



# IOWA ADMINISTRATIVE BULLETIN

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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, regulatory flexibility analyses 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  
DONNA WATERS, Administrative Code Assistant

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### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
4	Friday, July 25, 1986	August 13, 1986
5	Friday, August 8, 1986	August 27, 1986
6	Friday, August 22, 1986	September 10, 1986

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### SUBSCRIPTION INFORMATION

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## Schedule for Rulemaking 1986

FILING DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Jan. 10	Jan. 29	Feb. 18	Mar. 5	Mar. 26	Apr. 30	July 28
Jan. 24	Feb. 12	Mar. 4	Mar. 19	Apr. 9	May 14	Aug. 11
Feb. 7	Feb. 26	Mar. 18	Apr. 2	Apr. 23	May 28	Aug. 25
Feb. 21	Mar. 12	Apr. 1	Apr. 16	May 7	June 11	Sep. 8
Mar. 7	Mar. 26	Apr. 15	Apr. 30	May 21	June 25	Sep. 22
Mar. 21	Apr. 9	Apr. 29	May 14	June 4	July 9	Oct. 6
Apr. 4	Apr. 23	May 13	May 28	June 18	July 23	Oct. 20
Apr. 18	May 7	May 27	June 11	July 2	Aug. 6	Nov. 3
May 2	May 21	June 10	June 25	July 16	Aug. 20	Nov. 17
May 16	June 4	June 24	July 9	July 30	Sep. 3	Dec. 1
May 30	June 18	July 8	July 23	Aug. 13	Sep. 17	Dec. 15
June 13	July 2	July 22	Aug. 6	Aug. 27	Oct. 1	Dec. 29
June 27	July 16	Aug. 5	Aug. 20	Sep. 10	Oct. 15	Jan. 12 '87
July 11	July 30	Aug. 19	Sep. 3	Sep. 24	Oct. 29	Jan. 26 '87
July 25	Aug. 13	Sep. 2	Sep. 17	Oct. 8	Nov. 12	Feb. 9 '87
Aug. 8	Aug. 27	Sep. 16	Oct. 1	Oct. 22	Nov. 26	Feb. 23 '87
Aug. 22	Sep. 10	Sep. 30	Oct. 15	Nov. 5	Dec. 10	Mar. 9 '87
Sep. 5	Sep. 24	Oct. 14	Oct. 29	Nov. 19	Dec. 24	Mar. 23 '87
Sep. 19	Oct. 8	Oct. 28	Nov. 12	Dec. 3	Jan. 7 '87	Apr. 6 '87
Oct. 3	Oct. 22	Nov. 11	Nov. 26	Dec. 17	Jan. 21 '87	Apr. 20 '87
Oct. 17	Nov. 5	Nov. 25	Dec. 10	Dec. 31	Feb. 4 '87	May 4 '87
Oct. 31	Nov. 19	Dec. 9	Dec. 24	Jan. 14 '87	Feb. 18 '87	May 18 '87
Nov. 14	Dec. 3	Dec. 23	Jan. 7 '87	Jan. 28 '87	Mar. 4 '87	June 1 '87
Nov. 28	Dec. 17	Jan. 6 '87	Jan. 21 '87	Feb. 11 '87	Mar. 18 '87	June 15 '87
Dec. 12	Dec. 31	Jan. 20 '87	Feb. 4 '87	Feb. 25 '87	Apr. 1 '87	June 29 '87
Dec. 26	Jan. 14 '87	Feb. 3 '87	Feb. 18 '87	Mar. 11 '87	Apr. 15 '87	July 13 '87

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. It is the regular effective date for an adopted rule.

180 days See 17A.4(1)"b." If the agency does not adopt rules within this time frame, the Notice should be terminated.

## NOTICE

Beginning on June 14, 1985, the deadline for filing rules with the office of the Administrative Rules Coordinator will be **12 o'clock noon** rather than 4:30 p.m.

Rules will not be accepted after 12 o'clock noon on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

## NOTICE

### REGARDING PROPOSED UNIFORM RULES OF STATE AGENCY PROCEDURE

Governor Terry E. Branstad has appointed a nine-member task force to draft proposed uniform rules of agency procedure. The members of the task force are as follows: Arthur E. Bonfield, chair, Barbara B. Burnett, Robert Holz, Kathryn L. Hove, Dennis J. Nagel, Elizabeth M. Osenbaugh, Julie F. Pottorff, Joseph A. Royce, and Ted Yanecek. The hope is that the proposed uniform rules will be suitable for adoption by all or most state agencies and that they would reflect the need for fair state agency procedures on the one hand and the need for effective and efficient government on the other hand.

At this time the task force has a tentative draft of uniform rules of agency procedure concerning rulemaking. Before it recommends these rules to the Governor it would like input from agencies, local government and members of the public.

Copies of the tentative draft of proposed uniform rules relating to rulemaking will be available July 30, 1986. Please call Barbara B. Burnett, Administrative Rules Coordinator at 515/281-6331 or Joseph Royce at 515/281-3084.

Any person may submit written comments concerning the tentative draft of proposed uniform rules relating to rulemaking to either Ms. Burnett, Room 14, State Capitol or Mr. Royce, Room 116, State Capitol, Des Moines, Iowa 50319. Oral comments also may be made by arranging a meeting with either of these persons. Both written and oral comments must be received by August 29, 1986.

#### Governor's Task Force On Uniform Agency Rules

July 14, 1986

**NOTE:** This is a tentative draft and, therefore, does not reflect final Task Force action. After public comment on this tentative draft, the Task Force will make final recommendations on uniform rules of agency procedure concerning rule making.

#### UNIFORM RULES OF AGENCY PROCEDURE

##### RULE MAKING

###### 0.1(17A) Applicability

Except to the extent otherwise expressly provided by statute, all rules adopted by the agency are subject to the provisions of Iowa Code Chapter 17A, the Iowa Administrative Procedure Act, and the provisions of this chapter.

###### 0.2(17A) Advice on Possible Rules before Notice of Proposed Rule Adoption

In addition to seeking information by other methods, the agency may, before publication of a notice of intended action under Iowa Code § 17A.4(1) (a), solicit comments from the public on a subject matter of possible rule making by the agency by causing notice to be published in the administrative bulletin of the subject matter and indicating where, when, and how persons may comment.

###### 0.3(17A) Public Rule-making Docket

0.3(1) Docket maintained. The agency shall maintain a current public rule-making docket.

0.3(2) Anticipated rule making. The rule-making docket shall list each anticipated rule-making proceeding. For each anticipated rule-making proceeding the docket shall contain a listing of the precise subject matter

which the agency anticipates will be submitted for consideration by the [commission, board, council, director] for subsequent proposal under the provisions of Iowa Code § 17A.4(1) (a), the name and address of agency personnel with whom persons may communicate with respect to the matter, and an indication of the present status within the agency of that possible rule. The agency may also include in the docket other subjects upon which public comment is desired.

0.3(3) Pending rule-making proceedings. The rule-making docket shall list each pending rule-making proceeding. A rule-making proceeding is pending from the time it is commenced, by publication in the administrative bulletin of a notice of intended action pursuant to Iowa Code § 17A.4(1) (a), to the time it is terminated, by publication of a notice of termination in the administrative bulletin or the rule becoming effective. For each rule-making proceeding, the docket shall indicate:

- a. the subject matter of the proposed rule;
- b. a citation to all published notices relating to the proceeding;
- c. where written submissions on the proposed rule may be inspected;
- d. the time during which written submissions may be made;
- e. the names of persons who have made written requests for an opportunity to make oral presentations on the proposed rule, where those requests may be inspected, and where and when oral presentations may be made;
- f. whether a written request for the issuance of a regulatory flexibility analysis, an economic impact statement, or a concise statement of reasons, has been filed, whether that analysis or statement has been issued, and where the written request and analysis or statement may be inspected;
- g. the current status of the proposed rule and any agency determinations with respect thereto;
- h. any known timetable for agency decisions or other action in the proceeding;
- i. the date of the rule's adoption;
- j. the date of the rule's filing, indexing, and publication;
- k. the date on which the rule will become effective; and
- l. where the rule-making record may be inspected.

###### 0.4(17A) Notice of Proposed Rule Adoption

0.4(1) Contents. At least 35 days before the adoption of a rule the agency shall cause notice of its intended action to be published in the administrative bulletin. The notice of intended action shall include:

- a. a brief explanation of the purpose of the proposed rule;
- b. the specific legal authority for the proposed rule;
- c. except where impracticable, the text of the proposed rule;
- d. where, when, and how persons may present their views on the proposed rule; and
- e. where, when, and how persons may demand an oral proceeding on the proposed rule if the notice does not already provide for one.

Where inclusion of the complete text of a proposed rule in the notice of intended action is impracticable, the agency shall include, in its place, a statement fully describing the specific subject matter of the proposed rule, all of the specific issues to be addressed by the proposed rule, and the range of possible choices being considered by the agency for the resolution of each of those issues.

0.4(2) Incorporation by reference. A proposed rule may incorporate other materials by reference only if it complies with all of the requirements applicable to the incorporation by reference of other materials in an adopted rule that are contained in § 0.12(2) of this chapter.

UNIFORM RULES (*cont'd*)

0.4(3) **Notices mailed.** Persons desiring to receive mailed copies of future notices of intended action must file with the agency a written request indicating the name and address to which such notices should be sent. Within 7 days after submission of a notice of intended action to the administrative rules coordinator for publication in the administrative bulletin, the agency shall mail a copy of that notice to each person who has filed such a written request with the agency for mailed notices of intended action. The written request shall be accompanied by payment of [amount] to cover the cost of copying and mailing the notices of intended action for a period of [specify time period].

0.5(17A) **Public Participation**

0.5(1) **Written comments.** For at least 20 days after publication of the notice of intended action, persons may submit argument, data, and views, in writing, on the proposed rule. Such written submissions should identify the proposed rule to which they relate by ARC number and by citation to the administrative bulletin, if known, and should be submitted to [identify office and address] or the person designated in the notice of intended action.

0.5(2) **ORAL PROCEEDINGS.**

a. **Requests.** The agency shall schedule an oral proceeding on a proposed rule if, within 20 days after the published notice of intended action, a written request for an opportunity to make oral presentations is submitted to the agency by the administrative rules review committee, a governmental subdivision, an agency, an association having not less than 25 members, or 25 persons. That request must also contain the following additional information:

- (1) a request by one or more individual persons must be signed by each of them and include the address and telephone number of each of them.
- (2) a request by an association must be signed by an officer of the association and contain a statement that the association has at least twenty-five members.
- (3) a request by an agency or governmental subdivision must be signed by an official having authority to act on behalf of the entity.

b. **Scheduling and notice.** An oral proceeding on a proposed rule shall not be held earlier than 20 days after notice of its location and time is published in the administrative bulletin. That notice shall also identify the proposed rule by ARC number and citation to the administrative bulletin.

c. **Presiding Officer.** The agency, a member of the agency, or another person designated by the agency who is familiar with the substance of the proposed rule, shall preside at the oral proceeding on a proposed rule. If the agency does not preside, the presiding officer shall prepare a memorandum for consideration by the agency summarizing the contents of the presentations made at the oral proceeding unless the agency determines that such a memorandum is unnecessary because the agency will personally listen to or read the entire transcript of the oral proceeding.

d. **Conduct of proceeding.** At an oral proceeding on a proposed rule persons may make oral statements and make documentary and physical submissions, which may include data, views, comments or arguments concerning the proposed rule. Persons wishing to make a presentation at such a proceeding should notify the agency at least one business day prior to the proceeding. At the proceeding, those who participate shall indicate their names and addresses, identify any persons or organizations they may represent, and provide any other information relating to their participation deemed appropriate by the presiding officer. Oral proceedings shall be open to the public and shall be recorded by stenographic or electronic means.

(1) At the beginning of the oral proceeding the presiding officer shall give a brief synopsis of the proposed rule, a statement of the statutory authority for the proposed rule, and the reasons for the agency decision to propose the rule. The presiding officer may place time limitations on individual presentations when necessary to assure the orderly and expeditious conduct of the oral proceeding. To encourage joint presentations and to avoid repetition, additional time may be provided for persons whose presentations represent the views of other individuals as well as their own views.

(2) Oral comments should not be a restatement of matters which have already been submitted in writing. Persons making oral comments should be prepared to answer questions on any matters relating to written comments they have previously submitted.

(3) To facilitate the exchange of information the presiding officer may, where time permits, open the floor to questions or general discussion.

(4) The presiding officer shall have the authority to take any action necessary for the orderly conduct of the meeting.

(5) Physical and documentary submissions presented by participants in the oral proceeding shall be submitted to the presiding officer. Such submissions become the property of the agency.

(6) The oral proceeding may be continued by the presiding officer to a later time without notice other than by announcement at the hearing.

(7) Participants in an oral proceeding shall not be required to take an oath or to submit to cross examination. However, the presiding officer in an oral proceeding may question participants and permit the questioning of participants by other participants; but no participant shall be required to answer any question.

(8) The presiding officer in an oral proceeding may permit rebuttal statements and request the filing of written statements subsequent to the adjournment of the oral presentations.

e. **Applicability.** Section 0.5(2) applies only to those oral rule-making proceedings in which an opportunity to make oral presentations is authorized or required by Iowa Code § 17A.4(1) (b).

0.5(3) **Additional information.** In addition to receiving written comments and oral presentations on a proposed rule according to the provisions of this rule, the agency may obtain information concerning a proposed rule through any other means deemed appropriate under the circumstances.

0.6(17A) **Regulatory flexibility analysis**

0.6(1) **Definition of small business.** For purposes of this rule "small business" shall have the same definition as in Iowa Code § 17A.31(1).

0.6(2) **Notice in IAB.** If the agency proposes a rule which may have an impact on small business, the notice of intended action published in the administrative bulletin according to the requirements of Iowa Code § 17A.4(1) (a) shall expressly recite this possibility and describe the procedure to be followed for making a timely request of the agency for the issuance of a regulatory flexibility analysis.

0.6(3) **Mailing List.** Small businesses or organizations of small businesses may be registered on the agency's small business impact list by making a written application addressed to [designate office]. The application for registration shall state:

- a. The name of the small business or organization of small businesses;
- b. Its address;
- c. The name of a person authorized to transact business for the applicant;
- d. A description of the applicant's business or organization. An

## UNIFORM RULES (cont'd)

organization representing 25 or more persons who qualify as a small business shall indicate that fact.

c. Whether the registrant desires copies of notices of intended action at cost, or desires advance notice of the subject of all or some specific category of proposed rule making affecting small business.

The agency may at any time request additional information from the applicant to determine whether the applicant is qualified as a small business or as an organization of 25 or more small businesses. The agency will periodically send a letter to each registered small business or organization of small businesses asking whether that business or organization wishes to remain on the registration list. The name of a small business or organization of small businesses will be removed from the list if a negative response is received, or if no response is received within thirty days after the letter is sent.

0.6(4) Time of mailing. Within 7 days after submission of a notice of intended action to the administrative rules coordinator for publication in the administrative bulletin, the agency shall mail to all registered small businesses or organizations of small businesses, in accordance with their request, either a copy of the notice of its intended action or notice of the subject of that proposed rule making. In the case of a rule that may have an impact on small business adopted in reliance upon Iowa Code § 17A.4(2), the agency shall mail notice of the adopted rule to registered businesses or organizations prior to the time the adopted rule is published in the administrative bulletin.

0.6(5) Requests for analysis. A request for a regulatory flexibility analysis that is calculated to reduce the impact of a rule on small business may be made within twenty days after the publication of the notice of intended action. A request is made when mailed or delivered to the agency and must be in writing and must identify the proposed rule for which the analysis is requested by ARC number and by administrative bulletin citation, if known. The request must also indicate whether the analysis is desired for the entire rule or only for specified portions of the rule. Such a request may be accompanied by a brief or other information relevant to the contents of the requested regulatory flexibility analysis. The agency shall issue a regulatory flexibility analysis that conforms to the requirements of Iowa Code § 17A.31(4) after a proper request from:

- a. the governor;
- b. the administrative rules review committee;
- c. a political subdivision of the state;
- d. twenty-five or more persons who sign the request or requests,

provided that each represents a different small business;

e. an organization of at least 25 small businesses that is registered on the agency's small business impact list. That organization shall list the name, address, and phone number of not less than 25 small businesses it represents.

0.6(6) Analysis: Publication and comments. When the agency is required to issue a regulatory flexibility analysis for a proposed rule, the agency shall cause to be published in the administrative bulletin a concise summary of the regulatory flexibility analysis at least twenty days prior to the adoption of the proposed rule. In the case of a rule adopted in reliance upon the first sentence of Iowa Code § 17A.4(2), the agency shall cause the summary to be published within 90 days after publication of the adopted rule. The published summary shall state how interested persons may obtain a copy of the full text of the regulatory flexibility analysis and its cost which shall not be in excess of the cost of reproduction to the agency. The published summary shall also fix a time and place where interested persons may make an oral presentation on the analysis. Such oral

presentations shall be governed by the rules of this agency governing oral proceedings in rule making.

0.6(7) Agency initiated analysis. The agency may also prepare a regulatory flexibility analysis in advance of the publication of the notice of intended action or at any other time. The agency may publish a summary of such an analysis with the notice of intended action and provide the opportunity for oral presentation and submission of comments on the analysis simultaneously with those provided for in the notice of intended action.

0.7(17A) Economic Impact Statement and Fiscal Note

0.7(1) Issuance of impact statement. Upon written request of two or more members of the administrative rules review committee or the administrative rules coordinator the agency shall issue a statement indicating its estimate of the economic impact of a proposed rule or a rule adopted in reliance upon the first sentence of Iowa Code § 17A.4(2) or made effective in reliance upon Iowa Code § 17A.5(2) (b), on all persons affected by it and upon the agency itself, or a statement indicating that such an estimate cannot be formulated and the reasons for this conclusion. The agency may also issue an economic impact statement for a proposed or adopted rule on its own motion.

0.7(2) Impact statement contents. To the extent the economic impact statement is issued in response to a request from two or more members of the administrative rules review committee or the administrative rules coordinator, the impact statement shall conform to all of the requirements for that impact statement imposed by the requestor. To the extent that the economic impact statement is issued on motion of the agency, the economic impact statement may contain one or more of the following:

- a. a description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule;
- b. a description of the probable quantitative and qualitative impact of the proposed rule upon affected classes of persons;
- c. the probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues;
- d. a comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction;
- e. a determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule; and
- f. a description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule.

Each such economic impact statement may include quantification of the data to the extent practicable and may take account of both short-term and long-term consequences. The economic impact statement may also indicate the precise methodology used to reach its estimates and the particular data, if any, used to formulate its estimates and their source.

0.7(3) Publication and notice of impact statement. The economic impact statement or statement indicating the reasons why such an estimate is impossible shall be published in the administrative bulletin at least 15 days in advance of the adoption of the rule if it is requested for a proposed rule, or within 45 days of the time it is requested if it is requested for a rule adopted in reliance upon the first sentence of Iowa Code § 17A.4(2) or made effective in reliance upon Iowa Code § 17A.5(2) (b).

0.7(4) Fiscal note. If a proposed rule is likely to necessitate additional expenditures by political subdivisions, other agencies, or

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entities that contract with a political subdivision to provide services which are beyond the expenditures explicitly provided by state law, a fiscal note estimating those costs will be formulated by the agency. In addition to that estimate, the fiscal note shall indicate the precise methodology used to reach that estimate and the data, if any, used to formulate that estimate and their source. The agency shall indicate in its notice of intended action where and how persons may obtain copies of the fiscal note prepared for that proposed rule, which shall be available by the date the notice of intended action is published in the administrative bulletin.

0.8(17A) Time and Manner of Rule Adoption

0.8(1) Time of adoption. The agency shall not adopt a rule until the period for making written submissions and oral presentations has expired. Within 180 days after the later of the publication of the notice of intended action, or the end of oral proceedings thereon, the agency shall adopt a rule pursuant to the rule-making proceeding or terminate the proceeding by publication of a notice to that effect in the administrative bulletin.

0.8(2) Consideration of public comment. Before the adoption of a rule, the agency shall consider the written submissions, oral submissions or any memorandum summarizing oral submissions, and any regulatory flexibility analysis, economic impact statement, and fiscal note issued in that rule-making proceeding.

0.8(3) Reliance on agency expertise. Except as otherwise provided by law, the agency may use its own experience, technical competence, specialized knowledge, and judgment in the adoption of a rule.

0.9(17A) Variance Between Adopted Rule and Published Notice of Proposed Rule Adoption

0.9(1) Changes in proposed rule. The agency shall not adopt a rule that is substantially different from the proposed rule contained in the published notice of intended action. However, the agency may terminate a rule-making proceeding and commence a new rule-making proceeding for the purpose of adopting a substantially different rule.

0.9(2) Standards. In determining whether a rule it decides to adopt is substantially different from the published notice of intended action upon which it is to be based, the agency shall consider the following factors:

- a. the extent to which all persons who would be affected by the rule should have understood that the previously published proposed rule would affect their interests;
- b. the extent to which the subject matter of the rule or the issues determined by that rule would be different from the subject matter or issues involved in the previously published proposed rule; and
- c. the extent to which the effects of the rule would differ from the effects of the previously published proposed rule had it been adopted instead.

0.10(17A) Exemptions from Public Rule-making Procedures

0.10(1) Omission of notice and comment. The agency may adopt a rule without publishing advance notice of its intended action in the administrative bulletin and without providing for written or oral public submissions prior to its adoption, to the extent the agency for good cause finds that public notice and participation are unnecessary, impracticable, or contrary to the public interest in the process of adopting that particular rule. The agency shall incorporate the required finding and a brief statement of its supporting reasons in each rule adopted in reliance upon this subsection.

0.10(2) Categories exempt. The following narrowly tailored categories of rules are exempted from the usual public notice and

participation requirements because those requirements are unnecessary, impracticable, or contrary to the public interest with respect to each and every member of the defined class:

[List here narrowly drawn classes of rules where such an exemption is justified and a brief statement of the reasons for exempting each of them].

0.10(3) Public proceedings on rules adopted without them. The agency may, at any time, commence a standard rule-making proceeding for the adoption of a rule that is identical or similar to a rule it previously adopted in reliance upon § 0.10(1). Upon written petition by 25 persons, the agency shall commence a standard rule-making proceeding for any rule specified in that petition that was adopted in reliance upon § 0.10(1). Such a petition must be filed within 60 days of the publication of the specified rule in the administrative bulletin as an adopted rule. The rule-making proceeding on that rule must be commenced within 60 days of the receipt of such a petition. After a standard rule-making proceeding commenced pursuant to this subsection, the agency may either readopt the rule it adopted without benefit of all usual procedures on the basis of § 0.10(1), retain that original rule adopted without benefit of all usual procedures, or may take any other lawful action, including the amendment or repeal of the rule in question, with whatever further proceedings are appropriate.

0.11(17A) Statement of Reasons

0.11(1) General. When requested by a person, either prior to the adoption of a rule or within thirty days after its publication in the administrative bulletin as an adopted rule, the agency shall issue a concise statement of the reasons for the rule. Requests for such a statement must be in writing and be delivered to [specify the office and address]. The request should indicate whether the statement is sought for all or only a specified part of the rule. Requests will be considered made on the date received.

0.11(2) Contents. The concise statement shall contain:

- a. the reasons for adopting the rule;
- b. an indication of any change between the text of the proposed rule contained in the published notice of intended action and the text of the rule as finally adopted, with the reasons for any such change;
- c. the principal reasons urged in the rule-making proceeding for and against the rule, and the agency's reasons for overruling the arguments made against the rule.

0.11(3) Time of issuance. After a proper request, the agency shall issue a concise statement of reasons by the later of the time the rule is adopted or 45 days after receipt of the request. A copy of the concise statement shall be mailed to the requesting party within two working days of the date it is issued.

0.12(17A) Contents, Style, and Form of Rule

0.12(1) Contents. Each rule adopted by the agency shall contain the text of the rule and, in addition:

- a. the date the agency adopted the rule;
- b. a statement of the purpose of the rule;
- c. a reference to all rules repealed, amended, or suspended by the rule;
- d. a reference to the specific statutory or other authority authorizing adoption of the rule;
- e. any findings required by any provision of law as a prerequisite to adoption or effectiveness of the rule; and
- f. the effective date of the rule.

## UNIFORM RULES (cont'd)

0.12(2) Incorporation by reference. The agency may incorporate, by reference in a proposed or adopted rule, and without causing publication of the incorporated matter in full, all or any part of a code, standard, rule, or other matter if the agency finds that the incorporation of its text in the agency proposed or adopted rule would be unduly cumbersome, expensive, or otherwise inexpedient. The reference in the agency proposed or adopted rule shall fully and precisely identify the incorporated matter by location, title, citation, date, and edition, if any, shall briefly indicate the precise subject and the general contents of the incorporated matter, and shall state that the proposed or adopted rule does not include any later amendments or editions of the incorporated matter. The agency may incorporate such matter by reference in a proposed or adopted rule only if the agency, organization, association or other persons originally issuing that matter makes copies of it readily available to the public. The rule shall state the address and telephone number of the place where copies of the incorporated matter are available at cost from this agency, and the address where copies are available from the agency of the United States, this State, another state, or the organization, association, or persons, originally issuing that matter. The agency shall retain permanently a copy of any materials incorporated by reference in a rule of the agency.

0.12(3) References to materials not published in full.

When the Code Editor decides to omit the full text of a proposed or adopted rule because publication of the full text would be unduly cumbersome, expensive, or otherwise inexpedient, the agency shall prepare and file with the Code Editor for inclusion in the administrative bulletin and code a summary statement describing the specific subject matter of the omitted material. This summary statement should include the title and a brief description sufficient to inform the public of the specific nature and subject matter of the proposed or adopted rules, and of significant issues involved in these rules. The summary statement should also describe how a copy of the full text of the proposed or adopted rule, including any unpublished matter and any matter incorporated by reference, may be obtained from the agency. The agency will provide a copy of that full text at actual cost upon request.

At the request of the Code Editor, the agency shall provide a proposed statement explaining why publication of the full text would be unduly cumbersome, expensive, or otherwise inexpedient.

0.12(4) Style and form. In preparing its rules, the agency shall follow the uniform numbering system, form, and style prescribed by the administrative rules coordinator.

## 0.13(17A) Agency Rule-making Record

0.13(1) Requirement. The agency shall maintain an official rule-making record for each rule it proposes by publication in the administrative bulletin of a notice of intended action, or adopts. The rule-making record and materials incorporated by reference must be available for public inspection.

0.13(2) Contents. The agency rule-making record shall contain:

- a. copies of all publications in the administrative bulletin with respect to the rule or the proceeding upon which the rule is based;
- b. copies of any portions of the agency's public rule-making docket containing entries relating to the rule or the proceeding upon which the rule is based;
- c. all written petitions, requests, submissions, and comments received by the agency, and all other written materials created or compiled by the agency or considered by the [agency head], in connection with the formulation, proposal, or adoption of the rule or the proceeding upon which

the rule is based, except to the extent the agency is authorized by law to keep them confidential, provided, however, that when materials are deleted because they are authorized by law to be kept confidential, the agency shall identify the deleted materials in the record;

d. any official transcript of oral presentations made in the proceeding upon which the rule is based or, if not transcribed, the stenographic record or electronic recording of those presentations, and any memorandum prepared by a presiding officer summarizing the contents of those presentations;

e. a copy of any regulatory flexibility analysis, economic impact statement, or fiscal note prepared for the proceeding upon which the rule is based;

f. a copy of the rule and any statement of reasons prepared for that rule;

g. all petitions for exceptions to, amendments of, or repeal or suspension of, the rule;

h. a copy of any objection to the issuance of that rule without public notice and participation that was filed pursuant to Iowa Code § 17A.4(2) by the administrative rules review committee, the governor, or the attorney general;

i. a copy of any objection to the rule filed by the administrative rules review committee, the governor, or the attorney general pursuant to Iowa Code § 17A.4(4), and any agency response to that objection; and

j. a copy of any executive order concerning the rule.

0.13(3) Effect of record. The rule-making record required by this section constitutes the official agency record with respect to the rule. Except as otherwise required by a provision of law, the agency rule-making record need not constitute the exclusive basis for agency action on that rule.

0.13(4) Maintenance of record. The agency shall maintain the rule-making record for a period of no less than ten years from the later of the date the rule to which it pertains became effective or the date of the notice of intended action.

## 0.14(17A) Filing of Rules

The agency shall file each rule it adopts in the office of the administrative rules coordinator. The filing must be executed as soon after adoption of the rule as is practicable. Each rule must have attached to it any fiscal note prepared for that rule and any statement of reasons issued with respect to that rule. In filing a rule, the agency shall use the standard form prescribed by the administrative rules coordinator.

## 0.15(17A) Effectiveness of Rules Prior to Publication

0.15(1) Grounds. The agency may make a rule effective after its filing at any stated time prior to 35 days after its indexing and publication in the administrative bulletin if it finds that a statute so provides, the rule confers a benefit or removes a restriction on some segment of the public, or that the effective date of the rule is necessary to avoid imminent peril to the public health, safety, or welfare. The agency shall incorporate the required finding and a brief statement of its supporting reasons in each rule adopted in reliance upon this subsection.

0.15(2) Special notice. When the agency makes a rule effective prior to its indexing and publication in reliance upon the provisions of Iowa Code § 17A.5(2)(b)(3), the agency shall employ all reasonable means to make its contents known to the persons who may be affected by that rule prior to the rule's indexing and publication. The term "all reasonable means" requires the agency to employ the swiftest and most effective means of notice

## UNIFORM RULES(cont'd)

rationaly calculated to inform potentially affected parties of the effectiveness of the rule that is justified and practical under the circumstances considering the various alternatives available for this purpose, the comparative costs to the agency of utilizing each of those alternatives, and the harm suffered by affected persons from any lack of notice concerning the contents of the rule prior to its indexing and publication. The means that may be used for providing notice of such rules prior to their indexing and publication include, but are not limited to, any one or more of the following: radio, newspaper, television, signs, mail, telephone or personal notice.

A rule made effective prior to its indexing and publication in reliance upon the provisions of Iowa Code § 17A5(2)(b)(3), shall include in that rule a statement describing the reasonable means that will be used to comply with the requirements of § 0.15(2).

## 0.16(17A) General Statements of Policy

0.16(1) Compilation, indexing, public inspection. The agency shall maintain an official, current, and dated compilation that is indexed by subject, containing all of its general statements of policy within the scope of Iowa Code § 17A.2(7) a., c., f., g., h., k. Each addition to, change in, or deletion from the official compilation must also be dated, indexed, and a record thereof kept. Except for those portions containing rules governed by Iowa Code § 17A.2(7)f., or otherwise authorized by law to be kept confidential, the compilation must be made available for public inspection and copying.

0.16(2) Enforcement of requirements. A general statement of policy subject to the requirements of this subsection shall not be relied on by the agency to the detriment of any person who does not have actual, timely

knowledge of the contents of the statement until the requirements of § 0.17(2) are satisfied. This provision is inapplicable to the extent necessary to avoid imminent peril to the public health, safety, or welfare.

## 0.17(17A) Required Rule Making

0.17(1) Elaboration of agency law and policy. As soon as feasible and to the extent practicable the agency shall adopt rules, in addition to those otherwise required by law, embodying appropriate standards, principles, and procedural safeguards that the agency will apply to the law it administers. This provision is inapplicable to statements of law or policy that would otherwise be excluded from the definition of "rule" by Iowa Code § 17A.2(7)a., c., e.-i., k.

0.17(2) Displacement of agency case law by rules. As soon as feasible and to the extent practicable, the agency shall adopt rules to supersede principles of law or policy lawfully declared by the agency as the basis for its decisions in particular cases. This provision is inapplicable to statements of law or policy that would otherwise be excluded from the definition of "rule" by Iowa Code § 17A.2(7)a., c., e.-i., k.

## 0.18(17A) Review by Agency of Rules

At least every five years, the agency shall review all of its rules to determine whether any new rule should be adopted or any existing rule should be amended or repealed. In conducting that review, the agency shall prepare a written report summarizing its findings, its supporting reasons, and any proposed course of action. A copy of the agency's report shall be sent to the administrative rules review committee and the administrative rules coordinator. The report must also be available for public inspection.

The Administrative Rules Review Committee will hold a special meeting in lieu of the statutory meeting on Tuesday, August 19, 1986, 10:00 a.m. and Wednesday, August 20, 1986, 9:00 a.m. in Committee Room 24, State Capitol. The following rules will be reviewed:

DIVISION I		Bulletin
Rules under Notice and Filed Emergency Rules		
<b>AGRICULTURE DEPARTMENT[30]</b>		
Use of pesticide Command 6EC, 10.46 ARC 6696, also filed emergency ARC 6695 .....		7/16/86
<b>AGRICULTURE-AND LAND STEWARDSHIP, DEPARTMENT OF[21]</b>		
Bonded warehouses, licensed grain dealers and agents, grain indemnity fund, name change, 250—chs 12 to 14 transferred to 21—chs 60 to 62, also rule 250—12.27 amended ARC 6815, also filed emergency ARC 6814 .....		7/30/86
<b>ALCOHOLIC BEVERAGES DIVISION[185]</b>		
Organization, license and permits, surcharge, trade practice regulations, 150—1.2, 1.5(1) and "c," 1.6, 4.1(1), 4.1(2), 4.1(6), 4.7(7), 4.7(8), 4.20"4," 4.25, 5.18, 5.19, 16.1(4), 4.39 ARC 6759, also filed emergency ARC 6758 .....		7/30/86
Changes in department's name and certain personnel titles, 150—chs 1 to 16, filed emergency ARC 6760 .....		7/30/86
<b>CAMPAIGN FINANCE DISCLOSURE COMMISSION[190]</b>		
Revisions, campaign contributions to state officeholders and candidates for state office, 3.1, 3.3, 4.1 to 4.7, 4.13, 4.16, 4.22, 6.5, ch 7 ARC 6735 .....		7/16/86
<b>COLLEGE AID COMMISSION[245]</b>		
Iowa guaranteed student loans, ch 10 ARC 6748, also filed emergency ARC 6747 .....		7/16/86
<b>COMMERCE DEPARTMENT[181]</b>		
Organization and operation, ch 1 ARC 6762, also filed emergency ARC 6761 .....		7/30/86
Petitions for rulemaking, ch 2 ARC 6764, also filed emergency ARC 6763 .....		7/30/86
Declaratory rulings, ch 3 ARC 6766, also filed emergency ARC 6765 .....		7/30/86
<b>CONSERVATION COMMISSION[290]</b>		
Mussels—methods and seasons, 12.1 ARC 6781 .....		7/30/86
Mussels—methods and seasons, 12.1(5), filed emergency ARC 6778 .....		7/30/86
Speed and distance zoning, 30.18, 30.28 ARC 6782 .....		7/30/86
Motor regulations, 40.4(2)"b" ARC 6783 .....		7/30/86
Crow and pigeon regulations, 101.2 ARC 6784 .....		7/30/86
Commercial fishing, 110.5, 110.6, 110.8, 110.9, filed emergency ARC 6779 .....		7/30/86
Turtle regulations, ch 115, filed emergency ARC 6780 .....		7/30/86
Forfeited property, ch 116 ARC 6777, also filed emergency ARC 6776 .....		7/30/86
<b>CORRECTIONS, DEPARTMENT OF[291]</b>		
Institutions administration, 20.10(6), filed emergency ARC 6805 .....		7/30/86
Iowa state penitentiary, 21.2(1), 21.2(2)"a" and "b," 21.2(5), 21.3, 21.3(2), 21.3(4), 21.5(1)"a" ARC 6806 .....		7/30/86
Community-based corrections administration, 40.5(8), filed emergency after notice ARC 6714 .....		7/16/86
<b>ELDER AFFAIRS, DEPARTMENT OF[321]</b>		
Retired senior volunteer program, ch 12, filed emergency ARC 6791 .....		7/30/86
<b>EMPLOYMENT APPEAL BOARD[486]</b>		
Organization, definitions, unemployment insurance appeals, personnel action, peace officer and capitol security appeals, chs 1 to 3, 5 and 6, filed emergency ARC 6753 .....		7/16/86
Name changes, address change, 610—ch 1, filed emergency ARC 6751 .....		7/16/86
<b>EMPLOYMENT SECURITY[370]</b>		
Name changes in chs 1 to 7 and 10 except rules 10.8 and 10.9; appeals, IPERS—advisory investment board, 1.1(2), 1.1(5), 6.4, filed emergency ARC 6771 .....		7/30/86
<b>EMPLOYMENT SERVICES DEPARTMENT[341]</b>		
Organization, ch 1, filed emergency ARC 6772 .....		7/30/86
<b>ENERGY POLICY COUNCIL[380]</b>		
The state energy conservation program and energy extension service, ch 18 ARC 6812, also filed emergency ARC 6811 .....		7/30/86
<b>FOSTER CARE REVIEW BOARD, STATE[445]</b>		
Change of name, 1.1(1), 2.1(1), 3.2(2), 3.2(3), filed emergency ARC 6754 .....		7/16/86
<b>HEALTH DEPARTMENT[470]</b>		
Swimming pools, ch 15, filed emergency after notice ARC 6804 .....		7/30/86
Plumbing code, 25.1, 25.2, filed emergency after notice ARC 6803 .....		7/30/86
Vital records, 96.5 ARC 6802 .....		7/30/86
Deaf services of Iowa, ch 126, notice ARC 6522 terminated ARC 6708 .....		7/16/86
Medical examiners, 135.301(7), 135.301(15), 135.101(4), 135.204(11) ARC 6741 .....		7/16/86
Mortuary science examiners, CE, 147.105, 147.106 ARC 6724 .....		7/16/86
Speech pathology and audiology, CE, 156.2(2) ARC 6692 .....		7/16/86

**HUMAN SERVICES DEPARTMENT[498]**

Fair hearings and appeals, 7.1, 7.3, 7.5(1), 7.5(2), 7.6, 7.7(2)"b," 7.7(3), 7.7(4), 7.8(5), 7.8(7), 7.10, 7.10(3), 7.10(4) and "b," 7.13(2), 7.16(4), 7.16(6), 7.17 to 7.20, 7.21(2), 7.22(1), 7.22(3), filed emergency	<b>ARC 6712</b>	7/16/86
ADC, granting assistance, 41.7(3)	<b>ARC 6710</b>	7/16/86
Supplemental and medical assistance, payments, foster family homes, in-home health related care, 52.1(3), 54.3(15), 78.2(2)"a," 78.12(11)"b" and "d," 79.1(2), 79.1(3)"g," 81.6(16)"b," "c," and "e," 150.3(5)"p" and "r," 156.6(1), 156.7(1), 177.4(3), 177.9(3), filed emergency	<b>ARC 6713</b>	7/16/86
Food stamp program, administration, 65.3, filed emergency	<b>ARC 6707</b>	7/16/86
Food stamp program, utility allowance, 65.8(1), 65.8(3), filed emergency after notice	<b>ARC 6704</b>	7/16/86
Work incentive demonstration program (WIN/CMS), 90.12, 90.13, 90.13(2) and "a" and "e," 90.13(3), 90.13(4)"d," "e" and "m," 90.16(1), 90.16(2), 90.16(4), filed emergency after notice	<b>ARC 6705</b>	7/16/86
Eldora training school, 103.20, 103.21	<b>ARC 6711</b>	7/16/86

**INDUSTRIAL COMMISSIONER[500]**

Name change, purpose and function, 1.1, 3.1; 4.6, 4.7, 4.15, 4.34(2), 7.1(4), 7.2, filed emergency	<b>ARC 6725</b>	7/16/86
Petition for judicial review, 4.39, filed emergency	<b>ARC 6709</b>	7/16/86

**INSPECTIONS AND APPEALS DEPARTMENT[481]**

Administration, petitions for rulemaking, declaratory rulings, contested case hearings, investigations and hearings relating to professional licensure within the department of public health, Medicaid provider audits, investigations, chs 1 to 7, filed emergency	<b>ARC 6749</b>	7/16/86
Name and address change, outpatient diabetes education program — appeal process, 470—9.11, 9.12, amendments to 470—chs 56 to 59, 63, 64, 73, 74, 80, 111, 132, 173, filed emergency	<b>ARC 6750</b>	7/16/86

**INSURANCE DEPARTMENT[510]**

Name change, chs 1 to 57, filed emergency	<b>ARC 6755</b>	7/30/86
Insurance holding company systems, 45.3, 45.5, 45.6(2), 45.9, 45.10(3), 45.10(6)	<b>ARC 6715</b>	7/16/86

**IOWA DEVELOPMENT COMMISSION[520]**

Regional economic development co-ordination plans, ch 11, filed emergency	<b>ARC 6739</b>	7/16/86
Iowa business-industry information and training network, ch 13	<b>ARC 6738</b> , also filed emergency <b>ARC 6737</b>	7/16/86

**LABOR, BUREAU OF[530]**

Occupational safety and health standards for general industry, 10.20	<b>ARC 6745</b> , also filed emergency <b>ARC 6744</b>	7/16/86
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**LAW ENFORCEMENT ACADEMY[550]**

Definitions, mandatory psychological testing and administrative procedures, 1.1, 2.2	<b>ARC 6770</b> , filed emergency <b>ARC 6769</b>	7/30/86
Mandatory psychological testing and administrative procedures, 2.2, filed emergency	<b>ARC 6694</b>	7/16/86

**MANAGEMENT, DEPARTMENT OF[541]**

Name change, 270—chs 1 to 6, filed emergency	<b>ARC 6792</b>	7/30/86
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**MERIT EMPLOYMENT DEPARTMENT[570]**

Separations, disciplinary actions and reduction in force, 11.3(2)"d," 11.3(4) to 11.3(6), filed emergency after notice	<b>ARC 6736</b>	7/16/86
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**PERSONNEL DEPARTMENT[581]**

Definitions, coverage and exclusions, classification plan, examinations, eligible lists, certificate requests, transfer, voluntary demotion, disciplinary actions and reduction in force, grievances and appeals, 570—1.1, ch 2, 3.1(1), 3.1(2), 4.4(1), 5.1, 6.1, 7.2, 10.2, 10.4, 11.2(3), 11.3(2) and "b" to "e," 11.3(3)"a," 11.3(5), 11.3(6)"b," 12.1(1), 12.2(1)"b," 12.2(7), 12.2(8), filed emergency	<b>ARC 6773</b>	7/30/86
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**PLANNING AND PROGRAMMING[630]**

Iowa job training partnership program, 19.3, 19.17 to 19.23, 19.41 to 19.52, 19.77 to 19.83, 19.86(4)	<b>ARC 6746</b>	7/16/86
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**PROFESSIONAL TEACHING PRACTICES COMMISSION[640]**

Name change, 1.2(2), filed emergency	<b>ARC 6774</b>	7/30/86
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**PUBLIC SAFETY DEPARTMENT[680]**

Devices and methods to test blood for alcohol or drug content, 7.6	<b>ARC 6717</b> , also filed emergency <b>ARC 6716</b>	7/16/86
State building code, 16.110(1), 16.110(3), 16.120(2) to 16.120(6), 16.121(1), 16.121(3), 16.130(7), 16.130(14), 16.140(1), 16.300, 16.400(1), 16.500(1), 16.626(1), 16.626(2), Table 6A, and Figure 3 at end of 16.629, 16.701(2), 16.701(7), 16.701(15), 16.704(4), 16.705(1), 16.705(2), 16.705(5), 16.705(8), 16.705(11), 16.705(12), 16.706(1), 16.800(3), 16.800(4)	<b>ARC 6718</b>	7/16/86

**RACING COMMISSION, STATE[693]**

Greyhound racing, mutuel departments, 7.8(1)"c," 7.8(4)"a," 8.2(4)"g"(12)	<b>ARC 6800</b>	7/30/86
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**REAL ESTATE COMMISSION[700]**

Closing transactions, 1.28	<b>ARC 6742</b>	7/16/86
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**REVENUE AND FINANCE DEPARTMENT[730]**

Practice and procedure, taxation—excise, individual income, corporation, franchise, generation skipping, hotel and motel, 7.17(5), 7.21, 7.24(2), 11.6(2), 13.14, 18.45(1), 18.45(6), 43.2, 53.10, 55.2, 58.5, 60.2, 88.3(1), 88.3(3), 103.6(2), 103.14 ARC 6796 .....	7/30/86
Taxation—excise, use, individual income, corporation, franchise, motor fuel, property, inheritance, fiduciary, hotel and motel, penalty and interest, 10.2 to 10.5, 12.10(4), 12.10(5), 30.10(1), 30.10(2), 44.3(4) to 44.3(7), 46.5(2), 46.5(3), 52.6(5), 52.6(6), 58.6(5), 58.6(6), 63.8(4) to 63.8(6), 75.2(2), 75.2(3), 81.8(1)“b” and “c,” 81.8(2)“b” and “c,” 86.2(19), 86.2(20), 89.6(7), 104.8(3), 104.8(4) ARC 6797 .....	7/30/86
Sales and use tax, exemptions, 17.20, 18.46, 32.4 to 32.7 ARC 6728 .....	7/16/86
Taxes—individual income, corporation income, local earnings, 38.9, 40.9, 40.26, 42.5, 42.6, 43.5, 46.1(1)“e,” 46.4(1) to 46.4(3), 46.4(5), 47.1(1), ch 49, 52.4(3), ch 113 ARC 6729 .....	7/16/86
Taxes—individual, corporation, franchise, fiduciary, 39.2(2), 39.2(3), 52.2(4), 52.2(5), 58.2(3), 58.2(4), 89.5(1) to 89.5(4) ARC 6730 .....	7/16/86
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Denials, cancellations, suspensions and revocations, (07,C) 6.22(1), 6.22(2), 6.22(4)“b,” filed emergency ARC 6700 .....	7/16/86
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DIVISION II  
Filed Rules

Bulletin

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Income tax credit for increasing research activities, 42.2(6), 52.4(5) <b>ARC 6727</b> .....	7/16/86
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**WATER, AIR AND WASTE MANAGEMENT[900]**

Registration of water well contractors, ch 37 <b>ARC 6721</b> .....	7/16/86
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**SPECIAL REVIEW****ARCHAEOLOGIST[70]**

Sites and highway construction—special review

**BLIND, COMMISSION ON THE[160]**

Library services—special review

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
<b>AGRICULTURE AND LAND STEWARDSHIP[21]</b>		
Use of pesticide command 6 EC, 10.46 IAB 7/16/86 ARC 6696 (See ARC 6695)	Conference Room Second Floor Wallace State Office Bldg. Des Moines, Iowa	August 5, 1986 10:00 a.m.
Amendments to Bonded warehouses, ch 12; and transfer from Commerce Commission, ch 12; Licensed grain dealers and bargaining agents, ch 13; and Transition rules for participation in grain indemnity fund; ch 14 IAB 7/30/86 ARC 6815 (See ARC 6814, herein)	Auditorium Wallace State Office Bldg. Des Moines, Iowa	August 21, 1986 10:00 a.m.
<b>ALCOHOLIC BEVERAGES DIVISION[185]</b>		
Amendments to Organization and operation, ch 1; Liquor licenses — beer and wine permits, ch 4; License and permit division, ch 5; Trade practice regulations, ch 16. IAB 7/30/86 ARC 6759 (See ARC 6758, herein)	Division Offices 1918 S.E. Hulsizer Ave. Ankeny, Iowa	August 21, 1986 1:00 p.m.
<b>COMMERCE DEPARTMENT[181]</b>		
Organization and operation, ch 1 IAB 7/30/86 ARC 6762 (See ARC 6761, herein)	Conference Room Central Office 1918 S.E. Hulsizer Ave. Ankeny, Iowa	August 21, 1986 2:00 p.m.
Rulemaking, ch 2 IAB 7/30/86 ARC 6764 (See ARC 6763, herein)	Conference Room Central Office 1918 S.E. Hulsizer Ave. Ankeny, Iowa	September 8, 1986 2:00 p.m.
Declaratory rulings, ch 3 IAB 7/30/86 ARC 6766 (See ARC 6765, herein)	Conference Room Central Office 1918 S.E. Hulsizer Ave. Ankeny, Iowa	September 8, 1986 2:00 p.m.
<b>CONSERVATION COMMISSION[290]</b>		
Mussels - methods and seasons, 12.1 IAB 7/30/86 ARC 6781	Conference Room Fourth Floor Wallace State Office Bldg. Des Moines, Iowa	August 19, 1986 10:00 a.m.
Speed and distance zoning, 30.18, 30.28 IAB 7/30/86 ARC 6782	Conference Room Fourth Floor Wallace State Office Bldg. Des Moines, Iowa	August 19, 1986 10:00 a.m.
Motor regulations 40.4(2) IAB 7/30/86 ARC 6783	Conference Room Fourth Floor Wallace State Office Bldg. Des Moines, Iowa	August 19, 1986 10:00 a.m.
Pigeons, 101.2 IAB 7/30/86 ARC 6784	Conference Room Fourth Floor Wallace State Office Bldg. Des Moines, Iowa	August 20, 1986 10:00 a.m.
Forfeited property, ch 116 IAB 7/30/86 ARC 6777 (See ARC 6776, herein)	Conference Room Fourth Floor Wallace State Office Bldg. Des Moines, Iowa	August 20, 1986 10:00 a.m.

