One and Two Family Dwelling Code, Parts II to VIII, Appendices A and B, 1983 Edition, published under the auspices of the code group listed in Division 1, Part III subrule 16.121(1) of this code is adopted as an optional alternate for one- and two-family dwellings, with the following deletions and amendments.

a. Delete Table No. R-202, including the footnotes and insert in lieu thereof the following:

TABLE NO. R-202

Roof Snow ¹ Load lbs. per sq. ft.	Wind ³ Pressure in lbs. per sq. ft.	Seismic Conditions by Zone	Frost ² Line Depth ft.	Subject to Damage from		
				Weather- ing	Ter- mite	Decay
30	25, less than 30 ft. high 30-30 to 49 ft. high 40-50 to 99 ft. high	1	3.5	Based on local condi- tions	Based on local condi- tions	Based on local condi- tions

1. This is a minimum load and shall be increased where drifting may occur. Snow loads in excess of 20 pounds per square foot may be reduced as in UBC 1305(d).

2. Increase if local conditions have indicated deeper frost penetration in the past.

3. The wind pressure shall be considered as acting upon the gross area of the vertical projection of that portion of the building or structure measured above the average level of the adjoining ground. The wind design procedures as outlined in Section 2311 of the UBC may be used in lieu of these loads.

b. Delete Part VI "Electrical" of the One and Two Family Dwelling Code and insert in lieu thereof the following:

PART VI
ELECTRICAL

The electrical requirements shall conform to the provisions of the National Electrical Code 1984 (NFPA 70-1984) adopted by Division II 680—16.200(103A) which apply to one- and two-family dwellings.

16.500(2) Application. The use of the one- and two-family dwelling code as an alternate method of construction for one- and two-family dwellings by a governmental subdivision (See 680—16.120(103A)) or a manufacturer for use in the construction of factory-built structures under the requirements of Division VI of this code (See 680—16.600(103A)) voids all provisions of Division I, Part 4, Division III and Division IV which apply to one- and two-family dwellings.

16.501 to 16.599 Reserved.

ITEM 4. Rescind rule 680—16.622(103A) and insert in lieu thereof the following:

680—16.622(103A) Installer compliance. Any person, agent or organization who installs factory-built structures including manufactured homes shall comply with the requirements of this code and shall provide the owner and the commissioner with a certification of approved installation.

16.622(1) Listed installers. Any person, agent or organization who installs factory-built structures for others within Iowa may be included on a list of installers maintained by the commissioner. The commissioner will supply names of listed installers to persons requesting approved installation information.

A request to be included on the installer's list shall be submitted to the commissioner with the installer's listing fee accompanied by written material that the applicant meets the following:

a. Has the training and capability to perform installations which are in compliance with this code.

b. Is not under the control of any manufacturer or supplier, so as to impair their judgment with regard to performing installation procedures.

c. Has the proper equipment, personnel and ability to size the piers, foundation, (footings) and to select and install the proper anchorage system for various soil conditions.

d. Is familiar with at least one manufacturer's anchorage system and has the equipment needed to install such system.

EXCEPTION: Not required for support system only installers.

e. Agrees to certify compliance with the applicable provisions of this code when submitting installation certificates without submitting data on each individual installation.

EXCEPTION: Persons or organizations which have been designated as installers as part of the third-party approval for a manufacturer of modular factory-built structures under Division VI, Part 1. The manufacturer shall be responsible for obtaining certificates and insignias as required by Division VI, Part 1.

16.622(2) Continued listing. A listed installer shall renew the listing annually. The commissioner may require such written material deemed necessary to verify the installer's performance during the previous twelve months. Any changes which may have taken place during the previous twelve months such as changes in personnel, address, etc. shall be submitted with the renewal request and the necessary fee.

16.622(3) Nonlisted installer. Any person, agent, or organization who installs manufactured homes or factory-built structures and is not on the list of installers shall, in addition to providing a copy of the installation certificate to the commissioner, submit on the form supplied by the commissioner documentation which will verify compliance with the applicable provisions of this code.

ITEM 5. Rescind subrule 16.623(3) and insert in lieu thereof the following:

16.623(3) Obtaining installation certificates. Any person who installs a tie-down system or any portion thereof shall be supplied with the installation certificate forms when ordering installation seals and the payment of the appropriate fee.

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a. Installers who are not listed as an installer shall be supplied the proper form to be attached to the copy of the installation certificate to be filed with the commissioner, which will record compliance with the approved system.

ITEM 6. Add the following note to subrule 16.626(1), paragraph "a":

NOTE: Precaution should be taken to ensure that no telephone, electrical, plumbing or water lines are contacted when making excavations for footings and piers on private property. Utility line locations should be verified with the property owner or owner's representative.

ITEM 7. Add the following note to paragraph "g" of subrule 16.626(2):

NOTE: Precaution should be taken to ensure that no telephone, electrical, plumbing or water lines are contacted when installing ground anchors on private property. Utility line locations should be verified with the property owner or owner's representative.

ITEM 8. Amend subrule 16.705(1)"d"(2) to read as follows:

(2) A ramp shall have a level platform at least three feet deep and five feet wide at least the width of the ramp if the door does not swing onto the platform or toward the ramp. This platform shall extend at least one foot beyond each side of the doorway. The platform width shall be increased to provide operation clearance as required by 16.705(4).

ITEM 9. Add a new paragraph "g" to subrule 16.705(1) to read as follows:

g. Ramp width. The minimum clear width of a ramp shall be thirty-six inches.

ITEM 10. Add a new unnumbered paragraph to subrule 16.705(2) to read as follows:

Buildings or facilities which do not have an entrance at grade level (such as additions or additional floors) shall provide an entrance accessible to persons in wheelchairs at the level accessible to other persons which will provide accessibility to the building or facility.

ITEM 11. Rescind subrule 16.705(3) and insert in lieu thereof the following:

16.705(3) Accessibility within buildings and facilities. Except as is noted in the footnotes for those occupancies listed in Table 705A at the end of this division, all buildings and facilities shall be accessible and functional for the physically handicapped throughout. The occupancies mentioned in the table are the same as provided in the Iowa state building code. Any occupancy not mentioned specifically or about which there is any question shall be classified by the state building code commissioner and included in the group which its use most nearly resembles. Required accessibility to floors other than those closest to ground level shall be within the building or facility. For purposes of this rule any skywalk or similar system connecting two or more buildings or facilities and those routes used by the public through the connected buildings and facilities shall be considered a single facility and shall be accessible throughout, but building a skywalk to an existing building will not require modification outside the skywalk corridor.

Accessibility shall be provided by a ramp, elevator or other approved means and shall be accessible from the level or levels at which entrance is made to the building or facility.

ITEM 12. Table 705A shall be revised to read as follows:

Table 705A—Accessibility to other levels, by means of a ramp or elevator located within the building, shall be provided for the physically handicapped for the following occupancies. Accessibility shall be from the level or levels at which entrance is made. The following exceptions shall apply to the accessibility and functional requirements of subrule 16.705(3):

USE	USE
1. Aircraft Hangers (no repair)	4 8. Dwellings ¹
2. Auction Rooms	5 9. Garage Parking ⁴
3. Assembly Areas ^{5, 6} (Concentrated Use without fixed seats)	6 10. Hospitals Sanitariums Nursing Homes
Auditoriums ⁸	7 11. Hotels and Apartments ²
Bowling Alleys (Assembly Areas)	7 12. Library Reading Rooms ⁵
Churches and Chapels	13. Locker Rooms
Dance Floors	14. Nurseries for Children (Day Care Centers)
Lodge Rooms	8 15. Offices ³
Reviewing Stands	16. School Shops and Vocational Rooms
Stadiums	9 17. Skating Rinks ⁵
4. Assembly Areas ^{5, 6} (Less Concentrated Use)	10 18. Stores—Retail Sales Rooms ¹⁰
Conference Rooms	A. Basement
Dining Rooms	B. Ground Floor
Drinking Establishments	C. Upper Floors
Exhibit Rooms	11 19. Swimming Pools ^{5, 9}
Gymnasiums	12 20. Warehouses ³
Lounges	13 21. Commercial Kitchens and Mechanical Equipment Rooms ⁷
Stages	
5. Children's Homes and Homes for the Aged	
6. Classrooms	
7. Dormitories ^{3, 11}	

NOTES (for Table 705A)

1. To the extent as defined in 680—16.706(103A) for multiple-dwelling apartment units.

2. When more than three stories in height (apartments shall also conform to the requirements of rule 680—16.706(103A)). All hotels or motels shall have at least one level of guest rooms which is accessible for the physically handicapped, and two percent of the total number of guest rooms with a minimum of one, shall be functional for the physically handicapped.

The functional units, in hotels and motels, may be located on the floor or floors of wheelchair exit discharge to a public way. Toilet room doors in functional units in hotels or motels shall have a minimum of twenty-nine inches of clear opening, with the door open at ninety degrees, and the door swing shall not impair the functional use of the facilities.

3. Access to floors other than that closest to grade may be by stairs only, except when the only available public toilet facilities are on other levels.

4. Access to floors other than that closest to grade and to garages used in connection with apartment houses may be made by stairs only.

PUBLIC SAFETY DEPARTMENT[680] (cont'd)

5. Access to secondary areas on balconies or mezzanines may be by stairs only except when such secondary areas contain the only available public toilet facilities.

6. When spectator space is provided, an appropriate number of spaces must be provided for the physically handicapped.

7. Accessibility is not required.

8. Seating spaces shall be an integral part of the seating plan and not segregated. The seating shall be provided at the rate of two percent of the total capacity with a minimum number of four. One-half of accessible spaces may be designed for patrons using braces, crutches, or similar aids. Patrons using wheelchairs shall be located on level grade.

9. Swimming pools shall use either a sloping water entry with the slope not exceeding 1:10 or mechanical or other devices for accessibility. Sloping water entries shall have handrails meeting the requirements of 16.705(1)"b." The surface of the sloping water entry shall be nonslip.