**CORRECTIONS DEPARTMENT[291]**

State penitentiary, visiting,  
2.2  
IAB 7/30/86 ARC 6806

North Conference Room  
Grimes State Office Bldg.  
Des Moines, Iowa

August 19, 1986  
1:00 p.m.

**ENERGY POLICY COUNCIL[380]**

Energy conservation and  
energy extension service, ch 18  
IAB 7/30/86 ARC 6812

Conference Room  
Fourth Floor  
Wallace State Office Bldg.  
Des Moines, Iowa

August 19, 1986  
1:00 p.m.

**HEALTH DEPARTMENT[470]**

Vital records, 96.5  
IAB 7/30/86 ARC 6802

Conference Room  
Fourth Floor  
Wallace State Office Bldg.  
Des Moines, Iowa

August 26, 1986  
1:00 p.m.

**LABOR, BUREAU OF[530]**

Occupational safety and health  
rules—general industry, 10.20  
IAB 7/16/86 ARC 6745

Employment Services  
Offices  
Labor Department  
307 East 7th St.  
Des Moines, Iowa

August 11, 1986  
9:00 a.m.

**LAW ENFORCEMENT ACADEMY[550]**

Mandatory psychological  
testing and administrative  
procedures, 1.1, 2.2  
IAB 7/30/86 ARC 6770  
(See ARC 6769, herein)

Law Enforcement  
Academy  
Camp Dodge  
Johnston, Iowa

August 19, 1986  
9:30 a.m.

**PUBLIC SAFETY, DEPARTMENT OF[680]**

Devices and methods for testing  
blood for drug and alcohol content,  
amendment to ch 7  
IAB 7/16/86 ARC 6717  
(See ARC 6716)

Conference Room  
Third Floor, West Half  
Wallace State Office Bldg.  
Des Moines, Iowa

August 8, 1986  
10:30 a.m.

State building code,  
amendments to ch 16  
IAB 7/16/86 ARC 6718

Conference Room  
Third Floor  
Wallace State Office Bldg.  
Des Moines, Iowa

August 20, 1986  
1:00 p.m.  
and  
August 21, 1986  
9:00 a.m.

**RACING COMMISSION[693]**

Greyhound rules, 7.8;  
Mutuel rules, 8.2(4)  
IAB 7/30/86 ARC 6800

Conference Room A  
1918 S.E. Hulsizer  
Ankeny, Iowa

August 20, 1986  
9:00 a.m.

**REAL ESTATE COMMISSION[700]**

Closing transactions, 1.28  
IAB 7/16/86 ARC 6742

Iowa Real Estate Commission  
1223 East Court Ave.  
Suite 205  
Des Moines, Iowa

August 20, 1986  
9:00 a.m.

**TRANSPORTATION, DEPARTMENT OF[820]**

General requirements and  
covenants for highway and  
bridge construction, [06,G] 1.1  
IAB 7/16/86 ARC 6719

Department of  
Transportation Complex  
800 Lincoln Way  
Ames, Iowa

August 26, 1986

City requests for closure  
of primary road  
extensions, [06,L] 2.1  
IAB 7/16/86 ARC 6720

Department of  
Transportation Complex  
800 Lincoln Way  
Ames, Iowa

August 26, 1986

Motor vehicle lighting  
devices, [07,E] ch 1  
IAB 7/16/86 ARC 6698  
(See ARC 6698)

Department of  
Transportation Complex  
800 Lincoln Way  
Ames, Iowa

August 26, 1986

**ARC 6815****AGRICULTURE AND  
LAND STEWARDSHIP,  
DEPARTMENT OF[21]****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 543.5, as amended by 1986 Iowa Acts, Senate File 2175, section 671, and Iowa Code section 159.5(11), the Department of Agriculture and Land Stewardship hereby gives Notice of Intended Action to amend Chapter 12, "Bonded Warehouse," of the Commerce Commission[250] rules appearing in the Iowa Administrative Code and to transfer that chapter, as amended, along with Chapter 13, "Licensed Grain Dealers and Bargaining Agents" and Chapter 14, "Transition Rules for Participation in Grain Indemnity Fund," to the Department of Agriculture and Land Stewardship. The substance of these rules is also being submitted as emergency adopted and implemented rule, **ARC 6814**, published in the July 30, 1986, Iowa Administrative Bulletin.

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

Any interested person may make written suggestions or comments on these rules prior to August 21, 1986. Such written materials should be directed to R.H. Lounsberry, Secretary of Agriculture and Land Stewardship, Henry A. Wallace Building, Des Moines, Iowa 50319. All relevant comments received by that date will be considered. In addition, interested persons may present their views orally or in writing at a public hearing on August 21, 1986, at 10:00 a.m., in the Auditorium of the Henry A. Wallace Building, East Ninth and Grand Avenue, Des Moines, Iowa.

**ARC 6759****ALCOHOLIC BEVERAGES  
DIVISION[185]**

Formerly Beer and Liquor Control Department[150]

**NOTICE OF INTENDED ACTION**

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

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

Pursuant to the authority of the 1986 Iowa Acts, Senate File 97, section 1; Senate File 2175, sections 709, 731, and 735; House File 2372, section 1; House File 2484, sections 726, 734, 736, 744, 756, 757, and 760; and House File 2493, section 24, the Alcoholic Beverages Division

hereby gives Notice of Intended Action to amend Chapter 1, "Organization and Operation"; Chapter 4, "Liquor Licenses—Beer Permits—Wine Permits"; Chapter 5, "License and Permit Division"; and Chapter 16, "Trade Practice Regulations"; Iowa Administrative Code. The substance of these rules is published in this bulletin as **ARC 6758**, filed emergency and is hereby incorporated by reference.

Any interested party may make written suggestions or comments on these proposed amendments prior to August 21, 1986. Such written materials should be directed to the Licensing Supervisor, Alcoholic Beverages Division, 1918 S. E. Hulsizer Avenue, Ankeny, Iowa 50021. Persons who want to convey their views orally should contact the Licensing Supervisor, Alcoholic Beverages Division at 515/964-6831. Also, there will be a public hearing on Thursday, August 21, 1986, at 1:00 p.m. in the Conference Room in the Division's central office at 1918 S. E. Hulsizer Avenue, Ankeny, Iowa. Persons may present their views at this public hearing either orally or in writing. Persons who wish to make oral presentations at the public hearing should contact the Licensing Supervisor at least one day prior to the date of the public hearing.

**NOTICE — AGRICULTURAL  
CREDIT CORPORATION  
MAXIMUM LOAN RATE**

In accordance with the provisions of Iowa Code section 535.12, the Superintendent of Banking has determined that the maximum rate of interest that may be charged on loans by Agricultural Credit Corporations as defined in Iowa Code section 535.12, subsection 4, shall be:

August 1, 1985 — August 31, 1985	14.90%
September 1, 1985 — September 30, 1985	14.70%
October 1, 1985 — October 31, 1985	14.65%
November 1, 1985 — November 30, 1985	14.65%
December 1, 1985 — December 31, 1985	14.60%
January 1, 1986 — January 31, 1986	14.60%
February 1, 1986 — February 28, 1986	14.75%
March 1, 1986 — March 31, 1986	14.95%
April 1, 1986 — April 30, 1986	14.95%
May 1, 1986 — May 31, 1986	14.90%
June 1, 1986 — June 30, 1986	14.85%
July 1, 1986 — July 31, 1986	11.90%

**ARC 6762**

**COMMERCE,  
DEPARTMENT OF[181]  
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 1986 Iowa Acts, Senate File 2175, section 702, the Department of Commerce hereby gives Notice of Intended Action to implement Chapter 1, "Organization and Operation," Iowa Administrative Code. The substance of these rules is published in this bulletin as **ARC 6761**, filed emergency and is hereby incorporated by reference.

Any interested party may make written suggestions or comments on these proposed rules prior to August 21, 1986. Such written materials should be directed to the Director, Department of Commerce, 1918 S.E. Hulsizer Avenue, Ankeny, Iowa 50021. Persons who want to convey their views orally should contact the Director of the Department of Commerce at 515/964-6801. Also, there will be a public hearing on Thursday, August 21, 1986, at 2:00 p.m., in the Conference Room in the Department's central office at 1918 S.E. Hulsizer Avenue, Ankeny, Iowa. Persons may present their views at this public hearing either orally or in writing. Persons who wish to make oral presentations at the public hearing should contact the Director at least one day prior to the date of the public hearing.

**ARC 6764**

**COMMERCE,  
DEPARTMENT OF[181]  
NOTICE OF INTENDED ACTION**

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

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

Pursuant to the authority of the 1986 Iowa Acts, Senate File 2175, section 702, the Department of Commerce hereby gives Notice of Intended Action to implement Chapter 2, "Rulemaking," Iowa Administrative Code. The substance of these rules is published in this bulletin as **ARC 6763**, filed emergency and is hereby incorporated by reference.

Any interested party may make written suggestions or comments on these proposed rules prior to September 8, 1986. Such written materials should be directed to the Director, Department of Commerce, 1918 S.E. Hulsizer Avenue, Ankeny, Iowa 50021. Persons who want to convey their views orally should contact the Director of the Department of Commerce at 515/964-6801.

Also, there will be a public hearing on Monday, September 8, 1986, at 2:00 p.m., in the Conference Room in the Department's central office at 1918 S.E. Hulsizer Avenue, Ankeny, Iowa. Persons may present their views at this public hearing either orally or in writing. Persons who wish to make oral presentations at the public hearing should contact the Director at least one day prior to the date of the public hearing.

**ARC 6766**

**COMMERCE,  
DEPARTMENT OF[181]  
NOTICE OF INTENDED ACTION**

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

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

Pursuant to the authority of the 1986 Iowa Acts, Senate File 2175, section 702, the Department of Commerce hereby gives Notice of Intended Action to implement Chapter 3, "Declaratory Rulings," Iowa Administrative Code. The substance of these rules is published in this bulletin as **ARC 6765**, filed emergency and is hereby incorporated by reference.

Any interested party may make written suggestions or comments on these proposed rules prior to September 8, 1986. Such written materials should be directed to the Director, Department of Commerce, 1918 S.E. Hulsizer Avenue, Ankeny, Iowa 50021. Persons who want to convey their views orally should contact the Director of the Department of Commerce at 515/964-6801. Also, there will be a public hearing on Monday, September 8, 1986, at 2:00 p.m., in the Conference Room in the Department's central office at 1918 S.E. Hulsizer Avenue, Ankeny, Iowa. Persons may present their views at this public hearing either orally or in writing. Persons who wish to make oral presentations at the public hearing should contact the Director at least one day prior to the date of the public hearing.

**ARC 6781**

**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 1986 Iowa Acts, Senate File 2175, section 1805, the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 12, "Mussels—Methods and Seasons," Iowa Administrative Code.

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

This rule establishes areas, seasons, species, and size limits for freshwater mussels.

Any interested person may make written suggestions or comments on these proposed rules prior to August 20, 1986. Such written materials should be directed to the Fisheries Bureau, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034. Persons who wish to convey their views orally should contact the fisheries bureau 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 meeting on Tuesday, August 19, 1986, 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.

This intended rule change is being made to existing rules of the State Conservation Commission, which in due course will be transferred to the Department of Natural Resources part of the Iowa Administrative Code in accordance with the transition plan of the Code Editor.

This rule is intended to implement 1986 Iowa Acts, Senate File 2175 and House File 2463.

**ITEM 1.** Delete the title of **chapter 12** and insert in lieu thereof "Mussel Regulations."

**ITEM 2.** Rule **290—12.1(71GA, HF2463)** is amended by deleting the catchwords and inserting in lieu thereof "Commercial taking."

**ITEM 3.** Rule **290—12.1(71GA, HF2463)** is amended by deleting subrules 12.1(1) to 12.1(4) and adopting the following in lieu thereof:

**12.1(1) Seasons.** There shall be an open season for taking mussels each year from May 1 to September 15.

**12.1(2) Size limits.** The minimum size limit on washboard mussels shall be 3½ inches. All other species open to commercial harvest shall have a 2¾ inch minimum size limit. Notwithstanding the minimum size limits set above, the minimum size for cooked mussels shall be 3¼ inches for washboard mussels and 2½ inches for all other species open to commercial harvest. The measurement for minimum size shall be from the center of the hinge side and at a right angle across the shell to the outer edge. All mussels under the minimum size limit that are taken by crowfoot bar or hand shall be returned to the water unharmed immediately over the bed from which they were removed.

**12.1(3) Species regulations.** The following species of mussels may be taken by licensed commercial mussel fishers: washboard, three-ridge, mapleleaf, pimpleback, pigtoe, and pink heelsplitter. There shall be a continuous closed season on all other species.

**12.1(4) Areas.** Mussel harvest for commercial purposes shall be limited to the Mississippi River and connected backwaters.

This rule is intended to implement 1986 Iowa Acts, House File 2463, sections 1 and 3.

**ARC 6782****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 1986 Iowa Acts, Senate File 2175, section 1805, the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 30, "Speed and Distance Zoning," Iowa Administrative Code by rescinding 290—30.18(106) including all four subparagraphs and adopt two new paragraphs 290—30.18(106) and 290—30.28(106).

This Notice deals with motorboat speed restrictions on Lake Manawa in Pottawattamie County and Black Hawk Lake in Sac County. Any interested person may make written suggestions or comments on this proposed rule prior to August 19, 1986. Such written materials should be directed to the Law Enforcement Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319. Persons who wish to convey their views orally should contact the Law Enforcement Bureau at 515/281-5919 or at the Law Enforcement offices on the fourth floor of the Wallace State Office Building. Also, there will be a public hearing on August 19, 1986, at 10:00 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 intended rule change is being made to existing rules of the State Conservation Commission, which in due course will be transferred to the Department of Natural Resources part of the Iowa Administrative Code in accordance with the transition plan of the Code Editor.

This rule is intended to implement the provisions of Iowa Code chapter 106.

**ITEM 1.** Amend rule 290—30.18(106), first unnumbered paragraph, to read as follows:

**290—30.18(106) Speed restrictions on Lake Manawa.** No motorboat shall be operated at a speed greater than five miles per hour within the zoned areas, ~~designated by regulatory buoys, on 300 feet from shore around Lake Manawa in Pottawattamie County.~~

**ITEM 2.** Amend Chapter 30 by adding the following new rule:

**290—30.28(106) Speed restrictions on Black Hawk Lake.** No motorboat shall be operated in excess of ten miles per hour within the zoned bay areas marked with uniform buoys or signs on Black Hawk Lake in Sac County.

**ARC 6783****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 1986 Iowa Acts, Senate File 2175, section 1805, the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 40, "Motor Regulations," Iowa Administrative Code.

This rule adds Little River Lake, Decatur County—unrestricted horsepower operated at a no-wake speed to the horsepower limitation exceptions for artificial lakes larger than 100 acres.

The Little River watershed sponsors asked the Department pursuant to Iowa Code section 106.31(4) to promulgate this rule.

Any interested person may make written suggestions or comments on the proposed rule prior to August 19, 1986. Such written materials should be directed to the Law Enforcement Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50315-0034. Persons who wish to convey their views orally should contact the Law Enforcement Bureau at 515/281-5919 or at the law enforcement offices on the fourth floor of the Wallace State Office Building. Also, there will be a public hearing on August 19, 1986, at 10:00 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 the provisions of Iowa Code sections 106.3, 106.9, 106.26, and 106.31.

This intended rule change is being made to existing rules of the State Conservation Commission, which in due course will be transferred to the Department of Natural Resources part of the Iowa Administrative Code in accordance with the transition plan of the Code Editor.

Subrule 40.4(2), paragraph "b," is amended by adding the following:

Little River Lake, Decatur County—unrestricted horsepower operated at a no-wake speed.

**ARC 6784****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 1986 Iowa Acts, Senate File 2175, section 1805, the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 101, Iowa Administrative Code, by changing the title to Crow and Pigeon Regulations and by adding three new subrules 101.2(1), 101.2(2), and 101.2(3).

This notice establishes an open season on pigeons and provides methods for eradication of pigeons from specific areas where they cause a health or safety hazard. It also authorizes the director, officers or biologists of the Department of Natural Resources to stop the use of procedures of chemicals that have proven to be nonspecies specific.

Any interested person may make written suggestions or comments on this proposed rule prior to September 3, 1986. Such written materials should be directed to the wildlife bureau chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034. Persons who wish to convey their views orally should contact the wildlife section at 515/281-6156 or at the wildlife offices on the fourth floor of the Wallace State Office Building.

There will be a public hearing on August 20, 1986, at 10:00 a.m. in the fourth floor conference room of the Wallace State Office Building. At this time, persons may present their views either orally or in writing. At the hearing, persons will be asked to give their name and address for the record, and to confine their remarks to the subject of the rule.

This rule is intended to implement the provisions of Iowa Code section 109.48.

This proposed rule change is being made to existing rules of the State Conservation Commission, which in due course will be transferred to the Department of Natural Resources part of the Iowa Administrative Code in accordance with the transition plan of the Code Editor.

ITEM 1. The title to 290—chapter 101 is amended to read as follows:

~~Crow Hunting Season~~ *Crow and Pigeon Regulations.*

ITEM 2. Chapter 101 is amended by adding the following new rule:

**290—101.2(109) Pigeons.**

**101.2(1) Pigeon season.** There is a continuous open season for the taking of pigeons except the season for taking pigeons with firearms shall be October 1 to March 31. However, within 100 yards of buildings and bridges pigeons may be taken with firearms the year around. No bag or possession limit. Entire state open.

**101.2(2) Pigeons causing a health or safety hazard** may be taken by trapping, nonlethal chemical repellents, or toxic perches. The person or organization engaging

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

in such a program will provide for proper removal and disposal of all pigeons taken by such means.

**101.2(3)** If a specific problem involving the use of a toxic substance or a procedure designed to destroy problem pigeons proves not to be species specific, the director, conservation officer, or wildlife biologist will issue an immediate order to stop the particular method being employed or the substance being used.

## ARC 6777

**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 1986 Iowa Acts, Senate File 2175, section 1805, the Natural Resources Commission hereby gives Notice of Intended Action to develop a new Chapter 116, "Forfeited Property," Iowa Administrative Code.

New Chapter 116 provides rules for procedures used by conservation officers when disposing of forfeited property.

Any interested person may make written suggestions or comments on this proposed rule prior to September 3, 1986. Such written materials should be directed to the Law Enforcement Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034. Persons who wish to convey their views orally should contact the Law Enforcement Bureau at 515/281-5919 or at the enforcement offices on the fourth floor of the Wallace State Office Building.

There will be a public hearing on August 20, 1986, at 10:00 a.m. in the fourth floor conference room of the Wallace State Office Building. At this time, persons may present their views either orally or in writing. At the hearing, persons will be asked to give their name and address for the record, and to confine their remarks to the subject of the rule.

These rules are being filed as Emergency Adopted and Implemented, **ARC 6776**, and the content of that filing is incorporated here by reference.

These rules are intended to implement the provisions of Iowa Code chapter 809 as enacted by 1986 Iowa Acts, House File 2460.

These proposed rules are being added to existing rules of the State Conservation Commission, which in due course will be transferred to the Department of Natural Resources part of the Iowa Administrative Code in accordance with the transition plan of the Code Editor.

## ARC 6806

**CORRECTIONS,  
DEPARTMENT OF[291]  
NOTICE OF INTENDED ACTION**

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

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

Pursuant to 1985 Iowa Code supplement section 246.105, the Department of Corrections hereby gives Notice of Intended Action to amend Chapter 21, "Iowa State Penitentiary," Iowa Administrative Code.

These amendments revise the visiting hours at the Iowa State Penitentiary and John Bennett Correctional Unit, both at Fort Madison, and make technical corrections to current rule language. The hours for regular visits on Monday are discontinued as are evening visiting hours on Saturday and Sunday. The need to more efficiently schedule visiting hour staff and has been brought about by budget constraints at the institutions.

Any interested persons may make oral or written suggestions or comments on these proposed rules not later than 4:30 p.m., August 19, 1986. Such written materials shall be directed to the Director, Department of Corrections, Jewett Building, Tenth and Grand, Des Moines, Iowa 50309. A meeting will be held for the purpose of oral presentation at 1:00 p.m., August 19, 1986, in the North Conference Room, Grimes State Office Building, East 14th and Grand, Des Moines, Iowa 50319. Persons who want to convey their views orally should contact the director's office at 515/281-4811 at least one day prior to the date of the public hearing.

ITEM 1. Amend rule 21.2(218) as follows:

Amend the first paragraph of subrule 21.2(1) as follows:

**21.2(1)** Visiting hours are 8:00 a.m. to 4:00 p.m. ~~Monday and Wednesday through Friday Sunday.~~; and 8:00 a.m. to 8:00 p.m. ~~Saturday and Sunday.~~

Amend subrule 21.2(2) by striking paragraphs "a" and "b."

Add the following as new subrule 21.2(5):

**21.2(5)** Transferees from other correctional facilities shall not have visitors during the first two days at this facility except at the discretion of the warden or designee.

ITEM 2. Amend rule 21.3(218) as follows:

Amend the catchwords as follows:

**291—21.3(218)** Visits ~~for to the security treatment unit inmates.~~

Amend subrule 21.3(2) as follows:

**21.3(2)** Visits will normally be conducted in ~~one of the two security unit visitation rooms the no-contact visiting area~~ located at the north end of the main visiting room.

Amend subrule 21.3(4) as follows:

**21.3(4)** Visiting hours are from 8:00 a.m. to 4:00 p.m. on ~~Monday, Wednesday, Thursday, and Friday, and from 8:00 a.m. to 7:00 p.m. on Saturday, and Sunday.~~ Visits shall be limited to a maximum of two hours. ~~a.~~ No visit shall begin after ~~5:00 p.m.~~ 3:00 p.m.

~~b.~~ Visits shall be limited to a maximum of two hours.

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

ITEM 3. Amend subrule 21.5(1), paragraph "a," as follows:

a. Visiting hours are ~~Monday and Wednesday through Friday Sunday~~ from 8:00 a.m. to 4:00 p.m. and ~~Saturday and Sunday~~ from 10:00 a.m. to 8:00 p.m.

**ARC 6812****ENERGY POLICY COUNCIL[380]**

Renamed Environmental Protection Commission under

Department of Natural Resources

**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 1986 Iowa Acts, Senate File 2175, section 1804, and Iowa Code section 93.7 and chapter 17A, the Department of Natural Resources hereby gives Notice of Intended Action to adopt a new Chapter 18, entitled "The State Energy Conservation Program and Energy Extension Service, Iowa Administrative Code."

These proposed rule additions are being made to existing rules of the Energy Policy Council which in due course will be transferred to the Department of Natural Resources part of the Iowa Administrative Code in accordance with the transition plan of the Code Editor.

Each year, the U.S. Department of Energy issues an annual grant to the state energy office for the above two programs to carry out energy conservation measures throughout the state. These programs are intended to motivate and promote energy conservation by all Iowa consumers. This Chapter establishes the state energy conservation program and energy extension service, specifies the criteria for administration, and outlines procedures for selection and approval of program measures.

The substance of this new Chapter 18 is being submitted as emergency adopted and implemented rules **ARC 6811**, published in the Iowa Administrative Bulletin on July 30, 1986, and the subject matter of that rule is incorporated herein by this reference.

Any interested person may make written comments or suggestions on these proposed rules to Energy and Geological Resources, Department of Natural Resources, Capital Complex, Des Moines, Iowa 50319, and must be received no later than August 19, 1986.

A public hearing will be held August 19, 1986, at 1:00 p.m. fourth floor, Wallace State Office Building, East Ninth and Grand, Des Moines, Iowa. Interested persons who wish to present their views orally or in writing at this hearing should contact Frank McNiff at least one day prior to the public hearing. Contact may be made by calling 515/281-4306 or writing to Energy and Geological Resources, Department of Natural Resources, Des Moines, Iowa 50319.

This new Chapter 18 is also being submitted simultaneously under emergency rulemaking procedures.

These rule amendments are intended to implement Iowa Code chapter 93, and as specified in 10 CFR 420 (1976).

**ARC 6802****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 §17A.4(1)"b", Iowa Code.

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

Pursuant to the authority of Iowa Code sections 135.11(15) and 144.3, the Iowa Department of Public Health hereby gives Notice of Intended Action to amend Chapter 96, "Vital Records," Iowa Administrative Code.

This rule rescission eliminates a rule which was never implemented due to an objection being filed by the Administrative Rules Review Committee.

A public hearing on the Notice of Intended Action to rescind rule 96.5(144) will be held on August 26, 1986, at 1:00 p.m. in the Fourth Floor Conference Room, Lucas State Office Building, Des Moines, Iowa.

Any person submitting written comments may do so on or before August 26, 1986, by addressing them to Carson E. Whitlow, Deputy State Registrar, Iowa Department of Public Health, Fourth Floor, Lucas Building, Des Moines, Iowa 50319.

This rule rescission is intended to implement Iowa Code chapter 144.

The following amendment is proposed.

Strike all of rule **96.5(144)**, "Additional statistical data," and renumber the remaining rules accordingly.

**ARC 6770****LAW ENFORCEMENT  
ACADEMY[550]****NOTICE OF INTENDED ACTION**

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

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

Pursuant to the authority of Iowa Code section 80B.11, the Iowa Law Enforcement Academy hereby gives Notice of Intended Action to add definitions to 550—1.1(80B) and to rescind 550—2.2(80B) and to replace it with a new rule entitled "Mandatory Psychological Testing and Administrative Procedures," Iowa Administrative Code. These changes are necessary to promulgate 80B.11(5) and 1986 Iowa Acts, House File 2484, section 411 concerning psychological testing requirements for law enforcement officer applicants and testing costs.

## LAW ENFORCEMENT ACADEMY[550] (cont'd)

Interested persons may submit written comments on the Notice of Intended Action by contacting the Office of the Director, Iowa Law Enforcement Academy, P.O. Box 130, Camp Dodge, Johnston, Iowa 50131, by no later than August 4, 1986.

A public hearing on the proposed rules will be held at the Iowa Law Enforcement Academy, Camp Dodge, on August 19, 1986, at 9:30 a.m.

These rules are intended to implement Iowa Code section 80B.11(5) as amended by 1986 Iowa Acts, House File 2484, section 411. The substance of these rules is published herein as **ARC 6769**, adopted and implemented emergency and is hereby incorporated by reference.

**ARC 6800****RACING COMMISSION,  
STATE[693]****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 99D.7 and 99D.8, the State Racing Commission hereby gives Notice of Intended Action to amend Chapter 7 "Greyhound Rules," and Chapter 8 "Mutuel Rules," Iowa Administrative Code.

These rules set forth deadlines for consideration of racing officials by the Commission, and amend existing rules clarifying distribution of daily double and quiniela double pools.

Any interested person may make written suggestions or comments on these proposed rules prior to August 20, 1986. Such written materials should be directed to the State Racing Commission, 1918 S.E. Hulsizer, Ankeny, Iowa 50021. Persons who wish to convey their views orally should contact the commission office at 515-964-6840.

Also, there will be a public hearing August 20, 1986, at 9:00 a.m. in conference room A, 1918 S.E. Hulsizer, Ankeny, Iowa. Persons may present their views at the public hearing either orally or in writing. These rules are necessary for implementation of Iowa Code chapter 99D.

ITEM 1. Amend subrule 7.8(1), paragraph "c," as follows:

c. Associations shall submit to the commission for approval the names of all racing officials not less than thirty days prior to the first day of the meeting. *One person may serve in more than one official position if that person can do so without detriment to any of the other positions and if that person has the consent and approval of the commission, provided that neither the racing secretary nor the director of racing may serve as a steward except in temporary emergency situations.*

ITEM 2. Amend subrule 7.8(4), paragraph "a." as follows:

a. There shall be three stewards for each race meeting, ~~one~~ *two* of whom shall be appointed by the commission and ~~two~~ *one* of whom shall be nominated by the association for approval by the commission. Names of association nominees for stewards shall be submitted no later than sixty days before commencement of a race meeting and be accompanied by biographical data setting up the experience and qualifications of the nominees. The commission may consider for appointment or approval:

ITEM 3. Amend subrule 8.2(4), paragraph "d," by rescinding subparagraph (3) and inserting in lieu thereof the following new subparagraphs and renumbering as necessary:

(3) If no ticket is sold combining both winners of the daily double, the net pool shall be apportioned between those having tickets including the winner of the first race of the daily double and those having tickets including the winner of the last race of the daily double, and shall be calculated and distributed as a place pool.

(4) If no ticket is sold including the winner of the first race of the daily double, the entire net pool will be paid to the holders of tickets which include the winner of the last race of the daily double.

(5) If no ticket is sold including the winner of the last race of the daily double, the entire net pool will be paid to the holders of tickets which include the winner of the first race of the daily double.

ITEM 4. Amend subrule 8.2(4), paragraph "g," by adding the following new subparagraph:

(12) If for any reason either quiniela double race is canceled or declared "no race" by the stewards, then the net quiniela double pool shall be distributed to wagering combinations which include the runners or betting interests which finished first and second in the quiniela double race that is run.

**ARC 6796****REVENUE AND FINANCE,  
DEPARTMENT OF[730]****NOTICE OF INTENDED ACTION**

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

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

Pursuant to the authority of Iowa Code sections 421.14 and 422.68(1), the Iowa Department of Revenue and Finance hereby gives Notice of Intended Action to amend Chapter 7, "Practice and Procedure Before the Department of Revenue"; Chapter 11, "Administration"; Chapter 13, "Permits"; Chapter 18, "Taxable and Exempt Sales Determined by Method of Transaction or Usage"; Chapter 43, "Assessments and Refunds"; Chapter 53, "Determination of Net Income"; Chapter 55, "Assessments, Refunds, Appeals"; Chapter 58, "Filing

## REVENUE AND FINANCE, DEPARTMENT OF [730] (cont'd)

Returns, Payment of Tax, Penalty and Interest, and Allocation of Tax Revenues"; Chapter 60, "Assessments, Refunds, Appeals"; Chapter 88, "Generation Skipping Transfer Tax"; and Chapter 103, "Administration," Iowa Administrative Code.

These rule amendments are being made as the result of provisions in 1986 Iowa Acts, House File 2471. Amendments to Iowa Code subsections 422.57(1), 422.25(1) and 422.33(4) and Iowa Code section 422A.1 replace the requirement that certain notices be sent by certified mail with a requirement that the notices be sent by mail. Revision of Iowa Code section 422.42 eliminates the requirement that vending machines or amusement device equipment be identified by stickers showing appropriate sales tax permit numbers. An amendment of 422.45(27)"a"(1) extends the sales and use tax exemption for certain machinery, equipment and computers purchased by insurance companies to nonprofit health service corporations governed by Iowa Code chapter 514. Changes to Iowa Code subsections 422.35(6) and 422.35(8) and sections 422.60 and 450A.2 revise references to the Internal Revenue Code of 1954 that have been changed as a result of federal law revisions.

The Department has determined that this proposed rule may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.31(4). The Department will issue a regulatory flexibility analysis as provided in Iowa Code sections 17A.31 to 17A.33 if a written request is filed by delivery or by mailing postmarked no later than August 19, 1986, to the Policy Section, Technical Services Division, Iowa Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. 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 Iowa Code sections 17A.31 to 17A.33, or an organization of small businesses representing at least 25 persons which is registered with this agency under Iowa Code sections 17A.31 to 17A.33.

Any interested person may make written suggestions or comments on this proposed amendment on or before August 29, 1986. Such written comments should be directed to the Policy Section, Technical Services Division, Iowa Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

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

Requests for a public hearing must be received by August 22, 1986.

The amendments are intended to implement Iowa Code chapters 422, 422A, and 450A, as amended by 1986 Iowa Acts, House File 2471.

The following new rule is proposed.

ITEM 1. Subrule 7.17(5), unnumbered paragraph 4, is amended to read as follows:

Orders will be issued within thirty days of the termination of the hearing unless good cause exists for a further period of time not to exceed a reasonable period. Parties ~~shall~~ will be promptly notified of each order by

delivery to them of a copy of such the order by personal service or certified mail, return receipt requested, *except in the case of an order revoking a sales or use tax permit or a motor fuel license which may be delivered by ordinary mail.*

ITEM 2. Subrule 7.17(5), the last paragraph, is amended to read as follows:

This rule is intended to implement Iowa Code section 17A.15(3) and sections 324.68 and 422.57(1), as amended by 1986 Iowa Acts, House File 2471.

ITEM 3. Rule 7.21(17A) is amended to read as follows:

**730—7.21(17A) Service.** All papers or documents required by law or these rules to be filed with the department, hearing officer, with the opposing party or other person ~~shall~~ must be served by personal service or by certified mail return receipt requested unless another rule specifically refers to another method. All notices required by law or these rules to be served on parties or persons by the department or hearing officer ~~shall~~ must be served by personal service or certified mail return receipt requested *unless another rule specifically refers to another method.*

ITEM 4. Subrule 7.24(2), the introductory paragraph, is amended to read as follows:

**7.24(2) Revocation of license.** The department ~~shall~~ will not revoke, suspend, annul or withdraw any license until written notice is served pursuant to 7.14(17A) within the time prescribed by the applicable statute and the licensee whose license is to be revoked, suspended, annulled or withdrawn is given an opportunity to show at an evidentiary hearing conducted pursuant to the rules governing contested case proceedings in this chapter compliance with all lawful requirements for the retention of the license. *However, in the case of the revocation, suspension, annulment, or withdrawal of a sales or use tax permit, written notice will be served pursuant to 7.14(17A) only if the permit holder requests that this be done following notification, by ordinary mail, of the director's intent to revoke, suspend, annul, or withdraw the permit.* In addition to the requirements of 7.14(17A) the notice ~~shall~~ will contain a statement of facts or conduct and the provisions of law which warrant the revocation, suspension, annulment, or withdrawal of the license. A licensee whose license may be revoked, suspended, annulled, or withdrawn may file a petition as provided in 7.24(3) with the hearing officer prior to the hearing. The department may, in its discretion, file an answer to a petition filed by the licensee prior to the hearing. Thereafter, the rules contained in this chapter governing contested case proceedings ~~shall~~ will apply. The notice referred to herein ~~shall~~ will be served by personal service or by restricted certified mail.

ITEM 5. Amend subrule 11.6(2), first unnumbered paragraph, as follows:

**11.6(2) Notice of assessment.** If, after following the procedure outlined in subrule 11.6(1)"b," no agreement is reached and the person does not pay the amount determined to be correct, a notice of the amount of tax due ~~shall~~ will be sent to the person responsible for paying the tax. This notice of assessment ~~shall~~ will bear the signature of the director and will be sent by certified mail.

ITEM 6. Amend the implementation clause for rule 11.6(422,423) as follows:

## REVENUE AND FINANCE, DEPARTMENT OF [730] (cont'd)

This rule is intended to implement *Iowa Code* sections 422.54(1), 422.54(2), ~~422.57(1)~~, 422.57(2), 422.70, 423.21 and 423.23, ~~The Code~~, and ~~422.57(1)~~ as amended by 1986 *Iowa Acts, House File 2471*.

ITEM 7. Amend rule 730—13.14(422) as follows:

**730—13.14(422) Vending machines and other coin-operated devices.** An operator who places machines on location shall *must* hold one permit for their principal place of business, whether ~~same~~ it is located in the state of Iowa or outside the state of Iowa.

~~The department shall furnish a sticker to such operator for each unit or device operated in the state. The sticker shall be visible to the public, reflecting the permit number of the operator.~~

This rule is intended to implement *Iowa Code* sections ~~422.42(16)~~, 422.43 and ~~422.53~~ as amended by 1986 *Iowa Acts, House File 2471*, and ~~422.53~~, ~~The Code~~, and 1985 *Iowa Code supplement section 422.42* as amended by 1986 *Iowa Acts, House File 2471*.

ITEM 8. Amend subrule 18.45(1), "Definitions," as follows:

"Insurance company" means an insurer organized or operating under *Iowa Code* chapter 508, 514, 515, 518, 519, or 520 or authorized to do business in Iowa as an insurer. An insurance company must have fifty or more persons employed in Iowa, excluding licensed insurance agents. Excluded from the definition of "insurance company" are fraternal and beneficial societies governed by *Iowa Code* chapter 512; ~~nonprofit health service corporations governed by *Iowa Code* chapter 514~~, and health maintenance organizations governed by *Iowa Code* chapter 514B. This list of exclusions is not intended to be exclusive.

ITEM 9. Amend subrule 18.45(6) as follows:

**18.45(6) Rights of refund and exemption.** Sales and service tax paid on purchases or rentals of specified property exempt under this rule *except that paid by nonprofit health service corporations governed by *Iowa Code* chapter 514* is eligible for refund if the purchase or the rental period occurred during the period July 1, 1985, and ending June 30, 1987. Purchases and leases by certain persons who have entered into agreements under *Iowa Code* chapter 280B will be exempt from tax during the same period (see the following paragraph). The gross receipts from sales and service tax paid on all purchases or rental of specified property exempt under this rule occurring on or after July 1, 1987, will be exempt from tax. See subrule 18.44(4) which explains how to determine when a sale occurs and, for a long-term lease, how to decide which payments are taxable, which are taxable subject to refund, and which are exempt.

The sale or rental of specified property which occurs during the period beginning July 1, 1985, and ending June 30, 1987, is exempt from tax if the purchaser or renter is an industry which has entered into an agreement under *Iowa Code* chapter 280B prior to the sale or lease. See subrules 42.2(7)"a"(4) and 42.2(7)"a"(7) for definitions of the words 280B "agreement" and "industry" respectively. It is not necessary to utilize the specified property in connection with any 280B agreements to qualify its purchase or lease for exemption from tax. Exemption is allowed if prior to the sale or lease, the purchaser or lessor has entered into an agreement under chapter 280B.

ITEM 10. Amend the implementation clause for rule 18.45(~~422,423~~) as follows:

This rule is intended to implement 1985 *Iowa Code* supplement sections ~~422.45(27)~~, 422.45(29), and 422.47A and ~~422.45(27)~~ as amended by 1986 *Iowa Acts, House File 2471*.

ITEM 11. Amend rule 730—43.2(422), introductory paragraph and the implementation clause for the rule, as follows:

**730—43.2(422) Notice of assessment, supplemental assessments and refund adjustments.** If after following the procedure outlined in 43.1(2) no agreement is reached, and the taxpayer does not pay the amount determined to be correct, a notice of assessment shall *will* be sent to the taxpayer by certified mail. If the period in which the correct amount of tax can be determined is nearly at an end, either a notice of assessment without compliance with 43.1(2) or a jeopardy assessment may be issued. All notices of assessment shall *will* bear the signature of the director.

This rule is intended to implement *Iowa Code* sections 422.25 as amended by 1986 *Iowa Acts, House File 2471*, and 422.30.

ITEM 12. Amend rule 730—53.10(422) as follows:

**730—53.10(422) Jobs tax, WIN, alcohol fuel credit.** Where provided for in the Internal Revenue Code of 1954, as detailed below, a deduction shall *will* be allowed for the amount of credit to the extent that the credit increased federal adjusted gross income.

**53.10(1)** For tax years beginning on or after January 1, 1977, the amount of credit allowable for federal targeted jobs tax credit as provided for in section ~~44B~~ 51 of the Internal Revenue Code shall *will* be a deduction from Iowa taxable income to the extent the credit increased income.

**53.10(2)** Where a corporation claims the federal work incentive program credit (as provided in section 40 of the Internal Revenue Code *before amendment by P. L. 98-369*), the amount of credit claimed to increase the federal taxable income is deductible only for years beginning on or after January 1, 1979, and on or before December 31, 1983.

**53.10(3)** For tax years beginning on or after January 1, 1980, the amount of credit allowable for the federal alcohol fuels credit as provided for in section ~~44E~~ 40 of the Internal Revenue Code shall *will* be a deduction from Iowa taxable income to the extent the credit increased income.

This rule is intended to implement 1985 *Iowa Code supplement section 422.33* as amended by 1986 *Iowa Acts, House File 2471*.

ITEM 13. Amend rule 730—55.2(422) as follows:

**730—55.2(422) Notice of assessment.** If after following the procedure outlined in 55.1(2) no agreement is reached, and the taxpayer does not pay the amount determined to be correct, a notice of assessment shall *will* be sent to the taxpayer by certified mail. If the period in which the correct amount of tax can be determined is nearly at an end, either a notice of assessment, without compliance with 55.1(2) and 55.1(3), or a jeopardy assessment may be issued. All notices of assessment shall *will* contain the signature of the director.

This rule is intended to implement *Iowa Code* sections 422.25, and 422.28, ~~The Code~~ as amended by 1986 *Iowa Acts, House File 2471*.

## REVENUE AND FINANCE, DEPARTMENT OF [730] (cont'd)

ITEM 14. Amend rule 730—58.5(422), introductory paragraph, and the implementation clause for the rule, as follows:

**730—58.5(422) Minimum tax.** Effective for tax years beginning on or after January 1, 1982, an Iowa minimum tax is imposed in addition to the tax computed under Iowa Code section 422.60. The Iowa minimum tax on tax preference items is a percentage of the federal minimum tax on tax preference items. "Federal minimum tax" means the federal minimum tax for tax preferences computed under sections 55 56 through 58 of the Internal Revenue Code of 1954 for the tax year.

This rule is intended to implement Iowa Code section 422.60 as amended by 1983 1986 Iowa Acts, chapter 1979 House File 2471.

ITEM 15. Amend rule 730—60.2(422), as follows:

**730—60.2(422) Notice of assessment.** If after following the procedure outlined in subrule 60.1(2) no agreement is reached, and the taxpayer does not pay the amount determined to be correct, a notice of assessment shall will be sent to the taxpayer by certified mail. If the period in which the correct amount of tax can be determined is nearly at an end, either a notice of assessment, without compliance with subrules 60.1(2) and 60.1(3), or a jeopardy assessment may be issued. All notices of assessment shall will bear the signature of the director.

This rule is intended to implement Iowa Code sections 422.66, 422.25, as amended by 1986 Iowa Acts, House File 2471, and 422.30 of the Code.