10. Sales areas whether wholesale or retail shall be accessible and functional for the physically handicapped.

11. See UBC 405 for definitions.

[Filed 8/10/84, effective 10/3/84]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/29/84.

ARC 4924

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 16, "Taxable Sales," Iowa Administrative Code.

Notice of Intended Action was published in IAB, volume VII, number 1 on July 4, 1984, as ARC 4805.

Three questions have arisen concerning sales by public utilities. The first question is that of whether a utility's late payment charge is to be included in the gross receipts from its sales and thus subject to tax, or excluded and thus not subject to tax. The second question concerns the proper period in which to include public utility billings in gross receipts for the purpose of computing monthly deposits or quarterly or other periodic returns. The third question is that of whether or not a franchise fee imposed by a city upon a public utility is to be included in the utility company's taxable gross receipts. The rule is intended to answer these three questions.

The Department has determined that this adopted rule may have an impact on small business. The Department has considered the factors listed in 1984 Iowa Acts, Senate File 475, section 1(4)"a"(1). The Department will issue a regulatory flexibility analysis as provided in Senate File 475 if a written request is filed by delivery or by mailing postmarked no later than September 18, 1984, to Policy Section, Technical Services Division, Iowa Department of Revenue, Hoover State Office Building, Des Moines, Iowa 50319. The request may be made by the administrative rules review committee, the governor, a

political subdivision, at least 25 persons who qualify as a small business under the Act, or an organization of small businesses representing at least 25 persons which is registered with the Department under the Act.

None of the amended rules or subrules 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. The amendments will become effective October 3, 1984, after filing with the rules coordinator and publication in the Iowa Administrative Bulletin.

The amendment is intended to implement Iowa Code sections 422.42(6), 422.43, 423.1(3), and 422.43(2).

The following new rule is adopted.

Amend chapter 16 by adding the following new rule.

730—16.50(422,423) Various special problems relating to public utilities. The amount of any charge, commonly called a "late payment charge," imposed by a public utility on its customers, shall not be subject to tax if the charge is in addition to any charge for the utility's sale of its commodity or service and is imposed solely for the privilege of deferring payment of the purchase price of the commodity or service and furthermore is separately stated and reasonable in amount.

The date of the billing of charges for a public utility's sales shall be used to determine the period in which the utility shall remit tax upon the amount charged. The utility shall remit tax upon the gross receipts of any bill during the period which includes the billing date. Thus, if the date of a billing is March 31 and the due date for payment of the bill without penalty is April 20, tax upon the gross receipts contained in the bill shall be included in the return for the first quarter of the year. The same principle shall be used to determine when tax will be included in payment of a deposit.

In general, the amount of any "franchise fee" which a public utility pays to a city for the privilege of operating and which is directly or indirectly passed on to the utility's customers shall be included in gross receipts subject to tax. This will be true even if the amount of the franchise fee is computed as a percentage of other gross receipts subject to tax and is separately stated and separately charged to the immediate consumer of the commodity or service. However, if, in the future, it becomes lawful for a city to impose a sales or use tax and such tax is imposed upon the customers of public utilities in the guise of a franchise fee, the amount of this city excise tax shall not be subject to Iowa tax if the tax imposed by the city is separately stated and separately billed, see Chartair, Inc. v. State Tax Commission, 411 N.Y.2d 41, 44 (N.Y. App. Div. 1978), Ferrara v. Director, Division of Taxation, 317 A.2d 80, 84-85 (N.J. Super. Ct. App. Div. 1974) and department subrule 730—15.12(2).

This rule is intended to implement Iowa Code sections 422.42(6), 422.43, 423.1(3), and 422.43(2).

[Filed 8/10/84, effective 10/3/84]

[Published 8/29/84]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/29/84.

ARC 4925**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 40, "Determination of Net Income"; Chapter 41, "Determination of Taxable Income"; and Chapter 43, "Assessments and Refunds," Iowa Administrative Code.

Notice of Intended Action was published in IAB, volume VII, number 1, on July 4, 1984, as **ARC 4806**.

The 1984 Iowa Acts, House File 2274 and Senate File 2330 adopted numerous changes to the Iowa Code for individual income tax. The changes include continuing the disability-income exclusion on the Iowa return when the exclusion is not available for federal income tax purposes; taxation of social security benefits and railroad retirement benefits of some taxpayers; allowing a direct charitable contribution deduction to taxpayers who do not itemize deductions; allow all taxpayers who file Iowa returns to designate a donation to the Iowa fish and game protection fund and not just taxpayers filing returns with refunds; and giving the additional contribution to the Iowa election campaign fund a higher priority than contributions to the Iowa fish and game protection fund. Present rules do not provide for these changes to the Iowa Code.

None of the amended rules or subrules will necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

The Department has determined that this adopted rule may have impact on small business. The Department has considered the factors listed in 1984 Iowa Acts, Senate File 475 section 1(4)"a"(1). The Department will issue a regulatory flexibility analysis as provided in Senate File 475 if a written request is filed by delivery or by mailing postmarked no later than September 18, 1984, to Policy Section, Technical Services Division, Iowa Department of Revenue, Hoover State Office Building, Des Moines, Iowa 50319. The request may be made by the administrative rules review committee, the governor, a political subdivision, at least 25 persons who qualify as a small business under the Act, or an organization of small businesses representing at least 25 persons which is registered with the Department under the Act.

With the exception of changing the phrase in parenthesis in subrule 40.22(3), for clarification purposes, these rules are identical to those published under Notice of Intended Action. The amendments will become effective October 3, 1984, after filing with the rules coordinator and publication in the Iowa Administrative Bulletin.

These rules are intended to implement Iowa Code chapters 56, 107 and 422 as amended by the 1984 Iowa Acts, House File 2274 and Senate File 2330.

The following amendments are adopted.

ITEM 1. Chapter 40 is amended by adding the following new rule.

730—40.22(422) Disability income exclusion.

40.22(1) Effective for tax years beginning on or after January 1, 1984, a taxpayer who is permanently and totally disabled and has not attained age sixty-five by the end of the tax year or reached mandatory retirement age can exclude a maximum of \$100 per week of payments received in lieu of wages. In order for the payments to qualify for the exclusion, the payments must be made

under a plan providing payment of such amounts to an employee for a period during which the employee is absent from work on account of permanent and total disability.

40.22(2) In the case of a married couple where both spouses meet the qualifications for the disability exclusion, each spouse may exclude \$5,200 of income received on account of disability.

40.22(3) There is a reduction in the exclusion, dollar for dollar, to the extent that a taxpayer's federal adjusted gross income (determined without this exclusion and without the deduction for the two-earner married couple) exceeds \$15,000. In the case of a married couple, both spouses' incomes must be considered for purposes of determining if the disability-income exclusion is to be reduced for income that exceeds \$15,000. The taxpayers' disability income exclusion is eliminated when the taxpayers' federal adjusted gross income is equal to or exceeds \$20,200. The reduction of the taxpayers' disability-income exclusion because the taxpayers' federal adjusted gross income is greater than \$15,000 is illustrated in the following example:

A married couple is filing their 1984 Iowa return. The husband retired during the year and received \$8,000 in disability income during the forty-week period in 1984 that he was retired. The husband's other income in 1984 was \$2,500 and the wife's income was \$7,500.

Of the \$8,000 in disability payments received by the husband in the forty-week period he was retired in 1984, only \$4,000 is eligible for the exclusion. This is because the maximum amount that can be excluded on a weekly basis as a result of the disability exclusion is \$100.

However, the \$4,000 that qualifies for the exclusion must be reduced to the extent that the taxpayer's federal adjusted gross income exceeds \$15,000. In this example, the taxpayer's federal adjusted gross income is \$18,000, which exceeds \$15,000 by \$3,000. Therefore, the amount eligible for exclusion of \$4,000 must be reduced by \$3,000. This gives the taxpayers an exclusion of \$1,000.

40.22(4) For purposes of the disability income exclusion, "permanent and total disability" means the individual is unable to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment which (a) can be expected to last for a continuous period of twelve months or more or (b) can be expected to result in death. A certificate from a qualified physician must be attached to the individual's tax return attesting to the taxpayer's permanent and total disability as of the date the individual claims to have retired on disability. The certificate must include the name and address of the physician and contain an acknowledgment that the certificate will be used by the taxpayer to claim the exclusion. In an instance where an individual has been certified as permanently and totally disabled by the veterans administration, form 6004 may be attached to the return instead of the physicians certificate. Form 6004 must be signed by a physician on the VA disability rating board.

40.22(5) Mandatory retirement age is the age at which the taxpayer would have been required to retire under the employer's retirement program.

40.22(6) The disability-income exclusion is not applicable to federal income tax for tax years beginning after 1983. There are many revenue rulings, court cases and other provisions which were relevant to the disability-income exclusion for the tax periods when the exclusion was available on federal returns. These provisions, court

REVENUE DEPARTMENT[730] (cont'd)

cases and revenue rulings concerning the disability-income exclusion are equally applicable to the disability-income exclusion on Iowa returns for tax years beginning on or after January 1, 1984.

This rule is intended to implement Iowa Code Supplement section 422.7 as amended by 1984 Iowa Acts, Senate File 2330.

ITEM 2. Chapter 40 is amended by adding the following new rule.

730—40.23(422) Social security benefits and Tier 1 railroad retirement benefits. For tax years beginning on or after January 1, 1984, social security benefits and Tier 1 railroad retirement benefits received are taxable on the Iowa return to the same extent as those benefits are taxable for federal income tax purposes. When both spouses of a married couple receive social security benefits or Tier 1 railroad retirement benefits and file a joint federal income tax return but separate returns or separately on the combined return form, the taxable portion of the benefits must be allocated between the spouses. The following formula should be used to compute the amount of social security benefits to be reported by each spouse on the Iowa return:

Taxable Social Security Benefits and Railroad Retirement Benefits on the Federal Return	x	$\frac{\text{Total Social Security Benefits and Railroad Retirement Benefits Received by Husband (or Wife)}}{\text{Total Social Security and Railroad Retirement Benefits Received by Both Spouses}}$
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The example shown below illustrates how taxable social security benefits are allocated between spouses:

A married couple filed a joint federal income tax return for 1984. They filed separately on the combined return form for Iowa income tax purposes. During the tax year, the husband received \$6,000 in social security benefits and the wife received \$3,000 in social security benefits. \$2,000 of the social security benefits was taxable on the federal return.