ITEM 16. Amend subrule 88.3(1), as follows:

**88.3(1) Tax imposed—general rule.** Iowa Code sSection 450A.2; The Code, imposes tax equal to the maximum federal credit allowable under 26 U.S.C. section 2602(c)5C 2602(c)(5)(B) of the Internal Revenue Code for state estate, inheritance, legacy or succession taxes paid on property included in certain generation skipping transfers. The tax imposed by Iowa Code section 450A.2; The Code, qualifies as a succession tax specified in the federal credit statute. The federal credit is not available for every generation skipping transfer taxable under 26 U.S.C. section 2601 of the Internal Revenue Code. The credit is available only on those generation skipping transfers occurring at the same time as, or after, the death of the deemed transferor. Those transfers occurring within three years of the deemed transferor's death are considered to have been made at the time of the deemed transferor's death. Generation skipping transfers occurring prior to three years of the death of the deemed transferor are not within the scope of Iowa Code chapter 450A; The Code, and are not subject to the Iowa generation skipping transfer tax.

ITEM 17. Amend subrule 88.3(3) as follows:

**88.3(3) Tax due—no credit for inheritance tax paid.** Inheritance tax paid on property included in the deemed transferor's estate is not a credit against the generation skipping transfer tax imposed by Iowa Code section 450A.2; The Code, although it is a credit against the Iowa estate tax imposed by Iowa Code chapter 451; The Code, on the property in the deemed transferor's estate.

Nor is the inheritance tax paid on the property in a prior estate which is now included in a taxable generation skipping transfer, a credit against the tax imposed by Iowa Code section 450A.2; The Code. Therefore, the tax

due is the maximum credit allowable under 26 U.S.C. section 2602(c)5C 2602(c)(5)(B) of the Internal Revenue Code, subject to the limitation in subrule 88.3(2).

ITEM 18. Amend the implementation clause of rule 88.3(450A) as follows:

This rule is intended to implement Iowa Code sections 450A.2, as amended by 1986 Iowa Acts, House File 2471, 450A.3, 450A.4, 450A.5, 450A.8, 450A.9, 450A.10, 450A.11, 450A.12, and 450A.14.

ITEM 19. Amend subrule 103.6(2) introductory paragraph, and the implementation clause for rule 103.6(422), as follows:

**103.6(2) Notice of assessment.** If, after following the procedure outlined in subrule 103.6(1)"b," no agreement is reached and the person does not pay the amount determined to be correct within twenty days, a notice of the amount of tax due shall will be sent to the person responsible for paying the tax. This notice of assessment shall will bear the signature of the director and will be sent by certified mail.

This rule is intended to implement Iowa Code sections 422.54, 422.57, as amended by 1986 Iowa Acts, House File 2471, 422.70 and 422A.1.

ITEM 20. Amend rule 730—103.14(422A), as follows:

**730—103.14(422A) Notification.** Before a city or county's local option hotel and motel tax can become effective, be revised, or be repealed, sixty days' notice of such action must be given to the director in writing by certified mail.

This rule is intended to implement Iowa Code section 422A.1 as amended by 1986 Iowa Acts, House File 2471.

**ARC 6797**

**REVENUE AND FINANCE,  
DEPARTMENT OF [730]  
NOTICE OF INTENDED ACTION**

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

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

Pursuant to the authority of Iowa Code sections 98.25, 98.49, 324.59, 421.14, and 422.68(1), the Iowa Department of Revenue and Finance hereby gives Notice of Intended Action to amend Chapter 10 "Interest," Chapter 12 "Filing Returns, Payment of Tax, Penalty and Interest," Chapter 30 "Filing Returns, Payment of Tax, Penalty and Interest," Chapter 44 "Penalty and Interest," Chapter 46 "Withholding," Chapter 52 "Filing Returns, Payment of Tax and Penalty and Interest," Chapter 58 "Filing Returns, Payment of Tax, Penalty and Interest, and Allocation of Tax Revenues," Chapter 63 "Administration," Chapter 75 "Determination of Tax for Freight-line and Equipment Car Companies," Chapter 81

## REVENUE AND FINANCE, DEPARTMENT OF [730] (cont'd)

"Administration," Chapter 86 "Inheritance Tax," Chapter 89 "Fiduciary Income Tax," and 104 "Filing Returns, Payment of Tax, Penalty, and Interest," Iowa Administrative Code.

1986 Iowa Acts, House File 2484, amended Iowa Code section 324.65 to require the Department to pay interest on refunds of motor vehicle fuel tax which are not made within sixty days of the receipt of the refund claim.

1986 Iowa Acts, House File 764, created a frivolous return penalty, set forth circumstances when the penalty for failure to pay at least ninety percent of the tax required to be shown due would not apply and increased the penalty for failure to pay from five to seven and one-half percent, from ten to fifteen percent and also increased the penalty for failure to file a return or filing a fraudulent return from fifty to seventy-five percent.

The proposed rule will not 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 Iowa Code section 17A.31(4). The Department will issue a regulatory flexibility analysis as provided in Iowa Code sections 17A.31 to 17A.33 if a written request is filed by delivery or by mailing postmarked no later than August 19, 1986, to the Policy Section, Technical Services Division, Iowa Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. 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 Iowa Code sections 17A.31 to 17A.33, or an organization of small businesses representing at least 25 persons which is registered with this agency under Iowa Code sections 17A.31 to 17A.33.

Any interested person may make written suggestions or comments on this proposed amendment on or before August 29, 1986. Such written comments should be directed to the Policy Section, Technical Services Division, Iowa Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

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

Requests for a public hearing must be received by August 22, 1986.

The amendments are intended to implement Iowa Code chapter 324 as amended by 1986 Iowa Acts, House File 2484 and Iowa Code chapters 98, 324, 421, 422, 423, 435 and 450 as amended by 1986 Iowa Acts, House File 764.

The following rules are proposed.

ITEM 1. Amend the title to Chapter 10 as follows:

CHAPTER 10

Interest, Penalty, and Exceptions to Penalty

ITEM 2. Amend rule 730—10.2(421) by adding the following implementation clause:

*This rule is intended to implement Iowa Code section 421.7.*

ITEM 3. Amend rule 730—10.3(422,450) to read as follows:

**730—10.3(324, 422, 450) Interest on refunds.** For those taxes on which interest accrues on refunds under Iowa Code sections 324.65, 422.25(3), 422.28 and 450.94, interest shall will accrue through the month in which the refund is mailed to the taxpayer and no further interest will accrue unless the department did not use the most current address as shown on the latest return or refund claim filed with the department.

ITEM 4. Strike the implementation clause following rule 730—10.3(422,450) and insert the following in lieu thereof:

This rule is intended to implement Iowa Code sections 324.65 as amended by 1986 Iowa Acts, House File 2484, 422.25(3), 422.28, and 450.94.

ITEM 5. Chapter 10 is amended by adding the following new rule:

**730—10.4(421) Frivolous return penalty.** A five hundred dollar civil penalty is imposed on the return of a taxpayer that is considered to be a "frivolous return." A "frivolous return" is: (1) A return which lacks sufficient information from which the substantial correctness of the amount of tax liability can be determined or contains information that on its face indicates that the amount of tax shown is substantially incorrect, or (2) a return which reflects a position of law which is frivolous or is intended to delay or impede the administration of the tax laws of this state.

If the frivolous return penalty is applicable, the penalty will be imposed in addition to any other penalty which has been assessed. If the frivolous return penalty is relevant, the penalty may be imposed even under circumstances when it is determined that there is no tax liability on the return.

The frivolous return penalty is virtually identical to the penalty for frivolous income tax returns which is authorized in section 6702 of the Internal Revenue Code. The department will follow federal guidelines and court cases when determining whether or not the frivolous return penalty should be imposed.

The frivolous return penalty may be imposed on all returns filed with the department and not just individual income tax returns. The penalty may be imposed on an amended return as well as an original return. The penalty may be imposed on each return filed with the department.

**10.4(1) Nonexclusive examples of circumstances under which the frivolous return penalty may be imposed.** The following are examples of returns filed in circumstances under which the frivolous return penalty may be imposed:

a. A return claiming a deduction against income or a credit against tax liability which is clearly not allowed such as a "war," "religious," "conscientious objector" deduction or tax credit.

b. A blank or partially completed return that was prepared on the theory that filing a complete return and providing required financial data would violate the Fifth Amendment privilege against self-incrimination or other rights guaranteed by the Constitution.

c. An unsigned return where the taxpayer refused to sign because the signature requirement was "incomprehensible or unconstitutional" or the taxpayer was not

REVENUE AND FINANCE, DEPARTMENT OF[730] (*cont'd*)

liable for state tax since the taxpayer had not signed the return.

d. A return which contained personal and financial information on the proper lines but where the words "true, correct and complete" were crossed out above the taxpayer's signature and where the taxpayer claimed the taxpayer's income was not legal tender and was exempt from tax.

e. A return where the taxpayer claimed that income was not "constructively received" and the taxpayer was the nominee - agent for a trust.

f. A return with clearly inconsistent information such as when 99 exemptions were claimed but only several dependents were shown.

g. A document filed for refund of taxes erroneously collected with the contention that the document was not a return and that no wage income was earned. This was inconsistent with attached W-2 Forms reporting wages.

**10.4(2)** Nonexclusive examples where the frivolous return penalty is not applicable. The following examples illustrate situations where the frivolous return penalty would not be applicable:

a. A return which includes a deduction, credit, or other item which may constitute a valid item of dispute between the taxpayer and the department.

b. A return which includes innocent or inadvertent mathematical or clerical errors, such as an error in addition, subtraction, multiplication, or division or the incorrect use of a table provided by the department.

c. A return which includes a statement of protest or objection, provided the return contains all required information.

d. A return which shows the correct amount of tax due, but the tax due is not paid.

This rule is intended to implement Iowa Code section 421.7 as amended by 1986 Iowa Acts, House File 764.

**ITEM 6.** Amend chapter 10 by adding the following new rule:

**730—10.5(421) Exceptions from penalty provisions for taxes due and payable on or after January 1, 1987.** The penalty provided for failure to remit at least ninety percent of the tax due or of the tax due with the filing of the deposit form or return or to pay at least ninety percent of the tax required to be shown as due on the return under sections 98.28, 98.46, 324.65, 422.16, 422.25, 422.58, 422.66, 423.18, 435.5, 450.63, 450A.12 or 451.12 will not be assessed by the department or paid by the taxpayer under any of the following conditions:

1. The taxpayer voluntarily files an amended return and pays all tax shown to be due on the return prior to any contact by the department.

If upon audit of the original and amended returns, additional tax is found to be due and payments made with the original and amended return after application of the payments to penalty, interest, and then tax due, do not equal at least ninety percent of the tax required to be shown due, penalty will be assessed.

Payments made with the original return include any amounts refunded or credited to a subsequent tax liability.

The term "any contact by the department" means any written correspondence from the department including a notice of adjustment or assessment regarding a return or the scheduling in writing of an audit of a return or commencement of an audit without prior notification.

2. The taxpayer provides written notification to the department of a federal audit while it is in progress and voluntarily files an amended return within sixty days of the final disposition of the federal government's audit and pays all tax shown to be due on the return. A copy of the written notification to the department should be attached to the amended return when it is filed.

3. The return or deposit is timely, but erroneously, mailed with adequate postage to the Internal Revenue Service or another state agency and the taxpayer provides proof of timely mailing with adequate postage. See Iowa Code sections 622.105 and 622.106 for proof of timely mailing.

4. The return or deposit is timely mailed with adequate postage to the department and the taxpayer provides proof of timely mailing with adequate postage. See Iowa Code sections 622.105 and 622.106 for proof of timely mailing.

5. The taxpayer presents proof that the taxpayer relied upon documented written erroneous advice relating to the tax deficiency from the department, county treasurer, or federal Internal Revenue Service, whichever is appropriate.

This rule is intended to implement Iowa Code chapter 421 as amended by 1986 Iowa Acts, House File 764, section 20.

**ITEM 7.** Amend the first sentence of subrule 12.10(4) to read as follows:

**12.10(4)** Computations for tax periods for taxes initially due and payable on or after January 1, 1985 but before January 1, 1987.

**ITEM 8.** Amend rule 12.10(422,423) by adding the following new subrule:

**12.10(5)** Computations for tax periods for taxes initially due and payable on or after January 1, 1987.

a. Penalty for failure to file return. Subsequent to December 31, 1986, a permit holder or other person who willfully fails to file a semimonthly or monthly tax deposit form or a quarterly or annual return will be subject to penalty for this failure. The penalty for willful failure to file a deposit form or return is seventy-five percent of the amount required to be shown on the deposit form or return, see 1985 Iowa Code section 422.58(1) as amended by 1986 Iowa Acts, House File 764. When it is appropriate to impose this seventy-five percent penalty, it will be in lieu of the penalty described in subrule 12.10(5)"b."

b. Penalty for failure to timely remit tax. If a permit holder or other person fails to remit with the deposit form or pay with the return at least ninety percent of the tax due and owing on or before the due date of the deposit or return, there will be added to the amount of tax required to be shown on the deposit form or return a penalty of fifteen percent of the tax due. Under 1985 Iowa Code section 422.58(1), the director cannot waive payment of this penalty. Thus, the equitable doctrine of waiver is not available to a permit holder or other person seeking relief from the penalty.

Also, that portion of the statute allowing the right to demonstrate that failure to timely pay has been due to reasonable cause has been repealed. No statutory basis for remission of the fifteen percent penalty now exists. Therefore, if it is shown that a fixed amount of tax was due to be paid upon a date certain and less than ninety percent of that amount has been paid, the director may

## REVENUE AND FINANCE, DEPARTMENT OF [730] (cont'd)

not excuse payment of penalty. The penalty described in this subrule will include a penalty for additional tax shown to be due and owing as the result of an audit. See department subrule 44.3(7) for examples which illustrate the computation of penalty for tax due on or after January 1, 1987.

c. Application of payments. All payments must be first applied to penalty, then interest, and the balance, if any, to the amount of tax then due in the order specified. If penalty, interest, and tax are due and owing for more than one tax period, any payment must be applied first to the penalty, then the interest, then the tax for the oldest tax period; then to the penalty, interest, and tax to the period immediately subsequent, and so on until the payment is exhausted.

EXAMPLE: A permit holder is an annual filer. As a result of audit, it is determined that the permit holder owes penalty, interest, and tax for the years 1984, 1983, and 1982. The total amount owed for tax, penalty, and interest for the three years is \$1,200. \$200 of this amount is tax for the year 1984. The permit holder remits a single payment of \$1,000. The payment would be applied first to the penalty, then interest, then tax owing for 1982. The same application would then be made to penalty, interest, and tax owing for 1983. Any amount remaining would be applied first to penalty and then interest owing for 1984. The \$200 in tax due for the year 1984 would remain to be paid.

d. Computation of penalty for taxes initially due and payable prior to January 1, 1987 and overdue and payable on that date. The date upon which the tax initially became delinquent determines which penalty applied. If the initial delinquency occurs prior to January 1, 1987, the ten percent penalty applies. If the initial delinquency occurs on or after January 1, 1987, only the flat rate penalties of seven and one-half or fifteen percent apply.

See rule 730—10.4(421) for statutory exemptions to penalty for tax due and payable on or after January 1, 1987.

ITEM 9. Amend the implementation clause of rule 730—12.10(422,423) as follows:

This rule is intended to implement 1983 Iowa Code Supplement section 422.58(1) as amended by 1984 1986 Iowa Acts, House File 2507 764.

ITEM 10. Subrule 30.10(1) is amended to read as follows:

**30.10(1)** For taxes initially due and payable prior to January 1, 1985, failure to file a monthly deposit or use tax return or a corrected return or to pay use tax due on or before the due date shall result in a delinquent deposit or return and be subject to penalty and interest. See subrules 12.10(1), 12.10(2) and 12.10(3) for computation of penalty. For taxes initially due and payable on or after January 1, 1985, only willful failure to file a monthly deposit or use tax return or a corrected return shall be subject to penalty. Persons who fail to timely pay use tax shall be subject to a penalty which cannot be waived by the director and may not be excused for reasonable cause. If the person who fails to timely pay use tax is a retailer maintaining a place of business in this state, the penalty for failure to pay shall be ten percent of the tax required to be paid. Department rule 30.1(423) describes in detail the persons who are subject to this ten percent penalty. For any person who is not a retailer, the penalty for failure to timely pay use tax

shall be five percent of the tax required to be paid. See rule 12.10(422,423) for computation of penalty and interest.

ITEM 11. Amend rule 730—30.10(423) by adding the following new subrule 30.10(2):

**30.10(2)** For taxes initially due and payable on or after January 1, 1985, but before January 1, 1987, only willful failure to file a monthly deposit or use tax return or a corrected return will be subject to penalty. Persons who fail to timely pay use tax are subject to a penalty which cannot be waived by the director and may not be excused for reasonable cause. If the person who fails to timely pay use tax is a retailer maintaining a place of business in this state, the penalty for failure to pay will be ten percent of the tax required to be paid. Department rule 30.1(423) describes in detail the persons who are subject to this ten percent penalty. For any person who is not a retailer, the penalty for failure to timely pay use tax is five percent of the tax required to be paid.

See rule 12.10(422,423) for computation of penalty and interest.

ITEM 12. Amend rule 730—30.10(423) by adding the following new subrule 30.10(3):

**30.10(3)** For taxes initially due and payable on or after January 1, 1987, only willful failure to file a monthly deposit or use tax return or a corrected return will be subject to penalty. Persons who fail to timely pay use tax are subject to a penalty which cannot be waived by the director and may not be excused for reasonable cause. If the person who fails to timely pay use tax is a retailer maintaining a place of business in this state, the penalty for failure to pay is fifteen percent of the tax required to be paid. Department rule 30.1(423) describes in detail the persons who are subject to this fifteen percent penalty. For any person who is not a retailer, the penalty for failure to timely pay use tax is seven and one-half percent of the tax required to be paid. See rule 730—10.4(421) for statutory exemptions to penalty for taxes due and payable on or after January 1, 1987. See rule 12.10(422,423) for computation of penalty and interest.

ITEM 13. Amend the implementation clause of rule 730—30.10(423) as follows:

This rule is intended to implement 1983 1985 Iowa Code Supplement sections 422.58 and 423.18 as amended by 1984 1986 Iowa Acts, House File 2507 764.

ITEM 14. Amend the first sentence of subrule 44.3(4) to read as follows:

**44.3(4)** Computation for tax due on or after January 1, 1985 but before January 1, 1987.

ITEM 15. Amend the first sentence of subrule 44.3(5) to read as follows:

**44.3(5)** Examples to illustrate the computation of penalty for tax due on or after January 1, 1985 but before January 1, 1987.

ITEM 16. Amend rule 730—44.3(422) by adding the following new subrules:

**44.3(6)** Computation for tax due on or after January 1, 1987. Iowa Code section 422.25 provides for a penalty of seven and one-half percent for the failure to pay at least ninety percent of the tax shown due on or before the due date or for the failure to pay at least ninety percent of the tax required to be shown due on the return

## REVENUE AND FINANCE, DEPARTMENT OF [730] (cont'd)

by the due date. The penalty is computed on the amount of tax remaining unpaid that is required to be shown as due on the return as distinguished from the amount of tax shown to be due on the return.

In considering if penalty should be assessed for failure to pay, it must be determined whether tax payments and credits equal or exceed ninety percent of the tax required to be shown on the return. Tax required to be shown on the return is defined as those taxes required to be computed under Iowa Code section 422.5 (income tax, lump sum tax, and minimum tax) plus school district surtax less the credits allowed under Iowa Code sections 422.10, 422.11, 422.12 and 1985 Iowa Code Supplement section 422.11A. Tax payments or credits to be applied against the tax required to be shown on the return are (1) Iowa income taxes withheld, (2) Iowa estimate tax payments, (3) out-of-state tax credits, (4) motor vehicle fuel credits, (5) tax payments made prior to filing of the return, and (6) any tax payment made with the return.

Therefore, if an audit results in additional tax which was required to be shown as due on the return by the due date so that less than ninety percent of the tax was paid, the additional tax is subject to penalty for failure to pay. All payments must be first applied to the penalty and then to the interest, and the balance, if any, to the amounts of tax then due.

The penalty for failure to pay at least ninety percent of the tax required to be shown due is not subject to waiver.

In addition to the penalty computed above, there will be added interest as provided by law from the original due date of the return. Interest on refunds of any portion of the tax imposed by statute which has been erroneously refunded and which is recoverable by the department will bear interest as provided by law from the date of payment of the refund, considering each fraction of a month as an entire month.

See rule 730—10.4(421) for statutory exceptions to penalty for taxes due and payable on or after January 1, 1987.

44.3(7) Examples to illustrate the computation of penalty for tax due on or after January 1, 1987. The following are examples to illustrate the computation of penalty imposed under subrule 44.3(5). For the purpose of these examples only, interest has been computed at the rate of eight-tenths of one percent per month. In addition, for the purpose of these examples, the tax due amounts are assumed to be the total amounts required to be shown due when considering whether the failure to pay penalty should be assessed on the basis that less than ninety percent of the tax was paid.

For additional examples to illustrate the computation of penalty see subrule 44.3(5) except for example "p." The examples in subrule 44.3(5) show penalty computed at five percent, however, penalty for failure to pay taxes due on or after January 1, 1987 is seven and one-half percent.

Example (a) - Late Filed Return With Extension, No Remit

- Tax due is \$100.
- Taxpayer has valid extension through October 31.
- Return was filed October 31, with no payment.

The calculation for the total amount due two months after the return was filed is shown below:

Tax	\$100.00	
Penalty	7.50	(7.5% failure to pay penalty)
Interest	6.40	(8 months interest)
<b>Total due</b>	<b>\$113.90</b>	

Penalty is assessed during the period of the extension.

Example (b) - Return Filed During Period of Extension Without Payment of Interest

- Tax shown due is \$2,000.
- Taxpayer has valid extension through October 31.
- \$2,000 paid with the filing of the return on October 31.
- Audit is performed six months after the filing date.

Tax	\$2,000.00	
Penalty	150.00	(7.5% failure to pay penalty)
Interest	96.00	(6 months interest)
<b>Total</b>	<b>\$2,246.00</b>	
Less payment	2,000.00	
<b>Additional tax due</b>	<b>246.00</b>	
Interest	11.81	(6 months interest)
<b>Total due</b>	<b>\$ 257.81</b>	

Failure to pay penalty was assessed because at least ninety percent of the tax required to be shown due was not paid by the due date.

Example (c) - Second Audit of a Return Filed During Period of Extension, Ninety Percent Not Paid by the Due Date, An Amended Return Filed With Payment of Tax and Statutory Interest

- Tax shown on return, \$2,000.
- Taxpayer has extension through October 31.
- Estimated payments made, \$1,500.
- \$500 paid with the filing of the return on October 31.
- Audit is performed six months after the filing date.

Tax	\$2,000.00	
Less estimated payments	1,500.00	
<b>Tax due</b>	<b>\$ 500.00</b>	
Penalty	37.50	(7.5% failure to pay penalty)
Interest	24.00	(6 months interest)
<b>Total due</b>	<b>\$ 561.50</b>	
Paid with return	500.00	
<b>Additional due</b>	<b>\$ 61.50</b>	
Interest	2.95	(6 months interest)
<b>Total due</b>	<b>\$ 64.45</b>	

One year after the return was filed, the taxpayer filed an amended return and paid \$200.00 additional tax and \$28.80 interest.

REVENUE AND FINANCE, DEPARTMENT OF[730] (cont'd)

Six months after the amended return was filed, the amended return was audited and \$100.00 additional tax was found due. Computation of the amount due is as follows:

Tax	\$2,300.00	
Less estimated payments	1,500.00	
Tax due	\$ 800.00	
Penalty	45.00	(7.5% failure to pay penalty on \$600)
Interest	38.40	(6 months interest)
Total due	\$ 883.40	
Paid with return	500.00	
Additional due	\$ 383.40	
Interest	18.40	(6 months interest)
Total due	\$ 401.80	
Paid one year after return was due as a result of audit	\$ 64.45	
Additional due	\$ 337.35	
Interest	16.19	(6 months interest)
Total due	\$ 353.54	
Paid with amended return	228.80	
Additional due	\$ 124.74	
Interest	5.99	(6 months interest)
Total due	\$ 130.73	

Penalty is assessed on \$600 because less than ninety percent of the tax required to be shown due was paid by the due date. The \$200 paid with the amended return does not accrue penalty. See rule 730—10.41(421).

Example (d) - Audit of Timely Filed Return with Extension

- a. Tax shown due is \$2,900.
  - b. Taxpayer has an extension through October 31.
  - c. \$2,500 in estimated tax paid during the tax year.
  - d. \$300 in estimated tax paid with timely extension request.
  - e. \$100 paid with the filing of the return on August 31.
  - f. Audit completed 6 months after filing date.
- \$200 in additional tax found due.

The computation for the total amount is shown below:

Computed tax after audit	\$3,100.00	
Less paid on or before due date	2,800.00	
Additional tax due	\$ 300.00	
Interest	9.60	(4 months interest)
Total due	\$ 309.60	
Less paid with return	100.00	
Balance remaining after payment with return	\$ 209.60	
Interest	10.06	(6 months interest)
Total due	\$ 219.66	

Failure to pay penalty does not accrue because ninety percent of the tax required to be shown due on the return was paid on or before the due date of the return.

Example (e) - Two Audits of a Return Where the First Audit Results in a Refund, and the Second Audit Results in an Assessment

- a. \$250 was paid during the year as estimated tax payments.
- b. Return was filed timely showing \$100 as the computed tax due, \$50 to be credited against the next year's estimated payments and \$100 to be refunded in a warrant to the taxpayer.
- c. Return was audited within 30 days of filing, all information was found to be correct and the \$100 was refunded (without interest).
- d. Eight months after the due date of the original return, taxpayer filed an amended Iowa return, due to an amended federal return, showing \$300 as the computed tax due and paying \$200 with the amended return.
- e. Audit completed two months after the filing of the amended return.

The computation for the additional amount due after the filing of the amended return is shown below:

Computed tax from audit	\$300.00	
Less estimated tax payment	250.00	
Additional tax due	\$ 50.00	
Plus amount refunded	100.00	
Plus credit to estimated tax	50.00	
Plus interest on additional amount due, on amount refunded and on amount credited to estimated tax	12.80	(8 months interest)
Total due when amended return was filed	\$212.80	
Less payment with amended return	200.00	
Additional tax due	12.80	
Interest	.20	(2 months interest)
Total Due	\$ 13.00	

Penalty can be imposed only upon the additional tax due after consideration of all timely payments and credits. No penalty due because taxpayer filed an amended return prior to any contact by the department.

ITEM 17. Amend the implementation clause of rule 730—44.3(422) as follows:

This rule is intended to implement 1985 Iowa Code sections 421.7 and 422.25 as amended by 1986 Iowa Acts, House File 764.

ITEM 18. Amend the first sentence of subrule 46.5(2) to read as follows:

46.5(2) For tax due on or after January 1, 1985 but before January 1, 1987.

ITEM 19. Amend rule 730—46.5(422) by adding the following new subrule:

46.5(3) For tax due on or after January 1, 1987. Iowa Code section 422.16 provides for a penalty of fifteen percent for the failure to pay at least ninety percent of the tax shown due on or before the due date or for the failure to pay at least ninety percent of the tax required to be shown due on the return by the due date. The penalty is computed on the amount of tax remaining unpaid that is required to be shown due on the return as distinguished from the amount of tax shown to be due on the return.

## REVENUE AND FINANCE, DEPARTMENT OF [730] (cont'd)

The penalty for failure to pay at least ninety percent of the tax required to be shown due is not subject to waiver.

For examples on application of penalties, refer to subrule 44.3(7). The penalty assessed in these examples is five percent, where for withholding tax, the penalty is fifteen percent for failure to pay at least ninety percent of the tax shown due on or before the due date or for failure to pay at least ninety percent of the tax required to be shown due on the return by the due date.

See rule 730—10.4(421) for statutory exceptions to penalty for taxes due and payable on or after January 1, 1987.

ITEM 20. Amend the implementation clause of rule 730—46.5(422) to read as follows:

This rule is intended to implement Iowa Code section 422.16 as amended by 1986 Iowa Acts, House File 764.

ITEM 21. Amend the first sentence of subrule 52.6(5) to read as follows:

52.6(5) Computation for tax due on or after January 1, 1985 but before January 1, 1987.

ITEM 22. Amend rule 730—52.6(422) by adding new subrule 52.6(6) and renumbering the existing subrules:

52.6(6) Computation for tax due on or after January 1, 1987. Iowa Code section 422.25 provides for a penalty of seven and one-half percent for the failure to pay at least ninety percent of the tax shown due on or before the due date or for the failure to pay at least ninety percent of the tax required to be shown due on the return by the due date. The penalty is computed on the amount of tax remaining unpaid that is required to be shown as due on the return as distinguished from the amount of tax shown to be due on the return.

In considering if penalty should be assessed for failure to pay, it must be determined whether tax payments and credits equal or exceed ninety percent of the tax required to be shown on the return. Tax required to be shown on the return is defined as those taxes required to be computed under Iowa Code chapter 422, division III (income tax and minimum tax). Tax payments or credits to be applied against the tax required to be shown on the return are (1) Iowa estimate tax payments, (2) motor vehicle fuel tax credits, (3) tax payments made prior to the filing of the return, (4) any tax payment made with the return, and (5) credits allowed under Iowa Code section 422.33.

Therefore, if an audit results in additional tax which was required to be shown as due on the return by the due date so that less than ninety percent of the tax was paid, the additional tax is subject to penalty for failure to pay. All payments must be first applied to the penalty and then to the interest, and the balance, if any, to the amounts of tax then due.

The penalty for failure to pay at least ninety percent of the tax required to be shown due is not subject to waiver.

In addition to the penalty computed above, there will be added interest as provided by law from the original due date of the return. Interest on refunds of any portion of the tax imposed by statute which has been erroneously refunded and which is recoverable by the department will bear interest as provided by law from the date of payment of the refund, considering each fraction of a month as an entire month. See rule 730—10.2(421) for the statutory interest rate commencing on or after January 1, 1982.

For examples on application of penalties, refer to subrule 44.3(7).

See rule 730—10.4(421) for statutory exceptions to penalty for taxes due and payable on or after January 1, 1987.

ITEM 23. Amend the implementation clause of rule 730—52.6(422) as follows:

This rule is intended to implement Iowa Code section 422.25 as amended by 1986 Iowa Acts, House File 764.

ITEM 24. Amend the first sentence of subrule 58.6(5) to read as follows:

58.6(5) Computation for tax due on or after January 1, 1985 but before January 1, 1987.

ITEM 25. Amend rule 730—58.6(422) by adding new subrule 58.6(6) and renumbering the existing subrules:

58.6(6) Computation for tax due on or after January 1, 1987. Iowa Code section 422.25 provides for a penalty of seven and one-half percent for the failure to pay at least ninety percent of the tax shown due on or before the due date or for the failure to pay at least ninety percent of the tax required to be shown due on the return by the due date. The penalty is computed on the amount of tax remaining unpaid that is required to be shown as due on the return as distinguished from the amount of tax shown to be due on the return.

In considering if penalty should be assessed for failure to pay, it must be determined whether tax payments and credits equal or exceed ninety percent of the tax required to be shown on the return. Tax required to be shown on the return is defined as those taxes required to be computed under Iowa Code chapter 422, division V (franchise tax and minimum tax). Tax payments or credits to be applied against the tax required to be shown on the return are (1) Iowa estimate tax payments, (2) tax payments made prior to the filing of the return, and (3) any tax payment made with the return.

Therefore, if an audit results in additional tax which was required to be shown as due on the return by the due date so that less than ninety percent of the tax was paid, the additional tax is subject to penalty for failure to pay. All payments must be first applied to the penalty and then to the interest, and the balance, if any, to the amounts of tax then due.

The penalty for failure to pay at least ninety percent of the tax required to be shown due is not subject to waiver.

In addition to the penalty computed above, there will be added interest as provided by law from the original due date of the return. Interest on refunds of any portion of the tax imposed by statute which has been erroneously refunded and which is recoverable by the department will bear interest as provided by law from the date of payment of the refund, considering each fraction of a month as an entire month. See rule 730—10.2(421) for the statutory interest rate commencing on or after January 1, 1982.

For examples on application of penalties, refer to subrule 44.3(7).

See rule 730—10.4(421) for statutory exceptions to penalty for taxes due and payable on or after January 1, 1987.

ITEM 26. Amend the implementation clause of rule 730—58.6(422) as follows:

This rule is intended to implement Iowa Code sections 422.25 and 422.66 as amended by 1986 Iowa Acts, House File 764.

REVENUE AND FINANCE, DEPARTMENT OF[730] (*cont'd*)

ITEM 27. Amend the first sentence of subrule 63.8(4) to read as follows:

**63.8(4)** Computation for tax due on or after January 1, 1985 *but before January 1, 1987*.

ITEM 28. Amend rule 730—63.8 by adding new subrule 63.8(5) and renumbering the existing subrule.

**63.8(5)** Computation for tax due on or after January 1, 1987. Iowa Code section 324.65 provides for a penalty of seven and one-half percent for the failure to pay at least ninety percent of the tax shown due on or before the due date or for the failure to pay at least ninety percent of the tax required to be shown due on the return by the due date. The penalty is computed on the amount of tax remaining unpaid that is required to be shown due on the report as distinguished from the amount of tax shown to be due on the report. See subrule 44.3(7) for examples of the penalty computation. These examples would also apply to the motor fuel tax.

The penalty is ten dollars if the report upon which no tax is due is not timely filed.

The penalty for failure to pay at least ninety percent of the tax required to be shown due is not subject to waiver.

In addition to the penalty computed above there will be added interest as provided by law from the original due date of the report.

See rule 730—10.4(421) for statutory exceptions to penalty for taxes due and payable on or after January 1, 1987.

ITEM 29. Amend rule 730—63.8(324) by striking existing subrule 63.8(5) and adding new subrule 63.8(6):

**63.8(6)** Penalty for willful failure to pay fuel taxes.

a. For tax due on or before December 31, 1986. If it is determined that a failure to file a report or remit taxes when due was the result of a deliberate attempt to evade the payment of fuel taxes on the part of the taxpayer, a penalty of fifty percent of the tax due will be assessed against such party. This penalty is in lieu of the other penalties.

b. For tax due on or after January 1, 1987. If it is determined that a failure to file a report or remit taxes when due was the result of a deliberate attempt to evade the payment of fuel taxes on the part of the taxpayer, a penalty of seventy-five percent of the tax due will be assessed against such party. This penalty is in lieu of the other penalties.

See rule 730—10.4(421) for statutory exceptions to penalty for taxes due and payable on or after January 1, 1987.

ITEM 30. Amend the implementation clause of rule 730—63.8(324) to read as follows:

This rule is intended to implement Iowa Code section 324.65 as amended by 1984 1986 Iowa Acts, House File 2507 764.

ITEM 31. Amend subrule 75.2(2) to read as follows:

**75.2(2)** For tax due on or after January 1, 1985 *but before January 1, 1987*, see subrules 44.3(4) and 44.3(5) for computation.

ITEM 32. Amend rule 730—75.2(435) by adding the following new subrule:

**75.2(3)** For tax due on or after January 1, 1987, see subrules 44.3(6) and 44.3(7) for computation.

ITEM 33. Amend the implementation clause of rule 730—75.2(435) to read as follows:

This rule is intended to implement Iowa Code section 435.5 as amended by 1986 Iowa Acts, House File 764.

ITEM 34. Amend the first sentence of paragraph "b" of subrule 81.8(1) to read as follows:

b. For tax due on or after January 1, 1985 *but before January 1, 1987*.

ITEM 35. Amend subrule 81.8(1) by adding new paragraph "c."

c. For tax due on or after January 1, 1987. If, upon audit, it is determined that any person has failed to pay at least ninety percent of the tax imposed by Iowa Code chapter 98, division I, which failure was not the result of a violation enumerated above, a penalty of seven and one-half percent of the tax deficiency is imposed. This penalty is not subject to waiver.

See rule 730—10.4(421) for statutory exceptions to penalty for taxes due and payable on or after January 1, 1987.

ITEM 36. Amend the first sentence of paragraph "b" of subrule 81.8(2) to read as follows:

b. For tax due on or after January 1, 1985 *but before January 1, 1987*.

ITEM 37. Amend subrule 81.8(2) by adding new paragraph "c."

c. For tax due on or after January 1, 1987.

1. Deficient return—payment. If a return is filed and it is determined to be deficient as to reporting tax due or remitting the tax due, the department will issue a proposed assessment or billing including a proposed penalty. If the taxpayer pays the proposed assessment or appeals the decision as per rule 730—81.11(98) within twenty days, the penalty will not accrue. A final assessment is issued at the termination of the appeals process or if the taxpayer does not appeal and does not pay the proposed assessment within twenty days. The penalty attaches and becomes effective upon the issuance of the final assessment. The penalty upon final assessment is seven and one-half percent of the unpaid tax if less than ninety percent of the tax has been paid by the due date. If the deficiency was the result of a false or fraudulent return made with the intent to evade the tax, the penalty is seventy-five percent of the tax required to be shown due.

2. Failure to file a return. If any person fails to file a tax return required by Iowa Code chapter 98, division II, or these rules, the director will make written demand upon the person required to file the return. If the return is not filed within twenty days, the director will assess the tax due based upon an estimated return and included therein will be a penalty of seventy-five percent of the unpaid tax. If the return is filed within the twenty-day period, the penalty does not accrue.

The penalty imposed under subrule 81.8(2) paragraph "c" is not subject to waiver for reasonable cause.

See rule 730—10.4(421) for statutory exceptions to penalty for tax due and payable on or after January 1, 1987.

ITEM 38. Amend the implementation clause of rule 730—81.8(98) to read as follows:

This rule is intended to implement Iowa Code section 98.31 and sections 98.28 and 98.46 as amended by 1984 1986 Iowa Acts, House File 2507 764.

ITEM 39. Amend the first sentence of subrule 86.2(19) to read as follows:

## REVENUE AND FINANCE, DEPARTMENT OF [730] (cont'd)

**86.2(19)** Penalty - failure to pay the tax due on or after January 1, 1985 *but before January 1, 1987*.

ITEM 40. Amend rule 730—86.2 by adding new subrule 86.2(20) and renumbering the existing subrule.

**86.2(20)** Penalty - failure to pay the tax due on or after January 1, 1987. Effective for tax due and payable on or after January 1, 1987, a penalty of seven and one-half percent is imposed for failure to timely pay at least ninety percent of the tax due with the filing of the return. The seven and one-half percent penalty is computed on the amount of tax that is required to be shown due (as distinguished from the tax shown due) that is not timely paid, taking into consideration any extensions of time granted to pay the tax due. Reasonable cause for the delinquency is not relevant. The fact the tax is delinquent alone determines the imposition of the penalty. The director cannot waive the penalty.

While the penalty for failure to file the return is abolished, the duty of the personal representative and the taxpayer as defined in Iowa Code section 450.5 to file a return and pay the tax due remains in full force and effect.

See rule 730—10.4(421) for statutory exceptions to penalty for tax due and payable on or after January 1, 1987.

ITEM 41. Amend the implementation clause of rule 730—86.2(450) to read as follows:

This rule is intended to implement Iowa Code sections 421.14, 450.5, 450.6, 450.22, 450.44, 450.46, 450.47, 450.51, 450.52, 450.53, 450.63 and ~~1983~~ 1985 Iowa Code supplement sections ~~450.5, 450.22, 450.44, 450.46, 450.47, 450.51, 450.53,~~ 450.94 as amended by ~~1984~~ 1986 Iowa Acts, ~~chapters 1240 and 1173~~ House File 764.

ITEM 42. Amend subrule 89.6(7) to read as follows:

**89.6(7)** Penalty. Tax due and payable after December 31, 1984. See subrules 44.3(4) ~~and~~, 44.3(5), 44.3(6) ~~and~~ 44.3(7) for the penalty for tax that is due and payable after December 31, 1984.

ITEM 43. Amend subrule 104.8(3) to read as follows:

**104.8(3)** Computation for tax due on or after January 1, 1985 *but before January 1, 1987*. Iowa Code section 422.58(1) provides for a penalty of ~~five~~ ten percent for the failure to remit at least ninety percent of the tax due with the filing of the return or pay less than ninety percent of the tax required to be shown on the return. For purposes of computing the penalty in case of failure to pay at least ninety percent of the amount required to be shown on the return, the tax ~~shall~~ *will* be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may legally be claimed on the return.

The penalty for failure to pay at least ninety percent of the tax required to be shown on the return is not subject to waiver.

All payments ~~shall~~ *must* be first applied to the penalty and then to the interest, and the balance, if any, to the amount of tax due. See subrule 44.3(5) for examples of computation of penalty and interest.

In addition to the penalty computed above, there ~~shall~~ *will* be added interest as provided by law from the due date of the return. See rule 730—10.2(421) for the statutory interest rate.

ITEM 44. Amend rule 730—104.8 by adding new subrule 104.8(4).

**104.8(4)** Computation for tax due on or after January 1, 1987. Iowa Code section 422.58(1) provides for a penalty of ten percent for the failure to remit at least ninety percent of the tax due with the filing of the return or pay less than ninety percent of the tax required to be shown on the return. For purposes of computing the penalty in case of failure to pay at least ninety percent of the amount required to be shown on the return, the tax will be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may legally be claimed on the return.

The penalty for failure to pay at least ninety percent of the tax required to be shown on the return is not subject to waiver.

All payments must be first applied to the penalty and then to the interest, and the balance, if any, to the amount of tax due. See subrule 44.3(7) for examples of computation of penalty and interest.

In addition to the penalty computed above, there will be added interest as provided by law from the due date of the return. See rule 730—10.2(421) for the statutory interest rate.

See rule 730—10.4(421) for statutory exceptions to penalty for tax due on or after January 1, 1987.

This rule is intended to implement Iowa Code sections 422A.1 and 422.58 as amended by 1986 Iowa Acts, House File 764.

**ARC 6798**

**REVENUE AND FINANCE,  
DEPARTMENT OF [730]  
NOTICE OF INTENDED ACTION**

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

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

Pursuant to the authority of Iowa Code sections 421.14 and 422.68(1), the Iowa Department of Revenue and Finance hereby gives Notice of Intended Action to amend Chapter 52, "Filing Returns, Payment of Tax and Penalty and Interest" and Chapter 53, "Determination of Net Income," Iowa Administrative Code.

1986 Iowa Acts, Senate File 2294, amended section 422.33, subsection 4 to remove percentage depletion from tax preference items for the computation of the Iowa minimum tax. Also Senate File 2294 amended section 422.35 to disallow the combined net losses from passive farming activities in excess of \$25,000. In addition, Senate File 2294 amends section 422.35 to disallow the amount that percentage depletion exceeds cost depletion for gas, oil, and geothermal wells.

## REVENUE AND FINANCE, DEPARTMENT OF [730] (cont'd)

The proposed rule will not 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 Iowa Code section 17A.31(4). The Department will issue a regulatory flexibility analysis as provided in Iowa Code sections 17A.31 to 17A.33 if a written request is filed by delivery or by mailing postmarked no later than August 19, 1986, to the Policy Section, Technical Services Division, Iowa Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. 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 Iowa Code sections 17A.31 to 17A.33, or an organization of small businesses representing at least 25 persons which is registered with this agency under Iowa Code sections 17A.31 to 17A.33.

Any interested person may make written suggestions or comments on this proposed amendment on or before August 29, 1986. Such written comments should be directed to the Policy Section, Technical Services Division, Iowa Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

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

Requests for a public hearing must be received by August 22, 1986.

The amendments are intended to implement Iowa Code chapter 422 as amended by 1986 Iowa Acts, Senate File 2294.

The following new rule is proposed:

ITEM 1. Amend the first unnumbered paragraph of rule 730—52.5(422) to read as follows:

**730—52.5(422) Minimum tax.** Effective for tax years beginning on or after January 1, 1982, an Iowa minimum tax is imposed in addition to the tax computed under Iowa Code section 422.33. The Iowa minimum tax on tax preference items is a percentage of the federal minimum tax on tax preference items. "Federal minimum tax" means the federal minimum tax for tax preferences computed under sections 55 56 through 58 of the Internal Revenue Code of 1954 for the tax year. *For tax years beginning on or after January 1, 1986, "federal minimum tax" means the federal minimum tax for tax preferences computed under sections 56 through 58 except section 57(a)(8) of the Internal Revenue Code of 1954 for the tax year.*

ITEM 2. Amend the implementation clause of rule 730—52.5(422) to read as follows:

This rule is intended to implement Iowa Code section 422.33 as amended by 1986 Iowa Acts, Senate File 2294.

ITEM 3. Amend rule 53.8(422) by striking the rule and inserting the following in lieu thereof:

**730—53.8(422) Additions to federal taxable income.**

**53.8(1) Windfall profit tax.** For tax years beginning on or after January 1, 1981, add the amount of windfall

profit tax deducted under section 164(a) of the Internal Revenue Code of 1954.

**53.8(2) Losses from passive farming activity.** For tax years beginning on or after January 1, 1986, add the amount of combined losses from passive farming activity in excess of \$25,000.

a. Definitions.

1. The term "passive activity" means an activity where the taxpayer's corporate officers or employees do not materially participate in the activity or provide substantial personal services to the farming business.

2. The terms "materially participate" and "provide substantial services" mean participating in the decisions involving the operations or management of the farm, actually working the farm with corporate officers or employees, corporate headquarters on the farm, or hiring and discharging employees. A taxpayer may materially participate in a farming activity when the taxpayer's actual activities are on other than a full-time basis or when the taxpayer does not perform all necessary functions in operating the farm. In this connection, the fact that the taxpayer utilizes contract services to accomplish day-to-day functions of the farm business does not preclude a finding that the taxpayer has materially participated in the farming activity.

When the taxpayer's activities with respect to a farming operation are not on a full-time basis, or the taxpayer utilizes contract services to accomplish day-to-day functions of the farming business, no single factor is determinative of whether the taxpayer materially participates in the farming operation. However, physical work and participation in management decisions by corporate officers or employees are two principal factors to be considered. In order to be treated as materially participating due to the latter factor, a corporate officer or employee must participate in the financial and management decisions of the farming operation by regularly advising or consulting with other managing parties with respect to management decisions and by regularly overseeing production activities of the farming operation.

Factors which tend to indicate a lack of material participation or providing substantial services include lack of control of the management and operation of the farm, having authority only to discharge the farm manager, having a farm manager who is an independent contractor rather than an employee, and having limited liability for farm losses.

A limited partner (as defined under applicable state law) is treated as not materially participating, or providing substantial personal services, with respect to farming activity. Thus, unless the taxpayer is also a general partner, there is, in effect, a conclusive presumption that the taxpayer has not materially participated in the activity.

3. The term "farming" is defined in section 464(e)(1) of the Internal Revenue Code of 1954. This definition is incorporated in this rule for Iowa corporation income tax purposes and is further defined. The term "farming" means the cultivation of land or the raising or harvesting of any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of animals. For example, farming includes the raising of fish, poultry, bees, dogs, flowers, or vegetables. Farming does not include the raising or harvesting of trees (other than fruit- or nut-bearing trees).

## REVENUE AND FINANCE, DEPARTMENT OF[730] (cont'd)

For the purposes of this definition, the raising or harvesting of trees includes forestry (i.e., the care and conservation of forests), the timber and logging industries, and the raising of trees for lumber or pulp. Farming includes the raising or harvesting of plants grown for home decoration, aesthetic, or landscaping purposes, including ornamental trees, Christmas trees, house plants that are called trees, and house plants with tree-like qualities (such as scheffleras, Norfolk Island pines, ficus decova, weeping figs, areca palms, and parlor palms).

b. Net losses from passive farming activity deductible under section 165 of the Internal Revenue Code of 1954 from businesses, rents, estates and trusts except losses under sections 1211 and 1231 of the Internal Revenue Code of 1954 are combined and netted against income from passive farming activity from businesses, rents, estates and trusts to determine net income or loss from passive farming activity.

c. A loss from passive farming activity which has been disallowed as a deduction in the current tax year may be carried forward as a deduction allowable to passive farming activity in the first succeeding tax year.

53.8(3) Percentage depletion. For tax years beginning on or after January 1, 1986, add the amount that percentage depletion of an oil, gas, or geothermal well computed under section 613 of the Internal Revenue Code of 1954 is in excess of cost depletion computed under section 611 of the Internal Revenue Code of 1954.

This rule is intended to implement Iowa Code section 422.33, as amended by 1986 Iowa Acts, Senate File 2294.

**ARC 6787****SECRETARY OF STATE[750]****TERMINATION OF NOTICE**

Pursuant to the authority of Iowa Code sections 17A.3"b" and 47.1, the Secretary of State gives notice of intention to terminate **ARC 6596**, published in the Iowa Administrative Bulletin, June 4, 1986. [Amendment to Chapter 11 "Election Forms and Instructions," Iowa Administrative Code]

The purpose of the proposed rule was to provide voters and other interested persons with the opportunity to review the summary to be printed on the ballots for the constitutional amendment that is to be voted upon at the November 4, 1986, General Election, as required by subrule 11.2(3). The period for comments has passed and no comments were received from the public or from the Administrative Rules Review Committee. The Secretary of State finds that no benefit would be achieved by adopting this as a permanent part of the Iowa Administrative Code, since the purpose of soliciting comments has been accomplished; the rulemaking process with regard to **ARC 6596** is therefore terminated.

**ARC 6808****UTILITIES DIVISION[199]**

Formerly Commerce Commission[250]

**TERMINATION OF NOTICE**

The Utilities Board hereby gives Notice that on July 11, 1986, the Utilities Board issued an order in Docket No. RMU-86-14, In Re: Rate case Procedural Schedule, "Order Terminating Rulemaking." In that order, the Utilities Board terminated its proposal to amend 250—subrule 7.7(15)"a" and "b," Iowa Administrative Code.

The Notice of Intended Action was published on June 4, 1986, in the Iowa Administrative Bulletin as **ARC 6606**. The rulemaking has been terminated.

**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:

September 1, 1984 - September 30, 1984	15.25%
October 1, 1984 - October 31, 1984	14.75%
November 1, 1984 - November 30, 1984	14.50%
December 1, 1984 - December 31, 1984	14.25%
January 1, 1985 - January 31, 1985	13.50%
February 1, 1985 - February 28, 1985	13.50%
March 1, 1985 - March 31, 1985	13.50%
April 1, 1985 - April 30, 1985	13.50%
May 1, 1985 - May 31, 1985	13.75%
June 1, 1985 - June 30, 1985	13.50%
July 1, 1985 - July 31, 1985	12.75%
August 1, 1985 - August 31, 1985	12.25%
September 1, 1985 - September 30, 1985	12.25%
October 1, 1985 - October 31, 1985	12.25%
November 1, 1985 - November 30, 1985	12.25%
December 1, 1985 - December 31, 1985	12.25%
January 1, 1986 - January 31, 1986	11.75%
February 1, 1986 - February 28, 1986	11.25%
March 1, 1986 - March 31, 1986	11.25%
April 1, 1986 - April 30, 1986	10.75%
May 1, 1986 - May 31, 1986	9.75%
June 1, 1986 - June 30, 1986	9.25%
July 1, 1986 - July 31, 1986	9.75%
August 1, 1986 - August 31, 1986	9.75%

## ARC 6814

**AGRICULTURE AND  
LAND STEWARDSHIP,  
DEPARTMENT OF[21]**

Pursuant to the authority of Iowa Code section 543.5 as amended by 1986 Iowa Acts, Senate File 2175, section 671, and Iowa Code section 159.5(11), the Department of Agriculture and Land Stewardship hereby emergency adopts and implements rules to amend Chapter 12, "Bonded Warehouses" of the Commerce Commission rules in the Iowa Administrative Code and to transfer that chapter, as amended, plus Chapter 13, "Licensed Grain Dealers and Bargaining Agents," and Chapter 14, "Transition Rules for Participation in Grain Indemnity Fund" to the Department of Agriculture and Land Stewardship.

These amendments are intended to provide for approval of additional temporary grain storage facilities to accommodate an anticipated bumper crop. Current specifications for such facilities are amended to allow the use of a compacted limestone base. Additionally, temporary grain storage facilities that have been previously licensed but that exceed current dimension requirements, will continue to be approved through the 1989 licensing year. Effective dates for licenses for temporary storage facilities are expanded from five and one-half months to eight months.

Rules appearing under the Commerce Commission[250] relative to bonded warehouses, licensed grain dealers and agents and the grain indemnity fund are transferred to newly created Chapters 60, 61 and 62 respectively.

In compliance with Iowa Code section 17A.4(2), the Department finds that public notice and participation is impracticable or contrary to the public interest because of time constraints. Delay in implementation of this rule would cause greater public harm, due to the current unavailability of storage space.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these amendments thirty-five days after its publication should be waived and the amendments become effective July 14, 1986, as it confers a benefit on the agricultural community or removes a restriction on the state warehouse operators by authorizing the increased availability of temporary grain storage facilities to accommodate the 1986 bumper crop.

These rules are intended to implement Iowa Code sections 543.2, 543.8, 543.12, 543.13, 543.16, 543.18 and 1986 Iowa Acts, Senate File 2175.

These rules are also being submitted simultaneously under Notice of Intended Action as **ARC 6815**, to solicit public comment.

The following amendments are adopted:

ITEM 1. Strike "commission" and insert "department of agriculture and land stewardship" wherever it appears in Chapter 12, "Bonded Warehouses," Chapter 13, "Licensed Grain Dealers and Bargaining Agents," and Chapter 14, "Transition Rules for Participation in Grain Indemnity Fund" appearing in Commerce [250], Iowa Administrative Code; and transfer those chapters in their entirety to chapters 60, 61 and 62 respectively, appearing under Agriculture and Land Stewardship [21].

Also strike "warehouseman" and insert "warehouse operator" wherever it appears in the above mentioned chapters.

ITEM 2. Amend rule 250—12.27(543) as follows:

~~250—12.27(543)21—60.27(543)~~ **Temporary storage facilities.** Temporary grain storage facilities may, in the discretion of the ~~commission~~ *department of agriculture and land stewardship*, be approved and licensed on the following basis:

~~12.27(1)~~ **60.27(1)** Licenses for temporary storage facilities may be issued at any time, but shall only be effective for the storage of grain from ~~October 1 to March 15~~ *September 1 to April 30*. All licenses for temporary storage shall terminate each ~~March 15~~ *April 30*. The ~~warehouseman operator~~ must either purchase the grain in temporary storage by ~~March 15~~ *April 30*, or remove the grain from temporary storage by that date.

~~12.27(2)~~ **60.27(2)** All temporary storage facilities must comply with the following specifications:

a. Each storage unit must contain aeration equipment sufficient to provide at least .13 cubic feet of air per bushel per minute.

b. Each storage unit must have an asphalt base, or concrete base, or ~~with a crown to promote drainage~~: *a compacted limestone base which meets the following minimum specifications.*

1. *Base must be of such depth and compaction to permit trucks or other equipment, used in loading or unloading the pad, to move around over the base without breaking through or unduly scuffing the surface.*

2. *Depth of limestone top shall be not less than four inches.*

3. *The slope from the center of the base shall be not less than one-fourth inch per linear foot to edge of base.*

4. *Adequate drainage away from the base shall be provided to prevent any water from standing or backing up under the grain. Base shall be at least six inches above surrounding area.*

c. Each storage unit must contain electrical temperature sensing units sufficient to detect hot spots for the prevention of grain spoilage.

d. Angle of repose of stored grain must be maintained to provide sufficient drainage.

e. ~~If the storage unit is not covered, it must have forced aeration. If the The storage unit is must be covered, such The cover must be of sufficient strength to resist tearing under normal expected conditions, and to allow a person to walk on the cover without penetrating it. Covered units must use suction type aeration, and must have sufficient inlets to allow for air flow. Covered units must have sufficient inlets or perforated tubing over the top of the stored grain to provide adequate air flow through the grain.~~

f. All storage units must have rigid sidewalls, which shall not exceed twelve feet in height. *Rectangular facilities shall be no more than one hundred feet in width and circular facilities shall be no more than one hundred feet in diameter. Measurement poles must be placed in the facility not in excess of fifty feet apart and shall have depth marks at not less than two foot intervals commencing ten feet from the base. Facilities which exceed these dimensions and have been previously licensed by the warehouse division will continue to be approved through the 1989 licensing year.*

## AGRICULTURE AND LAND STEWARDSHIP, DEPARTMENT OF[21] (cont'd)

ARC 6758

ALCOHOLIC BEVERAGES  
DIVISION[185]

Formerly Beer and Liquor Control Department[150]

Pursuant to the authority of the 1986 Iowa Acts, Senate File 97, section 1; Senate File 2175, sections 709, 731, and 735; House File 2372, section 1; House File 2484, sections 726, 734, 736, 744, 756, 757, and 760; and House File 2493, section 24, the Alcoholic Beverages Division emergency adopts and implements amendments revising rules 150—Chapter 1, "Organization and Operation"; Chapter 4, "Liquor Licenses—Beer Permits—Wine Permits"; Chapter 5, "License and Permit-Division"; and Chapter 16, "Trade Practice Regulations," Iowa Administrative Code.

Item 1 provides that all rules relating to the operation of state liquor stores shall remain in effect until July 1, 1987. Item 2 provides for gubernatorial appointment of the administrator of this Division. Item 3 permits the administrator to establish wholesale and retail prices on alcoholic beverages sold by this Division. Item 4 provides for the location of the Division's central offices and establishes the support functions located at the central offices. Items 5 through 7 define "Act," "Administrator," and "Division." Item 8 mandates that licensees and permittees possess and sell liquor which bears an identifying marker demonstrating that the liquor was purchased from this Division. Item 9 provides that this division may accept personal checks and travelers' checks for purchases in state liquor stores, and permits the administrator to establish a policy to be followed by store employees for the acceptance of personal checks. Item 10 prohibits the suspension or revocation of a license or permit in the event that a licensee or permittee sells liquor, wine, or beer to a nineteen- or twenty-year old. Item 11 establishes the minimum age requirements for employment in a state liquor store, the age at which a person may become a licensee or permittee, and provides the minimum ages at which a person may serve, sell, or otherwise handle alcoholic beverages in the course of employment by a licensee or permittee. Item 12 provides that the thirty percent (30%) surcharge applies to seasonal or temporary licenses. Item 13 provides that the thirty percent (30%) surcharge shall be refunded in the same proportion as fees refunded. Item 14 applies the Federal Trade Regulations to the extension of credit by wine wholesalers to licensees and permittees. Item 15 mandates that licensees, permittees, and state liquor stores post a notice explaining the operation of and penalties for operating a motor vehicle while intoxicated.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable because the Division needs these rules to take effect on July 1, 1986, to implement Senate File 97, Senate File 2175, House File 2372, House File 2484, and House File 2493 which became effective on July 1, 1986.

In compliance with Iowa Code section 17A.5(2)"b"(2), the Division finds that the normal effective date of these rules thirty-five days after publication should be waived and these rules become effective on July 1, 1986, because they confer a benefit on the public by creating rules which implement Senate File 97, Senate File 2175, House File 2372, House File 2484, and House File 2493 which became effective on July 1, 1986.

~~12-27(3)~~ 60.27(3) All temporary storage facilities must be bonded and licensed before any products to be stored are placed in them.

~~12-27(4)~~ 60.27(4) Temporary licensed storage capacity may not exceed twenty thirty percent of permanent licensed storage capacity.

~~12-27(5)~~ All licensees of temporary storage facilities must have a net worth equal to at least \$10 per bushel of total storage (permanent plus temporary); or \$25,000.00, whichever is greater.

~~12-27(6)~~ 60.27(5) No grain corn containing more than fifteen and one half fourteen percent moisture or soybeans containing more than thirteen percent moisture may be stored in temporary facilities. In no event shall soybeans be stored in such temporary storage unit.

~~12-27(7)~~ 60.27(6) If a warehouse receipt is issued on grain in temporary storage facilities, a notation must be placed in the remarks section of the receipt which clearly states that the grain in question is contained in temporary storage units and that the storage period terminates no later than the first intervening March 15 April 30.

~~12-27(8)~~ 60.27(7) All temporary storage facilities for which the ~~commission~~ department of agriculture and land stewardship has waived subrule ~~12-27(1)~~ 60.27(1) must continue to meet all of the other requirements of rule ~~12-27(543)~~ 21—60.27(543). The warehouse division director may require the filing of additional bond or irrevocable letter of credit in an amount to be determined by the ~~commission~~ department of agriculture and land stewardship for the temporary facility before the waiver of subrule ~~12-27(1)~~ 60.27(1) is granted.

~~12-27(9)~~ 60.27(8) The warehouse division director or examiner shall issue written notice to the licensed warehouseman operator for any temporary storage facility which no longer meets these requirements. Failure of the warehouseman operator to place such facility in a suitable condition within a reasonable length of time will result in said facility being eliminated from coverage from the warehouse license. Any facility found which has deteriorated to the point that it is unsuitable for storage shall be immediately removed from the warehouse license until such time that it meets the requirements and has been reinspected. A warehouseman operator may petition the ~~commission~~ department of agriculture and land stewardship for hearing in order to review the removal of a temporary storage facility from coverage of a warehouse license. The ~~commission~~ department of agriculture and land stewardship shall take such action as it deems just and reasonable.

This rule is intended to implement Iowa Code sections 543.2, 543.8, 543.12, 543.13, 543.16, 543.18 and 1986 Iowa Acts, Senate File 2175.

[Filed emergency 7/14/86, effective 7/14/86]

[Published 7/30/86]

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## ALCOHOLIC BEVERAGES DIVISION[185] (cont'd)

These rules are also being published as a Notice of Intended Action, ARC 6759, to solicit public input.

These rules implement 1986 Iowa Acts, Senate File 97, section 1; Senate File 2175, sections 709, 731, and 735; House File 2372, section 1; House File 2484, sections 726, 734, 736, 744, 756, 757, and 760; and House File 2493, section 24.

These rules became effective July 1, 1986.

The following rules are adopted.

ITEM 1. Rule 150—1.2(123) is amended to read as follows:

**150—1.2(123) Scope and rules.** Promulgated under Iowa Code chapters 17A and 123, these rules shall apply to all matters before the ~~Iowa beer and liquor control department~~ *alcoholic beverages division*. No rule shall in any way relieve a wholesaler, manufacturer, vintner, rectifier, licensee or permittee, ~~or an their agents agent or employees employee thereof~~ from any duty under the laws of this state. *All rules relating to the operation of state liquor stores promulgated hereunder shall remain in effect until July 1, 1987.*

*This rule is intended to implement 1986 Iowa Acts, House File 2484, sections 756 and 760.*

ITEM 2. Subrule 1.5(1), first two introductory sentences, is amended to read as follows:

**1.5(1) Director Administrator.** Subject to senate confirmation, the ~~council governor~~ appoints a ~~director an administrator~~ who conducts the daily operations of the ~~department~~ *division*. These operations consist of but are not limited to:

ITEM 3. Subrule 1.5(1), paragraph "c," is amended to read as follows:

c. The establishment of *wholesale and retail prices for alcoholic liquor and wine beverages sold by the division.*

ITEM 4. Rule 150—1.6(123,17A) is amended to read as follows:

**150—1.6(123,17A) Central offices.** The central offices ~~are is~~ located at 1918 S.E. Hulsizer Avenue, Ankeny, Iowa 50021, (515) 964-6800. ~~They The central office consist consists~~ of the office of the director of the ~~division,~~ the office of the deputy director, the ~~bureaus of administration division,~~ the store operations ~~division,~~ the products management ~~division,~~ the data processing ~~division,~~ *licensing* and the operations control and ~~compliance division.~~ *These offices are The central office is* responsible for the operational support of the ~~department~~ *division* including such functions as purchasing, store operations policy and control, products management, licensing, supply and other administrative duties. ~~These offices are The central office is~~ the principal ~~eustodians~~ *custodian* of all ~~departmental~~ *divisional* orders, statements of law, or policy issued by the ~~department~~ *division*, legal documents concerning properties, and other public documents on file with the ~~department~~ *division*.

*This rule is intended to implement Iowa Code section 123.4, amended by 1986 Iowa Acts, Senate File 2175, section 731.*

ITEM 5. Subrule 4.1(1) is amended to read as follows:

**4.1(1) "Act" shall mean means** the *alcoholic beverage control Iowa beer, wine and liquor control Act.*

ITEM 6. Subrule 4.1(2) is amended to read as follows:  
**4.1(2) "Division" "Department" shall mean means** the *alcoholic beverages division of the department of commerce Iowa beer and liquor control department.*

ITEM 7. Rule 150—4.1(123) is amended by adding new subrule 4.1(6) as follows:

**4.1(6) "Administrator"** means the chief administrative officer of the alcoholic beverages division or a designee.

ITEM 8. Rule 150—4.7(123) is amended by adding new subrule 4.7(7) as follows:

**4.7(7) Identifying markers.** A licensee shall not keep on the licensed premises nor use for resale alcoholic liquor which does not bear identifying markers as prescribed by the administrator of this division. Identifying markers shall demonstrate that the alcoholic liquor was lawfully purchased from this division.

ITEM 9. Rule 150—4.7(123) is amended by adding new subrule 4.7(8) as follows:

**4.7(8)** A licensee or permittee, or an agent or employee of a licensee or permittee, who sells, gives or otherwise supplies alcoholic liquor, wine or beer to a person nineteen or twenty years old does not subject the license or permit to suspension or revocation. The division or the local authority shall not impose any administrative sanction, including license suspension or revocation, upon a licensee or permittee who is convicted of a violation of 1986 Iowa Acts, Senate File 97, section 1, nor shall administrative proceedings pursuant to Iowa Code chapter 17A and Iowa Code section 123.39 be commenced against a licensee or permittee for a violation of 1986 Iowa Acts, Senate File 97, section 1.

ITEM 10. Rule 150—4.20(123), numbered paragraph 4, is amended to read as follows:

**4. Personal Checks or travelers checks will not be accepted from anyone other than licensees may be accepted as payment for purchases in state liquor stores.** *Second party checks shall not be accepted as payment for purchases in state liquor stores. Vendors shall follow the policy established by the administrator of the division for accepting personal checks and travelers checks for the purchase of alcoholic beverages.*

ITEM 11. Rule 150—4.25(123) is amended to read as follows:

**150—4.25(123) Age requirements.** Persons ~~eighteen twenty-one years of age and or older~~ may hold a liquor license, wine permit, or beer permit; *however, persons who are between the ages of eighteen and twenty-one and hold a liquor license, wine permit, or beer permit before September 1, 1986, are not affected by or subject to this rule, and may hold such license or permit even though the licensee or permittee has not attained the age of twenty-one. Eighteen-year old licensees may purchase from and may pick up alcoholic beverages and wine at state liquor stores; persons, who are not licensees, must be nineteen in order to pick up alcoholic liquor and wine at a state liquor store. People Persons eighteen years of age and older may be bartenders, waiters, waitresses, and may handle serve alcoholic beverages, wine, and beer during the course of the person's employment for a licensee or permittee in establishments in which alcoholic beverages, wine, and beer are consumed. (class "A," "B," "C," "D," "E," "F," and "G" liquor establishments and class "B."*

## ALCOHOLIC BEVERAGES DIVISION[185] (cont'd)

"D," and "E" beer establishments). People Persons sixteen years of age and older may sell beer and wine in off-premises beer and wine establishments class "C" and "E" beer establishments. People Persons must be eighteen years of age or older to work in a state liquor store.

This rule is intended to implement Iowa Code sections 123.30, and 123.49, and 123.47A enacted by 1986 Iowa Acts, Senate File 97, section 1.

ITEM 12. 150—Chapter 5 is amended by adding new rule 5.18(123) as follows:

**150—5.18(123) Surcharge on seasonal licenses.** A thirty percent (30%) surcharge shall be added to the scheduled fees for all seasonal (fourteen-day licenses, six-month and eight-month licenses) Class "A," Class "B," Class "C," and Special Class "C" liquor control licenses and combination licenses issued pursuant to Iowa Code chapter 123.

This rule is intended to implement Iowa Code subsection 123.36(10) enacted by 1986 Iowa Acts, House File 2484, section 744.

ITEM 13. 150—Chapter 5 is amended by adding new rule 5.19(123) as follows:

**150—5.19(123) Surcharge refund.** When all or part of a license fee is refunded to a licensee, the thirty percent (30%) surcharge shall be refunded in the same proportion as the fee refunded.

This rule is intended to implement Iowa Code subsection 123.36(10) enacted by 1986 Iowa Acts, House File 2484, section 744.

ITEM 14. Subrule 16.1(4) is amended to read as follows:

**16.1(4) Credit sales:** ~~Neither A Class "A" wine wholesalers wholesaler and a Class "F" beer wholesaler nor the department shall not~~ extend credit on wine to a retail wine permittee for a period exceeding thirty days. Any retail liquor licensee or retail wine permittee who shall permit or ~~assert~~ *assent* to the acceptance of credit beyond the credit period allowed by law or who shall fail to pay for wine purchased within the period provided by law, is guilty of a violation of law and these regulations.

ITEM 15. 150—Chapter 4 is amended by adding new rule 4.39(123) as follows:

**150—4.39(123) Intoxication notice.** State liquor stores and all liquor control licensees, beer permittees, and wine permittees shall post a permanent notice in a prominent location on the licensed premises and in the state liquor stores, which notice shall explain the laws and penalties imposed for operation of a motor vehicle while intoxicated. The notice shall be of a size and on a form prescribed by the administrator of the division. The notice shall be placed on a wall or door on the licensed premises and in the state liquor stores which shall be plainly visible to patrons or customers. The division may provide a copy of the notice to licensees and permittees who request it from the division.

This rule is intended to implement Iowa Code section 123.151 enacted by 1986 Iowa Acts, House File 2493, section 24.

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## ARC 6760

ALCOHOLIC BEVERAGES  
DIVISION[185]

Formerly Beer and Liquor Control Department[150]

In compliance with Iowa Code section 17A.4(2), the agency finds that public notice and participation is unnecessary, impracticable and contrary to the public interest because these amendments simply correct the rules to conform to name and address changes resulting from 1986 Iowa Acts, Senate File 2175, effective July 1, 1986. Notice procedures would not be beneficial as the changes are nondiscretionary and delay could result in unnecessary confusion to the public.

The agency further finds pursuant to Iowa Code section 17A.5(2)"b"(2) that the normal effective date of the amendments thirty-five days after publication should be waived and the rules made effective immediately upon filing with the Administrative Rules Coordinator. The amendments confer a benefit on the public by eliminating unnecessary confusion regarding names and addresses of the agency. Senate File 2175 made these name changes effective on July 1, 1986, and these amendments simply conform the names in question on the rules to those already established by the Act.

Pursuant to the authority of 1986 Iowa Acts, Senate File 2175, section 702, the Iowa Beer and Liquor Control Department emergency adopts and implements rules to permit certain editorial amendments to reflect the department's name change and certain personnel titles in 150—Chapters 1 to 16, inclusive.

These rules implement 1986 Iowa Acts, Senate File 2175, section 702.

These rules were adopted by the Iowa Beer and Liquor Control Council on June 27, 1986, and become effective immediately upon filing [July 1, 1986].

These rules implement Iowa Code chapter 123 as amended by the 1986 Iowa Acts, Senate File 2175.

The following amendments are adopted:

ITEM 1. Strike "Iowa beer and liquor control department" and insert "alcoholic beverages division" wherever it appears in 150—Chapters 1 to 16, inclusive.

ITEM 2. Strike "department" and insert "division" wherever it appears in 150—Chapters 1 to 16, inclusive.

ITEM 3. Strike "director" and insert "administrator" wherever it appears in 150—Chapters 1 to 16, inclusive.

ITEM 4. Strike "council" and insert "commission" wherever it appears in 150—Chapters 1 to 16, inclusive.

ITEM 5. Strike "Iowa beer and liquor control council" and insert "alcoholic beverages commission" wherever it appears in 150—Chapters 1 to 16, inclusive.

[Filed emergency 7/1/86, effective 7/1/86]  
[Published 7/30/86]

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**ARC 6761**  
**COMMERCE,**  
**DEPARTMENT OF[181]**

Pursuant to the authority of the 1986 Iowa Acts, Senate File 2175, section 702, the Department of Commerce adopts and implements emergency rules consistent with Iowa Code section 17A.3 outlining the organization of the Department of Commerce, describing the manner in which an interested person may obtain public information, and make submissions or requests.

In compliance with Iowa Code section 17A.4(2), the Department of Commerce finds that notice and public participation are impracticable because the following rules implement Senate File 2175 which became effective on July 1, 1986.

In compliance with Iowa Code section 17A.5(2)"b"(2), the Department further finds the following rules should become effective on July 1, 1986, because 1986 Iowa Acts, Senate File 2175, became effective on July 1, 1986. The public will receive benefit by a July 1, 1986, effective date for the following rules because the rules will assist the public in understanding the manner in which the Department of Commerce functions, and the manner in which an interested person may obtain information or make submissions or requests to the Department of Commerce or its divisions.

These rules are also being published as a Notice of Intended Action, **ARC 6762**, to solicit comment from the public.

These rules implement 1986 Iowa Acts, Senate File 2175.

The following rules became effective on July 1, 1986.

The following rules are adopted:

The Department of Commerce hereby promulgates the following administrative rules pursuant to Iowa Code chapter 17A and 1986 Iowa Acts, Senate File 2175, sections 701 to 710.

CHAPTER 1  
 ORGANIZATION AND OPERATION

**181—1.1(71GA,SF2175,17A) Purpose.** This chapter describes the organization and operation of the department of commerce (hereinafter referred to as the "department"), including the offices where, and the means by which any interested person may obtain public information and make submittals or requests.

**181—1.2 (71GA,SF2175,17A) Scope of rules.** The rules for the department of commerce are promulgated under Iowa Code chapter 17A and 1986 Iowa Acts, Senate File 2175, sections 701 to 710, and shall apply to all matters before the department. No rule shall, in any way, relieve a person affected by or subject to these rules, or any person affected by or subject to the rules promulgated by the various divisions of the department from any duty under the laws of this state.

**181—1.3 (71GA,SF2175,17A) Waiver.** The purpose of these rules is to facilitate the business before the department and to promote a just resolution of controversies. Consistent with this purpose, the application of any of these rules, unless otherwise provided for by law, may be waived by the department to prevent undue hardship to a party to a departmental proceeding or to

a person transacting business with the department. The reasons for granting a waiver of a departmental rule shall be stated in writing and shall be made a part of the record of the proceeding or a part of the departmental file in other matters.

**181—1.4 (71GA,SF2175,17A) Duties of the department.** The commerce department administers, coordinates and supervises the various regulatory, service, and licensing functions of the state regarding the conduct of business and commerce in the state. The department consists of the following divisions: administrative services, banking, credit union, savings and loan, gaming, utilities, insurance, alcoholic beverages, and professional licensing and regulation.

**1.4(1) Administrative services division.** The administrative services division co-ordinates personnel services and shared administrative support services for the department, co-ordinates the development of the department's annual budget, and maintains monitoring and control systems for the department.

**1.4(2) Banking division.** The banking division regulates and supervises state banks, regulated loan companies, industrial loan companies, and the industrial thrift guaranty corporation, and performs other duties assigned to it by law.

**1.4(3) Credit union division.** The credit union division regulates and supervises the operation of credit unions within the state; the credit union review board performs duties assigned to it by Iowa Code chapter 533.

**1.4(4) Savings and loan division.** The savings and loan division regulates and supervises savings and loan associations and savings banks which operate within the state.

**1.4(5) Gaming division.** The gaming division co-ordinates and supervises all activities within the state relating to pari-mutuel betting, games of skill and chance, raffles, and racing pursuant to Iowa Code chapters 99B and 99D, and enforces the laws promulgated under Iowa Code chapters 99B and 99D.

**1.4(6) Utilities division.** The utilities division regulates and supervises all public utilities which operate within the state, and enforces the laws promulgated under Iowa Code chapters 476, 476A, 478, and 479. The division performs other duties assigned to it by law.

**1.4(7) Insurance division.** The insurance division regulates and supervises the conduct of the business of insurance within the state, and enforces the laws promulgated under Title XX, and Iowa Code chapters 505 to 523C, and Iowa Code chapters 502, 503, and 535C. The division performs other duties assigned to it by law.

**1.4(8) Alcoholic beverages division.** The alcoholic beverages division supervises and regulates all matters relating to alcoholic beverages within the state, and enforces the laws promulgated under Iowa Code chapter 123.

**1.4(9) Professional licensing and regulation division.** The professional licensing and regulation division co-ordinates and administers the licensing and regulation of the commission of engineering and land surveying examiners, the commission of accountancy, the real estate commission, the commission of architectural examiners, and the commission of landscape architectural examiners. The various commissions within this division retain the regulatory and licensing powers conferred upon them by the statutes creating the commissions.

COMMERCE, DEPARTMENT OF[181] (*cont'd*)**181—1.5(71GA,SF2175,17A) Definitions.**

1.5(1) "Department" means the department of commerce.

1.5(2) "Director" means the director of the department of commerce.

1.5(3) "Deputy director" means the director of the administrative services division, who shall be the chief deputy administrative officer of the department of commerce.

1.5(4) "Person" means an individual, corporation, partnership, association, professional corporation, licensee or permittee.

1.5(5) "Chief administrative officer of the department" means the director of the department of commerce.

1.5(6) "Administrator of gaming" means the chief administrative officer of the gaming division of the department of commerce.

"Racing commission" means the commission composed of five persons, who are appointed by the governor subject to confirmation by the senate, and who serve on the commission within the department of commerce.

1.5(7) "Administrator of public utilities" means the chief administrative officer of the utilities division of the department of commerce.

"Utilities board" means the board composed of three persons, who are appointed by the governor subject to confirmation by the senate, and who serve as the policymaking body for the utilities division. The chairperson of the utilities board shall be the administrator of the utilities division.

1.5(8) "Commissioner of insurance" means the chief executive officer of the insurance division of the department of commerce.

1.5(9) "Administrator of alcoholic beverages" means the chief administrative officer of the alcoholic beverages division of the department of commerce.

"Alcoholic beverages commission" means the board composed of five persons, who are appointed by the governor subject to confirmation by the senate, and who serve as the policymaking body of the alcoholic beverages division.

1.5(10) "Administrator of professional licensing and regulation" means the chief administrative officer of the professional licensing and regulation division of the department of commerce.

a. "Commission of engineering and land surveying examiners" means the board composed of four persons, who are appointed by the governor subject to confirmation by the senate, within the professional licensing division. The commission administers and enforces the laws promulgated under Iowa Code chapter 114, governing the licensure of professional engineers and land surveyors.

b. "Commission of accountancy" means the board composed of eight persons, seven of whom are appointed by the governor subject to confirmation by the senate, and one member from the accounting practitioner advisory council. The commission administers and enforces the laws promulgated under Iowa Code chapter 116, governing the certification of certified public accountants and licensure of accounting practitioners.

c. "Real estate commission" means the board composed of five persons, three of whom are licensed under Iowa Code chapter 117, and two unlicensed members who represent the general public. The commissioners are appointed by the governor subject to confirmation

by the senate. The commission administers and enforces the laws promulgated under Iowa Code chapter 117, governing the licensure of real estate brokers and salespersons.

d. "Commission of architectural examiners" means the board composed of seven members, five of whom are registered architects, and two members from the general public. The commissioners are appointed by the governor subject to confirmation by the senate. The commission administers and enforces the laws promulgated under Iowa Code chapter 118, governing the registration and certification of architects.

e. "Commission of landscape architectural examiners" means the board composed of seven persons, five of whom are registered landscape architects, and two members from the general public. The commissioners are appointed by the governor subject to confirmation by the senate. The commission administers and enforces the laws promulgated under Iowa Code chapter 118A, governing the registration and certification of landscape architects.

1.5(11) "Superintendent of banking" means the chief administrative officer of the banking division of the department of commerce.

1.5(12) "Superintendent of credit unions" means the chief administrative officer of the credit union division of the department of commerce.

1.5(13) "Superintendent of savings and loan associations" means the chief administrative officer of the savings and loan division of the department of commerce.

**181—1.6 (71GA,SF2175,17A) Central offices and communications.** Correspondence and communications with the department of commerce shall be addressed or directed to the department's central office located at 1918 S.E. Hulsizer Avenue, Ankeny, Iowa 50021 (515) 964-6800. The central office is the principal custodian of departmental orders, statements of law or policy issued by the department, legal documents, and other public documents on file with the department.

1.6(1) Correspondence and communications with the banking division shall be addressed or directed to its central office located at 418 Sixth Avenue, 530 Liberty Building, Des Moines, Iowa 50309 (515) 281-4014.

1.6(2) Correspondence and communications with the professional licensing and regulation division shall be addressed or directed to its central office located at 1918 S.E. Hulsizer Avenue, Ankeny, Iowa 50021 (515) 964-6800.

1.6(3) Correspondence and communications with the gaming division shall be addressed or directed to its central office located at 1918 S.E. Hulsizer Avenue, Ankeny, Iowa 50021 (515) 964-6840.

1.6(4) Correspondence and communications with the alcoholic beverages division shall be addressed or directed to its central office located at 1918 S.E. Hulsizer Avenue, Ankeny, Iowa 50021 (515) 964-6800.

1.6(5) Correspondence and communications with the insurance division shall be addressed or directed to its central office located at the Lucas State Office Building, East 12th and Grand Avenue, Des Moines, Iowa 50319 (515) 281-5705.

1.6(6) Correspondence and communications with the utilities division shall be addressed or directed to its central office located at the Lucas State Office Building, East 12th and Grand Avenue, Des Moines, Iowa 50319 (515) 281-3505.

## COMMERCE, DEPARTMENT OF[181] (cont'd)

**1.6(7)** Correspondence and communications with the savings and loan division shall be addressed or directed to its central office located at the Lucas State Office Building, East 12th and Grand Avenues, Des Moines, Iowa 50319 (515) 281-5491.

**1.6(8)** Correspondence and communications with the credit union division shall be addressed or directed to its central office located at the Lucas State Office Building, East 12th and Grand Avenues, Des Moines, Iowa 50319 (515) 281-6514.

**181—1.7(71GA,SF2175,17A) Custodians of records, filings and requests for public information.** Unless otherwise specified by the department or the rules of its various divisions, each division is the principal custodian of its own divisional orders, statements of law or policy issued by the respective divisions, legal documents and other public documents on file with the department or its respective divisions. Each division shall promulgate rules pursuant to Iowa Code chapter 17A governing the manner in which documents may be filed with the respective divisions. Each division shall promulgate rules pursuant to Iowa Code chapters 17A, 21, and 22 governing the manner in which interested persons may obtain public information regarding that division.

**1.7(1)** An interested party may examine all public records promulgated or maintained by the department of commerce in the discharge of its function at its central office during regular business hours. The department's central office is open from 8:00 o'clock a.m. until 4:30 o'clock p.m., Monday through Friday; the office is closed on Saturdays, Sundays, and official state holidays designated according to state law.

**1.7(2)** All pleadings, petitions for rulemaking, petitions for declaratory rulings, and other documents filed with the department of commerce shall be filed with the director and shall be officially filed upon receipt of the document. All such documents shall be filed within the time limits established by law or these rules.

**181—1.8(71GA,SF2175,17A) Division rulemaking.** Each division within the department of commerce shall promulgate administrative rules pursuant to Iowa Code chapter 17A governing matters before the respective divisions. All applicable rules previously promulgated by the divisions shall remain in effect until more specific rules are promulgated.

These rules are intended to implement Iowa Code section 17A.3 and 1986 Iowa Acts, Senate File 2175, section 702.

[Filed emergency 7/1/86, effective 7/1/86]  
[Published 7/30/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/30/86.

**ARC 6763****COMMERCE,  
DEPARTMENT OF[181]**

Pursuant to the authority of the 1986 Iowa Acts, Senate File 2175, section 702, the Department of Commerce adopts and implements emergency rules consistent with Iowa Code section 17A.3 describing the nature and

requirements for informal and formal proceedings before the Department of Commerce, and prescribing the forms to be utilized in informal and formal proceedings before the Department.

In compliance with Iowa Code section 17A.4(2), the Department of Commerce finds that notice and public participation are impracticable because the following rules implement Senate File 2175 which became effective on July 1, 1986.

In compliance with Iowa Code section 17A.5(2)"b"(2), the Department further finds the following rules should become effective upon filing, because Iowa Acts 1986, Senate File 2175, became effective on July 1, 1986. The public will receive benefit if these rules become effective upon filing because the rules will assist the public in understanding the manner in which informal and formal proceedings before the Department may be commenced and the manner in which the proceedings are conducted and concluded.

These rules are also being published as Notice of Intended Action, **ARC 6764**, to solicit comment from the public.

These rules implement 1986, Iowa Acts, Senate File 2175.

The following rules become effective upon filing [July 14, 1986].

The following rules are adopted:

The Department of Commerce hereby promulgates the following administrative rules pursuant to Iowa Code chapters 17A and 1986 Iowa Acts, Senate File 2175, sections 701 to 710.

**CHAPTER 2  
PETITIONS FOR RULEMAKING**

**181—2.1(17A,71GA,SF2175) Petition for rulemaking.** Any person or agency may file a petition for rulemaking with the agency at the Department of Commerce, 1918 S.E. Hulsizer Avenue, Ankeny, Iowa 50021. A petition is deemed filed when it is received by that office. The agency must provide the petitioner with a file-stamped copy of the petition if the petitioner provides the agency with an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

---

Petition by (Name of Petitioner)	:	
for the (adoption, amendment,	:	PETITION FOR
or repeal) of rules relating	:	RULE MAKING
to (state subject matter).	:	

---

The petition must provide the following information:

1. A statement of the specific rule making action sought by the petitioner including the text or a summary of the contents of the proposed rule or amendment to a rule and, if it is a petition to amend or repeal a rule, a citation and the relevant language to the particular portion or portions of the rule proposed to be amended or repealed.
2. A citation to any law deemed relevant to the agency's authority to take the action urged or to the desirability of that action.
3. A brief summary of petitioner's arguments in support of the action urged in the petition.
4. A brief summary of any data supporting the action urged in the petition.

COMMERCE, DEPARTMENT OF[181] (*cont'd*)

5. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the proposed action which is the subject of the petition.

6. Any request by petitioner for a meeting provided for by subrule 2.4(1).

2.1(1) The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, and telephone numbers of the petitioner and petitioner's representative, and a statement indicating the person to whom communications concerning the petition should be directed.

2.1(2) The agency may deny a petition because it does not substantially conform to the required form.

**181—2.2(17A,71GA,SF2175) Briefs.** The petitioner may attach a brief to the petition in support of the action urged in the petition. The agency may request a brief from the petitioner or from any other person concerning the substance of the petition.

**181—2.3(17A,71GA,SF2175) Inquiries.** Inquiries concerning the status of a petition for rulemaking may be made to the Director, Department of Commerce, 1918 S.E. Hulsizer Avenue, Ankeny, Iowa 50021.

**181—2.4(17A,71GA,SF2175) Agency consideration.**

2.4(1) Within fourteen days after the filing of a petition, the agency must submit a copy of the petition and any accompanying brief to the administrative rules coordinator and to the administrative rules review committee. Upon request by petitioner in the petition, the agency must schedule a brief and informal meeting between the petitioner and the agency, a member of the agency, or a member of the staff of the agency, to discuss the petition. The agency may request the petitioner to submit additional information or argument concerning the petition. The agency may also solicit comments from any person on the substance of the petition. Also, comments on the substance of the petition may be submitted to the agency by any person.

2.4(2) Within sixty days after the filing of the petition, or within any longer period agreed to by the petitioner, the agency must, in writing, deny the petition, and notify petitioner of its action and the specific grounds for the denial, or grant the petition and notify petitioner that it has instituted rulemaking proceedings on the subject of the petition. Petitioner shall be deemed notified of the denial or grant of the petition on the date when the agency mails or delivers the required notification to petitioner.

2.4(3) Denial of a petition because it does not substantially conform to the required form does not preclude the filing of a new petition on the same subject that seeks to eliminate the grounds for the agency's rejection of the petition.

These rules are intended to implement Iowa Code chapter 17A and 1986 Iowa Acts, Senate File 2175, sections 701 to 710.

[Filed emergency 7/14/86, effective 7/14/86]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/30/86.

**ARC 6765**

**COMMERCE,  
DEPARTMENT OF[181]**

Pursuant to the authority of the 1986 Iowa Acts, Senate File 2175, section 702, the Department of Commerce adopts and implements emergency rules consistent with Iowa Code section 17A.3 describing the nature and requirements for informal and formal proceedings before the Department of Commerce, and prescribing the forms to be utilized in informal and formal proceedings before the Department.

In compliance with Iowa Code section 17A.4(2), the Department of Commerce finds that notice and public participation are impracticable because the following rules implement Senate File 2175 which became effective on July 1, 1986.

In compliance with Iowa Code section 17A.5(2)"b"(2), the Department further finds the following rules should become effective upon filing, because 1986 Iowa Acts, Senate File 2175, became effective on July 1, 1986. The public will receive benefit if these rules become effective upon filing because the rules will assist the public in understanding the manner in which informal and formal proceedings before the Department may be commenced and the manner in which the proceedings are conducted and concluded.

These rules are also being published as Notice of Intended Action, **ARC 6766**, to solicit comment from the public.

These rules implement 1986 Iowa Acts, Senate File 2175.

The following rules became effective upon filing [July 14, 1986].

The following rules are adopted:

The Department of Commerce hereby promulgates the following administrative rules pursuant to Iowa Code chapter 17A and 1986 Iowa Acts, Senate File 2175; sections 701 to 710.

**CHAPTER 3  
DECLARATORY RULINGS**

**181—3.1(17A,71GA,SF2175) Petition for declaratory ruling.** Any person or agency may file a petition with the agency for a declaratory ruling concerning the applicability of any statute, rule, policy, decision, or order, administered by the agency, at the Department of Commerce, 1918 S.E. Hulsizer Avenue, Ankeny, Iowa 50021. A petition is deemed filed when it is received by that office. The agency must provide the petitioner with a file-stamped copy of the petition if the petitioner provides the agency with an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

## COMMERCE, DEPARTMENT OF[181] (cont'd)

## DEPARTMENT OF COMMERCE

Petition by (Name of Petitioner)	: PETITION
for a Declaratory Ruling	: FOR
on (Cite provisions of law involved)	: DECLARATORY RULING

The petition must provide the following information:

1. A clear and concise statement of all relevant facts on which the ruling is requested.
2. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders, whose applicability is questioned, and any other relevant law.
3. The questions petitioner wants answered, stated clearly and concisely.
4. The answers to the questions desired by petitioner and a summary of the reasons urged by the petitioner in support of those answers.
5. The reasons for requesting the declaratory ruling and disclosure of the petitioner's interest in the outcome.
6. A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue and whether, to the petitioner's knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
7. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the questions presented in the petition.
8. Any request by petitioner for a meeting provided for by rule 3.4(17A,71GA,SF2175).

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

**181—3.2(17A,71GA,SF2175) Briefs.** The petitioner may attach a brief to the petition in support of the position urged in the petition. The agency may request a brief from the petitioner or from any other person concerning the questions raised in the petition.

**181—3.3(17A,71GA,SF2175) Inquiries.** Inquiries concerning the status of a petition for a declaratory ruling may be made to the Director, Department of Commerce, 1918 S.E. Hulsizer Avenue, Ankeny, Iowa 50021.