The \$2,000 in taxable social security benefits is allocated to the spouses on the following basis:

$\frac{\$2,000 \times \$6,000}{\$9,000} = \$1,133.40$	$\frac{\$2,000 \times \$3,000}{\$9,000} = \666.60
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This rule is intended to implement Iowa Code Supplement section 422.7 as amended by 1984 Iowa Acts, Senate File 2330.

ITEM 3. Rule 41.4(422) is amended by adding the following new subrule:

41.4(1) Direct charitable contribution for individuals claiming the optional standard deduction. For tax years beginning on or after January 1, 1984, a direct charitable deduction is provided for resident and nonresident taxpayers who claim the optional standard deduction on their Iowa returns. The deduction is limited to twenty-five percent of the first \$300 donated to qualified organizations as defined in section 170(b)(1)(A) of the Internal Revenue Code of 1954. Married taxpayers who have filed a joint federal return and elect to file separate Iowa returns or separately on the combined Iowa return must allocate the allowable charitable deduction to each

spouse in the proportion that each spouse's respective net income bears to the total net income of both spouses. The example shown below illustrates how the direct charitable deduction is allocated between spouses filing separate Iowa returns or separately on the Iowa combined return form.

A married couple filed a joint federal return but elected to file a combined return for Iowa income tax purposes. In the tax year, the couple made \$400 in contributions to qualified organizations and elected to claim the optional standard deduction on their Iowa return. The husband's net income for the year was \$30,000 and the wife's net income was \$10,000. The couple's direct charitable deduction is limited to twenty-five percent of the first \$300 in contributions made during the year which gave them a direct charitable deduction of \$75. This deduction was allocated between the husband and wife on the basis of the following formula:

<u>Husband</u>		
Allowable Direct Charitable Contribution	x	$\frac{\text{Husband's Net Income}}{\text{Total Net Income}}$
		= Husband's Deduction

<u>Wife</u>		
Allowable Direct Charitable Contribution	x	$\frac{\text{Wife's Net Income}}{\text{Total Net Income}}$
		= Wife's Deduction

\$75 x \$30,000	=	\$56 Husband's Deduction
\$40,000		
\$75 x \$10,000	=	\$19 Wife's Deduction
\$40,000		

Therefore, the husband's direct charitable deduction is \$56 and the wife's deduction is \$19.

For federal income tax purposes, the direct charitable contribution deduction for taxable years beginning in 1985 is limited to fifty percent of the total contributions given. For taxable years beginning in 1986, the direct charitable contribution deduction allowable on the federal return is one hundred percent of the contributions made in the tax year. However, for Iowa income tax purposes, the maximum direct charitable contribution that is allowable for tax years beginning in 1985 and 1986 is twenty-five percent of up to the first \$300 contributed. The direct charitable deduction is not allowed on either Iowa or federal income tax returns for tax years beginning after 1986.

41.4(2) Reserved.

This rule is intended to implement Iowa Code Supplement section 422.9 as amended by the 1984 Iowa Acts, Senate File 2330.

ITEM 4. Amend subrule 43.4(1) as follows:

43.4(1) Iowa fish and game protection fund.

a. For tax years beginning on or after January 1, 1982, but before January 1, 1984. 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

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revenue, the child support recovery unit of the Iowa department of social human 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.

b. For tax years beginning on or after January 1, 1984. The taxpayer may designate an amount 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 human services, the college aid commission, and the additional political campaign contribution have been satisfied. The designation to the fund is irrevocable and cannot be made on an amended return. If the amount of refund claimed on the original return or the payment remitted with the 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.

Example C: Amount shown due on return is \$30. \$20 is designated to the fund. A \$50 payment was made with the return. Due to an error on the return, the taxpayer owes \$40. Only \$10 would be credited to the fund in this situation.

ITEM 5. Amend subrule 43.4(2) and the implementation clause at the end of the rule as follows:

43.4(2) Iowa election campaign fund.

a. For tax years beginning on or after January 1, 1983; but before January 1, 1984, 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 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.

b. For tax years beginning on or after January 1, 1984, any taxpayer who directs that one dollar of the taxpayer's 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, and the college aid commission have been satisfied. The designation to the fund is irrevocable and cannot be changed on an amended return. If the refund claimed on the original return or the payment remitted with the return is 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 \$2 would be credited to the Iowa election campaign fund and \$24 would be credited to the Iowa fish and game protection 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

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taxes, the child support recovery unit, or the college aid commission §80. The taxpayer would not receive a refund and \$2 would be credited to the Iowa election campaign fund and \$18 would be credited to the Iowa fish and game protection fund.

This rule is intended to implement Iowa Code section 107.16 and Iowa Code Supplement section 56.18 as amended by 1983 1984 Iowa Acts, Chapter 176 House File 2274.