**181—3.4(17A,71GA,SF2175) Agency consideration.** Upon request by petitioner in the petition, the agency must schedule a brief and informal meeting between the petitioner and the agency, a member of the agency, or a member of the staff of the agency, to discuss the petition. The agency may request the petitioner to submit additional information or argument concerning the petition. The agency may solicit comments from any person on the questions presented in the petition. Also, comments on those questions may be submitted to the agency by any person.

Within thirty days after the filing of the petition, or within any longer period agreed to by the petitioner, the agency must, in writing, issue a ruling on the petition or refuse to do so. An agency is deemed to have issued

a ruling or to have refused to do so on the date the ruling or refusal is mailed or delivered to petitioner.

**181—3.5(17A,71GA,SF2175) Refusal to issue ruling.** The agency may refuse to issue a declaratory ruling for good cause. Good cause includes, but is not limited to, the following reasons:

1. The petition does not substantially comply with the required form.
2. The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the agency to issue a ruling.
3. The agency does not have jurisdiction over the questions presented in the petition.
4. The questions presented by the petition are also presented in a current rulemaking, contested case, or other agency or judicial proceeding, that may definitively resolve them.
5. The questions presented by the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.
6. The facts or questions presented in the petition are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue a ruling.
7. There is no need to issue a ruling because the questions raised in the petition have been settled due to a change in circumstances.
8. The petition is not based upon facts calculated to aid in the planning of future conduct but is, instead, based solely upon prior conduct in an effort to establish the effect of that conduct or to challenge an agency decision already made.
9. The petition requests a declaratory ruling that would necessarily determine the legal rights, duties, or responsibilities of other persons who have not joined in the petition or filed a similar petition and whose petition on the questions presented may fairly be presumed to be adverse to that of petitioner.

10. The petitioner requests the agency to determine whether a statute is unconstitutional on its face.

**3.5(1)** A refusal to issue a declaratory ruling must indicate the specific grounds for the refusal and constitutes final agency action on the petition.

**3.5(2)** Refusal to issue a declaratory ruling pursuant to this provision does not preclude the filing of a new petition that seeks to eliminate the grounds for the agency's refusal to issue a ruling.

**181—3.6(17A,71GA,SF2175) Contents of declaratory ruling — effective date.** In addition to the ruling itself, a declaratory ruling must contain the date of its issuance, the name of the petitioner, the specific statutes, rules, policies, decisions, or orders involved, the particular facts upon which it is based, and the reasons for the agency's conclusion.

A declaratory ruling is effective on the date of issuance.

**181—3.7(17A,71GA,SF2175) Effect of a declaratory ruling.** A declaratory ruling is binding on the agency and the petitioner and is applicable only in circumstances where the relevant facts and law involved are indistinguishable from those contained in the petition. As to all other persons, a declaratory ruling serves only as precedent and is not binding on the agency. The issuance of a declaratory ruling constitutes final agency action on the petition.

## COMMERCE, DEPARTMENT OF[181] (cont'd)

These rules are intended to implement Iowa Code chapter 17A and 1986 Iowa Acts, Senate File 2175, sections 701 to 710.

[Filed emergency 7/14/86, effective 7/14/86]  
[Published 7/30/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/30/86.

**ARC 6778****CONSERVATION  
COMMISSION[290]**

Pursuant to the authority of 1986 Iowa Acts, Senate File 2175, section 1805, the Natural Resource Commission emergency adopts an amendment to Chapter 12, "Mussels—Methods and Seasons," making it lawful to harvest mussels from the public waters of the state.

In compliance with Iowa Code section 17A.4(2), the Commission finds that public notice and participation is unnecessary in that the amendment liberalizes harvest regulations and confers no hardship upon interested commercial mussel shellers.

The Commission also finds, pursuant to Iowa Code section 17A.5(2)"b"(2) that the normal effective date of this rule thirty-five days after publication should be waived and the rule be made effective upon filing with the Administrative Rules Coordinator, July 10, 1986, as it removes a restriction on the public.

The Natural Resource Commission adopted the rule at a regular meeting on July 2, 1986.

This intended rule change is being made to existing rules of the State Conservation Commission, which in due course will be transferred to the Department of Natural Resources part of the Iowa Administrative Code in accordance with the transition plan of the Code Editor.

This rule implements 1986 Iowa Acts, House File 2463.

Rule 290—12.1(71GA, HF2463) is amended by deleting subrule 12.1(5).

[Filed emergency 7/10/86, effective 7/10/86]  
[Published 7/30/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/30/86.

**ARC 6779****CONSERVATION  
COMMISSION[290]**

Pursuant to the authority of 1986 Iowa Acts, Senate File 2175, section 1805, the Natural Resource Commission emergency adopts an amendment to Chapter 110, "Commercial Fishing," Iowa Administrative Code making it lawful with restrictions to commercially harvest certain species of fish from specified waters of the state.

In compliance with Iowa Code section 17.4(2), the Commission finds that public notice and participation is unnecessary and contrary to public interest in that 1986 Iowa Acts, House File 2463 provide in part for the establishment by rule of commercial fishing regulations. This amendment provides in rule form the same commercial fishing regulations previously set out in statute and in existing Chapter 110, Iowa Administrative Code. The Commission will file a Notice of Intended Action with the Administrative Rules Coordinator in August amending Chapter 110 with changes in regulations. Public comment and participation will be solicited at this time.

The Commission 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 rules be made effective upon filing with the Administrative Rules Coordinator, July 10, 1986, as they confer a benefit upon the public to ensure speedy compliance with the Commission's legislative mandate.

The Natural Resource Commission adopted the rule at a regular meeting on July 2, 1986.

This rule addition is being made to existing rules of the State Conservation Commission, which in due course will be transferred to the Department of Natural Resources part of the Iowa Administrative Code in accordance with the transition plan of the Code Editor.

This rule implements 1986 Iowa Acts, House File 2463.

ITEM 1. Rule 290—110.5(109) is amended to read as follows:

**290—110.5(109)(71GA, HF2463) Permits.** Inland commercial fishing is limited to permit holders. Applications for permits must be made in writing to the ~~state conservation commission~~ *department of natural resources* office in Des Moines, Iowa. Permits will be issued free of charge. Permittees must comply with the commercial fishing license provisions as set forth in ~~section 110.1 of the Code~~ *1986 Iowa Acts, House File 2463, section 6*. All tackle, when in use, must be licensed and tagged with a metal tag, provided by the ~~commission~~ *department*, identifying the equipment and license for its use. Officers appointed by the ~~commission~~ *department* shall have the authority to confiscate any such commercial fishing gear when found in use without such tags attached.

ITEM 2. Rule 290—110.6(109) is rescinded and the following adopted in lieu thereof:

**290—110.6(71GA, HF2463) Report of catch.** Permittees must comply with the reporting requirements as set forth in 1986 Iowa Acts, House File 2463, section 14.

ITEM 3. Rules 290—110.8(109) and 290—110.9(109) under the division titled "Mississippi and Missouri Rivers" are rescinded and the following adopted in lieu thereof:

**290—110.8(71GA, HF2463) Commercial taking.** Fish may be taken for commercial purposes from the Mississippi and Missouri Rivers subject to the following regulations.

**110.8(1) Permissive catch.** It shall be lawful to take with licensed commercial fishing gear the following species of fish: carp, buffalo, gar, suckers, quillback, sheepshead, bullheads, dogfish, sand sturgeon, and

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

catfish. Paddlefish may be taken from waters of the Mississippi River.

**110.8(2)** Size limits. The minimum length limit for all catfish is fifteen inches. Catfish less than fifteen inches shall be returned unharmed to the water.

**110.8(3)** Methods. It shall be lawful to use seines, dip nets, trammel nets, pound, fyke, and trap nets and trotlines subject to the following mesh size and hook restrictions. It shall be unlawful for any person to fish with or to use any trammel net having a mesh of less than two inches bar measure, or to fish with or use a gill net having a mesh of less than three and three-quarters inches bar measure, or to use basket traps with the end opposite the throat having a hole of less than one and one-half inches in diameter or trotlines with more than one hundred hooks. Such measurements shall apply to meshes when in use and no allowance shall be made for shrinkage due to any cause.

**110.8(4)** Report of catch. Licensed commercial fishers must comply with the reporting requirements as set forth in 1986 Iowa Acts, House File 2463.

[Filed emergency 7/10/86, effective 7/10/86]  
[Published 7/30/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/30/86.

**ARC 6780****CONSERVATION  
COMMISSION[290]**

Pursuant to the authority of 1986 Iowa Acts, Senate File 2175, section 1805, the Natural Resource Commission emergency adopts rules creating a new Chapter 115, "Turtle Regulations," to allow for the taking of turtles.

In compliance with Iowa Code section 17A.4(2), the Commission finds that public notice and participation is contrary to the public interest in that 1986 Iowa Acts, House File 2463 provides in part for the establishment by rule of turtle regulations. There were no statutory or rule restrictions on turtle fishing previous to House File 2463. New Chapter 115, Iowa Administrative Code, provides for continuance of established turtle fishing methods. The Commission will file a Notice of Intended Action with the Administrative Rules Coordinator in August amending Chapter 115 that will propose restrictions on turtle fishing. Public comments and participation will be solicited at this time.

The Commission also finds, pursuant to Iowa Code section 17A.5(2)"b"(2) that the normal effective date of this rule thirty-five days after publication should be waived and the rule be made effective upon filing with the Administrative Rules Coordinator, July 10, 1986, as it confers a benefit upon the public to ensure speedy compliance with the Commission's legislative mandate.

The Natural Resource Commission adopted the rule at a regular meeting on July 2, 1986.

This rule addition is made to existing rules of the State Conservation Commission, which in due course will be transferred to the Department of Natural Resources part of the Iowa Administrative Code in accordance with the transition plan of the Code Editor.

This rule implements 1986 Iowa Acts, House File 2463.

**CHAPTER 115  
TURTLE REGULATIONS**

Rule 290—115.1(71GA, HF2463) is adopted to read as follows:

**290—115.1(71GA, HF2463) Taking.** Turtles may be taken from the waters of the state.

[Filed emergency 7/10/86, effective 7/10/86]  
[Published 7/30/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/30/86.

**ARC 6776****CONSERVATION  
COMMISSION[290]**

Pursuant to the authority of 1986 Iowa Acts, Senate File 2175, section 1805, the Natural Resource Commission emergency adopts rules creating a new Chapter 116, "Forfeited Property," Iowa Administrative Code.

In compliance with Iowa Code section 17A.4(2), the Commission finds that public notice and participation is contrary to the public interest in that the 1986 Iowa Acts, House File 2460 provide in part for the establishment by rule of forfeited property regulations. New Chapter 116, Iowa Administrative Code, provides rules for procedures used by conservation officers when disposing of forfeited property. The Commission will file a Notice of Intended Action with the Administrative Rules Coordinator amending Chapter 116, Iowa Administrative Code, that will propose procedures followed by conservation officers. Public comments and participation will be solicited at this time.

The Commission 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, July 10, 1986, as it confers a benefit upon the public to ensure speedy compliance with the Commission's legislative mandate.

The Natural Resource Commission adopted the rule at a regular meeting on July 2, 1986.

These rules implement 1986 Iowa Acts, House File 2460.

These rules are being added to existing rules of the State Conservation Commission, which in due course will be transferred to the Department of Natural Resources part of the Iowa Administrative Code in accordance with the transition plan of the Code Editor.

Add the following new Chapter 116 "Forfeited Property":

**CHAPTER 116  
FORFEITED PROPERTY**

**290—116.1(71GA, HF2460) Purpose.** The purpose of this chapter is to set forth the policy and procedures to be followed and the criteria to be utilized by Iowa

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

department of natural resources officers when they are determining the disposition of seized or forfeitable property.

**290—116.2(71GA, HF2460) Definitions.**

"Department" means the Iowa Department of Natural Resources.

"Director" means the director of the department.

"District supervisor" means a supervisor of the law enforcement bureau of the fish and wildlife division or of the parks bureau of the parks, recreation and preserves division of the department.

"Forfeitable property" means any of the following:

1. Property which is illegally possessed;
2. Property which has been used or is intended to be used to facilitate the commission of a criminal offense or to avoid detection or apprehension of a person committing a criminal offense;
3. Property which is acquired as or from the proceeds of a criminal offense;
4. Property offered or given to another as an inducement for the commission of a criminal offense.

"Officer" means any full-time conservation officer appointed by the director.

**290—116.3(71GA, HF2460) Jurisdiction.** Forfeitable property may be seized by a conservation officer whenever and wherever the property is found within this state.

**290—116.4(71GA, HF2460) Supervisor approval.** Conservation officers taking custody of forfeitable property or serving upon the person in possession of the property a notice of forfeiture shall contact a district supervisor if the conservation officer estimates the value of the property exceeds \$50.00.

**290—116.5(71GA, HF2460) Disposition of general property.** Forfeited property may be used by the department. The director may give, sell or trade property to any other state agency or to any other agency within the state.

**290—116.6(71GA, HF2460) Disposition of guns.** Forfeited property may be sold at a department administered annual public sale. All legal weapons will be sold at the department annual sale.

**290—116.7(71GA, HF2460) Property destroyed.** Forfeitable property of no value to the department, the possession of which is illegal, that poses an imminent danger to a person's health, safety, or welfare, or that poses a significant hazard to the state's natural resources may be destroyed.

**290—116.8(71GA, HF2460) Disposition of furs.** Forfeitable furs not needed by the department will be offered to the licensed fur dealers in the form of direct sale, an auction or sealed bid process whenever the director determines the number and value of forfeited furs warrants such a process.

[Filed emergency 7/10/86, effective 7/10/86]  
[Published 7/30/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/30/86.

**ARC 6805****CORRECTIONS,  
DEPARTMENT OF[291]**

Pursuant to 1985 Iowa Code supplement section 246.105, the Department of Corrections hereby amends Chapter 20, "Institutions Administration," of the Iowa Administrative Code.

The 1986 Iowa Acts, House File 2484, imposes a prison population cap and provides details relating to administration of that cap. House File 2484 alters the cap administration policies from the current administrative code version. This amendment updates the administrative rules to be current with the legislation which became effective July 1, 1986.

The Department of Corrections finds that notice and public participation are impracticable as the amendment merely reflects 1986 Iowa Acts, House File 2484. This rule is therefore filed emergency, pursuant to Iowa Code section 17A.4(2). Also, as public benefit is conferred by appropriately updating administrative rules to reflect current law, this rule is filed pursuant to Iowa Code section 17A.5(2)"b"(2).

The Board of Corrections adopted this rule July 7, 1986, and it became effective July 11, 1986.

This rule is intended to implement 1986 Iowa Acts, House File 2484.

Subrule 20.10(6) is amended to read as follows:

**20.10(6)** The official population of Iowa's prison systems shall be based upon the count at 11:59 p.m. each day. This count shall include all individuals within the scope of custody and control of Iowa's correctional institutions, which are the Iowa correctional institution for women, the Iowa state men's reformatory, the Iowa state penitentiary, the Iowa medical and classification center, the north central correctional facility, the Mount Pleasant correctional facility, the Clarinda correctional treatment facility, the correctional release center, and the rehabilitation camps, and shall include those on any form of temporary release but excludes those assigned to work release, *Luster Heights honor camp and those paroled and awaiting release during the ten-day parole plan review period as provided in 1986 Iowa Acts, House File 2484.*

[Filed emergency 7/11/86, effective 7/11/86]

[Published 7/30/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/30/86.

**ARC 6791****ELDER AFFAIRS,  
DEPARTMENT OF[321]**

Pursuant to the authority of Iowa Code section 17A.3, the Commission of the Iowa Department of Elder Affairs emergency adopts rules creating a new Chapter 12, "Retired Senior Volunteer Program," Iowa Administrative Code, outlining criteria and procedures for this special program.

In compliance with Iowa Code section 17A.4(2), the Commission finds that public notice and participation is impracticable in that the 1986 Iowa Acts, Senate File 2175, section 1023, provides for the establishment of a

## ELDER AFFAIRS, DEPARTMENT OF[321] (cont'd)

program of financial support for the basic administrative activities through block grants and for program expansion through discretionary grants. The 1986 Iowa Acts, House File 2484, an appropriations act, restricts the use of appropriated funds to the block grant portion of the program for FY 1987 and requires an equal distribution of the available funds among the local RSVP programs.

The Commission 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 July 11, 1986, as it confers a benefit upon the public to ensure speedy and uniform compliance with the Commission's legislative mandate.

The Commissioners adopted these rules at their regular meeting on June 24, 1986.

These rules became effective on July 11, 1986.

These rules are intended to implement the 1986 Iowa Acts, Senate File 2175.

The following rules are adopted:

## CHAPTER 12

## RETIRED SENIOR

## VOLUNTEER PROGRAM (RSVP)

**321—12.1(71GA,SF2175) Purpose and program description.** The purpose of the retired senior volunteer program (RSVP) grants is to provide basic support grants to each RSVP program providing services in Iowa and to provide discretionary grants to RSVP programs on a competitive basis for program expansion.

The RSVP grant program provides two types of grants:

**12.1(1) Formula grant.** Each RSVP program, which has a current memorandum of agreement to operate an RSVP program from the federal action office, is to be allocated an equal share of state funds appropriated for formula distribution.

**12.1(2) Discretionary grant.** Grants will be awarded on a competitive basis by the department of elder affairs to local RSVP programs for projects to expand either the geographic area served by the local RSVP program or their program emphasis, such as supplementing the continuum of care for older Iowans, substance abuse assistance for the elderly, or other programs consistent with the goals of the RSVP program and the department of elder affairs from state funds appropriated for program expansion.

**321—12.2(71GA,SF2175) Application procedures.** Two different procedures will be followed for the formula and discretionary grants. Appropriate forms and applications for both are available from the Iowa department of elder affairs at the location identified in 20—subrule 2.1(2). Forms and applications will be mailed by the department to eligible applicants as soon as feasible after July 1.

**12.2(1) Formula grants.** Each RSVP program must submit to the department of elder affairs a budget outlining how the RSVP program will expend the formula grant allotted to their program.

**12.2(2) Discretionary grants.** Grant applications and requirements will be provided to each RSVP program by the Iowa department of elder affairs.

**12.3 to 12.5 Reserved.**

**321—12.6(71GA,SF2175) Administration of grants.** The department of elder affairs shall prepare contractual agreements for both the formula and discretionary grants.

This agreement must be executed by the director or designee of the department and the duly authorized official of the local RSVP program. The contract will include dates for requisition of reimbursable expenses, procedures for the submission of progress reports and final financial reports.

These rules are intended to implement 1986 Iowa Acts, Senate File 2175, section 1023.

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## ARC 6771

## EMPLOYMENT SECURITY[370]

## (JOB SERVICE)

Pursuant to the authority of Iowa Code section 96.11(1) the Job Service Commissioner of the Division of Job Service, emergency adopts and implements rules to correct nonsubstantive names of agencies and changes of address. These rules were adopted by the Director of Employment Services on July 1, 1986, and became effective immediately on filing [July 1, 1986].

In compliance with Iowa Code section 17A.4(2), the agency finds that public notice and participation is unnecessary, impracticable and contrary to the public interest because these amendments simply correct the rules to conform to name and address changes resulting from 1986 Iowa Acts, Senate File 2175, effective July 1, 1986. Notice procedures would not be beneficial as the changes are nondiscretionary and delay could result in unnecessary confusion to the public.

The agency further finds pursuant to Iowa Code section 17A.5(2)"b"(2) that the normal effective date of the amendments thirty-five days after publication should be waived and the rules made effective immediately upon filing with the Administrative Rules Coordinator. The amendments confer a benefit on the public by eliminating unnecessary confusion regarding names and addresses of the agency. Senate File 2175 made these name changes effective on July 1, 1986, and these amendments simply conform the names in question on the rules to those already established by the Act.

These rules implement Iowa Code chapter 96 as amended by 1986 Iowa Acts, Senate File 2175.

The amendments are as follows:

**ITEM 1.** Strike "Iowa Department of Job Service" and insert "Division of Job Service of the Iowa Department of Employment Services" in rules 370—Chapters 1 to 7, 9, and 10.

**ITEM 2.** Strike "Director of Job Service" and insert "Commissioner of the Division of Job Service" and strike "director" and insert "commissioner" in rules 370—Chapters 1 to 7, 9, and 10.

**ITEM 3.** Strike "Appeal Board" and insert "Employment Appeal Board of the Iowa Department of Inspections and Appeals" in rules 370—Chapters 1 to 7, 9, and 10, except for rules 10.8 and 10.9.

## EMPLOYMENT SECURITY[370] (cont'd)

ITEM 4. Strike "department" and insert "division" in rule 370—Chapters 1 to 7, 9, and 10.

ITEM 5. Strike subrules 1.1(2) and 1.1(5) and renumber remaining subrules accordingly.

ITEM 6. Amend rule 370—6.4(96) by striking subrules 6.4(1) to 6.4(5) and insert in lieu thereof the following:

6.4(1) An appeal may be filed at any location of the division of job service of the department of employment services.

Further amend rule 370—6.4(96) by renumbering the remaining subrules accordingly.

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**ARC 6772****EMPLOYMENT SERVICES,  
DEPARTMENT OF[341]**

Pursuant to the authority of Iowa Code section 17A.3, the Director of the Department of Employment Services emergency adopts and implements rules outlining the organization of the Department of Employment Services.

In compliance with Iowa Code section 17A.4(2), the agency finds that public notice and participation are impracticable because the following rules implement 1986 Iowa Acts, Senate File 2175, effective July 1, 1986.

The agency further finds pursuant to Iowa Code section 17A.5(2)"b"(2) that the normal effective date of the rules thirty-five days after publication should be waived and the rules made effective immediately upon filing with the Administrative Rules Coordinator. The rules confer a benefit on the public because the rules will assist the public in understanding the organization of the Department of Employment Services.

The rules were adopted by Employment Services Director on July 1, 1986, and became effective immediately upon filing [July 1, 1986].

The rules are as follows:

CHAPTER 1  
ORGANIZATION

**341—1.1(71GA,SF2175) Organization—director.**

1.1(1) The Iowa department of employment services is established by 1986 Iowa Acts, Senate File 2175, section 901. The chief executive officer of the department is the director of employment services who shall be appointed by the governor with the approval of the senate and is responsible to the governor.

1.1(2) The department will include the division of job service, the division of labor services, and the division of industrial services.

1.1(3) The director is assisted by a deputy director who is appointed by the director of employment services.

**341—1.2(71GA,SF2175) Location.** Interested persons may contact the Iowa Department of Employment Services at 1000 East Grand Avenue, Des Moines, Iowa 50319, or by telephoning the department at 515/281-5387.

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**ARC 6811****ENERGY POLICY COUNCIL[380]**

Renamed Environmental Protection Commission under Department of Natural Resources

Pursuant to the authority of 1986 Iowa Acts, Senate File 2175, section 1804, and Iowa Code section 93.7 and chapter 17A, the Department of Natural Resources emergency adopts a new Chapter 18, entitled "The State Energy Conservation Program and Energy Extension Service," Iowa Administrative Code.

These rule additions are being made to existing rules of the Energy Policy Council which in due course will be transferred to the Department of Natural Resources part of the Iowa Administrative Code in accordance with the transition plan of the Code Editor.

Each year, the U. S. Department of Energy issues a grant for the above two programs to carry out energy conservation measures throughout the state. These programs are intended to motivate and promote energy conservation by all Iowa consumers. These grants are expected to become effective on July 1, 1986, and additional funding will become available from federal petroleum violation escrow refunds. It is urgent that a procedure be adopted to enable the Department to administer these funds.

This new Chapter 18 establishes the State Energy Conservation Program and Energy Extension Service, specifies the criteria for administration, and outlines procedures for selection and approval of program measures.

Under Iowa Code section 17A.4(2), the Department finds that notice and public participation would be contrary to the public interest because a delay in implementation of the rules might jeopardize Iowa's eligibility for certain federal funding.

Under Iowa Code section 17A.5(2)"b," the Department finds that these rules should become effective upon filing with the Administrative Rules Coordinator on July 14, 1986, because they ensure that Iowa is immediately eligible for federal funding.

This new Chapter 18 is being submitted simultaneously under Notice of Intended Action, **ARC 6812**.

These rules are intended to implement Iowa Code section 93.7, and as specified in 10 CFR 420 (1976).

These rules were adopted by the Director pursuant to 1986 Iowa Acts, Senate File 2175, section 1804, subsection 1, paragraph "i," on July 14, 1986, as necessary for the reorganization of the Department, and pursuant to Iowa Code section 93.7 as amended by 1986 Iowa Acts, Senate File 2175.

## ENERGY POLICY COUNCIL[380] (cont'd)

## CHAPTER 18

## THE STATE ENERGY CONSERVATION PROGRAM AND ENERGY EXTENSION SERVICE

**380—18.1(93) Scope of authority and purpose.** The state energy conservation program and energy extension service are established to promote energy conservation by all Iowa consumers. Funds for these programs are made available through annual grants from the U.S. Department of Energy and from other sources determined by the Iowa legislature. These funds are administered by the energy and geological resources division of the department of natural resources.

The state energy conservation program was enacted under Title III of the Energy Policy and Conservation Act, Public Law 94-163, amended by Title IV of the Energy Conservation and Production Act, Public Law 94-385. Regulations were promulgated in 10 CFR part 420 on February 20, 1976.

The EES was established on June 3, 1977, by Title V of Public Law 95-39.

These two programs were enacted to develop and implement a comprehensive program for the identification, development and demonstration of energy conservation and alternative energy opportunities to meet local needs and to utilize local resources.

The purpose of these programs is to comply with five federally required program measures, to demonstrate energy efficiency within state government, to develop and promote community energy management models, to provide energy information and education for Iowa consumers, to support the development and use of Iowa energy resources, and to evaluate procedures to improve marketing effectiveness and operation efficiency.

The department of natural resources will annually submit to the U.S. Department of Energy a combined state implementation plan and grant application. The combined plan will qualify the department to receive an annual federal grant for the next fiscal year (July 1 through June 30) and to implement the program measures described in the plan.

**380—18.2(93) Definitions.**

"Energy conservation" means efficient energy use or the utilization of renewable energy resources which results in a net reduction in the use of nonrenewable energy resources.

"Energy conservation measure" means an activity which is intended to reduce energy consumption or installation of a renewable energy resource as prescribed in subpart D of 10 CFR part 450.

"Grantee" means the state or other entity named in the notice of financial assistance award as the recipient.

"Plan" means a state implementation plan for the state energy conservation program and energy extension service including required program measures and otherwise meeting the applicable federal guidelines.

"Program measure" means one or more actions by the state of Iowa, designed to effect energy conservation, excluding actions in areas specifically covered by national energy conservation programs.

**380—18.3(93) General.** The department of natural resources will administer the state energy conservation program and energy extension service and will set forth the conditions and requirements that are applicable.

The goals and purposes of these programs are as follows: To improve the state economy by striving for

energy independence, to increase the efficient use of energy resources, to substitute nonrenewable energy with Iowa energy resources, to improve the standard of living through energy management, to co-ordinate energy conservation activities throughout the state, to minimize adversity resulting from energy shortfalls, to recommend legislation that will improve Iowa's energy conservation climate, to provide continuing information and education about energy conservation, to effectively market energy conservation opportunities, and to develop monitoring and evaluation procedures that will assure continued improvement in program effectiveness.

Several program measures will be used to accomplish these goals and purposes. Program measures may include training and education, the creation of new energy related jobs, demonstrations and pilot projects, a toll-free energy hotline, developing and distributing literature, financial and technical assistance, and other activities.

The selection of program measures will be based on the result of market analysis and assessment of needs by the director and may include a public hearing or other solicitations of input.

**380—18.4(93) State implementation plan.** Each year the department shall submit a combined SECP and EES plan and grant application to the U.S. Department of Energy. The plan will describe all program measures to be implemented during the coming fiscal year (July 1 through June 30) and will comply with federal guidelines. Upon approval by the U.S. Department of Energy, this plan becomes the document that authorizes federal funding and the implementation of the proposed program measures. A copy is available from the department upon request.

The department maintains its policies, schedules, structure, and budget in a manner that encourages public review, responsiveness to user concerns, energy conservation and fiscal solvency.

**380—18.5(93) Eligibility.** All residents of the state of Iowa are eligible to propose program measures and to receive the benefits and services provided by the state energy conservation program and energy extension service.

To be eligible to receive a financial grant for the development and implementation of a program measure, an applicant must submit a proposal that meets all of the requirements specified in a Request for Proposals. Contract awards are selected from qualified proposals using procedures and evaluation criteria specified in each RFP.

Project proposals will include:

A description and cost estimate of the proposed program measure(s);

An explanation of the benefits to be gained from the projects;

An explanation and justification of need for the programs;

A proposed schedule of when funds will be needed;

A proposed plan with an activity time schedule and sources of funds.

Criteria for selection. The energy and geological resources division shall review each proposal and shall select the projects to be recommended for approval by the department. Criteria may include, but will not be limited to, proposals which:

## ENERGY POLICY COUNCIL[380] (cont'd)

Foster co-ordination among Iowans;  
 Enhance economic development;  
 Increase investments to energy conservation;  
 Extend service/assistance to the disadvantaged or areas/sectors not served before;  
 Document estimated energy savings;  
 Provide for matching funds.

A program measure may be included in the plan if submitted to the department in writing, if it meets federal guidelines and regulations and the rules of this chapter, and if it is determined to be beneficial to Iowa.

Assistance shall be provided in the form of program measures that will have an immediate and substantial effect in reducing the rate of growth in Iowa energy demand.

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**ARC 6804****HEALTH DEPARTMENT[470]**

Pursuant to the authority of Iowa Code section 135.11(15), the Iowa Department of Public Health hereby rescinds Chapter 15, "Swimming Pools and Bathing Places," and replaces it with a new Chapter 15, "Swimming Pools," Iowa Administrative Code. These rules were adopted by the Department on July 9, 1986.

Notice of Intended Action was published on June 4, 1986, as **ARC 6590**. A public hearing was held June 24, 1986.

Pursuant to Iowa Code section 17A.5(2) emergency implementation is needed to be consistent with Department code authority and to provide sanitation requirements for all public swimming pools.

The changes made in the Noticed rule are:

(1) A sentence added to paragraph (2) of subrule 15.4(4)"a," saying "For swimming pools with surface area of 1500 ft<sup>2</sup> or less the residual test must be performed at least two times daily, once before use and at intervals of not more than four hours while a swimming pool is in use," and

(2) The removal of paragraph (3) in subrule 15.4(7)"b," which stated that the operator must have a rule requiring patrons not to have food/beverage within pool enclosure.

These rules are intended to implement Iowa Code section 135.11.

These rules became effective July 11, 1986.

Rescind in its entirety Chapter 15, "Swimming Pools and Bathing Places," and in lieu thereof replace with the following:

**CHAPTER 15  
 SWIMMING POOLS**

**470—15.1(135) Applicability.** Except as otherwise specifically provided, these rules apply to swimming pools, wading pools, water slides, and bathhouses connected to swimming pools. These rules do not apply to a "spa" or "residential swimming pool."

**470—15.2(135) Scope.** These rules stipulate procedures and requirements for the construction and operation of swimming pools relating to sanitation. Swimming pools which are in compliance with these rules are not relieved from the requirements of any other federal, state or local ordinances.

**470—15.3(135) Definitions.**

"Air break" is a piping arrangement in which a drain from a fixture, appliance or device discharges indirectly into a fixture, receptacle, or interceptor at a point below the flood-level rim of the receptacle.

"Air gap" means the unobstructed vertical distance through the free atmosphere between the lowest opening from a pipe and the flood-level rim of a receptacle or floor drain.

"Body feed" means the continuous addition of controlled amounts of filtering aid during the operation of a diatomite-type filter to maintain a permeable filter cake. If added as a slurry, this is often referred to as a "slurry feed."

"Department" means the Iowa department of public health.

"Engineering plans" means plans and specifications certified by an engineer registered under the requirements of Iowa Code chapter 114.

"Equalizer pipe" means a line from below a swimming pool surface to the body of a skimmer, designed to prevent air being drawn into the pump when the water level drops below the skimmer inlet. It operates automatically.

"Fill and drain wading pool" means a wading pool having no recirculation system.

"Filter" means a mechanical device for removing suspended particles from the swimming pool water and refers to the complete mechanism including all component parts.

"Hose bib" means a fresh water threaded outlet for the purpose of attaching a typical garden hose.

"Hydrostatic relief valve" means a relief valve designed to operate automatically when the swimming pool is empty relieving the groundwater pressure around the structure by allowing the groundwater into the swimming pool tank. The valve is located in the main drain box.

"Inlet" means the fitting or opening through which water enters the swimming pool.

"Main drain" means the outlet(s) at the deepest portion of the swimming pool.

"New installations" means a swimming pool and major components constructed or installed subsequent to the effective date of these rules including replacement of a swimming pool or its major components. The major components of a swimming pool are the filters, recirculation system, disinfection system, deck, plunge pool, and swimming pool slide.

"Outlet" means the fittings or openings including the main drain through which water leaves the swimming pool.

"Perimeter overflow gutter" means a trough around the perimeter of a swimming pool. It is used to skim the surface of the water.

"Plunge pool" means a separate pool specifically designed to serve as a landing area at the base of a swimming pool slide.

"Recirculation system" means the pump, piping, and appurtenances provided for conveying swimming pool water to, through, and from the filter.

## HEALTH DEPARTMENT[470] (cont'd)

"Residential swimming pool" means any swimming pool which is used, or intended to be used, as a swimming pool in connection with a single-family residence and available only to the family of the householder and its private guests.

"Skimmer" means a device connected to the pump suction used to skim the swimming pool over a self-adjusting weir.

"Spa" means a bathing facility such as a hot tub or whirlpool designed for recreational or therapeutic use and not designed to be drained, cleaned, and refilled after each individual use. A spa is designed to provide a means of agitation. It may include, but is not limited to, hydrojet circulation, hot water, cold water, and mineral baths, air induction systems, or any combination thereof.

"Swimming pool" means a basin of water contained within a structure, chamber, or tank constructed of man-made material and operated for the purpose of swimming, wading, or diving such as a swimming pool, wading pool, water slide facility, wave pools and associated facilities. The facility may be either publicly or privately owned. This includes, but is not limited to, any such facilities operated by municipalities, schools, hotels, motels, youth camps, apartments, condominiums, and health or country clubs.

"Wading pool" means a permanent artificial basin of water no more than twenty-four inches deep at any point which is primarily intended for use by young children for general recreation or training.

"Water slide facility" means a facility which may consist of one or more swimming pool slides, a plunge pool, a pump reservoir, and water treatment facilities.

**470—15.4(135) All Swimming Pools.**

**15.4(1) Water basins not intended for swimming.** An artificial basin such as a water fountain must not be made available for swimming or wading unless it meets the requirements of 470—chapter 15. The owner of such facilities must take action to assure appropriate use of the facilities.

**15.4(2) General facility design.**

a. Swimming pools with sand or earth bottoms are not permitted.

**b. Decks.**

(1) The deck area of a swimming pool must be maintained to be free of litter and obvious dirt.

(2) Food and drink must only be served and consumed in areas designated for that purpose by management.

c. The shape of any swimming pool must not impair the circulation of swimming pool water.

**15.4(3) Recirculation and filtration.**

a. Filtration. All swimming pools except for fill and drain wading pools must include a filtration system in good working condition which meets the requirements described in (1), (2), (3), or (4).

**(1) "Gravity" sand filters.**

1. The filtration rate must not exceed four gallons per minute per square foot of filter area (4 gpm/ft<sup>2</sup>).

2. The filter bed depth must not be less than twenty inches of sand media and not less than ten inches of underdrain filter gravel.

3. The sand media must have an effective particle size in the range of 0.35 to 0.45 millimeter and a uniformity coefficient of not greater than 1.6.

4. The underdrain filter gravel must be graded and placed to provide uniform flow distribution.

5. The backwash rate must not be less than fifteen gallons per minute per square foot of filter area (15 gpm/ft<sup>2</sup>).

**(2) Pressure sand filter.**

1. The filtration rate must not exceed fifteen gallons per minute per square foot of filter area (15 gpm/ft<sup>2</sup>).

2. The filter bed depth must not be less than eighteen inches.

3. The sand media must have an effective particle size of 0.45 to 0.55 millimeter and a uniformity coefficient of 1.5.

4. The backwash rate must not be less than fifteen gallons per minute per square foot of filter area (15 gpm/ft<sup>2</sup>).

(3) The filtration rate for pressure or vacuum diatomaceous earth filters must not be greater than 4.0 gallons per minute per square foot of effective filter area.

**(4) Cartridge filters.**

1. Cartridge filters must be changed or cleaned and disinfected when the pressure differential between the influent and effluent lines of the filter reaches 6 psi or the manufacturer's recommended pressure differential. If no means of measuring the above pressure differential is provided, the filters must be changed or cleaned and disinfected at least once per day.

2. The design filtration rate of cartridge-type filters serving any swimming pool must not exceed .375 gallon per minute per square foot of filter area. Systems must be equipped with drain valves and an easy method for removal of cartridges.

3. Cartridges must be constructed of a durable material having a nominal pore size of 20 to 40 microns.

b. The recirculation system of swimming pools, except for fill and drain wading pools, must meet the following requirements:

(1) Pumps, filters, disinfectant feeders, flow indicators, gauges, and all related components of the swimming pool water recirculation system must be kept in continuous operation twenty-four hours per day except for backwashing or servicing.

(2) The swimming pool piping must be designed to carry 100 percent of the recirculation rate.

(3) The recirculation system must have inlets adequate in design, number, location, and spacing to ensure effective distribution of treated water and maintenance of uniform disinfectant residual throughout the swimming pool.

(4) Swimming pools must have one or more main drains.

(5) Swimming pools must have a means for skimming the pool water surface. This means must include either perimeter overflow gutters or surface skimmers.

1. Skimmers must be so located as to provide effective skimming of the entire water surface with minimum interference and short-circuiting and have an easily removed basket or screen upflow from any valve.

2. Perimeter overflow gutter weir, if provided, must be level.

3. Gutter or skimmer drainage must be sufficient to minimize flooding and prevent backflow of skimmed water into the swimming pool.

4. Drop boxes, converters, return piping or flumes used to convey water from the gutter or skimmers must be designed to handle the recirculation rate.

**c. Wastewater.**

## HEALTH DEPARTMENT[470] (cont'd)

(1) Backwash water from all swimming pools must be discharged into the municipal sanitary sewer system or to another point of discharge as approved by the Iowa state department of water, air and waste management.

(2) All wastewater from a swimming pool must be discharged to a sewer through an air break.

d. Water supply.

(1) The water supplied to a swimming pool must be from a water supply meeting the requirements of the department of water, air and waste management.

(2) Cross-connection control.

1. Water supplied to a swimming pool must be discharged to the pool system through an air gap or a reduced pressure principle backflow device meeting the American Water Works Association standard, C-506, 1978, entitled Backflow Prevention Devices — Reduced Pressure Principle and Double Check Valve Types.

2. Vacuum breaker backflow preventers must be provided on all hose bibs serving a swimming pool.

e. Portions of a swimming pool five feet or less in depth are considered as shallow areas and those portions of the swimming pool over five feet in depth are considered as deep areas.

f. The capacity of swimming pools is limited to the following:

(1) One individual per fifteen square feet of water surface in shallow area.

(2) One individual per twenty square feet of water surface in deep areas.

g. In addition to the requirements of 470—chapter 15, fill and drain wading pools must be drained at least once every eight hours and left empty when the pool is not open for use.

15.4(4) Water quality.

a. Disinfection.

(1) A free chlorine or a bromine residual of at least 0.8 mg/l must be maintained in all swimming pools.

(2) A free residual test must be performed from samples collected and tested at least four times daily, once before use and at intervals not more than two hours while a swimming pool is in use. For swimming pools with surface areas of 1500 ft<sup>2</sup> or less the residual test must be performed at least two times daily, once before use and at intervals of not more than four hours while a swimming pool is in use.

(3) If cyanuric acid or chlorinated isocyanurate stabilizers are used, a free chlorine residual of at least 1.5 mg/l must be maintained throughout the swimming pool. The cyanuric acid level in all swimming pools must be sampled weekly and must be maintained at levels not greater than 100 mg/l.

(4) Under no circumstances may a swimming pool be used if the disinfectant level is not detectable.

b. The pH must be maintained at 7.2 to 7.8 and must be sampled and tested at least four times daily at intervals not to exceed two hours.

c. A minimum of one water sample must be collected at least once every month while a swimming pool is in use and submitted to a state certified laboratory for analysis to identify fecal coliform bacteria.

(1) If any sample is positive for fecal coliform bacteria, immediate action must be taken to evaluate the cause and to assure compliance with the Water Quality Standards.

1. Superchlorinate the swimming pool water to the level of 10 mg/l.

2. The action taken must include steps to correct any deficiencies relative to:

Chlorine residual

Water clarity

Filter backwashing or cleaning

Swimming pool cleanliness

Swimmer adherence to adequate showering.

3. Submit recheck samples collected at the time the swimming pool disinfectant level is at or below three milligrams per liter (mg/l).

4. If the recheck sample is positive for fecal coliform, the swimming pool must be closed and not reopened until appropriate corrective measures are taken which restore water quality to the acceptable level.

5. All findings and corrective actions must be recorded.

(2) Reserved.

d. The operator must have a functioning test kit capable of detecting the free disinfectant residual (diethyl-p-phenylenediamine method) and a combined chlorine residual in the range of 0.2 to 3 mg/l, pH, total alkalinity, and cyanurates if used. Test kits must be used in accordance with manufacturer's specifications.

e. A person knowledgeable in testing of the water and in operating the water treatment equipment must be available whenever a swimming pool is open for use.

15.4(5) Disinfection and cleaning.

a. Disinfectant system.

(1) A disinfectant system must be capable of delivering at least 3 mg/l of chlorine or bromine based on the recirculation flow rate.

(2) When gas chlorine is used, equipment for continuous feed of a chemical for pH adjustment of swimming pool water must be provided.

(3) Equipment and piping used to apply any chemicals to the water must be of size, design, and material that can be cleaned. All material used for equipment and piping must be resistant to action of chemicals to be used.

b. Cleaning and superchlorination.

(1) Cleaning.

1. If circumstances warrant, swimming pools may be required to be drained and scrubbed with a disinfecting agent prior to further usage.

2. A cleaning system must be provided to remove dirt from the bottom of swimming pools.

(2) Superchlorination.

1. The swimming pool water must be superchlorinated when the difference between the free available chlorine residual and the total chlorine residual exceeds 0.2 mg/l.

2. Isocyanurates must not be added during superchlorination.

15.4(6) Showers, dressing rooms, and sanitary facilities.

Bathers using a swimming pool must have access to showers, dressing rooms, and sanitary facilities.

15.4(7) Management, notifications, and records.

a. Swimming pool management must post and enforce rules and supervise the behavior of pool users and operation of the swimming pool.

b. A legible conspicuously posted "Pool Rules — Caution" sign describing health and sanitation rules must be placed at a minimum of two locations within the swimming pool enclosure.

## HEALTH DEPARTMENT[470] (cont'd)

The sign must include statements which address the following:

(1) Swimmers must take a thorough shower with soap before swimming and after using the toilet facilities.

(2) Use of the swimming pool is prohibited for anyone having a contagious disease.

c. The operator of a swimming pool must maintain operational records for the previous twelve months and make these records available to the department upon request. These records must contain a day-by-day account of swimming pool operation — particularly the following information:

(1) Results of pH, disinfectant residual, cyanuric acid level (if used), total alkalinity, and temperature measurements.

(2) Results of microbiological analyses.

(3) Reports of illness, skin problems or complaints.

(4) A description of new installations or corrections in operation or design.

(5) Backwashing, cleaning or changing of filters.

d. A permanent manual for operation of a swimming pool with schematic drawing of the piping must be provided. It must include operating and maintenance instructions for each type of filter, pump, and for other pieces of equipment used.

#### 15.4(8) Enforcement.

a. Local boards of health have the jurisdiction for the inspection and enforcement of these rules pursuant to Iowa Code chapter 137. Nothing in this subrule prohibits the adoption by local boards of health of regulations which may provide for the collection of fees.

b. The department's responsibility for inspection and enforcement of these rules is limited to the following functions:

(1) Receiving engineers' plans and specifications.

(2) Provision of inspection and recommendations to the local boards of health pursuant to Iowa Code section 135.11(6) or in response to a request from the local board of health.

(3) Enforcing the rules directly when a local board of health fails or is unable to carry out its own health and safety enforcement program and has affirmed this in writing.

c. The department will take the following steps when its participation in direct enforcement is necessary pursuant to subrule 15.4(8), paragraph "b."

(1) Send a letter of notification to the noncompliant facility as soon as possible after the violations are noted which includes the following information:

1. Cites each section of the Iowa Code or these rules violated.

2. Specifies the manner in which the owner or operator failed to comply.

3. Specifies the steps required for correcting the violation.

4. Requires that within thirty days of receipt of the notification letter a corrective action plan be submitted in writing to the department. The corrective action plan must include a time schedule for the completion of all corrective action.

(2) Review the corrective action plan and approve it or require modifications. Approval or comments must be returned in writing to the facility within fifteen working days of the receipt of the corrective action plan.

(3) In cases where the owner of a swimming pool fails to comply with the conditions of the notice letter, send

a regulatory letter advising appropriate persons, that unless action is taken within five days, the case shall be turned over to the county attorney for court action.

(4) In cases where voluntary action by the swimming pool owner is not forthcoming and court action is the only available avenue, action shall be taken in accordance with Iowa Code chapter 135 or 137.

#### 15.4(9) Variances.

a. Variances to these rules may only be granted by the department. Sufficient information must be provided to substantiate the need and propriety for the action.

b. Requests for variances are to be in writing and filed with the local health department prior to being forwarded to the department.

c. The granting or denial of a variance will take into consideration, but not be limited to, the following criteria:

(1) Substantially equal protection of health must be afforded by a means other than that prescribed in the particular rule, or

(2) The degree of violation of the rule is sufficiently small so as not to pose a significant risk to any individual, and the remedies necessary to alleviate this minor violation would incur substantial and unreasonable expense on the part of the person seeking a variance.

d. All variances will be issued in writing by the department including the reasoning for denial or granting of the requested variance.

e. Copies of all decisions must be filed with the department.

15.4(10) Penalties. Any owner of a swimming pool violating any provision of these rules that applies to the owner of a swimming pool shall be guilty of a simple misdemeanor pursuant to the authority of Iowa Code section 135.38 or 137.21.

470—15.5(135) New installations. In addition to the requirements for all swimming pools contained in rule 470—15.4(135), new installations must meet the following requirements:

#### 15.5(1) General facility design.

a. Engineering plans.

(1) Engineering plans and specifications must be submitted to the department thirty days prior to construction of a new swimming pool or the construction of any major component of an existing swimming pool.

(2) Plans and specifications submitted must contain sufficient information to demonstrate to the department that the proposed swimming pool will meet the requirements of 470—chapter 15.

b. Swimming pools must be constructed of materials which are inert, stable, nontoxic, watertight, and durable.

c. Decks. The following are requirements for decks in addition to subrule 15.4(2):

(1) Decks must be at least four feet wide.

(2) For outdoor swimming pools, a means must be provided to prevent surface runoff from entering the swimming pool.

(3) A swimming pool deck must not drain to the swimming pool, sanitary sewer system, or the swimming pool gutter or recirculation system.

(4) Deck drains, when provided, must be spaced and arranged so that not more than 400 square feet of area is tributary to each drain.

(5) Carpeting is prohibited within the swimming pool enclosures.

## HEALTH DEPARTMENT[470] (cont'd)

(6) Hose bibs must be provided for flushing of the deck areas.

d. Structural loading.

(1) All swimming pools must be designed and constructed to withstand all anticipated structural loading for both full and empty conditions.

(2) Except for aboveground swimming pools, a hydrostatic relief valve or a suitable underdrain system must be provided.

(3) The bottom of the swimming pool must slope toward the main drain(s).

e. The designing engineer is responsible for certifying that plans for a proposed facility meet the design requirements of these rules.

15.5(2) Recirculation and filtration.

a. The following requirements are in addition to subrule 15.4(3):

(1) Each swimming pool must be provided with a complete filtration and recirculation system separate from those of other swimming pools.

(2) All filters shall meet the standards prescribed in the National Sanitation Foundation's Standard No. 50, Circulation System Components for Swimming Pools, Spas, and Hot Tubs, 1984.

(3) Gravity sand filters.

1. The filtration rate must not exceed three gallons per minute per square foot of filter area (3 gpm/ft<sup>2</sup>).

2. The sand media must have an effective particle size in the range of 0.45 to 0.55 millimeters and a uniformity coefficient of not greater than 1.6.

(4) Diatomaceous earth filter rate must not be greater than one and one-half gallons per minute per square foot (1.5 gpm/ft<sup>2</sup>) of effective filter area except that a maximum filtration rate of two gallons per minute per square foot (2 gpm/ft<sup>2</sup>) may be allowed where continuous "body feed" is provided.

(5) An air-relief valve must be provided for all pressure filters.

(6) Influent and effluent pressure gauges or other means of measuring loss of head through filters must be provided for all types of filters.

b. Strainers.

(1) The recirculation system—except for swimming pools with vacuum filtration—must include a strainer.

(2) All water must pass through a strainer before entering the pump.

(3) The openings of the strainer must not be greater than 1/8 inch in each dimension.

(4) Strainers must have a total area of all holes of at least ten times the area of the connecting pipe.

c. The following requirements are in addition to subrule 15.4(3), paragraph "b":

(1) Swimming pool recirculation piping must be sized so that water velocities do not exceed three feet per second for gravity flow, six feet per second for suction flow, and ten feet per second for pressure flow.

(2) The piping for the skimmers and overflow perimeter gutter system must be designed to handle 125 percent of the recirculation flow rate required in subrule 15.5(2), paragraph "e."

(3) All equipment and piping must be designed and installed to drain completely.

(4) All piping must be supported continuously or at sufficiently close intervals to prevent sagging.

(5) All piping must be sloped in one direction.

(6) Provision must be made for expansion and contraction of pipes.

(7) The recirculation pump(s) must be self-priming and have the capacity to meet the design requirement of the swimming pool including filter backwashing.

(8) Wall inlets must be spaced not over twenty feet apart with one inlet within five feet of each corner of the swimming pool.

(9) There must be at least one inlet in each stairway leading into a swimming pool.

(10) All inlets must be located below the design water surface.

(11) Swimming pools over sixty feet in width must have floor inlets provided.

1. Floor inlets must be uniformly spaced and not over twenty feet apart.

2. A row of floor inlets must be within fifteen feet of each wall of the swimming pool.

(12) Directional flow inlets must be used with skimmer-type swimming pools.

(13) Skimmers.

1. When skimmers are provided, the swimming pool must have at least one skimmer for each 500 square feet of surface area or fraction thereof.

2. Each skimmer must be designed for a flow-through rate of at least 30 gallons per minute and 3.75 gallons per minute per lineal inch of weir. The combined capacity of all skimmers in a swimming pool must not be less than the total recirculation rate stipulated in subrule 15.5(2), paragraph "e."

3. Skimmers must have weirs that adjust automatically to variations in water level up to at least four inches.

4. Skimmers must be equipped with a device to control flow through the skimmer.

5. If connected directly to the recirculation pump suction pipe, skimmers must have an equalizer pipe.

(14) Perimeter overflow gutters.

1. A perimeter overflow gutter system is required for swimming pools greater than thirty feet in width.

2. Piping connections must be provided to permit water to flow from the overflow gutter to waste as well as to the recirculation system.

3. The gutter system must be designed for removal of water from the swimming pool's upper surface at a rate of at least 125 percent of the recirculation rate required in subrule 15.5(2), paragraph "e."

4. The overflow weir must extend completely around the swimming pool.

5. Gutter overflow systems must be designed with an effective surge capacity within the gutter system or surge tank of not less than one-half gallon for each square foot of swimming pool surface area.

d. Main drain system.

(1) Main drain piping must be valved to deliver water to the recirculation system or to waste.

(2) The spacing of the drains must not be greater than twenty feet nor less than ten feet on centers.

(3) There must be a control valve to adjust the flow between the main drain and the skimmer or gutter system.

(4) The main drain and main drain piping must be designed to handle 100 percent of the recirculation flow required in subrule 15.5(2), paragraph "e."

e. The recirculation system must be capable of processing one pool volume of water in six hours or less for swimming pools, two hours or less for wading pools, and one hour or less for plunge pools.

HEALTH DEPARTMENT[470] (cont'd)

ARC 6803

HEALTH DEPARTMENT[470]

15.5(3) Disinfection.

a. A continuous feed disinfectant system must be provided.

b. Where hypochlorinators are used, the following requirements must apply:

(1) Feed must be continuous under all conditions of pressure in the recirculation system.

(2) Means must be provided to interrupt chemical feeding during periods of malfunction of the recirculation system.

(3) One solution tank with a minimum capacity of a one and one-half day supply must be provided.

15.5(4) Showers, dressing rooms, and sanitary facilities.

a. A bathhouse with dressing, shower, and sanitary facilities must be provided for all municipal and school swimming pools.

b. The ventilation system must be designed for a minimum of four air changes per hour.

c. All plumbing must conform to state plumbing code, 470—chapter 25, Iowa Administrative Code.

(1) Bathhouse facilities must be provided based on maximum patron load according to the following fixture schedule:

Patron Load	Fixtures Required Male				Fixtures Required Female		
	Showers	Toilets	Urinals	Lavatories	Showers	Toilets	Lavatories
1 - 100	1	1	1	1	1	2	1
101 - 200	2	1	2	1	2	3	1
201 - 300	3	1	3	1	3	4	1
301 - 400	4	2	4	2	4	5	1
401 - 500	5	3	5	3	5	6	1
501 - 1000	5	3	4	2	5	6	1

(2) Showers.

1. Showers must be supplied with water at a temperature of at least 90° Fahrenheit and at a rate of at least 1.5 gallons per minute per shower head.

2. Soap must be available to swimmers in the shower area and at the lavatories whenever the facility is open.

(3) Hose bibs equipped with a vacuum breaker backflow preventer must be provided within the bathhouse to enable the entire area to be flushed with a fifty-foot hose.

d. Bathhouse floors must:

- (1) Be constructed of a smooth, impervious material.
- (2) Not be carpeted.
- (3) Be sloped at least 1/4 inch per foot to a drain.

15.5(5) Water slide facilities. Water slide facilities must meet all requirements of 470—chapter 15 except as modified below:

Recirculation system:

The recirculation system must be designed for a turnover of the plunge pool volume in one hour or less.

The pump reservoir must have sufficient volume to contain two minutes of combined flow from water treatment and pumps.

The pump reservoir must have a main drain.

If skimmers are used, there must be at least one skimmer per 100 square feet of plunge pool and pump reservoir area. At least two skimmers must be used.

15.5(6) New installation of fill and drain wading pools is prohibited.

These rules are intended to implement Iowa Code section 135.11.

[Filed emergency after Notice 7/11/86, effective 7/11/86]

[Published 7/30/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/30/86.

Pursuant to the authority of Iowa Code section 135.11(7), the Iowa State Department of Public Health hereby amends Chapter 25, "Plumbing Code," Iowa Administrative Code.

These rules were adopted by the Department on July 9, 1986.

Notice of Intended Action was published on April 23, 1986, as ARC 6487. A public hearing was held May 13, 1986. There are no changes from the Notice of Intended Action.

Pursuant to Iowa Code section 17A.5(2) emergency implementation is required to update the state plumbing code to comply with the national code. These amendments became effective July 11, 1986, upon filing with the Administrative Rules Coordinator.

These rules are intended to implement Iowa Code chapter 135.

ITEM 1. Amend the introductory paragraph of rule 470—25.1(135) to read as follows:

**470—25.1(135) Minimum requirements.** The provisions of this code shall be construed to establish minimum requirements of chapters 1 to 13 and Appendix D of the Uniform Plumbing Code, 1982 1985 Edition as published by the International Association of Plumbing and Mechanical Officials, 5032 Alhambra Avenue, Los Angeles, California 90032, and are hereby adopted by reference with amendments as the state plumbing code as authorized by Iowa Code section 135.11(7).

ITEM 2. Rescind rule 470—25.2(135) "f" and insert in lieu thereof the following:

f. Notwithstanding the reference to bituminized fiber drain and sewer pipe in this code, the use of the bituminized fiber material is not permitted.

ITEM 3. Amend rule 470—25.2(135) "g" to read as follows:

g. Subsection 401(a). Delete ~~exception 2 subparagraph 2~~ and rewrite as follows:

**Exception 2.** ABS and PVC pipes and fittings shall be marked to show conformance with the standards in the code. ABS and PVC installations are limited to construction not exceeding the following conditions:

ITEM 4. Amend rule 470—25.2(135) "l" to read as follows:

1. Section 503(a). Delete ~~exception 2 subparagraph 2~~ and rewrite as follows:

2. ABS and PVC pipes and fittings shall be marked to show conformance with the standards in the code. ABS and PVC installations are limited to construction not exceeding the following conditions:

ITEM 5. Amend rule 470—25.2(135) "r" to read as follows:

r. Revise subsection 909(e)(2) as follows:  
Add the following sentence to the end of the first paragraph:

Shower subpans or linings constructed of asphalt impregnated roofing felt shall not be permitted.

Delete the entire third paragraph to the asterisked footnote of this subsection.

ITEM 6. Amend first paragraph of rule 470—25.2(135) "t" (a) to read as follows:

## HEALTH DEPARTMENT[470] (cont'd)

(a) Water pipe and fittings shall be of brass, copper, cast iron, galvanized malleable iron, galvanized wrought iron, galvanized steel, ~~lead~~, approved plastic, or other approved materials. *Lead pipe, lead solders and flux containing more than 0.2 percent lead shall not be used.* All materials used in the water supply system, except valves and similar devices shall be of a like material except where otherwise approved by the administrative authority.

ITEM 7. Amend rule 470—25.2(135) "w" to read as follows:

w. Section 1106. Grade, support and protection of building sewers.

Delete the following ~~phrase clause~~ at the ~~end~~ *beginning* of the *exception* to subsection (a): when approved by administrative authority, ~~and~~ *add* the following sentence to the end of the *exception* to subsection (a): Slopes of less than  $\frac{1}{8}$  of an inch per foot in pipes or piping four inches or more in diameter may be approved by the administrative authority.

ITEM 8. Amend last sentence of rule 470—25.2(135) "aa" to read as follows:

The Iowa Administrative Code (IAC) 470, chapters ~~12, 15, 45, and 71, and (IAC) 900, chapters 49 and 69,~~ are the criteria to follow for private sewage, swimming pools, water well systems, and mobile home parks.

[Filed emergency after Notice 7/11/86, effective 7/11/86]  
[Published 7/30/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/30/86.

**ARC 6755****INSURANCE,  
DEPARTMENT OF[510]**

Pursuant to the authority of Iowa Code section 505.8, the Iowa Department of Insurance emergency adopts and implements rules to make nonsubstantive name and nomenclature changes. These rules were adopted by the Acting Commissioner of Insurance on June 30, 1986, and became effective on July 1, 1986.

In compliance with Iowa Code section 17A.4(2), the agency, the Iowa Department of Insurance, finds that public notice and participation is unnecessary, impracticable and contrary to the public interest because these amendments simply correct the rules to conform to name and nomenclature changes resulting from 1986 Iowa Acts, Senate File 2175, effective July 1, 1986. Notice procedures would not be beneficial as the changes are nondiscretionary and delay could result in unnecessary confusion to the public.

The agency further finds pursuant to Iowa Code section 17A.5(2)"b"(2) that the normal effective date of the amendments thirty-five days after publication should be waived and the rules made effective immediately upon filing with the Administrative Rules Coordinator. The amendments confer a benefit on the public by eliminating unnecessary confusion regarding names and nomencla-

tures of the agency. Senate File 2175 made these name changes effective on July 1, 1986, and these amendments simply conform the name and nomenclature in question on the rules to those already established by the Act.

These rules implement Iowa Code section 505.1 as amended by the 1986 Iowa Acts, Senate File 2175, section 745.

ITEM 1. Strike "Insurance Department" and insert "Insurance Division" wherever it appears in 510—Chapters 1 to 57.

ITEM 2. Strike the word "division" wherever it appears in rule 510—1.1(502,505) and insert the word "bureau" in its place.

These rules are intended to implement Iowa Code section 505.1 as amended by 1986 Iowa Acts, Senate File 2175, section 745.

[Filed emergency 7/1/86, effective 7/1/86]

[Published 7/30/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/30/86.

**ARC 6769****LAW ENFORCEMENT  
ACADEMY[550]**

Pursuant to the authority of Iowa Code section 80B.11, the Iowa Law Enforcement Academy adds new definitions to 550—1.1(80B) and hereby rescinds 550—2.2(80B) concerning psychological testing and replaces it with a new rule 550—2.2(80B).

In accordance with 17A.4(2), the Academy has determined that immediate public participation is unnecessary and contrary to the public interest. Delay of these rules beyond July 1, 1986, would be contrary to the legislative intent of 1986 Iowa Acts, House File 2484, section 411, which mandates that effective July 1, 1986, the Iowa Law Enforcement Academy shall provide psychological testing to applicants at half cost to nonstate candidates for a law enforcement position and at no cost to state candidates for a law enforcement position. Noticed rules, **ARC 6770**, will also accompany these emergency rules to allow for public participation and scrutiny of these rules at a later date.

In accordance with Iowa Code section 17A.5(2)"b"(1) and (2), these rule changes became effective July 1, 1986. These rule changes will benefit the public by lowering or eliminating psychological testing costs to applicants for a law enforcement position. These rule changes also implement 1986 Iowa Acts, House File 2484, section 411, which requires the Iowa Law Enforcement Academy to assist applicants with test costs beginning July 1, 1986.

These changes became effective July 1, 1986.

ITEM 1. The following new definitions shall be added to rule 1.1(80B). These definitions shall be consolidated with the existing definitions and shall be arranged in alphabetical sequence without assigned numbers.

"Final selection process" means the person to be hired for a law enforcement position.

## LAW ENFORCEMENT ACADEMY[550] (cont'd)

"Nonstate agency" means all other agencies that are not state agencies.

"State agency" means any department or division of state government which derives its primary funding from the state treasury.

ITEM 2. Rule 550—2.2(80B) is rescinded and the following inserted in lieu thereof:

**550—2.2(80B) Mandatory psychological testing and administrative procedures.** In no case hereafter shall any person be selected or appointed as a law enforcement officer unless that person has performed satisfactorily in pre-employment cognitive or personality tests, or both, prescribed by the Iowa law enforcement academy.

**2.2(1) Required cognitive test.**

a. Applicants for a deputy sheriff position shall take the Entry Level Department Selection Procedure tests which were supplied to all county civil service commissions in October of 1980. A minimum satisfactory score to be eligible for employment shall be eighty.

b. Other than deputy sheriff positions, applicants for law enforcement positions, in the final selection process after June 18, 1986, shall successfully complete the Science Research Associates Verbal Form (SRA) cognitive test designated by the Iowa law enforcement academy. The Science Research Associates Verbal Form cognitive test, taken by applicants in the final selection process after June 30, 1986, must have that test administered by the Iowa law enforcement academy or its designee and scored by the Iowa law enforcement academy. Minimum satisfactory score on the Science Research Associates Verbal Form cognitive test (SRA) is a raw score of thirty-seven.

**2.2(2) Required personality test.**

a. The Minnesota Multiphasic Personality Inventory (MMPI) test shall be taken by all applicants in the final selection process for a law enforcement position.

b. The prescribed personality test for an applicant in the final selection process shall be administered by the Iowa law enforcement academy or its designee. The prescribed personality test for an applicant in the final selection process shall be evaluated by the Iowa law enforcement academy. These tests shall be evaluated and test results and evaluations shall be forwarded to a law enforcement agency for selection purposes only by the Iowa law enforcement academy upon proper waiver by the applicant.

**2.2(3) Test administration.**

a. The Iowa law enforcement academy will acquire the mandated personality tests, administer, process and evaluate test results and provide designated law enforcement agencies with test results and evaluations of those test results upon proper waiver by the applicant.

b. The Iowa law enforcement academy shall have pre-scheduled testing dates each fiscal year. Nonscheduled testing dates may also be provided.

**2.2(4) Cognitive test.**

a. At the discretion of the employing agency, prescribed cognitive tests may be administered by qualified individuals who receive prior approval to administer those tests by the Iowa law enforcement academy.

b. The Science Research Associates Verbal Form cognitive test (SRA) may be administered to applicants not in the final selection process.

c. All testing materials shall be forwarded to the Iowa law enforcement academy within seven days of the testing date.

**2.2(5) Personality tests.**

a. At the discretion of the employing agency, the Minnesota Multiphasic Personality Inventory test may be administered by a qualified individual designated by the Iowa law enforcement academy. However, test results of applicants, in the final selection process, shall be evaluated by the Iowa law enforcement academy.

b. The Minnesota Multiphasic Personality Inventory (MMPI) test may be administered to applicants who are not in the final selection process.

c. All testing materials shall be forwarded to the Iowa law enforcement academy within seven days of the testing date.

**2.2(6) Cost of tests.**

a. SRA cognitive test cost.

(1) Nonstate agencies—SRA cognitive test cost. The Iowa law enforcement academy will pay one half of all costs of SRA tests purchased through the Iowa law enforcement academy, except for the cost of test administration provided by other than the Iowa law enforcement academy.

(2) State agencies—SRA cognitive test cost. The Iowa law enforcement academy, or its designee, will administer all SRA cognitive tests to applicants for a state law enforcement position at no cost to the state agency or applicant except for the cost of test administration provided by other than the Iowa law enforcement academy.

b. Minnesota Multiphasic Personality Inventory (MMPI) test.

(1) State agencies. The Iowa law enforcement academy or its designee shall administer, without cost to the applicant or state agency, up to two Minnesota Multiphasic Personality Inventory tests per vacancy to be filled by the employing state agency except for the cost of test administration provided by other than the Iowa law enforcement academy.

(2) Nonstate agencies with vacancies. For nonstate agencies who have law enforcement position vacancies to be filled, the Iowa law enforcement academy will reimburse the applicant or employing agency for one half of the Minnesota Multiphasic Personality Inventory costs for up to two Minnesota Multiphasic Personality Inventory tests that are scored and evaluated by the Iowa law enforcement academy for each law enforcement vacancy.

c. Nonstate agencies, no vacancy. Nonstate agencies who have no vacancy for a law enforcement position but choose to administer Minnesota Multiphasic Personality Inventory tests purchased through the Iowa law enforcement academy will be reimbursed by the Iowa law enforcement academy for one-half of the cost of the Minnesota Multiphasic Personality Inventory test to either the applicant or employing agency for every vacancy that is filled.

The Minnesota Multiphasic Personality Inventory tests may be purchased from the Iowa law enforcement academy and administered to a group of applicants larger than the group who will ultimately reach the final selection process. The full cost per applicant will be borne by the applicant in the larger group and will be limited to the cost per test from the supplier plus handling costs. The larger group test scores will not be evaluated by the Iowa law enforcement academy unless requested.

**2.2(7) Availability of test scores.**

a. Forwarding of cognitive test results. Individual cognitive test scores of cognitive tests purchased through the Iowa law enforcement academy shall be provided by

## LAW ENFORCEMENT ACADEMY[550] (cont'd)

the Iowa law enforcement academy to prospective employing agencies upon request and proper waiver by the applicant for a minimal handling fee.

b. Forwarding of Minnesota Multiphasic Personality Inventory MMPI test results. The evaluation by the Iowa Law Enforcement Academy of Minnesota Multiphasic Personality Inventory tests will be available to any prospective employing agency upon request and proper waiver by the applicant for a minimal handling fee.

c. Transfer of scores—state applicants. Test scores of applicants for state positions shall not be transferred or forwarded to nonstate agencies without payment of test costs to the Iowa law enforcement academy.

d. Certified law enforcement officers. Law enforcement officers certified through training by the Iowa law enforcement academy are not required to take a cognitive test but may be required to do so at the discretion of the employing agency.

e. Commingling of cognitive test scores forbidden. The Deputy Sheriff's Entry Level Department Selection Procedure test results may not be used for law enforcement positions which under these rules require the taking of the SRA cognitive test. Likewise, SRA cognitive test results may not be used for positions which require the taking of the Deputy Sheriff's Entry Level Department Selection test.

2.2(8) Tests are valid for specific period.

a. The Iowa law enforcement academy evaluations of the Minnesota Multiphasic Personality Inventory may only be used for twelve months to comply with these mandated testing rules. Any applicants who have not been hired within twelve months of their taking the Minnesota Multiphasic Personality Inventory test must retake the examination before being hired.

b. If such a test is required under these rules, the applicants must successfully pass the required cognitive test within twenty-four months. Should the applicant not be hired within this time frame the applicant must successfully complete the mandated cognitive test before being hired.

c. At its discretion the employing agency may elect to require an applicant to retake any Iowa law enforcement academy required psychological test as well as any other tests that it may deem necessary in its selection process.

2.2(9) Construction. Nothing in these rules should be construed to preclude a Civil Service Commission or employing agency from requiring an applicant for a law enforcement position to take tests other than those mandated by these rules so long as the applicant in the final selection process has complied with these rules.

[Filed emergency 7/1/86, effective 7/1/86]

[Published 7/30/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/30/86.

## ARC 6792

MANAGEMENT,  
DEPARTMENT OF[541]

Formerly Comptroller, State[270]

Pursuant to the authority of Iowa Code section 17A.3, the State Comptroller's Office emergency adopts and implements rules to correct nonsubstantive name of

agency from Comptroller to Department of Management wherever it appears in the Iowa Administrative Code 270—Chapters 1 to 6.

Strike "Comptroller" and insert "Department of Management" wherever it appears in 270—Chapters 1 to 6.

In compliance with Iowa Code section 17A.4(2), the agency finds that public notice and participation is unnecessary, impracticable and contrary to the public interest because these amendments simply correct the rules to conform to name and address changes resulting from 1986 Iowa Acts, Senate File 2175, effective July 1, 1986. Notice procedures would not be beneficial as the changes are nondiscretionary and delay could result in unnecessary confusion to the public.

The agency further finds pursuant to Iowa Code section 17A.5(2)"b"(2) that the normal effective date of the amendments thirty-five days after publication should be waived and the rules made effective immediately upon filing with the Administrative Rules Coordinator. [July 11, 1986] The amendments confer a benefit on the public by eliminating unnecessary confusion regarding names and addresses of the agency. Senate File 2175 made these name changes effective July 1, 1986, and these amendments simply conform the names in question on the rules to those already established by the Act.

[Filed emergency 7/10/86, effective 7/10/86]

[Published 7/30/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/30/86.

## ARC 6773

## PERSONNEL DEPARTMENT[581]

Merit Employment Department prior to July 1, 1986

Pursuant to the authority of Iowa Code section 19A.9, the Iowa Department of Personnel hereby emergency adopts and implements amendments to Chapter 1 "Definitions," Chapter 2 "State Service and Its Divisions," Chapter 4 "Pay Plan," Chapter 5 "Recruitment, Application and Examination," Chapter 6 "Eligible Lists," Chapter 7 "Certification and Selection," Chapter 10 "Promotion, Transfer, Temporary Assignment and Voluntary Demotion," Chapter 11 "Separation, Disciplinary Action and Reduction in Force" and Chapter 12 "Grievances, Appeals and Hearings" appearing in Iowa Administrative Code.

These rules are being promulgated to implement changes brought about by the 1986 Iowa Acts, Senate File 2175.

These rules are being filed as emergency in order to implement necessary changes on July 1, 1986, both to employees who are covered by merit system provisions and those who are not, as well as to clarify the provisions that apply to both without regard to coverage.

Definitions related to changes in merit system coverage are included. Chapter 2 changes relate to state personnel system coverage and the exclusions therefrom; and the return rights of employees who are excluded due to reor-

## PERSONNEL DEPARTMENT[581] (cont'd)

ganization. Subrule 3.1(1) provides for a classification plan for all positions in the executive branch. Chapter 4 provides for changes to the pay of state employees. Changes in Chapters 5, 6 and 7 differentiate between those positions to be filled by employees who are required to take examinations and be certified from eligible lists and those that are not. Chapter 11 provides for rights to a reduction in force for employees covered by the state personnel system. Other changes to rules more clearly define the rights of employees regarding disciplinary and voluntary demotion, and transfer.

In compliance with Iowa Code section 17A.4(2), the Department finds that public notice and participation would be unnecessary since these changes are mandated with the law.

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 rules be made effective upon filing with the Administrative Rules Coordinator on July 1, 1986, to coincide with the effective date of the Act.

These rules are intended to implement Iowa Code section 19A.9 as amended by the 1986 Iowa Acts, Senate File 2175.

The following amendments are adopted. [These rules will be renumbered and transferred to the Personnel Department at a later date.]

**ITEM 1. Rule 570—1.1(19A)**, definitions of "confidential employee," "permanent employee" and "probationary employee" are rescinded and the following adopted in lieu thereof:

"Confidential employee" means for purposes of merit system coverage the personal secretary of: an elected official, a person appointed to fill a vacancy in an elective office, the chair of a full-time board or commission, or the director of a state agency. "Confidential employee" means for purposes of collective bargaining any employee who works in an agency who has access to information subject to use in collective bargaining negotiations or who works in a close continuing relationship with representatives associated with negotiating or administering collective bargaining agreements on behalf of the state.

"Merit system" means those positions or employees in the state personnel system determined by the director to be covered by the provisions of Iowa Code chapter 19A as it pertains to qualifications, examinations, competitive appointments, probation and just cause discipline and discharge hearings.

"Permanent employee" means an employee who has completed at least six months of continuous nontemporary employment. When used in conjunction with coverage by merit system provisions, it refers only to employees who have completed the period of probationary status provided for in 1986 Iowa Acts, Senate File 2175, section 204, unnumbered paragraph 3, and subsection 19A.9(8), and therefore specifically excludes employees referred to in 1986 Iowa Acts, Senate File 2175, section 205.

"Probationary employee" means an employee who has completed less than six months of continuous nontemporary employment. When used in conjunction with coverage by merit system provisions, it refers only to employees who have not completed the period of probationary status provided for in 1986 Iowa Acts, Senate File 2175, section 204, unnumbered paragraph 3, and subsection 19A.9(8), and therefore specifically excludes employees referred to in 1986 Iowa Acts, Senate File 2175, section 205.

**ITEM 2. 570—Chapter 2** is rescinded in its entirety and the following adopted in lieu thereof:

## CHAPTER 2

## COVERAGE AND EXCLUSIONS

**570—2.1(19A) State personnel system.** The state personnel system shall include all positions in the executive branch of state government, except those under the board of regents.

**570—2.2(19A) Merit system.** The merit system shall include those positions in the state personnel system which have been determined by the director to be covered by the provisions of Iowa Code chapter 19A as it pertains to qualifications, examinations, competitive appointments, probation and just cause discipline and discharge hearings. Whenever the director determines that a position should be covered by or not covered by merit system provisions, the director shall notify the appointing authority in writing of the decision and the effective date.

**2.2(1) Exclusion of deputy directors and division administrators.** The appointing authority of each agency shall submit to the director for approval the position number and title of the deputy director and each division administrator who are not covered by merit system provisions under 1986 Iowa Acts, Senate File 2175, section 205, subsection 15. Whenever there is a change in the number or duties of these positions, the appointing authority shall again submit to the director for approval the position number and title of each.

**2.2(2) Exclusion of confidential employees.** Those positions and employees not covered by merit system provisions as confidential under 1986 Iowa Acts, Senate File 2175, section 205, subsection 16, shall be the personal secretary of any of the following: an elected official; the person appointed to fill a vacancy in an elective office; the chair of a full-time board or commission; or the director of a state agency.

**2.2(3) Return rights.** Employees in positions that were covered by merit system provisions prior to July 1, 1986, but who were excluded from merit system coverage thereafter due to the reorganization provided for in the 1986 Iowa Acts, Senate File 2175, shall have return rights to a position covered by merit system provisions in their agency until July 1, 1987. The employee shall be entitled to a position in the class occupied prior to reorganization or to any class in the same pay grade. If the agency does not have a vacant position in the same class or in a class in the same pay grade, reduction in force rules as provided for in chapter 11 shall apply, except that the organizational unit shall be agencywide and bumping rights shall proceed sequentially as follows:

- a. Same class or a class in the same pay grade for which the employee qualifies;
- b. Formerly held classes or a lower class in the same series;
- c. Any class in a lower pay grade for which the employee qualifies.

In each sequential category the employee will indicate the class, but the appointing authority will designate the position in the agency.

**570—2.3(19A) Confidential collective bargaining exclusion.** An appointing authority may request the director to exclude a position in a class covered by a collective bargaining agreement from coverage by that agreement

PERSONNEL DEPARTMENT[581] (*cont'd*)

based upon the definition of a confidential employee in these rules. The request shall be submitted to the director in writing and include the reasons why the position should be excluded. The director shall notify the appointing authority of the decision.

Although a position in a class covered by a collective bargaining agreement has been excluded by the director under this rule, the employee in the position shall nevertheless be subject to the provisions of the collective bargaining agreement for purposes of pay, fringe benefits and reduction in force unless otherwise provided for in these rules. For all other purposes, the employee shall be subject to these rules governing noncontract employees.

**570—2.4(19A) Service contracts.** Individuals rendering services to the state under an authorized contract shall not be considered employees of the state and are not subject to other provisions of these rules. Prior to signing a service contract, the appointing authority shall submit a request for approval to the director on forms prescribed by the director.

ITEM 3. Subrules 3.1(1) and 3.1(2) are rescinded and the following adopted in lieu thereof:

**3.1(1)** The director shall administer the classification plan so that all positions which are substantially similar with respect to kind, difficulty and responsibility of work may be included in the same class.

**3.1(2)** When new classes are added to the plan they shall be approved by the commission before becoming effective.

ITEM 4. Subrule 4.4(1) is rescinded and the following adopted in lieu thereof:

**4.4(1)** Employees shall be paid either at one of the established steps or at a rate of pay between the minimum and maximum salary for the class as provided for elsewhere in these rules. Unless otherwise provided in the Code, the following employees may be paid any amount that is within the range designated for the employee's class or position at the discretion of the appointing authority: the staff of the governor; full-time board or commission members whose appointments are provided by law; persons who by law are appointed by the governor; deputy directors and division administrators. Pay adjustments for other noncontract employees will be determined by the appointing authority within parameters set by the director or as provided elsewhere in these rules. All employees shall otherwise be subject to the provisions of this chapter or applicable collective bargaining agreements.

ITEM 5. Rule 570—5.1(19A) is rescinded and the following adopted in lieu thereof:

**570—5.1(19A) Examinations.** The director may conduct examinations as necessary for the purpose of establishing and maintaining eligible lists to fill vacancies. Unless otherwise indicated, all references to examinations in this chapter shall apply only to positions covered by merit system provisions. Possession of a valid license, certificate, registration or work permit required by the Code or administrative rules promulgated thereunder, in order to practice a trade or profession and issued by appropriate authorities shall qualify as evidence of an applicant's basic skills. Where these basic skills constitute the primary requirement for job performance, the names of all applicants meeting the minimum qualifications shall be placed on the eligible list in accordance with

their availability, and not subject to further examination by the director.

ITEM 6. Rule 570—6.1(19A) is amended to read as follows:

**570—6.1(19A) Establishment of eligible lists.** The director shall establish and maintain *various* eligible lists ~~as necessary to provide a supply sufficient number of persons qualified candidates for to fill vacant positions.~~ Eligible lists shall be by job class. Eligible lists shall be continuous until abolished, but eligibility of an applicant shall not be less than one nor more than three years as determined by the director. The following *are* types of eligible lists ~~shall be used~~:

**6.1(1)** Recall lists. These lists shall consist of the names of permanent employees who ~~have been were~~ separated by layoff; or who ~~have~~ moved to another class ~~or had their work hours reduced in lieu of layoff; or who have had their work hours reduced.~~ Recall shall be in accordance with 11.3(6).

**6.1(2)** Promotional lists. These lists shall consist of the names of permanent employees who have applied for ~~the a job class position covered by merit system provisions~~ and have met the minimum qualifications ~~for the class.~~ The length of time for eligibility for appointment from a promotional ~~eligible~~ list need not be the same as that for open competitive ~~eligible~~ lists.

**6.1(3)** Open competitive lists. These lists shall consist of the names of persons who have applied for ~~the job class positions covered by merit system provisions,~~ met the minimum qualifications and undergone the designated examinations ~~for the class.~~

ITEM 7. Rule 570—7.2(19A) is amended to read as follows:

**570—7.2(19A) Certificate requests.** An appointing authority shall submit a request for a certificate when filling a vacancy in a position covered by the merit system provisions, except that a certificate shall be requested to fill any position when there are employees eligible for recall to the class or as otherwise provided in these rules.

ITEM 8. Rule 570—10.2(19A) is rescinded and the following adopted in lieu thereof:

**570—10.2(19A) Transfer.** An appointing authority may transfer an employee. The employee must meet the current minimum qualifications for the class if the position to which transferred is covered by merit system provisions. Transfers may be intra-agency or interagency, and may be voluntary or involuntary. However, an agency may not transfer an employee from a position covered by merit system provisions to a position not covered by merit system provisions without the written consent of the employee regarding the change in coverage. A copy of the consent shall be forwarded by the appointing authority to the director. Transfer of an employee with probationary status to a position covered by merit system provisions shall be in accordance with rule 9.5(19A).

Rule 570—10.4(19A) is rescinded and the following adopted in lieu thereof:

**570—10.4(19A) Voluntary demotion.** An appointing authority may grant an employee's written request for a demotion to a lower class. However, no demotion shall be made from one position covered by merit system provisions to another, or from a position not covered by merit

## PERSONNEL DEPARTMENT[581] (cont'd)

system provisions to one that is, until the employee is approved by the director as being eligible for appointment.

An agency may not voluntarily demote an employee from a position covered by merit system provisions into a position not covered by merit system provisions without the written consent of the employee. A copy of the consent shall be forwarded by the appointing authority to the director. Voluntary demotion may be either intraagency or interagency, and shall not be subject to appeal under these rules. A copy of the voluntary demotion request shall be sent by the appointing authority to the director.

Voluntary demotion of an employee with probationary status to a position covered by merit system provisions shall be in accordance with rule 9.3(19A).

ITEM 9. Subrule 11.2(3) is rescinded and the following adopted in lieu thereof:

**11.2(3)** Disciplinary demotion. An appointing authority may disciplinarily demote an employee to a vacant position. In the absence of a vacant position, the appointing authority may effect the same disciplinary result by removing duties and responsibilities from the employee's position sufficient to cause it to be reclassified to a lower class. However, no disciplinary demotion shall be made from one position covered by merit system provisions to another, or from a position not covered by merit system provisions to one that is, until the employee is approved by the director as being eligible for appointment. A written statement of the reasons for the disciplinary demotion shall be sent to the employee within twenty-four hours after the effective date of the action, and a copy shall be sent to the director by the appointing authority at the same time. Disciplinary demotion of an employee with probationary status to a position covered by merit system provisions shall be in accordance with subrule 9.2(2). Furthermore, an agency may not disciplinarily demote an employee from a position covered by merit system provisions to a position not covered by merit system provisions without the written consent of the employee regarding the change in coverage. A copy of the consent shall be forwarded by the appointing authority to the director.

Paragraphs 11.3(2)"b," "c," "d," and "e" are rescinded and the following adopted in lieu thereof:

**11.3(2)** The agency's reduction in force shall conform to the following provisions:

b. The reduction in force unit may be by agency organizational unit or agencywide as approved by the director.

c. An agency shall not implement a reduction in force until it has first terminated all employees in the same class in the reduction in force unit who are in temporary positions or who have probationary status.

d. The appointing authority shall develop a plan for the reduction in force and shall submit that plan to the director for approval in advance of the effective date requested. The plan shall include the reasons for and the date of the reduction in force; the reduction in force unit(s) and the reasons for choosing a unit(s) if other than agencywide; the number of positions or employees to be eliminated or reduced in hours by class; the cutoff date for the crediting of retention points; and other information that may be requested by the director. If determined by the appointing authority to be applicable, the plan shall also include information on any exemptions for affirmative action purposes, as well as exemptions for positions that require special skills and abilities.

e. The appointing authority shall post the reduction in force plan, including the total retention points of each employee in the affected classes in the reduction in force unit, in conspicuous places throughout the agency and shall notify each affected employee in writing of the reduction in force, the reason(s) for it, and the employee's rights under these rules, and shall furnish each employee with a copy of the employee's total retention point computation worksheet. These official notifications shall be made at least ten working days prior to the effective date of the reduction in force unless budgetary limitations require a lesser period of time. These official notifications shall occur only after the agency's reduction in force plan has been approved by the director.

Paragraph 11.3(3)"a" is amended as follows:

a. Credit for length of service shall be given at the rate of one point for each month of ~~probationary employment~~ (including employment credited toward the probationary period) ~~or permanent classified employment~~. More than fifteen calendar days shall be considered one month. When computing length of service points, the appointing authority shall include all continuous state service from the original date of hire to the cutoff date, less the following periods:

(1) Emergency, internship, intermittent, trainee, ~~summer seasonal~~ or other temporary types of appointments if not credited toward the probationary period;

(2) Suspensions without pay;

(3) Documented leaves of absence without pay in excess of thirty calendar days except for military leave, workers' compensation leave and employer-directed educational leave without pay;

(4) ~~Exempt~~, sStatutory, or nonstate service unless Acts of the general assembly require otherwise;

(5) Layoffs in excess of thirty calendar days; and

(6) Long-term disability periods in excess of thirty calendar days.

A former employee who was laid off, or who applied for or received long-term disability payments, and subsequently returned to state employment after two years from the date of separation, shall not be eligible for prior service credit. A former employee who was laid off and who subsequently lost the employee's recall rights ~~through~~ due to declination, or who was re-employed but subsequently terminated; is not eligible for prior service credit if later re-employed other than by recall during the same two-year period.

Length of service credit for all periods of part-time service in excess of thirty calendar days shall be calculated on a pro rata basis.

Subrule 11.3(5) is rescinded and the following adopted in lieu thereof:

**11.3(5)** Class change in lieu of layoff. Employees who are affected by a reduction in force may, in lieu of layoff, elect to exercise bumping rights.

a. Except as otherwise provided in paragraph "b" of this subrule, employees who choose to exercise bumping rights must do so to a position in the reduction in force unit. Movement may be to a lower class in the same series, or to a formerly held class in which the employee had nontemporary status while continuously employed in the state service.

b. Bumping rights for employees in positions that were subject to merit system provisions prior to July 1, 1986, but whose positions were excluded from merit system coverage due to the reorganization provided for in

## PERSONNEL DEPARTMENT[581] (cont'd)

the 1986 Iowa Acts, Senate File 2175, shall be in accordance with subrule 2.2(3).

c. If bumping as set forth in paragraph "a" or "b" would require an employee to move from a merit system covered position to a position not covered by merit system provisions, the employee may decline movement to that position and may exercise other bumping rights. In all other instances, the employee shall indicate the class, but the appointing authority will designate the specific position assignment. Movement to another class in lieu of layoff shall be based on retention points regardless of full-time or part-time status and shall not occur if the result would be to cause the removal or reduction of an employee with more total retention points. If bumping occurs, the employee with the least total retention points in the class shall be subject to reduction in force. Movement to another class in lieu of layoff from a class covered by a collective bargaining agreement to a class not covered by a collective bargaining agreement, or vice versa, shall only occur if the move can be accomplished in accordance with the reduction in force order (retention points or seniority date) governing the class into which the employee moves.

If the employee moves to another class in lieu of layoff, the employee shall retain the current rate of pay or be adjusted to the nearest step that is no less than that which was being paid prior to that action if the pay plan is different. However, no pay adjustment shall be made if the class is covered by a professional/managerial pay plan. If the employee's rate of pay after any necessary adjustment is lower than the entrance rate of pay for the class, the employee's rate of pay shall be increased to the entrance rate and a new pay increase eligibility date established. If the employee's current rate of pay is higher than the highest rate of pay currently paid for the class to which the employee moves, the rate of pay shall be set in accordance with paragraph 4.5(17)"c."

Paragraph 11.3(6)"b" is rescinded and the following adopted in lieu thereof:

b. One failure to accept appointment to a position with the same status (full-time or part-time) and type of position (merit covered or not-merit covered) as that held prior to the reduction in force shall negate any further rights of recall. One failure to accept a nontemporary appointment to a position with a different status or position type than that held prior to the reduction in force shall negate any further rights of recall to positions with the status or position type declined, but recall rights to positions with the same status or position type as that held prior to the reduction in force shall not be affected.

When it is necessary to fill a vacant position with a person who possesses specific education, experience or other special qualifications to perform the duties of the position, and the agency requests a selective certification, persons on the recall list for that class shall be considered if they possess those special qualifications. Persons who decline, except as otherwise provided in this paragraph, shall be removed from the recall list. Those persons who do not possess the special qualifications shall not be considered, and shall remain on the recall list.

The declination of a recall offer shall be documented in writing by the appointing authority with a copy sent to the director within five working days after the declination.

ITEM 10. Subrule 12.1(1) is rescinded and the following adopted in lieu thereof:

## 12.1(1) Grievance procedure.

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

b. Step 2. If the grievant is not satisfied with the decision obtained at the first step, the grievant may, within seven calendar days after the day the written decision at the first step is received, file the grievance in writing with the appointing authority or the appointing authority's designee. The appointing authority or designee may affirm, modify or reverse the decision made at the first step. The appointing authority or designee shall, within seven calendar days after the day the grievance is received, give a decision in writing to the grievant.

c. Step 3. If the grievant is not satisfied with the decision obtained at the second step, the grievant may, within thirty calendar days after the day the written decision at the second step is received, file the grievance in writing with the director. The director may affirm, modify or reverse the decision made at the second step. The director or designee shall, within fourteen calendar days after the day the grievance is received, send a decision in writing to the grievant with a copy to the appointing authority.

d. If the grievant is not satisfied with the decision obtained at the third step and the grievance alleges a violation of these rules or Iowa Code chapter 19A, the grievant may file an appeal with the public employment relations board in accordance with rule 12.2(19A).

Paragraph 12.2(1)"b" is amended to read as follows:

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

Subrules 12.2(7) and 12.2(8) are rescinded and the following adopted in lieu thereof:

12.2(7) Appeal of grievance decisions. An employee may, within thirty calendar days after the day the grievance was filed at the third step of the grievance procedure, file an appeal with the public employment relations board.

12.2(8) Appeal of disciplinary actions. An employee who is suspended, reduced in pay within the same pay grade, disciplinarily demoted, or discharged, except during the employee's period of probationary status, may appeal in writing directly to the appointing authority for a review of the action within seven calendar days after the effective date of the action. The appointing authority may affirm, modify or reverse the action. The appointing authority shall give its written decision to the employee within fourteen calendar days after the receipt of the

PERSONNEL DEPARTMENT[581] (*cont'd*)

appeal. If not satisfied with the decision of the appointing authority, employees in positions covered by merit system provisions may then appeal to the public employment relations board within thirty calendar days after the effective date of the suspension, disciplinary demotion, reduction of pay within the same pay grade or discharge.

[Filed emergency 7/1/86, effective 7/1/86]

[Published 7/30/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/30/86.