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ARC 4926

REVENUE DEPARTMENT[730]

Pursuant to the authority of Iowa Code sections 421.4 and 422.68(1), the Iowa Department of Revenue hereby adopts amendments to Chapter 56 "Declaration of Estimated Tax for Corporations" and Chapter 61 "Declaration of Estimated Tax for Financial Institutions," Iowa Administrative Code.

Notice of Intended Action was published in IAB, volume VII, number 1, on July 4, 1984, as ARC 4807.

As a result of the decision in Avon Products, Inc. v. United States, 588 F.2d 342, the Internal Revenue Service has issued a Revenue Ruling 84-58 which sets forth how the IRS will apply overpayments to estimated tax installments for the next year. The Department in the past has followed the procedure used by the IRS. Rules 56.6(422) and 61.6(422) are being adopted to clarify that the Department will continue to follow the IRS policy in applying overpayments to the next year's estimated tax installments.

None of the amended rules or subrules will necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

The Department has determined that this proposed rule may have an impact on small business. The Department has considered the factors listed in 1984 Iowa Acts, Senate File 475, section 1(4)"a"(1). The Department will issue a regulatory flexibility analysis as provided in Senate File 475 if a written request is filed by delivery or by mailing postmarked no later than September 18, 1984, to Policy Section, Technical Services Division, Iowa Department of Revenue, Hoover State Office Building, Des Moines, Iowa 50319. The request may be made by the administrative rules review committee, the governor, a political subdivision, at least 25 persons who qualify as a small business under the Act, or an organization of small businesses representing at least 25 persons which is registered with the Department under the Act.

With the exception of changing the word "refund" to "return" in subrule 56.6(3) when discussing the due date of the return, these rules are identical to those published under Notice of Intended Action. The amendments will become effective October 3, 1984, after filing with the rules coordinator and publication in the Iowa Administrative Code.

These rules are intended to implement Iowa Code section 422.91.

The following new rules are adopted.

ITEM 1. Amend chapter 56 by adding the following new rule.

730—56.6(422) Overpayment of estimated tax.

56.6(1) Refund of overpayment of estimated tax. Any overpayment of estimated tax, at the taxpayer's election, of five dollars or more will be refunded with interest without a claim for refund being filed. If the overpayment is less than five dollars, it will be refunded only if the taxpayer files a claim for refund within twelve months after the due date of the return.

56.6(2) Interest on refunds of overpayments of estimated tax. Interest begins to accrue on the first day of the second calendar month following the date of payment or the date the return was due to be filed, or was filed, whichever is the latest. The rate of interest shall be that set forth in rule 730—10.2(421).

56.6(3) Credit to next year's tax. In lieu of claiming a refund, the taxpayer may elect to have the overpayment credited to the next year's tax liability. The election may not be changed after the due date for filing the return considering any extension of time to file. If the taxpayer elects to have the overpayment credited to the next year's tax liability, the overpayment will be credited to the first installment if the overpayment arose on or before the due date of the return. If the overpayment arises after the due date of the return, the overpayment will be credited to the first installment due after the date of payment. The taxpayer may by a written election included with the filing of the return elect to have the overpayment credited to a different installment. Revenue Ruling 84-58.

This subrule is effective for tax years beginning on or after January 1, 1984.

56.6(4) Accrual of interest on an assessment of additional tax. If the taxpayer has not elected to have an overpayment credited to an installment other than the first installment, interest shall accrue on an assessment of additional tax as follows. If the overpayment was credited to the first installment, interest on an assessment of additional tax shall accrue from the due date of the return. If the overpayment was credited to an installment due after the overpayment arose, interest shall accrue from the date the return was filed. Interest on that portion of an assessment greater than the overpayment shall accrue from the due date of the return.

If the taxpayer has elected to have an overpayment of estimated tax credited to an installment other than the first, interest shall accrue on any assessment of additional tax up to the amount of the overpayment from the date the return was filed with the department. Interest on any assessment of additional tax greater than the amount of the overpayment shall accrue from the due date of the return. Avon Products, Inc. v. United States, 588 F.2d 342 (2nd Cir. 1978), Revenue Ruling 84-58.

This subrule is effective for tax years beginning on or after January 1, 1984.

This rule is intended to implement Iowa Code section 422.91.

ITEM 2. Amend chapter 61 by adding the following new rule.

730—61.6(422) Overpayment of estimated tax.

61.6(1) Refund of overpayment of estimated tax. Any overpayment of estimated tax, at the taxpayer's election,

REVENUE DEPARTMENT[730] (cont'd)

of five dollars or more will be refunded with interest without a claim for refund being filed. If the overpayment is less than five dollars, it will be refunded only if the taxpayer files a claim for refund within twelve months after the due date of the return.

61.6(2) Interest on refunds of overpayments of estimated tax. Interest begins to accrue on the first day of the second calendar month following the date of payment or the date the return was due to be filed, or was filed, whichever is the latest. The rate of interest shall be that set forth in rule 730—10.2(421).