## ARC 6774

PROFESSIONAL TEACHING  
PRACTICES COMMISSION[640]

Pursuant to the authority of Iowa Code section 272A.5, the Iowa Professional Teaching Practices Commission emergency adopts and implements rules to correct nonsubstantive names of agencies and change of address. These rules were adopted by the Iowa Professional Teaching Practices Commission on July 2, 1986, and became effective immediately upon filing.

In compliance with Iowa Code section 17A.4(2), the agency finds that public notice and participation is unnecessary, impracticable and contrary to the public interest because these amendments simply correct the rules to conform to name and address changes resulting from 1986 Iowa Acts, Senate File 2175, effective July 1, 1986. Notice procedures would not be beneficial as the changes are nondiscretionary and delay could result in unnecessary confusion to the public.

The agency further finds pursuant to Iowa Code section 17A.5(2)"b"(2) that the normal effective date of the amendments thirty-five days after publication should be waived and the rules made effective immediately upon filing with the Administrative Rules Coordinator. The amendments confer a benefit on the public by eliminating unnecessary confusion regarding names and addresses of the agency. Senate File 2175 made these name changes effective on July 2, 1986, and these amendments simply conform the names in question on the rules to those already established by the Act.

These rules implement Iowa Code section 272A.5.

Strike "state department of public instruction" and insert "state department of education" wherever it appears in 640—subrule 1.2(2).

[Filed emergency 7/2/86, effective 7/2/86]

[Published 7/30/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/30/86.

## ARC 6788

SOIL CONSERVATION,  
DIVISION OF[780]

Pursuant to the authority of Iowa Code section 467A.4(1), the State Soil Conservation Committee adopted a rule on July 9, 1986, to amend Chapter 5, "Iowa Financial Incentive Program for Soil Erosion Control," Iowa Administrative Code. The Committee is seeking emergency implementation for this adopted rule.

Notice of Intended Action was published on June 4, 1986, as ARC 6597.

This rule implements new appropriations to the Iowa Financial Incentive Program for Soil Erosion Control for the 1986-87 fiscal year. Provision is made in Chapter 5 to apply existing program rules to funds provided in 1986 Iowa Acts, House File 2484, section 504, subsection 2, paragraph "b"; subsection 3; and subsection 4. All references to fiscal year 1982-83 are deleted.

No changes were made prior to adoption from the rule as the State Soil Conservation Committee adopted this rule July 10, 1986, and is requesting emergency implementation pursuant to Iowa Code section 17A.5(2)"b"(2). Emergency implementation is beneficial to the public in that additional moneys made available by the General Assembly may be utilized this fall and summer and distributed to program participants in a timely fashion.

This rule implements authorities extended in Iowa Code chapter 467A and 1986 Iowa Acts, House File 2484, section 504, subsection 2, paragraph "b"; subsection 3; and subsection 4.

This rule became effective July 10, 1986, upon filing with the Administrative Rules Coordinator.

The following rule is adopted.

Rule 780—5.41(467A) is amended as follows:

**780—5.41(467A) Appropriations.** The department of *agriculture and land stewardship, division of soil conservation*, has received appropriations for conservation cost-sharing since 1973 and appropriations to fund certain incentive programs for soil erosion control since 1979. ~~The Sixty-ninth General Assembly provided \$5,634,000 for fiscal 1983. The Seventieth General Assembly provided \$8,494,000 for fiscal 1984 and \$8,644,000 for fiscal 1985. The Seventy-first General Assembly provided \$8,888,736 for fiscal 1986 and \$6,546,519 for fiscal 1987.~~

The amount available for distribution for fiscal ~~1983, 1984, 1985, and 1986, and 1987~~ is qualified by subrule 5.41(6). Fiscal 1984 funds available for distribution are also qualified by subrule 5.41(7). Fiscal 1986 ~~and fiscal 1987~~ funds available for distribution are further qualified by subrule 5.41(8). ~~Fiscal 1987 funds available for distribution are further qualified by subrule 5.41(10).~~

The department has four years to encumber or obligate these funds before they revert to the state's general fund. This rule addresses the distribution of these appropriations among the incentive programs for soil erosion control established by the department in accordance with the authority of Iowa Code chapter 467A. The rule is also consistent with the restrictions imposed by language of the appropriations bills.

Except for the programs authorized in subrules 5.41(2), 5.41(3), 5.41(4), ~~5.41(5)~~, 5.41(8), and 5.41(9), these funds shall not be used alone or in combination with

## SOIL CONSERVATION, DIVISION OF [780] (cont'd)

other public funds to provide a financial incentive payment greater than fifty percent of the approved cost for permanent soil conservation practices.

**5.41(1)** Voluntary program. Ninety percent of the appropriation is to be used for cost-sharing to provide state funding of not more than fifty percent of the approved cost of permanent soil and water conservation practices or for incentive payment to encourage no-till planting instituted under Iowa Code chapter 467A for fiscal 1983, 1984, 1985, and 1986. (No-till incentive payment may not exceed ten percent of a district's original and supplemental allocation.)

*For fiscal 1987, not more than thirty percent of a district's original and supplemental allocation may be used for the establishment of management practices to control soil erosion on land that is now row-cropped.*

**5.41(2)** Publicly owned lakes. Five percent of the amount appropriated is to be set aside for cost-sharing not to exceed seventy-five percent of the approved cost of permanent soil conservation practices on watersheds above publicly owned lakes.

**5.41(3)** Mandatory program. Five percent of the appropriation is to be set aside for cost-sharing with landowners or farm operators who are required to install soil erosion control practices as a result of an administrative order from the district to abate complaints filed under Iowa Code section 467A.47 or 467D.23.

**5.41(4)** Special watershed projects. Iowa Code section 467A.7 permits cost-sharing up to sixty percent of the cost of a project including five or more contiguous farm units which have at least five hundred or more acres of farmland and which constitute at least seventy-five percent of the agricultural land lying within a watershed or subwatershed, where the owners jointly agree to a watershed conservation plan in conjunction with their respective farm unit soil conservation plan. ~~(No distribution can be made to this program until it is funded by appropriations from the General Assembly.)~~

**5.41(5)** Summer construction incentives (SCI). Unspent funds distributed to the voluntary program in any fiscal year may be used for SCI *cost-share up to sixty percent* if there are not adequate requests for permanent practices to obligate the balance. ~~(No distribution can be made to this program until it is funded by appropriation from the General Assembly.)~~

**5.41(6)** Southeastern Iowa tillage research program. ~~\$69,400 from the fiscal 1983 funds, \$69,500 from the fiscal 1984 funds, \$69,500 from the fiscal 1985 funds, and \$63,500 from the fiscal 1986 funds, and \$30,000 from the fiscal 1987 funds,~~ are to be provided to Iowa State University and the Southeast Iowa Community College for continuation of the southeastern Iowa tillage research program.

**5.41(7)** Pilot district, Iowa Soil 2000 program. \$360,000 from the fiscal 1984 financial incentive program is made available on an equal basis to the Cass, Page, East Pottawattamie, Dubuque, Jones, and Winneshiek soil conservation districts for implementation of farm unit soil conservation plans developed pursuant to Iowa Soil 2000 pilot program efforts. Funds not spent within twenty-four months from the date of availability will be reallocated to the voluntary program.

**5.41(8)** Nonpoint source pollution control practices. \$70,000 from fiscal 1986 *and \$70,000 from fiscal 1987* funds are to be used for implementing nonpoint source pollution control practices in the Big Spring basin located in Clayton County.

**5.41(9)** Funds appropriated for the fiscal 1986 *and fiscal 1987* programs and provided to districts may be used in combination with ~~state conservation commission department of natural resources~~ funds in accordance with the following:

a. Proposals to allow an overall cost-share rate of greater than ~~50%~~ *fifty percent* to the landowner must be submitted by districts and approved on a project-by-project basis by the state soil conservation committee.

b. The maximum cost-share rate realized by the landowner shall not exceed ~~75%~~ *seventy-five percent* when state cost-share funds appropriated to the department and districts are utilized in combination with such ~~state conservation commission department of natural resources~~ funds.

c. Funds utilized by districts in conjunction with such special projects shall come from the districts' regular allocation for the 1986 *and 1987* fiscal program years.

d. Only those permanent practices listed in subrule 5.82(2) shall be eligible for financial incentive payments.

1. Any practices to be installed on public land must meet the requirements of subrule 5.73(3) and be installed and paid for by the adjoining private landowner.

2. Subrule 5.81(6) on upland treatment shall also apply.

e. In accordance with subrule 5.73(4), paragraph "a," no cost-sharing with other government agencies is allowed.

*5.41(10) Woodland fencing program. \$20,000 from the fiscal 1987 funds are set aside for the woodland fencing program established in rule 780—5.53(467A). (This program was funded for fiscal 1986 after the initial distribution provided for in these rules had been completed.)*

[Filed emergency after Notice 7/10/86, effective 7/10/86]  
[Published 7/30/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/30/86.

**ARC 6775****TRANSPORTATION,  
DEPARTMENT OF [820]****10 RAIL AND WATER**

Pursuant to the authority of Iowa Code section 307.12 and 307A.2, the Department of Transportation on July 1, 1986, emergency rescinded 820—[10,C] Chapter 1 entitled "General Requirements for Implementing the Rail Assistance Program" and adopted 820—[10,C] Chapter 1 entitled "Rail Assistance Program."

1986 Iowa Acts, House File 2066, clarified wording in Iowa Code chapter 327H concerning the rail assistance fund through the inclusion of construction projects. These rules provide criteria for funding economic development projects for rail facilities in addition to funding for rehabilitation projects. They delete the previous requirement that all projects be included in the Rail Plan and allow a quick response to development opportunities for new or existing industries. Economic development projects are available only to cities and counties and are analyzed on the basis of nonspeculative job creation or job retention rather than on the benefit/cost analysis used for rehabilitation projects. The rules describe the criteria

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

for project eligibility, project selection, funding participation and requirements for project reporting and monitoring.

Under Iowa Code subsection 17A.4(2), the department finds that notice and public participation through the normal rulemaking process are unnecessary and contrary to the public interest. They are unnecessary because the department has involved representatives of groups affected by the rules throughout the rule preparation process. The Rail Advisory Committee, composed of representatives of all railroads operating in Iowa, has considered the proposed program. All railroad shippers' associations known to the department have been notified by letter and only one negative comment was received. The program has also been discussed with the RISE Business and Development Advisory Group, and has been discussed at two previous public meetings of the Transportation Commission.

The normal rulemaking process is contrary to the public interest because it would delay the disbursement of funds for economic development, opportunities for economic development would be lost, and actual construction of projects would be impossible during this calendar year.

Under Iowa Code subparagraph 17A.5(2)"b"(2), the department finds that adoption of these rules will confer a benefit on the public by making these funds immediately available for promoting economic development in the state, and by allowing projects to be implemented during the 1986 construction season.

Accordingly, these rules shall become effective on July 3, 1986, upon filing with the administrative rules coordinator. The rules will not have an impact on small business as contemplated by Iowa Code sections 17A.31 and 17A.32.

## 10 RAIL AND WATER

Pursuant to the authority of Iowa Code sections 307.12 and 307A.2, 820—[10,C] Chapter 1 entitled "General Requirements for Implementing the Rail Assistance Program" is hereby rescinded and the following new chapter is adopted in lieu thereof:

## CHAPTER 1

## RAIL ASSISTANCE PROGRAM

**820—[10,C]1.1(327H) Definitions.** The following terms when used in this chapter of rules shall have the following meanings:

"Applicant." For economic development projects, a city or a county.

"Branchline." A rail line which carries less than five million gross tons per mile per year.

"Commission." The transportation commission.

"Department." The state department of transportation.

"Economic development projects." Any project involving the restoration, improvement, conservation, or construction of rail facilities which results in the non-speculative creation of new jobs and income or the retention of existing jobs and income which would otherwise be lost.

"Eligible costs." Eligible costs for rehabilitation projects include costs associated with the improvement, restoration, conservation or construction of rail facilities or branchlines but do not include any costs associated with the acquisition of rail facilities, right-of-way, design engineering, or construction inspection costs. Eligible costs for economic development projects may include the

purchase of right-of-way necessary for the project, design engineering costs and construction inspection costs for rail facilities. Expenses incurred by other sources necessary to the administration of their contract obligations shall not be eligible for reimbursement from funds administered by the department.

"Federal funds." Funds available for rail assistance in accordance with 49 USC 1654 (as amended 1983).

"Other sources." Cities, counties, shippers, railroads or any other financial participants in rail assistance program projects, excluding state and federal funds.

"Rail facilities." Fixed rail facilities including track, roadbed, and related structures; terminal and yard facilities; spurs, sidings, switches and connections with existing tracks used in rail freight transportation services.

"Rehabilitation projects." Any project involving restoration, improvement, conservation or construction of branchlines or rail facilities.

"State funds." Rail assistance funds established in Iowa Code chapter 327H for use in the construction and rehabilitation of rail facilities.

This rule is intended to implement Iowa Code section 327H.20 and 1986 Iowa Acts, House Files 2066 and 2380.

**820—[10,C]1.2(327H) Project eligibility.**

**1.2(1)** Eligible rehabilitation projects are identified in the Iowa Railroad Analysis Updates of the Iowa Rail Plan (1978), copies of which may be obtained from the department. Projects may also become eligible following a public hearing to amend the 1985 Iowa Railroad Analysis Update. Other sources may submit written requests to the department for the evaluation of proposed projects for future inclusion in the program. Projects using federal funds must meet the eligibility requirements of 49 CFR 266.7(1985).

**1.2(2)** Eligible economic development projects are projects which involve the creation or retention of jobs and income.

This rule is intended to implement Iowa Code section 327H.20 and 1986 Iowa Acts, House Files 2066 and 2380.

**820—[10,C]1.3(327H) Project selection.**

**1.3(1)** Rehabilitation projects. The department shall select rehabilitation projects from the list of eligible projects based on the availability of funding, a favorable benefit/cost ratio and agreed-upon financial participation by other sources.

**1.3(2)** Economic development projects.

a. The department shall review economic development project applications and may consult with other organizations with economic development responsibilities. This review shall be performed within ten working days after receipt of the application. Following this review, applications which meet the criteria for economic development projects shall be forwarded by the planning and research division to the commission for action at their next meeting.

b. The commission may fund all or any part of an application and may make a conditional funding commitment. In making its decision, the commission will consider the amount of total capital investment per dollar requested, the amount of dollars requested per job created or retained, the amount of financial participation in the project from other sources, other potential benefits of the project, and the transportation need and justification.

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c. The commission may deny funding for projects which will not result in net job creation or job retention from a statewide point of view; for instance, projects which simply involve the relocation of jobs or other economic activity within Iowa.

**1.3(3) Priorities.** First priority shall be given to previously funded rehabilitation projects requiring additional construction for completion and economic development projects. Second priority shall be given to new branchline rehabilitation projects. Third priority shall be given to rehabilitation projects on rail facilities.

This rule is intended to implement Iowa Code section 327H.20 and 1986 Iowa Acts, House Files 2066 and 2380.

**820—[10,C]1.4(327H) Administration of funds.** The department shall administer state and federal funds and determine the percentage of these funds to be used for each project. Costs eligible for reimbursement shall comply with appropriate federal and state guidelines. Any negotiated subcontracts to be billed as reimbursable project costs by other sources shall be approved by the department before the work is performed.

This rule is intended to implement Iowa Code section 327H.20 and 1986 Iowa Acts, House Files 2066 and 2380.

**820—[10,C]1.5(327H) Project participation requirements.** Rehabilitation projects shall require a minimum participation of one-half of eligible costs from other sources. Economic development projects shall require a minimum participation of twenty percent of eligible costs from other sources.

This rule is intended to implement Iowa Code section 327H.20 and 1986 Iowa Acts, House Files 2066 and 2380.

**820—[10,C]1.6(327H) Implementation.**

**1.6(1) Rehabilitation projects.** Contract obligations of the department shall be negotiated by the rail and water division of the department with final contract approval by the commission. If appropriate, the department shall submit the contracts to the federal railroad administration and apply for federal funds.

**1.6(2) Economic development projects.**

a. Contract obligations of the department shall be negotiated by the rail and water division of the

department. The contract shall delineate responsibilities for project planning, design, right-of-way, contracting, construction and materials inspection, documentation, ownership, maintenance and security of financing.

b. The commission may revoke funding commitments, seek repayment of funds loaned or granted, or take both actions when the applicant has not fulfilled the terms of the project contract.

c. Funds committed for projects are for a maximum dollar amount. Cost overruns shall be the responsibility of the applicant.

**1.6(3) Preaudit.** Prior to execution of the contract, the department may perform a preaudit evaluation of the applicant or any other source. The preaudit evaluation may include: An examination of accounting methods and procedures to determine the ability to segregate and accumulate costs to be charged against the project and to be charged for subsequent maintenance of the rail line; an examination of cost factors to assure their propriety and allowability; and an examination of any other general information available which might be pertinent or necessary in determining auditability.

**1.6(4) Project reporting.** The applicant or other sources shall submit to the rail and water division written notice when work begins on a project, monthly progress reports, itemized billing statements pursuant to the contract, written notice of project completion, and a final billing statement of all project costs.

**1.6(5) Project monitoring.** The rail and water division shall monitor the project work through periodic on-site inspections and shall conduct a final inspection of work completed and material used. The department may conduct a final audit of all project costs.

This rule is intended to implement Iowa Code section 327H.20 and 1986 Iowa Acts, House Files 2066 and 2380.

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[Published 7/30/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/30/86.

## ARC 6789

## AGING, COMMISSION ON THE[20]

Pursuant to the authority of Iowa Code section 17A.3, the Iowa Commission on the Aging hereby amends subrule 1.7(1), "Definitions" and rules 8.45(249B) to 8.50(249B) concerning the elderly nutrition services.

The Commission adopted the amendments at their regular meeting on June 24, 1986, after consideration of oral and written comments.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 7, 1986, as ARC 6531.

Nonsubstantive changes from the noticed amendments are as follows:

Rule 8.47, catchword corrected.

Subrule 8.49(3), paragraph "b," subparagraph (2), technical error corrected.

The 1986 Iowa Acts, Senate File 2175, created the Iowa Department of Elder Affairs, superseding the Iowa Commission on the Aging. Rules to effect this change will be filed at a later date.

These rules are intended to implement 1985 Iowa Code chapter 249B.

These rules will become effective September 3, 1986.

The following amendments are adopted.

ITEM 1. Subrule 1.7(1), is amended by rescinding paragraphs "al" and "ao" in their entirety.

ITEM 2. Subrule 1.7(1) is amended by inserting new and amending current definitions, and by relettering subsequent paragraphs. Paragraphs "z" and "ag" are no longer reserved. Amendments are as follows:

p. "Dietitian." See ~~registered licensed~~ dietitian.

u. "Functionally impaired" means persons who because of a social, physical or mental condition are unable to handle the tasks of daily living without assistance on either an intermittent or an ongoing basis.

y. "Handicapped." See functionally impaired.

aa. "Licensed dietitian" means an individual who maintains a license granted by the Iowa board of dietetic examiners.

af. "Minority" means persons who identify themselves according to the racial or ethnic categories of Asian, Black, Hispanic, American Indian, Pacific Islander, Alaskan native and includes persons who speak a language other than English as a first language.

al. "Poverty level" means a total family income or unrelated individual income of one hundred percent of the poverty guidelines issued by the U.S. Department of Labor and published annually in accordance with section 507(2) of the Older Americans Act.

aq. "Rural" means all areas outside of urbanized areas, either communities of fewer than 2,500 residents or farms.

bc. "Urbanized areas" means concentrations of at least 50,000 inhabitants consisting of a central city and surrounding, closely settled, contiguous territory.

ITEM 3. Subrule 8.45(3), paragraph "b," is amended to read as follows:

b. Provide other nutrition services including outreach activities that are co-ordinated with the area agency's general outreach programs to assure that the maximum number of eligible individuals, with emphasis on the frail, those with the greatest social and economic need and the isolated will have the opportunity to participate.

ITEM 4. Subrule 8.45(3), paragraph "c," is rescinded in its entirety.

ITEM 5. Subrule 8.46(2) is rescinded in its entirety.

ITEM 6. Subrule 8.46(3) is amended to read as follows:  
8.46(3) Preference. The area agency ~~must give preferences in shall consider~~ making awards for home delivered meals to the public, private, nonprofit and voluntary to organizations which demonstrated demonstrate an ability to provide home delivered meals nutrition services efficiently and reasonably as defined in rule 8.2(249B), and have furnished assurances to maintain efforts to solicit voluntary support and not to use funds received under the Act to supplant funds from nonfederal sources pursuant to rule 8.12(249B).

ITEM 7. Rule 8.47(249B) is amended to read as follows:  
20—8.47(249B) Registered Licensed dietitian or nutritionist. Each area agency must utilize the services of a registered licensed dietitian or nutritionist to provide technical assistance in areas of food service nutrition program management; and other nutrition services.

ITEM 8. Subrule 8.49(2) is rescinded in its entirety and the following inserted in lieu thereof:

8.49(2) Nutrition performance standards.

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

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

c. Area agencies shall assure that the areawide percentage of residents who have the following characteristics are proportionately represented in the characteristics of individuals served in the nutrition program:

(1) Individuals age sixty or older who are functionally impaired;

(2) Individuals who are age sixty or older who have incomes that are at or below the poverty level;

(3) Individuals who are age sixty or older and are a member of a minority racial group;

(4) Individuals who are age sixty or older, who are a member of a minority racial group and who have incomes at or below poverty level;

(5) Individuals who are age seventy-five or older; and

(6) Individuals who are age seventy-five or older who reside in rural areas.

ITEM 9. In subrule 8.49(3), paragraphs "a" and "b," are amended to read as follows:

a. When a grantee's performance falls below the planning and service area does not meet the nutrition performance standards, the commission will:

(1) Notify the grantee of the performance deficiency;

(2) Provide technical assistance in determining the reasons for the deficiency;

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

(4) Monitor the grantee's progress towards compliance;

(5) Consider the grantee ineligible for discretionary funds.

## AGING, COMMISSION ON THE[20] (cont'd)

b. When a grantee's performance falls below the planning and service area does not meet the nutrition performance standards, the commission may:

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

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

ITEM 10. Subrule 8.49(4) is rescinded in its entirety.

ITEM 11. Subrule 8.50(1) is amended by the addition of new paragraph "c" as follows:

c. Meals may be made available to handicapped or disabled individuals who have not attained sixty years of age but who reside in housing facilities occupied primarily by the elderly at which congregate nutrition services are provided.

ITEM 12. Subrule 8.50(2), paragraph "b," is amended to read as follows:

b. Provide for hot or other appropriate meals at least once a day, five or more days a week, including all holidays that occur on a regularly scheduled serving day, in co-ordination with other community providers.

ITEM 13. Subrule 8.50(2), paragraph "e," is amended to read as follows:

e. Have procedures developed to assist other community disaster preparedness services to handle provide meals to the general public affected by weather related and emergency situations at the congregate nutrition sites.

ITEM 14. Subrule 8.50(2) is further amended by the relettering of the current paragraph "h," "Noncompliance," as letter "m" and by the insertion of new paragraphs "h" through "l" to read as follows:

h. Provide activities of interest to elders on each day the congregate meal site is open including a monthly nutrition education program under the supervision of a licensed dietitian if the nutrition education provides medically oriented information.

i. Forbid food service personnel, both paid and volunteer, to work in food service if infected with communicable disease.

j. Assure that food service personnel, both paid and volunteer, will practice hygienic food handling techniques.

k. Assure that food service personnel; both paid and volunteer, will be provided with job descriptions and standards of performance and will be evaluated annually.

l. Provide for ongoing training on safety, hygienic food handling and sanitation for both volunteer and paid food service personnel.

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## ARC 6790

## AGING, COMMISSION ON THE[20]

Pursuant to the authority of Iowa Code section 17A.3, the Iowa Commission on the Aging hereby adopts amendments to Chapter 8, "Service Requirements," Iowa Administrative Code, by adding rule 8.71(249B) "Retired Iowans community employment program (RICEP)."

The amendment provides program guidelines and criteria for the RICEP service created by Iowa Code section 601H.5.

The Commission adopted the amendment at their regular meeting on June 24, 1986, after consideration of oral and written comments.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 7, 1986, as ARC 6532.

Changes to the Noticed amendment are as follows:

Subrule 8.71(1) — "Iowa Code section 601H.5" changed to "1986 Iowa Acts, Senate File 2175, section 1020."

Paragraph 8.71(3)"q" — "commission on the aging" changed to "department of elder affairs."

Paragraph 8.71(3)"r" — expanded definition.

Paragraph 8.71(4)"a" — rewritten to correct technical error and clarify program criteria.

Subrule 8.71(5) — rewritten for simplification.

Paragraph 8.71(6)"b" — "commission on the aging" changed to "department of elder affairs."

Paragraph 8.71(7)"b" — language correction.

The 1986 Iowa Acts, Senate File 2175, created the Iowa Department of Elder Affairs, superseding the Iowa Commission on the Aging. Rules to effect this change will be filed at a later date.

This rule is intended to implement 1986 Iowa Acts, Senate File 2175, section 1020.

This rule is effective September 3, 1986.

The following amendment is adopted:

**20—8.71(71GA,SF2175) Retired Iowans community employment program (RICEP).**

**8.71(1) Scope and purpose.** These rules are intended to implement 1986 Iowa Acts, Senate File 2175, section 1020. The purpose of the retired Iowans community employment program (RICEP) is to assist older Iowans in preparing for and finding suitable employment.

**8.71(2) Description.** The executive director shall allot RICEP funds annually, to the extent that funds are available, according to established procedures to area agencies on aging or other program operators throughout the state to employ older worker specialists. The older worker specialists shall provide individualized job search assistance, conduct job development and perform advocacy functions for Iowa's eligible individuals.

**8.71(3) Definitions.** For the purpose of these rules, the following terms shall have these meanings:

a. "Advocacy" means an action which promotes the employment of older workers.

b. "Applicant" means an eligible person making a contact with the RICEP program to seek employment.

c. "Applicant recruitment" means contact by the older worker specialist with individuals, agencies, organizations or private businesses to provide information that will result in increased participation of eligible older individuals.

d. "Assessment of job skills" means a process by which the older worker specialist develops a written history of the work experience and related qualities an individual

## AGING, COMMISSION ON THE[20] (cont'd)

possesses that would make them marketable as an employee.

e. "Educational services" means adult education or training provided by community colleges and similar institutions.

f. "Employment service" means activities in the client's behalf that may be, but are not limited to, an assessment of job skills, referrals for training in job search techniques, referrals to educational institutions, referrals to job interviews, or supportive services that will enable the person to find employment.

g. "Full-time employment" means paid employment for forty hours per week or the number of hours customarily considered full time for that occupation, but at a minimum, thirty hours per week.

h. "Job development" means contact by the older worker specialist with potential employers to encourage the employment of eligible older individuals.

i. "Job contact" means a unit of service consisting of an application completed by a client and received by the older worker specialist.

j. "Job placement" means employment obtained by an eligible participant as a result of RICEP assistance, which is documented in the program operator's files and may be defined further as permanent, temporary, part time or full time.

k. "Job referral" means a written notice presented to an eligible applicant by the older worker specialist to report for a prearranged interview for employment.

l. "Job search technique" or "job search assistance" means the methods used by the older worker specialists to find jobs for eligible participants.

m. "Older worker specialist" means a person employed by the RICEP operator whose responsibility it is to develop jobs, advocate for the employment of eligible older individuals and provide employment services for eligible individuals.

n. "Participant support referral" means a notification to the eligible individual by the older worker specialist of supportive services that are available to an eligible participant from an organization other than job service of Iowa.

o. "Part-time employment" means employment in which an older worker is regularly scheduled to work less than thirty hours per week.

p. "Permanent placement" means employment that exceeds ninety calendar days per year whether the position is part time or full time.

q. "Program operator" or "RICEP operator" means the agency designated by the department of elder affairs to operate the RICEP program for a designated geographic area.

r. "Retired Iowan" means an unemployed or underemployed individual aged forty-five or older and who is a resident of Iowa.

s. "Subsidized employment" means employment in the senior community services employment program as an enrollee.

t. "Supportive services" means services that older workers may need to enable them to start work or to maintain themselves until they find employment. Support services may be provided by the area agency or other agencies, and may include, but not be limited to, food stamps, funds for transportation, or equipment.

u. "Temporary placement" means employment that does not exceed ninety days in one calendar year.

v. "Unsubsidized employment" means employment of the eligible individual by any entity other than senior community service employment program as an enrollee.

8.71(4) Program requirements. Each retired Iowan community employment program operator shall adhere to the following criteria:

a. Of the total number of individuals served by the program:

(1) A minimum of ninety-five percent shall be fifty-five years of age or older;

(2) Five percent may be between forty-five and fifty-five years of age; and

(3) A minimum of eighty-five percent shall be unemployed at the time of the application.

(4) Program operators shall consider participants of subsidized employment programs as unemployed workers.

(5) Program operators shall accept eligibility information provided by participants.

b. Each program operator shall meet performance standards based on a formula established annually by the state agency which considers the number of elderly in the area served by the program operators and the unemployment rate of individuals aged fifty-five and over in the area.

c. The older worker specialist shall work one-half of their working time in a job service office within each planning and service area. A schedule of the older worker specialist's normal office hours shall be established and posted in the job service office.

d. Written agreements shall be established between the program operator and the job service of Iowa offices defining co-ordination, office arrangements and accessibility to older worker applications and job orders.

8.71(5) Eligibility for service. To be eligible for participation in the RICEP program, a person shall:

a. Be aged forty-five or older.

b. Be a current resident of the state of Iowa.

c. Be unemployed or underemployed at the time of application.

8.71(6) Program operator requirements.

a. Application for RICEP funds shall be made annually by the area agencies on aging as part of the annual application for award submitted to the commission on the aging for approval and shall conform to the same time requirements, or by other entities according to procedures established by the executive director.

b. Upon approval by the Iowa department of elder affairs, an award of funds will be made to program operators in the state each fiscal year subject to funding by the general assembly of Iowa.

c. An application for RICEP funding by a program operator may be denied if the operator does not perform according to guidelines of these rules or constantly fails to meet the goals of their plan approved by the commission.

d. An appeal to a decision made pursuant to these rules may be made according to the procedures in rule 20-4.11(249B).

8.71(7) Monitoring and recordkeeping.

a. Performance, program and fiscal reports shall be submitted to the state agency according to instructions provided each fiscal year in the fiscal and performance reporting manual. In addition, the program operator shall maintain program, performance and fiscal records

## AGING, COMMISSION ON THE[20] (cont'd)

as required in OMB Circular A-110, July 20, 1976, or applicable state accounting procedures.

b. All records are subject to inspection by the state agency or an officially designated representative, and other federal or state officials as necessary.

c. Each RICEP worker shall be evaluated at least annually by the RICEP operator to ensure that the goals of the program are being met.

d. The program operator shall provide a quarterly report to the state agency on the progress toward the operator's stated goals.

e. RICEP programs shall be assessed onsite at least annually by the state agency. The annual assessment reports, and the required corrective actions to be taken by the program operator will be provided to the RICEP program operators and kept on file at the state agency for a period of at least three years.

This rule is intended to implement 1986 Iowa Acts, Senate File 2175, section 1020.

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**ARC 6756****ALCOHOLIC BEVERAGES  
DIVISION[185]**

Formerly Beer and Liquor Control  
Department[150]

Pursuant to the authority of Iowa Code section 123.21, subsection 11, the Alcoholic Beverages Commission, on June 27, 1986, adopted amendments to 150—Chapter 5, "License and Permit Division," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin, May 21, 1986, as **ARC 6559**.

Items 1 and 2 eliminate the current requirement that a corporation must get a new license if more than fifty percent of its stock is sold. Items 3 and 4 require surety and insurance companies to send notices of cancellation to this Division and to the person holding the dramshop or bond.

A representative of the Division appeared in front of the Administrative Rules Review Committee on June 11, 1986, at which time these rules were discussed. Interested persons were allowed to comment on the proposed rules. The Division received no written or oral comments from the general public on these rules.

These rules are identical to the ones published under Notice of Intended Action.

These rules are intended to implement Iowa Code subsection 123.21(11).

These rules will become effective September 3, 1986.

The following amendments were adopted:

ITEM 1. Amend subrule 5.7(1) by rescinding paragraph "c" and relettering the remaining paragraphs accordingly.

ITEM 2. Amend subrule 5.7(2), paragraph "b," to read as follows:

b. When a corporation has changed ownership of less than fifty percent of the stock: ~~the stock is sold of a corporation holding a license or permit.~~ A letter to the ~~department~~ division listing the new owner or owners and the amount of stock held by each is required.

ITEM 3. Rescind subrule 5.8(4) and insert in lieu thereof the following:

5.8(4) Cancellation. A surety company or a principal may cancel a bond by giving a minimum of thirty days' prior written notice to this division of the party's intent to cancel the bond. The thirty-day period shall begin on the date that this division receives the notice of cancellation. The party seeking to cancel a bond shall mail written notice of such cancellation to the division in Ankeny, Iowa, by certified mail, and further shall mail a copy of the notice of cancellation to the other party, at that party's post office address. The notice of cancellation shall contain: The name of the party to whom the copy of the notice of cancellation was mailed, the address to which the copy of the notice of cancellation was sent, the date on which the notice of cancellation was mailed, the date the bond is being canceled, and the liquor control license or permit number of the licensee or permittee to be affected by such cancellation. The cancellation or notice thereof shall have no force or effect in the event that the principal's liquor control license or permit has been revoked during the period of the policy, or where an administrative hearing complaint has been filed, and charges are currently pending against the licensee or permittee which could result in revocation of the license or permit after an administrative hearing on the complaint.

ITEM 4. Rescind subrule 5.9(3) and insert in lieu thereof the following:

5.9(3) Cancellation. An insurance company or an insured may cancel a liability policy by giving a minimum of thirty days' prior written notice to this division of the party's intent to cancel the liability policy. The thirty-day period shall begin on the date that this division receives the notice of cancellation. The party seeking to cancel a liability policy shall mail written notice of such cancellation to the division in Ankeny, Iowa, by certified mail, and further shall mail a copy of the notice of cancellation to the other party, at that party's post office address. The notice of cancellation shall contain: The name of the party to whom the copy of the notice of cancellation was mailed, the address to which the copy of the notice of cancellation was sent, the date on which the notice of cancellation was mailed, the date the liability policy is being canceled, and the liquor control license or permit number of the licensee or permittee to be affected by such cancellation.

[Filed 7/1/86, effective 9/3/86]  
[Published 7/30/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/30/86.

**ARC 6757**  
**ALCOHOLIC BEVERAGES**  
**DIVISION[185]**

Formerly Beer and Liquor Control  
 Department[150]

Pursuant to the authority of Iowa Code sections 123.45 and 123.186, the Alcoholic Beverages Commission, on June 27, 1986, adopted amendments to 150—Chapter 6, "Advertising," Iowa Administrative Code.

Notice of Intended Action was published in the May 21, 1986, Iowa Administrative Bulletin as **ARC 6560**. Pursuant to that Notice, a public hearing to receive comments on the Notice was held on June 12, 1986, at the central office of the Alcoholic Beverages Division, Ankeny, Iowa. Written comments were received and also considered.

Item 1 allows industry members to supply retailers wine lists. Item 2 allows consumer tastings in retail establishments.

Item 1 was amended based on the comments received by deleting the word "not". With the exception of deleting the word "not" in item 1, these rules are identical to the ones published under Notice.

These rules are intended to implement Iowa Code subsection 123.21(11).

These rules will become effective September 3, 1986.

The following amendments were adopted.

**ITEM 1.** Add new subrule 6.1(10) as follows:

**6.1(10)** Wine lists. An industry member may furnish, give, rent, loan, or sell wine lists or wine menus to retailers.

**ITEM 2.** Add new subrule 6.1(11) as follows:

**6.1(11)** Consumer tasting or sampling at retail establishments. An industry member may conduct tasting or sampling activities at a retail establishment. The industry member may purchase the products to be tasted or sampled from the retailer; however, the retailer shall not sell such products to the industry member at a price greater than the ordinary retail price of those products.

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**ARC 6785**  
**CONSERVATION**  
**COMMISSION[290]**

Pursuant to the authority of 1986 Iowa Acts, Senate File 2175, section 1805, the Natural Resources Commission on July 2, 1986, adopted the following Chapter 22, "Cost Assistance Program to Promote Wildlife Habitat on Private Lands," Iowa Administrative Code.

Notice of Intended Action was published on April 23, 1986 as **ARC 6499**.

These rules give procedures by which revenue from the sale of wildlife habitat stamps will be used to assist landowners in establishing winter habitat areas, revenue

from the income tax checkoff will be used to assist landowners in establishing farmstead shelterbelts and to cost-share these developments with other conservation groups.

The only changes from the Notice of Intended Action are editorial or explanatory.

These rules implement Iowa Code sections 110.3 and 107.16, and shall become effective September 3, 1986.

These rule changes are being made to existing rules of the State Conservation Commission, which in due course will be transferred to the Department of Natural Resources part of the Iowa Administrative Code in accordance with the transition plan of the Code Editor.

Rescind Chapter 22 and insert in lieu thereof the following:

**CHAPTER 22**

**COST ASSISTANCE PROGRAM TO PROMOTE  
 WILDLIFE HABITAT ON PRIVATE LANDS**

**290—22.1(107,110) Purpose.** The purpose of these rules is to designate procedures by which revenues from the sale of wildlife habitat stamps and income tax checkoff funds will be used to assist landowners in establishing wildlife habitat on private lands, and to cost-share these developments with private or public conservation groups.

**290—22.2(107,110) Authority.** Iowa Code section 110.3 authorizes the expenditure of wildlife habitat stamp funds for "the development and enhancement of wildlife lands and habitat areas." Iowa Code section 107.16 authorizes an income tax checkoff for habitat development for game and nongame wildlife. The natural resources commission, hereinafter referred to as the commission, acting through its director, will enter into agreements with landowners and conservation groups to fulfill the requirements of the law.

**290—22.3(107,110) Project scope.** This program will provide cost-sharing assistance to landowners from habitat stamp and tax checkoff revenues. Tax checkoff funds will be used to establish farmstead and feedlot shelterbelts, and habitat stamp funds will be used to provide temporary winter habitat plots in regions of Iowa where winter habitat is limited. Recent declines in wildlife populations in northern Iowa have been caused in part by the loss of secure food and shelter against winter storms. Shelterbelts will also provide significant energy savings to rural homes. Shelterbelts and habitat plots will demonstrate the value of winter habitat to wildlife in intensively farmed regions of the state.

**290—22.4(107,110) Availability of funds.** Habitat stamp funds are dependent on stamp sales. Tax checkoff funds depend on voluntary contributions from Iowa taxpayers. The amount of moneys available at any time will be determined by revenues received by the department and by matching contributions from conservation groups. Final stamp sales for each calendar year will be determined by July 1 of the following year. Tax checkoff funds will be available by January 31 of the following calendar year.

**22.4(1)** Allotments for this program. Funds available for assisting landowners shall be in the department's budget in accordance with legislative appropriations. Funds will be made available during a fiscal year of July 1 through June 30.

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

**22.4(2) Matching funds.** To maximize the amount of wildlife habitat actually established, the department will accept contributions from any governmental or private conservation group to help establish shelterbelts or winter habitat demonstration areas.

a. To the extent that department funds are available, they will be matched with contributed funds to double the number of habitat projects for which cost assistance will be available to landowners.

b. Contributed funds will be spent in the county in which they originate unless the contributor otherwise designates.

c. If contributed funds exceed the department funds allocated to a county, the group contributing money may choose to fund more than half of a project, transfer funds to another county, or have funds returned.

d. The department will retain sole authority to decide if individual projects meet minimum design criteria before deciding to enter into cost-share agreements.

e. Agreements will be in the form of a contract between the contributing group and the department, specifying the amount contributed, the county in which funds are to be spent, and the number and type of projects to be cost-shared (shelterbelts or winter habitat demonstration areas).

f. Contributed funds must be received by the department by the time cost assistance contracts are signed with individual landowners.

**290—22.5(110) Winter habitat demonstration areas.** This rule delineates eligibility and procedures for establishing temporary winter cover and food plots.

**22.5(1) Eligibility.** To concentrate the effects of this program in regions where winter food and shelter are most needed, only counties or portions of counties north of U.S. Highway 30 in Iowa will be eligible.

a. To be eligible for cost assistance, individual landowners must enter into a written agreement with the department specifying the obligations of both parties.

b. At least six landowners in a contiguous township-sized area of approximately 36 square miles (hereafter called a demonstration area) must participate in the program for a demonstration area to be eligible for cost assistance. Demonstration areas need not conform to political township boundaries.

**22.5(2) Applications for assistance.** Applications will be accepted only from those eligible as noted above.

a. Applications must be submitted on forms furnished by the department.

b. In 1986, applications and contracts must be submitted by September 30. In succeeding years, applications and contracts must be received by April 15 to provide adequate time for site inspection and plot design. Landowners will be contacted within 30 days as to their acceptance or rejection.

**22.5(3) Project review and selection.** Project applications will be reviewed separately for each county to determine the projects which will be eligible for cost assistance.

a. Projects will be reviewed by the department wildlife biologist for each county, who will then recommend that the commission enter into agreements with the successful applicants.

b. If funds are available, at least one demonstration area will be established in each county where matching funds have been contributed by conservation groups.

c. Demonstration areas will be selected on the basis of site suitability, the availability of other winter cover, and the availability of nesting cover to determine those projects with the greatest chance of benefiting wildlife populations.

d. Priority for cost assistance will be given to demonstration areas with the most potential nesting cover, and where matching donations are available to supplement department funds.

**22.5(4) Contract agreements.** The director is authorized to enter into agreements with landowners to carry out the purposes of this program.

a. Agreement forms will be provided by the department. They shall explicitly state the terms of the agreement including, but not limited to, plot size, configuration, crop types, ground preparation, and weed control and cultivation practices. Terms of the agreement and copies of the contract will be available from the department for examination.

b. Cost-sharing assistance will not be provided unless an agreement has been signed by both parties.

c. Contracts may be amended by mutual agreement of both parties.

**22.5(5) Specifications.** Habitat demonstration plots must conform to the following guidelines to be eligible for cost assistance:

a. Individual winter cover blocks must be at least three acres if they are located next to suitable winter cover; five acres if other winter cover is lacking or inadequate. Larger plots may be specified by the department wildlife biologist.

b. Individual winter cover plots will be designed by the department wildlife biologist to fit individual habitat situations.

c. One, or a combination of the following practices, will be allowed:

(1) Standing corn left throughout the winter.

(2) Standing corn in combination with grain sorghum left throughout the winter.

(3) Forage sorghum and grain sorghum left throughout the winter.

(4) Forage sorghum in combination with standing corn left throughout the winter.

d. Landowners must follow site preparation, seeding and cultivation practices similar to that used in normal agricultural production.

e. Winter habitat plots must produce a crop similar to that in fields under normal crop production practices.

f. No grazing, mechanical disturbance, or harvesting will be permitted until after March 15 of the final contract year unless specified in the design.

**22.5(6) Cost-share rates.** The department will provide cost-sharing assistance for winter habitat blocks at the following rates:

a. Up to \$55 per acre for standing corn planted on annual set-aside acres.

b. Up to \$70 per acre for standing corn left on agricultural ground.

c. Up to \$30 per acre for planting forage sorghum and grain sorghum.

d. Up to \$50 per acre for planting forage sorghum and corn.

**22.5(7) Reimbursements.** Cost assistance payments will be made after March 15 after inspection by the department wildlife biologist.

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

Reimbursements shall not be paid unless all terms of the contracts have been met.

**290—22.6(107,110) Shelterbelts.** This rule delineates eligibility and procedures for establishing shelterbelts for winter wildlife habitat.

**22.6(1) Eligibility.** Only certain lands will be eligible for this program.

a. To be eligible for cost assistance, landowners must enter into a written agreement with the department specifying the obligations of both parties.

b. In order to concentrate the efforts of this program in regions where winter shelter is most needed, only counties or portions of counties north of U.S. Highway 30 in Iowa will be eligible.

c. Assistance for replacement of trees or shrubs suffering normal mortality in a shelterbelt previously cost-shared by the department will be available in any county currently or previously eligible subject to conditions in subrule 22.6(6), paragraph "c."

**22.6(2) Application for assistance.** Applications will be accepted only from those eligible as noted above.

a. Applications must be submitted on forms furnished by the department.

b. Applications must be submitted by February 15.

**22.6(3) Project review and selection.** Project applications will be reviewed separately for each county to determine the projects which will be eligible for cost assistance.

a. Projects will be reviewed by the department wildlife biologist and the soil conservation service district conservationist for each county, who will then recommend that the commission enter into agreements with the successful applicants.

b. Projects will be selected on the basis of site suitability, location within the county, and the availability of nearby wildlife habitat to determine those projects with the greatest chance of benefiting wildlife populations.

c. When the applications in any county total less than that county's share, projects will be reviewed only to determine their eligibility and desirability, but will not otherwise be ranked.

d. Priority for rating will be given in the following order:

(1) Establishment of new shelterbelts or enlargement of existing shelterbelts not previously cost shared.

(2) Renovations of cost-shared shelterbelts which meet the criteria of subrule 22.6(5), paragraph "b."

(3) Enlargements of previously cost-shared shelterbelts above minimum specifications, subject to limitations in subrule 22.6(5), paragraph "c," subparagraphs (1) to (4).