61.6(3) Credit to next year's tax. In lieu of claiming a refund, the taxpayer may elect to have the overpayment credited to the next year's tax liability. The election may not be changed after the due date for filing the return considering any extension of time to file. If the taxpayer elects to have the overpayment credited to the next year's tax liability, the overpayment will be credited to the first installment if the overpayment arose on or before the due date of the return. If the overpayment arises after the due date of the return, the overpayment will be credited to the first installment due after the date of payment. The taxpayer may by a written election included with the filing of the return elect to have the overpayment credited to a different installment. Revenue Ruling 84-58.

This subrule is effective for tax years beginning on or after January 1, 1984.

61.6(4) Accrual of interest on an assessment of additional tax. If the taxpayer has not elected to have an overpayment credited to an installment other than the first installment, interest shall accrue on an assessment of additional tax as follows. If the overpayment was credited to the first installment, interest on an assessment of additional tax shall accrue from the due date of the return. If the overpayment was credited to an installment due after the overpayment arose, interest shall accrue from the date the return was filed. Interest on that portion of an assessment greater than the overpayment shall accrue from the due date of the return.

If the taxpayer has elected to have an overpayment of estimated tax credited to an installment other than the first, interest shall accrue on any assessment of additional tax up to the amount of the overpayment from the date the return was filed with the department. Interest on any assessment of additional tax greater than the amount of the overpayment shall accrue from the due date of the return. Avon Products, Inc. v. United States, 588 F.2d 342 (2nd Cir. 1978), Revenue Ruling 84-58.

This subrule is effective for tax years beginning on or after January 1, 1984.

This rule is intended to implement Iowa Code section 422.91.

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ARC 4927**REVENUE DEPARTMENT[730]**

Pursuant to the authority of Iowa Code section 421.14, the Iowa Department of Revenue hereby adopts amend-

ments to Chapter 71, "Assessment Practices and Equalization" and Chapter 80, "Property Tax Credits and Exemptions," Iowa Administrative Code.

Notice of Intended Action was published in IAB, volume VII, number 1, on July 4, 1984, as ARC 4808.

These rules provide guidelines for the administration of the property tax exemption for forest and fruit-tree reservations and the implementation of 1984 Iowa Acts, House File 2481 which pertains to forest and fruit-tree reservations.

The amended rules may necessitate minimal additional expenditures by county conservation boards as they perform their duties imposed by 1984 Iowa Acts, House File 2481.

The Department has determined that this adopted rule may have an impact on small business. The Department has considered the factors listed in 1984 Iowa Acts, Senate File 475, section 1(4)"a"(1). The Department will issue a regulatory flexibility analysis as provided in Senate File 475 if a written request is filed by delivery or by mailing postmarked no later than September 18, 1984, to Policy Section, Technical Services Division, Iowa Department of Revenue, Hoover State Office Building, Des Moines, Iowa 50319. The request may be made by the administrative rules review committee, the governor, a political subdivision, at least 25 persons who qualify as a small business under the Act, or an organization of small businesses representing at least 25 persons which is registered with the Department under the Act.

These rules are identical to those published under Notice of Intended Action, except item 1 was changed to read subrule 71.1(7) as being rescinded. The amendments will become effective October 3, 1984, after filing with the rules coordinator and publication in the Iowa Administrative Bulletin.

These rules are intended to implement Iowa Code chapter 161, as amended by 1984 Iowa Acts, House File 2481, and Iowa Code section 441.22, as amended by 1984 Iowa Acts, House File 2481.

The following new rules are adopted.

ITEM 1. Subrule 71.1(7), IAC, is rescinded.

ITEM 2. 730—Chapter 80, IAC, is amended by adding the following new rules:

730—80.9(161,441) Forest and fruit-tree reservations.

80.9(1) Determination of eligibility for exemption. In a county having a county conservation board, the board shall inspect property for which an application for exemption as a forest or fruit-tree reservation has been filed, and recommend to the appropriate assessor whether the exemption should be allowed. The assessor shall assess or exempt such property based upon the board's recommendation. In a county not having a county conservation board, the inspection of the property shall be made by the assessor. The assessment or exemption of such property shall be based upon criteria established by the state conservation commission.

80.9(2) Application for exemption.

a. An application for exemption must be filed with the appropriate assessor between January 1 and April 15, inclusive, of the assessment year for which the exemption is first claimed. In a county having a county conservation board, the assessor shall forward the application to the board for its recommendation. Once the application has been accepted, the exemption is applicable to the current and subsequent assessment years and no further applica-

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tion shall be required so long as the property remains eligible for the exemption.

b. If April 15 falls on a Saturday or Sunday, an application for exemption may be filed the following Monday.

c. An application shall be considered to be timely filed if postmarked on or before April 15 or the following Monday if April 15 falls on a Saturday or Sunday.

80.9(3) Notification to property owner. The county conservation board shall make every effort to submit its recommendation to the assessor in sufficient time for the assessor to notify the claimant by April 15. The assessor shall notify the claimant by April 15 of the disposition of the application for exemption. If because of the date on which an application is filed a determination of eligibility for the exemption cannot be made in sufficient time for notification to be made by April 15, the assessor shall assess the property and notify the property owner of the inability to act on the application. The notification shall contain the actual value and classification of the property and a statement of the claimant's right of appeal to the local board of review.

80.9(4) Appeal of eligibility determination. If a property for which a claim for exemption as a forest or fruit-tree reservation is assessed for taxation, the property owner may appeal the assessment to the board of review under Iowa Code section 441.37.

80.9(5) Valuation of property. For each assessment year for which property is exempt as a forest or fruit-tree reservation, the assessor shall determine the actual value and classification that would apply to the property were it assessed for taxation that year. In any year for which the actual value or classification of property so determined is changed, the assessor shall notify the property owner pursuant to Iowa Code sections 441.23, 441.26 and 441.28.

80.9(6) Recapture tax.

a. Assessment of property. If the county conservation board, or the assessor in a county not having a county conservation board, determines a property has ceased to meet the eligibility criteria established by the state conservation commission, the property shall be assessed for taxation and subject to the recapture tax. The property shall be subject to taxes levied against the assessment made as of January 1 of the calendar year in which the property ceased to qualify for exemption. In addition, the property shall be subject to the tax which would have been levied against the assessment made as of January 1 of each of the five preceding calendar years for which the property received an exemption.

b. Assessment procedure. If the determination that a property has ceased to be eligible for exemption is made by the assessor by April 15, the assessor shall notify the property owner of the assessment as of January 1 of the year in which the determination is made in accordance with Iowa Code sections 441.23, 441.26, and 441.28. The assessment of the property for any of the five preceding years and for the current year, if timely notice by April 15 cannot be given, shall be by means of an omitted

assessment as provided in Iowa Code section 443.6 (Talley v. Brown, 146 Iowa 360, 125 N.W. 243(1910)). Appeal of the omitted assessment may be taken pursuant to Iowa Code sections 443.7 and 443.8.

c. Computation of tax. The county auditor shall compute the tax liability for each year for which an assessment has been made pursuant to subrule 80.9(6)(b). The tax liability shall be the amount of tax that would have been levied against each year's assessment had the property not received the exemption. In computing the tax, the valuations established by the assessor shall be adjusted to reflect any equalization order or assessment limitation percentage applicable to each year's assessment.

d. Entry on tax list. The tax liability levied against assessments made as of January 1 of any year preceding the calendar year in which the property ceased to qualify for exemption shall be entered on the tax list for taxes levied against all assessments made as of January 1 of the year immediately preceding the calendar year in which the property ceased to qualify for exemption. However, if those taxes have already been certified to the county treasurer, the recapture taxes shall be entered on the tax list for taxes levied against assessments made as of January 1 of the year in which the property ceased to qualify for exemption. The tax against the assessment made as of January 1 of the year in which the property ceased to qualify for exemption shall be levied at the time taxes are levied against all assessments made as of that date.

e. Delinquencies. Recapture taxes shall not become delinquent until the time when all other unpaid taxes entered on the same tax list become delinquent.

f. Exceptions to recapture tax.

(1) Fruit-tree reservations. Property which has received an exemption as a fruit-tree reservation is not subject to the recapture tax if the property is maintained as a fruit-tree reservation for at least five full calendar years following the last calendar year for which the property was exempt as a fruit-tree reservation.

(2) Property which has been owned by the same person or the person's direct descendants or antecedents for at least ten years prior to the time the property ceases to qualify for exemption shall not be subject to the recapture tax.

(3) Property described in subrules 80.9(6)"f"(1) and 80.9(6)"f"(2) is subject to assessment as of January 1 of the calendar year in which the property ceases to qualify for exemption.

This rule is intended to implement Iowa Code chapter 161 as amended by 1984 Iowa Acts, House File 2481, and Iowa Code section 441.22 as amended by 1984 Iowa Acts, House File 2481.

[Filed 8/10/84, effective 10/3/84]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/29/84.

REGENTS, BOARD OF[720]

At its August 15, 1984 meeting, the administrative rules review committee voted the following objection:

At its August 15, 1984 meeting the administrative rules review committee objected to the promulgation of 720 IAC 2.2(5), on the grounds that it is unreasonable to constantly waive the requirements of a "permanent" rule as an alternative to rescinding that rule and repromulgating it if ever needed. This subrule is adopted as ARC 4821, published in VII IAB 2 (7-18-84).

This subrule, renewed every two years since 1979, waives on a temporary basis the so-called "parietal rule". This permanent rule, generally speaking, requires freshmen and sophomore students at the University of Iowa to live in university dormitories, fraternities or sororities. The "parietal rule" will automatically go into effect whenever the Board of Regents allows the waiver to expire.

The system of a permanent rule coupled with temporary suspension allows the controversial permanent rule to be implemented without the public comment, criticism or controversy that might accompany a rule-making procedure. It is the committee's opinion this is unreasonable and is calculated to avoid the opportunities for public comment that are provided by Iowa Code Chapter 17A.

This objection may be rescinded if the Board of Regents agrees to precede any enforcement of the parietal rule with a rule-making process providing notice and an opportunity for public comment.

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