**22.6(4) Contract agreements.** The director is authorized to enter into agreements with landowners in order to carry out the purposes of this program.

a. Agreement forms will be provided by the department. They shall explicitly state the terms of the agreement, including but not limited to, requirements for shelterbelt size, configuration, species composition of trees, ground preparation, weed control and management in subsequent years. Terms of the agreement and copies of the contract will be available from the department for examination.

b. Cost-sharing assistance will not be provided unless an agreement has been signed by both parties prior to the inception of the project.

c. Contract periods will not be approved for any term less than ten years in duration.

d. Contracts may be amended by mutual agreement of both parties.

**22.6(5) Specifications and guidelines.** Shelterbelts must conform to the following specifications to be eligible for cost-share assistance.

a. New shelterbelts must meet at least the following minimum guidelines:

(1) Eight rows of planting stock with at least 100 feet per row in an L-shaped shelterbelt, 150 feet per row in a unidirectional block.

(2) Two rows of shrubs or trees windward, followed by a minimum 50-foot snowcatch leeward of the first two rows. The snowcatch may be used to plant nesting cover, food plots, Christmas tree plantations or may be cropped.

(3) Two rows of shrubs leeward of the snowcatch, followed by four rows of dense conifers.

(4) Additional rows of dense shrubs may be planted interior to conifers for screening. See subrule 22.6(5), paragraph "c," subparagraphs (1) to (4) for restrictions on additional rows.

(5) Species of conifers, shrubs, and deciduous trees which may be grown in shelterbelts will be designated by the department, as well as size of stock and conditions of culture.

(6) Shelterbelts must be at least 50 feet from an occupied residence.

b. Renovations or improvements of existing shelterbelts not previously cost-shared must meet at least minimum specifications for new shelterbelts outlined in paragraph "a" of this subrule.

c. Maximum specifications for which cost-sharing will be allowed are as follows:

(1) Fourteen rows of planting stock with a maximum of 400 feet per unidirectional row.

(2) For each additional row over eight, one row must be planted with an approved conifer.

(3) Snowcatch requirement is dropped for shelterbelts of at least ten rows and meeting all other requirements in subrule 22.6(5), paragraph "a," subparagraphs (1) to (6) and paragraph "c," subparagraph (2).

(4) In a fourteen-row shelterbelt, one row of deciduous trees may be black walnut for eventual harvest.

d. Planning and design for newly established shelterbelts, renovations, and enlargements, and replacement of trees in a previously cost-shared shelterbelt, and deviations from the listed specifications, must be approved by the department's wildlife biologist and may require consultation with the department's district forester and U.S. Department of Agriculture Soil Conservation Service (SCS) district conservationist.

e. Planting sites should be prepared with seedbed conditions the same as for corn. Sod planting or other exceptions may be allowed only by the department wildlife biologist, and may require consultation with the district forester and SCS district conservationist.

f. The following maintenance requirements are in effect for the contract period:

(1) All competing vegetation must be controlled within three feet of each tree and shrub for the first three years of the contract. Control may be by chemicals, mulching, or mechanical means.

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

(2) Plantings must be protected from livestock, poultry, and rodents by repellents, fencing, trapping, or other effective means.

(3) Co-operators must use whatever means possible to protect plantings from herbicide drift from adjacent fields.

**22.6(6) Cost-sharing rates.** The department will provide cost-sharing assistance during the first year of the contract to establish new shelterbelts or renovate existing shelterbelts to bring them to minimum standards for size, composition, and configuration.

a. New establishments and enlargements. During the initial establishment year for new shelterbelts and enlargements of existing shelterbelts, the department will pay 25 percent of the cost of establishment, not to exceed \$500 per eight-row planting.

(1) Additional rows over the minimum will be cost-shared at the same rate but with a ceiling limit of \$50 per additional row.

(2) Total rows cost-shared will not exceed 14.

b. Upon mutual agreement of the co-operator and the department, tree planting by the department or its designee may be substituted for all or part of the cost-sharing assistance. Standardized rates for labor and machinery operation will be used to calculate the value of the tree planting operation when determining cost-share payments.

c. Renovations and restorations. Upon recommendation by the department's wildlife biologists, cost-sharing of tree replacement is permissible where age, disease, drought, insect, or mammal damage has reduced the effectiveness of existing shelterbelts.

(1) Cost-sharing for these reasons will be at 25 percent of planting stock costs not to exceed \$500. All minimum specifications must be met.

(2) If renovation is needed due to co-operator neglect, no cost-sharing will be allowed.

d. Limitations to total cost-share assistance do not preclude use of cost-sharing funds from other governmental entities or private conservation groups to defray cost to the landowner. Where more than one cost-sharing entity is involved, the total cost-share to the landowner cannot exceed 90 percent of the cost of establishment, enlargement, or renovation.

e. If funds are limited, co-operators are limited to one department cost-shared shelterbelt within a three-year period, except for renovations as listed in subrule 22.6(6), paragraph "c."

f. Three years following establishment of an eight-row shelterbelt, cost-sharing to enlarge the shelterbelt will be available subject to the following limitations:

(1) Established rows must exhibit reasonable growth rates and good care by the co-operator.

(2) Added rows will be considered a new planting under guidelines existing at that time.

(3) Such enlargements are subject to priorities established in subrule 22.6(3), paragraph "d," subparagraphs (1) to (3).

**22.6(7) Reimbursements.** Co-operators shall submit billings for reimbursements on forms provided by the department.

a. Billings shall be submitted prior to June 1 each year.

b. Billings shall include documentation of costs incurred for planting stock.

c. Reimbursements will not be made unless the landowner has fulfilled obligations as specified in the contract.

d. Billings will be approved or disapproved by the wildlife biologist after inspection of the project.

**290—22.7(107,110) Penalties.** Whenever a landowner has been found to be in violation of a contract specified in this rule, the department may forthwith cancel the contract and the landowner shall reimburse the state for the full amount of any payments received.

These rules are intended to implement Iowa Code sections 110.3 and 107.16.

[Filed 7/10/86, effective 9/3/86]

[Published 7/30/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/30/86.

**ARC 6786**

**CONSERVATION  
COMMISSION[290]**

Pursuant to the authority of 1986 Iowa Acts, Senate File 2175, section 1805, the Natural Resources Commission, at their regular meeting of July 2, 1986, adopted the following amendments to Chapter 52, "Snowmobile Registration Revenue Cost-Sharing with Public Agencies," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin, April 23, 1986, as **ARC 6500**.

These rule amendments will allow for up to \$600 per year per program for comprehensive liability insurance, will change from 90 percent to 100 percent the cost-share on large repair bills exceeding \$750, set limits on gates at \$80 per gate and on temporary bridges and ditch crossings at \$300 per bridge or crossing, allow the Review and Selection Committee to establish the amounts allowed for permanent bridges, allow for up to 75 percent of the cost of the easements for combined wildlife habitat/snowmobile trails, and will provide up to \$675 per groomer for high band radios.

We made one change since the first review by the Administrative Rules Review Committee, which will exclude the cost of insurance for special events conducted by agencies or clubs as recommended by the State Attorney General's Office.

This rule implements Iowa Code chapter 321G, and will become effective September 3, 1986.

These rule changes are being made to existing rules of the State Conservation Commission, which in due course will be transferred to the Department of Natural Resources part of the Iowa Administrative Code in accordance with the transition plan of the Code Editor.

Subrule 52.3(6) is amended to read as follows:

2. Groomer operation and maintenance. The snowmobile fund will pay for groomer liability insurance

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

*comprehensive liability insurance including groomer liability, trail liability, and agency or club liability excluding the cost of insurance for special events, and snowmobile liability insurance on snowmobiles owned by the subdivision and used in the program up to a total combined cost of \$300 \$600 per program.* The snowmobile fund will finance gas and oil for groomers; parts replacement, and repair bills up to \$750. Complete documentation must accompany reimbursement requests including explanation of problems and cause for repair. Copies of invoices and canceled warrants must accompany these requests. Maintenance and repair labor wages and groomer operation wages will be funded at a maximum of \$5.50 per hour. For large repair bills exceeding \$750 and requiring professional service, the fund will pay one hundred percent up to a cost of \$750 and ninety percent of additional costs. Thawout and shop time for repair and service of groomers will be reimbursed at a maximum rate of \$10.00 per day.

Complete records must be kept by the local agency on daily groomer logs provided by the commission department. This record will include hours of groomer operation, miles of trail groomed, and gallons of fuel or gas used for every day of operation.

In those counties where a snowmobile club operates and maintains a snow groomer, a formal contract must be on file at the central office of the local subdivision responsible with a copy provided to the commission department. This contract must outline the responsibilities of the governmental subdivision and the club.

Governmental subdivisions may apply for reimbursement of previous expenditures by January 31 with deadlines for requests for final reimbursement and documentation of groomer operation and maintenance costs being May 1.

3. Snowmobile trail signs. After inspection of the snowmobile trail by the commission department, signs will be provided to the local subdivision. Trail sign applications will be provided on request by the state with a request deadline of September 1 July 1. Posts for signs and installation costs will be provided by the local subdivision.

4. Trail development. The snowmobile fund moneys will be apportioned as follows:

No changes to paragraphs "a" and "b."

c. Gates. Actual material cost up to \$80 per gate, and ninety percent over that figure.

d. Temporary bridges, ditch crossings. Actual material costs up to \$300 per bridge, and ninety percent from \$300 to \$600.

e. Permanent bridges. Ninety percent of Actual material cost per bridge up to the amount approved by the review and selection committee including placement if on public-owned property or private property under lease or easement for ten or more years.

No change in paragraph "f."

g. Multiuse leases or easements. Ninety Seventy-five percent of the cost of each lease easement primarily for combined wildlife habitat/snowmobile trails.

h. Unusual items. Ninety percent of items and equipment that supplement a trail such as fence stiles, windbreak shelters, fire rings.

No changes in paragraph "i" or 52.3(6)"5."

6. Radio equipment. Ninety percent on high-band equipment up to a total state share of \$675 per groomer.

7. Cost-share eligibility. Only items listed in this rule and which can reasonably be utilized in the construction or maintenance of snowmobile trails or snowmobile ambulance facilities will be eligible for snowmobile funds. Storage, shop, or maintenance equipment will not be funded from the snowmobile fund.

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## ARC 6813

CONSERVATION  
COMMISSION[290]

Pursuant to the authority of the 1986 Iowa Acts, Senate File 2175, section 1805 the Natural Resources Commission adopts amendments to Chapter 72, "Land and Water Conservation Fund Grants-in-Aid for Local Entities," Iowa Administrative Code.

Notice of Intended Action was published in Iowa Administrative Bulletin 20, March 26, 1986, as ARC 6435.

Changes from the Notice were made because of written comments received from the National Park Service at a public hearing on April 16, 1986. Other changes are a result of state reorganization. All references to the Iowa Conservation Commission have been deleted and changed to the Iowa Department of Natural Resources.

Changes from the Notice are as follows:

72.2(2) Delete items referring to twice yearly funding cycles.

72.5(2) Delete items referring to twice yearly funding cycles.

72.5(5) Delete references to twice yearly funding cycles.

72.6(1) Changes makeup selection committees for local and state projects.

72.6(3) Minor grammatical changes. Adds a section (c) required by the National Park Service.

72.6(4) Changes point value of some criteria.

72.6(5) Delete reference to projects not funded being held over for future review.

72.7 Delete reference to Office for Planning and Programming.

These rules are intended to implement Iowa Code sections 107.29 and 107.25.

These rules will become effective September 3, 1986.

These rule changes are being made to existing rules of the State Conservation Commission, which in due course will be transferred to the Department of Natural Resources part of the Iowa Administrative Code in accordance with the transition plan of the Code Editor.

ITEM 1. Amend rule 290—72.1(107) as follows:

**290—72.1(107) Purpose.** The purpose of the Federal Land and Water Conservation Fund, hereinafter referred to as the L&WCF, is stated in section 1(b) of the Land and Water Conservation Fund Act of 1965, as amended (78 stat. 897):

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

"The purposes of this Act are to assist in preserving, developing, and assuring accessibility to all citizens of the United States of America present and future generations and visitors who are lawfully present within the boundaries of the United States of America such quality and quantity of outdoor recreation resources as may be available and are necessary and desirable for individual active participation in such recreation and to strengthen the health and vitality of the citizens of the United States by (1) providing funds for and authorizing Federal assistance to the States in planning, acquisition, and development of needed land and water areas and facilities and (2) providing funds for the Federal acquisition and development of certain lands and other areas."

Section 6 of the Act contains the basic requirements and conditions for fulfilling the above:

"The Secretary of the Interior (hereinafter referred to as the Secretary) is authorized to provide financial assistance to the States from monies available for State purposes. Payments may be made to the States by the Secretary as hereafter provided, subject to such terms and conditions as he considers appropriate and in the public interest to carry out the purposes of this Act, for outdoor recreation: (1) planning, (2) acquisition of land, waters, or interest in land or waters, or (3) development."

Section 6 of the Act further provides that:

"If consistent with an approved project, funds may be transferred by the State to a political subdivision or other appropriate public agency.

The ~~state conservation commission~~ *Iowa department of natural resources*, hereinafter referred to as the ~~commission~~ *department*, acting through its director, will administer the L&WCF for the same purpose at the state and local levels.

ITEM 2. Amend 290—72.2(107) as follows:

**290—72.2(107) Apportionment distribution.**

72.2(1) Iowa apportionment. The state expects to receive an annual apportionment from the L&WCF for the twenty-five year life of the program. This annual apportionment, after deducting any amount necessary to cover the ~~commission's~~ *department's* costs of administering the program and state outdoor recreation planning costs shall be divided into two shares for state and local entity grants with the local entity share being not less than fifty percent.

72.2(2) Local share. The local share of the annual L&WCF apportionment; ~~when more than \$1,000,000 shall be divided into two equal allotments and when less than \$1,000,000 shall be undivided.~~ These allotments shall be available for local entity grants on a ~~semiannual or an annual basis respectively.~~

ITEM 3. Subrule 72.5(1) is amended to read as follows:

72.5(1) Form of application. Grant applications for both state and local projects shall be on forms and following guidelines provided by the ~~commission~~ *department*.

ITEM 4. Subrule 72.5(2) is amended as follows:

72.5(2) Application timing. The following information applies to local projects only. Grant applications and amendment requests which increase the existing grant amount shall be reviewed and selected for funding on a ~~semiannual or an annual basis as provided in subrule 72.2(2).~~ *Semi* Annual reviews shall be held in October

and April, and annual reviews in October. Applications must be received in acceptable form by the *State Conservation Commission Iowa department of natural resources*, Wallace State Office Building, Des Moines, Iowa 50319-0034 by the close of business on the work day closest to the fifteenth day of the month preceding each review month.

ITEM 5. Subrule 72.5(5) is amended as follows:

72.5(5) Application timing. The following applies only to state projects. Applications will be reviewed annually in July and December. The December review may be waived if sufficient funds are not available from the ~~national park service.~~ Grant applications and amendment requests exceeding ten percent of the original grant amount will be due in the ~~superintendent of grants-in-aid office budget and grants bureau of the department on May 15 and October November 15 or the~~ closest working day thereto.

ITEM 6. Subrule 72.5(6) is amended as follows:

72.5(6) Application acceptance. Applications for state projects will be accepted from the ~~Iowa state conservation commission~~ *department of natural resources* and any other state agency who submits an eligible project application. Notification of the application process and applications will be sent to all state agencies who may possibly participate in the L&WCF program. Agencies will be encouraged to submit projects that will benefit the minority and handicapped populations.

ITEM 7. Amend rule 290—72.6(107) as follows:

**290—72.6(107) Project review and selection.**

72.6(1) Review and selection committee. A review and selection committee, hereinafter referred to as the committee, composed of the ~~superintendent of grants-in-aid as chairperson and two additional staff personnel as appointed by the director of the commission~~ *three staff members of the department as appointed by the director of the department* shall determine which grant applications and amendment requests shall be selected for funding at the local level. A review and selection committee for state projects shall be composed of the ~~superintendent of grants-in-aid, and three additional staff personnel as appointed by the director~~ *four staff members of the department as appointed by the director*.

72.6(2) Consideration withheld. The committee will not consider any application which, on the date of the selection session, is not complete, or for which additional pertinent information has been requested and not received.

72.6(3) Application rating system for local projects. The committee will apply a numerical rating system to each grant application which is considered for fund assistance. The following criteria, with a weight factor for each, will be considered:

Quality of the Project Site	4
Direct Recreational Benefits	4
Local Need	4
Number of People Served	3
State Outdoor Recreation Plan Priority	3

Each criterion will be given a score of from 1 to 10 which is then multiplied by the weight factor. ~~Two~~ *The following* additional criteria will be considered in the rating system:

a. Prior assistance. Any applicant that has never received a ~~prior~~ grant will be given a bonus of five points.

CONSERVATION COMMISSION[290] (cont'd)

Any applicant that has received prior assistance which is more than its fair share will be assessed penalty points. Fair share will be computed by dividing fifty percent of Iowa's total apportionment from the L&WCF by the total state population and multiplying this amount by the population of the applicant agency. Penalty points will be assessed in accordance with the following schedule:

Prior Assistance in Excess of Fair Share	Penalty Points
0 to \$ 2.50 per capita	0
\$ 2.51 to 12.50 per capita	1
12.51 to 22.50 per capita	2
22.51 to 32.50 per capita	3
32.51 to 42.50 per capita	4
over 42.50 per capita	5

b. Active projects. Any applicant that has two active projects at the time of application rating will be assessed five penalty points and five penalty points will be assessed for each additional active project. An active project shall cease to be active when all acquisition or development, or both, have been satisfactorily completed and an acceptable final reimbursement billing has been submitted to the ~~commission~~ department.

c. Additional points will be added to the total score for the following:

*Projects which have special features for the elderly and handicapped above the normal access requirements for this population will receive five points.*

*Projects which serve an area of greater minority population than the state average of 2.6 percent.*

*Minority population greater than*

<i>3.0 percent</i>	<i>1 point</i>
<i>3.5 percent</i>	<i>2 points</i>
<i>4.0 percent</i>	<i>3 points</i>
<i>4.5 percent</i>	<i>4 points</i>

All points will be totaled for each application and those applications receiving the highest scores will be selected for fund assistance to the extent of the allotment for each review period. However, no application shall be selected which has received a score of less than 110. Such applications shall be returned to the applicant.

**72.6(4)** Application rating system for state projects. The committee will apply a numerical rating system to each grant application which is considered for fund assistance. The following criteria, with a weight factor assigned for each, will be considered.

	Weight Factor
Quality of Project Site	4
Direct Recreational Benefits	4
State Outdoor Recreation Plan Priority	3
Number of People Served	3
Project Provides for Renovation or Rehabilitation or Development of Existing Sites	1

Each criterion will be given a score from 0 to 10, which is then multiplied by the weight factor. Additional points will be added to the total score for the following:

*Projects which have special features for the elderly and handicapped above the normal access requirements for this population - 1 point will receive five points.*

Project will serve an area of greater minority population than the state average of 2.6 percent.

Minority population greater than 3.0 percent -51 point

3.5 percent	1-02 points
4.0 percent	1-53 points
4.5 percent	2-04 points

**72.6(5)** Applications not selected for fund assistance. All applications not selected for fund assistance will be retained on file for consideration and possible funding during subsequent review periods or until a request for withdrawal is received from the applicant except as noted in subrule 72.6(3). Applications which have been considered and not selected for funding during four consecutive the initial review periods shall be returned to the applicant.

ITEM 8. Rule 290—72.7(107) is amended as follows:

**290—72.7(107) Public participation.** The Iowa office for planning and programming Management and all regional planning agencies will be advised of the time and place of review sessions. Written comments will be accepted prior to each review session. A time period for public comment will be allowed immediately prior to each review session.

Notices will also be published in at least two newspapers of statewide or regional significance regarding the review sessions. All projects being considered will be described in the notice. Written comments will be invited. The notice will also advise the public of the opportunity for verbal comment period immediately prior to the review session.

ITEM 9. Amend rule 290—72.8(107) as follows:

**290—72.8(107) Commission review.** The state conservation commission natural resources commission will review all committee recommendations each review period at the next following commission meeting. The commissioners may reject any application selected for funding or approve any application not selected by the committee.

ITEM 10. Subrule 72.13(2) is amended as follows:

**72.13(2)** Project billings. Grant recipients shall submit billings for reimbursements on forms provided by the ~~commission~~ department.

ITEM 11. Subrule 72.13(5) is amended as follows:

**72.13(5)** Documentation. Grant recipients shall provide documentation as required by the ~~commission~~ department to substantiate all costs incurred on a project.

ITEM 12. Rule 290—72.15(107) is amended as follows:

**290—72.15(107) Recordkeeping and retention.** A grant recipient shall keep adequate records relating to its administration of a project, particularly relating to all incurred costs. These records shall be available for audit by appropriate personnel of the ~~commission~~ department, the state auditor's office and the U.S. Department of the Interior.

[Filed 7/14/86, effective 9/3/86]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/30/86.

## ARC 6807

### CORRECTIONS, DEPARTMENT OF[291]

Pursuant to 1985 Iowa Code Supplement section 246.105, the Department of Corrections hereby amends rule 44.6(247A), "Violations," Iowa Administrative Code.

This amendment revises the decision-making procedure for transfer of work release violators to a secure institution. Rather than requiring a hearing be held, the new procedure allows for staff review, a more appropriate level of due process in the work release violations situation.

This amendment was originally filed emergency and published in the Iowa Administrative Bulletin on April 23, 1986, as **ARC 6517**.

The amendment was also filed as a Notice of Intended Action, **ARC 6518**, and published on April 23, 1986.

A public hearing, held on May 14, 1986, was unattended.

This amendment varies from the original notice in that the word "found" was stricken from the first sentence.

The Board of Corrections adopted this corrected rule on July 7, 1986.

This rule shall become effective on October 29, 1986. [Rule adopted emergency and implemented as **ARC 6517** is rescinded effective October 29, 1986.]

Subrule 44.6(6) is amended to read as follows:

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

[Filed 7/11/86, effective 10/29/86]

[Published 7/30/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/30/86.

## ARC 6799

### EMPLOYMENT SECURITY[370]

(JOB SERVICE)

Pursuant to the authority of Iowa Code sections 96.11(1) and 17A.3, the Iowa Department of Job Service hereby amends Chapter 2, "Employer Records and Reports," and Chapter 3, "Employer's Contribution and Charges," Iowa Administrative Code.

These rules are identical to those published in Iowa Administrative Bulletin, May 7, 1986, as **ARC 6535**.

Rule 370—2.3(96) and subrule 2.3(1)—The Form IESC 21 contains spaces for the entry of information for 15 individual employees. This rule provides that an employer with more than 15 employees must use the continuation sheet, Form IESC 21.

Subrule 2.3(6) clarifies instructions on completion of the Form IESC 21 to conform to current requirements.

Rule 370—2.4(96) removes obsolete language which permitted employers to report payroll information on key punch cards.

Subrule 3.43(15) conforms to Iowa Code section 96.8(5) which clearly states that the reimbursable employer shall not be relieved of any charge provision of chapter 96 with but one exception. The only specific exception is Iowa Code section 96.7(3)"a"(2) which states that a supplemental employer, including the reimbursable employer, can be relieved of charges under the circumstance of the worker continuing to work for the employer during the period of claim filing.

These rules were adopted July 7, 1986, and will become effective September 3, 1986.

These rules are intended to implement Iowa Code sections 96.7 and 96.8(5).

The amendments are as follows:

ITEM 1. Amend rule 370—2.3(96) and subrule 2.3(1) as follows:

**370—2.3(96) Filing of employer's contribution and payroll report, IESC 21, and employer's payroll continuation sheet, IESC 21A.**

**2.3(1)** Each employer shall, not later than the due date required for the payment of quarterly contributions, file an IESC 21, employer's contribution and payroll report, for such quarter on a form prescribed by the department based upon wages paid with respect to all the employer's business maintained within this state and computed in accordance with the Code and these rules. *The IESC 21A, employer payroll continuation sheet, shall be used for the additional payroll information which cannot be entered on the IESC 21.*

*This rule is intended to implement Iowa Code section 96.7.*

ITEM 2. Amend subrule 2.3(6) as follows:

**2.3(6)** Each quarterly report shall include:

a. The number of employees earning wages during the pay periods which include the twelfth day of each month social security number, name (last name first), total wages paid and taxable wages paid to each worker during the quarter.

b. The amount of total wages paid during the quarter including wages in excess of the taxable wage base for the calendar year for which the quarterly report is representative sum of the total and taxable wages paid for all workers during the quarter.

c. The amount of wages paid during the quarter not in excess of the taxable wage limit and the amount of wages in excess of the taxable wage limitation contributions due for the quarter.

d. The name, social security account number, total wages paid and taxable wages paid to each of the workers during the quarter amount of interest and penalty due (if any).

e. The amount total of contributions, interest and penalty due for the quarter.

f. The number and amount of the credit memo being used to reduce the remittance due.

g. Total remittance due.

h. The number of employees listed on the report.

i. The number of employees earning wages during the pay periods which include the twelfth day of each month.

ƒj. If employment took place in more than one county during the pay period containing the twelfth of any month in the quarter for which this report is required, the employment by month and the total wages earned during the quarter in those counties must be reported on the reverse side of the Form IESC 21 as per the instructions contained in the report set.

## EMPLOYMENT SECURITY[370] (cont'd)

(1) The county employment totals reported by month on the reverse side should equal the employment totals reported for that month in item 10 on the front of the form.

(2) The total wages reported by county on the reverse side should equal the total wages reported in item 1.A on the front side of the form.

(3) It could be possible for wages to be reported in a county without corresponding employment being reported in any of the months during the quarter because wages paid are reportable for the full thirteen-week period in the quarter, while employment is reportable in either item 10 or 11 when such employment occurs during the pay period containing the twelfth of any month in the quarter.

*g k.* The signature of the owner, responsible officer, or authorized agent of the employer certifying that the information given is true and correct to the best of the signer's knowledge and belief, *the date the report was submitted and the telephone number.*

*h l.* Such other schedules or reports as may be required, duly completed in all substantial respects on such forms and in accordance with such instructions as the department may provide or approve.

*This rule is intended to implement Iowa Code section 96.7.*

ITEM 3. Amend rule 370—2.4(96) as follows:

**370—2.4(96) Reporting of earnings data on magnetic tape or punched tabulating cards.**

**2.4(1)** Employers may, in lieu of the individual wage item listing on IESC 21, employer's quarterly contribution and payroll report, submit a magnetic tape listing or punched tabulating cards. Authorization for these *this* reporting methods will be given if the employer meets the specification requirements so as to be compatible with the department's computer capabilities. Such specifications will be furnished upon request.

**2.4(2)** A magnetic tape or punch card listing does not relieve the employer's responsibility to timely file Form IESC 21. If all wages are reported on magnetic tape or punch cards, designate this on Form IESC 21 and enter the grand total of all wages on the IESC grand total all pages line. If some wages are on magnetic tape or punch cards and the balance individually listed on Form IESC 21, designate the total for each group on the form and enter the grand total of both groups on the IESC grand total all pages line. All corrections to wages reported to the department must be listed and submitted on IESC 98, employer's wage adjustment report. Credit amounts must not be reported on tape or cards. All reporting forms and contributions must be packaged and submitted separately from the tape or cards.

*This rule is intended to implement Iowa Code section 96.7.*

ITEM 4. Amend subrule 3.43(15) as follows:

**3.43(15)** Relief of charges to employer on transfer of wage credits. Charging of ten weeks of benefit payments to the balancing account. An amount equal to ten times the individual's weekly benefit amount will be used when ten weeks of benefit payments are to be noncharged to the succeeding employer on wage credit transfers involved in voluntary quit and misconduct requalifications. *The relief from charges does not apply to the succeeding reimbursable employer who is required*

*by law or by election to reimburse the trust fund and such employer shall be charged with the benefits paid.*

*This rule is intended to implement Iowa Code section 96.8(5).*

[Filed 7/11/86, effective 9/3/86]

[Published 7/30/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/30/86.

## ARC 6801

### HEALTH DEPARTMENT[470]

Pursuant to the authority of Iowa Code section 135.11(15), the Iowa Department of Public Health hereby amends Chapter 9, "Outpatient Diabetes Education Programs," Iowa Administrative Code.

This rule was adopted by the Department on July 9, 1986.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 7, 1986, as **ARC 6529**. There is no change from the Notice of Intended Action.

This rule will become effective September 3, 1986.

Amend subrule **9.7(1)** by adding the following lettered paragraphs:

c. Licensed pharmacists presenting individual consultation or sessions limited to appropriate drug use shall meet requirements as stated in subrule 9.7(3); or

d. Licensed pharmacists acting as program coordinator or presenting regularly scheduled sessions in addition to appropriate drug use shall meet the qualifications consistent with those for all required staff as stated in subrules 9.7(1), paragraph "a," and 9.7(2).

This rule is intended to implement Iowa Code chapters 509, 514, and 514B.

[Filed 7/11/86, effective 9/3/86]

[Published 7/30/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/30/86.

## ARC 6793

### INSURANCE DIVISION[193]

Pursuant to the authority of Iowa Code section 505.8, the Iowa Division of Insurance adopts amendments to Chapter 20 of the Iowa Administrative Code entitled, "Property and Casualty Insurance Rate and Form Filing Procedures."

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 4, 1986, as **ARC 6586**.

Changes from such Notice were made in subrules 20.4(4), 20.4(5), and 20.4(6).

These rules will become effective on September 3, 1986.

Rule 510—20.4(515, 515C, 518, 518A, 519, 520) Policy form filing, is amended by adding new subrules 20.4(4) to 20.4(7) as follows:

**20.4(4)** In addition to the required synopsis form and cover letter, each filing submitted to the insurance division for approval shall be accompanied by a certification of the general counsel or an officer of the submitting company that the policy form is in compliance with the insurance laws of Iowa and these rules.

## INSURANCE DIVISION[193] (cont'd)

**20.4(5)** Any insured or established organization with one or more insureds among its members may file a written request with the commissioner for a hearing on a proposed form filing. A request for hearing must be filed within twenty days of receipt of the form filing by the commissioner.

**20.4(6)** The commissioner of insurance will hold the hearing within twenty days after receipt of the written demand for a hearing and will give not less than ten days' written notice of the time and place of the hearing to the person or association filing the demand, to the filing insurer or organization, and to any other person requesting a notice. The commissioner of insurance may suspend or postpone the effective date of the proposed filing pending the hearing.

**20.4(7)** A form filing which has not been previously approved, disapproved or questioned shall be deemed approved on or after thirty days from its receipt.

[Filed 7/11/86, effective 9/3/86]

[Published 7/30/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/30/86.

**ARC 6794****INSURANCE DIVISION[193]**

Pursuant to the authority of Iowa Code section 505.8, the Iowa Division of Insurance adopts amendments to Chapters 30, 31, and 33 of the Iowa Administrative Code entitled "Life Insurance Policies," "Life Insurance Companies-Variable Annuities Contracts," and "Variable Life Insurance Model Regulation."

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 4, 1986, as ARC 6587.

Changes from such Notice are as follows:

- 30.5(1)
- 30.5(2)
- 30.5(4)
- 30.5(5)
- 30.5(6)
- 30.5(7)
- 31.3(2)"c"
- 33.4(1)"c"

These amendments are intended to implement Iowa Code sections 505.8, 508.25, and 508A.4.

The rules will become effective on September 3, 1986.

ITEM 1. Rule 510—30.5(508) is added as follows:

**510—30.5(508) General filing requirements.**

**30.5(1)** All filings submitted to the Iowa division of insurance must be accompanied by a prepaid self-addressed envelope large enough to contain all copies of material requested to be returned.

**30.5(2)** All filings must be accompanied by a cover letter in duplicate which gives the form numbers, titles, effective date of the filing, and a brief identifying description of the forms submitted. If the filing amends or changes a prior filing, the previous provisions and new provisions should be described in the cover letter

with an explanation for the changes. The date of home state approval or acknowledgment should be included in the cover letter. Home state approval is a prerequisite to review by the division unless the form will not be used in the state of domicile. Any differences between the filing submitted to Iowa and the filing approved in the domiciliary state should be explained.

**30.5(3)** A copy of each form for which approval is requested shall be transmitted with the filing. If the forms submitted refer to both life and accident and health coverages, the cover letter must be submitted in triplicate with two copies of each form for which approval is requested.

**30.5(4)** Each filing submitted to the insurance division for approval shall be in conformance with the applicable provisions of Iowa Code chapter 508 and be accompanied by a certification of the general counsel or an officer of the submitting company that to the best of their knowledge and belief the policy form is in compliance with the insurance laws of Iowa and these rules.

**30.5(5)** Each filing must be submitted to the division of insurance not less than sixty days prior to the effective date of the filing, unless the sixty-day period is waived by the division for good cause. Any deficiencies or discrepancies in the filing will delay final approval. In case of disapproval, the company will be notified by the division.

**30.5(6)** A filing which has not been previously approved, disapproved or questioned shall be deemed approved on or after thirty days from its receipt by the division.

**30.5(7)** Any insured or established organization with one or more insureds among its members may file a written request with the commissioner for a hearing on a proposed form filing. A request for hearing must be filed within twenty days of receipt of the form filing by the commissioner.

**30.5(8)** The commissioner of insurance will hold the hearing within twenty days after receipt of the written demand for a hearing and will give not less than ten days' written notice of the time and place of the hearing to the person or association filing the demand, to the filing insurer or organization, and to any other person requesting notice. The commissioner of insurance may suspend or postpone the effective date of the proposed filing pending the hearing.

ITEM 2. Subrule 31.3(2) is amended by adding paragraph "c" as follows:

c. The contract or certificate does not comply with the filing requirements and provisions set forth in subrules 30.5(1) to (8).

ITEM 3. Subrule 33.4(1) is amended by adding paragraph "c" as follows:

c. A filing which has not been previously approved, disapproved or questioned shall be deemed approved on or after thirty days from its receipt by the division.

[Filed 7/11/86, effective 9/3/86]

[Published 7/30/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/30/86.

**ARC 6795****INSURANCE DIVISION[193]**

Pursuant to the authority of Iowa Code section 505.8, the Iowa Division of Insurance adopts amendments to Chapters 35 and 36 of the Iowa Administrative Code entitled, "Accident and Health Insurance" and "Individual Accident and Health-Minimum Standards."

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 4, 1986, as **ARC 6588**.

Changes from such Notice are as follows:

35.4

35.7(1)

35.7(2)

35.7(4)

35.7(5)

35.7(6)

36.11

These amendments are intended to implement Iowa Code sections 509.6, 514A.3(7), and 514D.3.

These rules will become effective on September 3, 1986.

ITEM 1. Rule 510—35.4(509), introductory paragraph, is amended as follows:

**510—35.4(509) Required provisions.** No blanket policy as herein defined shall be issued or delivered in this state unless a copy of the policy and brochure if required, has been approved by the commissioner of insurance: *in accordance with the provisions set forth in rule 35.7(509)*. All policies of blanket accident or sickness insurance or combination thereof issued in this state shall contain in substance the following provisions:

ITEM 2. Rule 510—35.7(509) is added as follows:

**510—35.7(509) General filing requirements.**

**35.7(1)** All filings submitted to the Iowa division of insurance must be accompanied by a prepaid self-addressed envelope large enough to contain all copies of material requested to be returned.

**35.7(2)** All filings must be accompanied by a cover letter in duplicate which gives the form numbers, titles, effective date of the filing, and a brief identifying description of the forms submitted. If the filing amends or changes a prior filing, the previous provisions and new provisions should be described in the cover letter with an explanation for the changes. The date of home state approval or acknowledgment should be included in the cover letter. Home state approval is a prerequisite to review by the division unless the form will not be used in the state of domicile. Any differences between the filing submitted to Iowa and the filing approved in the domiciliary state should be explained.

**35.7(3)** A copy of each form for which approval is requested shall be transmitted with the filing. If the forms submitted refer to both life and accident and health coverages, the cover letter must be submitted in triplicate with two copies of each form for which approval is requested.

**35.7(4)** Each filing submitted to the insurance division for approval shall conform to the applicable requirements of Iowa Code chapter 509 and shall be accompanied by a certification of the general counsel or an officer of the submitting company that to the best of their knowledge and belief the policy form is in compliance with the insurance laws of Iowa and these rules.

**35.7(5)** Each filing must be submitted to the division of insurance not less than sixty days prior to the effective date of the filing. Any deficiencies or discrepancies in the filing will delay final approval. In case of disapproval, the company will be notified by the division.

**35.7(6)** Any insured or established organization with one or more insureds among its members may file a written request with the commissioner for a hearing on a proposed form filing. A request for hearing must be filed within twenty days of receipt of the form filing by the commissioner.

**35.7(7)** The commissioner of insurance will hold the hearing within twenty days after receipt of the written demand for a hearing and will give not less than ten days' written notice of the time and place of the hearing to the person or association filing the demand, to the filing insurer or organization, and to any other person requesting notice. The commissioner of insurance may suspend or postpone the effective date of the proposed filing pending such hearing.

ITEM 3. Rule 510—36.11(514D) is amended as follows:

**510—36.11(514D) Certification.** Any policy form submitted to the insurance department *division* for approval which is subject to Iowa Code chapter 514D, The Code, shall be accompanied by a certification signed by an officer of the submitting company that to the best of his or her knowledge and belief the policy form is in compliance with all sections of both chapter 514D and these rules. Further, the rates submitted with any such form shall be accompanied by an actuarial certification that in the opinion of the actuary the rates are in compliance with rule 36.10(514D) regarding minimum loss ratios: *in conformance with the applicable requirements of Iowa Code chapter 514D and with the filing requirements set forth in subrules 35.7(1) to 35.7(7)*.

[Filed 7/11/86, effective 9/3/86]

[Published 7/30/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/30/86.

**ARC 6809****UTILITIES DIVISION[199]**

Formerly Commerce Commission[250]

Pursuant to the authority of Iowa Code sections 17A.4(1), 22.11, and 476.2, the Utilities Board hereby gives Notice that on July 11, 1986, the Utilities Board issued an order in Docket No. RMU-86-8, In Re: Rate Regulation Election — Electric Cooperative Corporations and Associations, "Order Adopting Rules."

On May 2, 1986, the Utilities Board issued an order in this docket commencing a rulemaking to consider the adoption of revisions to Iowa Administrative Code 250—subrule 7.4(10) and to adopt rule 250—7.12(476). The Notice of Intended Action was published in the Iowa Administrative Bulletin on May 21, 1986, as **ARC 6574**. In order to allow for public comment on the proposed rules, a deadline of June 10, 1986, was set for written comments.

The adopted rules set forth the manner in which electric cooperative corporations or associations may



## UTILITIES DIVISION[199] (cont'd)

thirty days of such filing. Upon receipt of the testimony, the ~~commission~~ *utilities board* will schedule additional filing dates and set the matter for hearing. When hearing is scheduled, final disposition of the rate proceeding will be accomplished under the contested case provisions of the Iowa Administrative Procedure Act and the ~~commission's~~ *utilities board's* rules and regulations thereunder.

ITEM 3. Move existing subrule 7.4(10) to the end of new rule 250—7.12(476) and renumber as 7.12(2).

[Filed 7/11/86, effective 9/3/86]

[Published 7/30/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/30/86.

**ARC 6810****UTILITIES DIVISION[199]**

Formerly Commerce Commission[250]

Pursuant to the authority of Iowa Code sections 476.2 and 17A.4, the Utilities Division of the Department of Commerce hereby gives Notice that on July 9, 1986, the Utilities Board issued an order in Docket No. RMU-86-2, In Re: Directory Assistance Rules, "Order Adopting Rules."

On April 3, 1986, the Utilities Board issued an order in this docket commencing a rulemaking to consider the adoption of a revision to Iowa Administrative Code 250—subrule 22.3(10), paragraph "b." The proposed rulemaking was published in the Iowa Administrative Bulletin on April 23, 1986, as **ARC 6513**. In order to allow for public comment on the proposed rules, a deadline of May 13, 1986, was set for written comments.

This subrule reduces from four to two the number of directory assistance calls per month for which no charge shall be assessed after the first twelve months that a tariff is in effect.

Thirty-nine parties filed data or written comments on this rulemaking. The majority of those commenting supported the rulemaking as a means of making the cost causers the cost payers. Two commenters said that this rulemaking should be a step toward reducing all call allowances and the hotel, motel, and hospital exemptions.

Two commenters opposed the rulemaking. One party argued the rule change would work a hardship upon handicapped persons. However, our present rules adequately provide exemptions for such persons. The second party argued the four-calls-per-month allowance should remain to compensate for mistakes in the telephone directory. The Utilities Board does not see this problem as pervasive, and will not change the proposed rules on that basis.

The Utilities Board adopts the proposed rule without change. The rule will become effective September 3, 1986, pursuant to Iowa Code section 17A.5.

Amend Iowa Administrative Code 250—subrule 22.3(10), paragraph "b," as follows:

b. A customer shall not be charged for the first seven directory assistance calls from a customer's station each month for the first twelve months that the tariff is in effect. After the first twelve months of directory assistance charges, the number of directory assistance calls from the customer's station for which no charge shall be assessed shall be reduced to ~~four~~ *two* per month.

[Filed 7/11/86, effective 9/3/86]

[Published 7/30/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/30/86.

## EFFECTIVE DATE DELAY

[Pursuant to §17A.4(5)]

AGENCY	RULE	EFFECTIVE DATE DELAYED
Water, Air and Waste Management Department[900]	64.2(9)"c" [IAB 6/18/86, ARC 6640]	Seventy days from effective date of July 23, 1986.



IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

EXECUTIVE ORDER NUMBER TWENTY-FOUR

- WHEREAS, on October 13, 1982, President Reagan signed into law the "Job Training Partnership Act" (JTPA), Pub. L. 97-300, replacing the "Comprehensive Employment and Training Act" (CETA), 29 USC 801; and
- WHEREAS, in order to establish a continuing relationship under the JTPA, the Governor and the Secretary of Labor signed an Agreement assuring that the State would comply with the JTPA and the applicable rules and regulations and the Wagner-Peyser Act, as amended, and specifying that the Secretary would accept the guidelines, interpretations and definitions of the Governor to the extent they are consistent with the JTPA and applicable rules and regulations; and
- WHEREAS, the Honorable Robert D. Pay by Executive Order 47 (December 29, 1982) designated the Office for Planning and Programming (OPP) as his administrative agency for the JTPA and established within the executive offices of the state the State Job Training Coordinating Council; and
- WHEREAS, Senate File 2175, signed into law on May 29, 1986, reorganizes the structure of state government by abolishing and creating certain state agencies, repealing and modifying provisions of law relating to such agencies, and altering the duties and powers of certain executive branch agencies; and
- WHEREAS, under the provisions of Senate File 2175 the OPP agency was discontinued and the administrative responsibilities for the JTPA previously performed by the OPP were transferred to the Department of Economic Development (DED); and
- WHEREAS, administrative continuity is necessary to ensure that all mandated activities and plans continue in operation during and after the transition of responsibilities to the DED.
- NOW, THEREFORE, I, Terry E. Branstad, Governor of the State of Iowa, by the power vested in me by the Constitution, by the laws of Iowa and by the JTPA, do hereby delegate to the Department of Economic Development the authority and responsibility vested in the Governor under the JTPA for administering and carrying out employment and training policies, programs and activities under the JTPA and create within the executive offices of the state, the State Job Training Coordinating Council. This transfer of responsibility shall be effective July 1, 1986.

Section 1. This Order replaces Executive Order 47. The Order transfers to the Department of Economic Development those administrative responsibilities for the JTPA which were previously assigned to the Office for Planning and Programming.

The Department of Economic Development is delegated the authority vested in the Governor under the JTPA for administration, operation and implementation of the JTPA. The Order consolidates into one Order authority and responsibilities for programs under the JTPA. Except as provided herein, general authority and responsibilities for programs under the JTPA are delegated and assigned to the Department of Economic Development.

Section 2 As the state administrative agency for the JTPA, the Department of Economic Development shall:

- (a) act on the Governor's behalf in applying for and receiving JTPA funds; and
- (b) assume responsibility for resolution of grants awarded under the Comprehensive Employment and Training Act prior to the transition to the JTPA; and
- (c) continue with the administration of JTPA grants awarded to subrecipients, or received by OPP, prior to July 1, 1986; and
- (d) administer and implement employment and training policies, programs and activities under the JTPA; and
- (e) adopt administrative rules as needed to administer JTPA programs and activities; and
- (f) provide staff support to the State Job Training Coordinating Council and technical assistance to such other groups seeking funds under the JTPA as may be required, subject to the Department's time and budget constraints; and
- (g) take other appropriate actions to implement the general delegation and assignment of responsibility for JTPA policies, programs and activities under this Order.

Section 3 The Department of Economic Development acts on the Governor's behalf as the JTPA state administrative agency. The Governor shall:

- (a) appoint SJTCC members;
- (b) approve any reorganization plans for a service delivery area (SDA);
- (c) approve final designation and redesignation of service delivery areas (SDA); and
- (d) oversee the agency's programs, policies and activities.

Section 4 The purpose and structure of the State Job Training Coordinating Council (SJTCC) under the JTPA is as follows:

- (a) The Council shall plan, coordinate and monitor the provision of services directed to eligible participants, perform all functions mandated by the JTPA and perform other duties as directed by the Governor, but in no event shall the SJTCC directly operate JTPA programs and services.
- (b) Council members shall be appointed by the Governor and serve for two years unless a longer term is indicated in the Governor's letter of appointment. The Council shall, at a minimum, be composed of fifteen members.

(c) The Chairperson of the Council shall be designated by the Governor.

(d) The Council shall not procure support personnel in addition to the support provided by the Department of Economic Development unless prior approval is granted by the Governor.

(e) All functions of the Council which result in the formation of plans or decisions shall be advisory and submitted, unless otherwise requested, to the Department of Economic Development which acts on the Governor's behalf under this Order.



test:

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and cause the Great Seal of the State of Iowa to be affixed. Done at Des Moines, Iowa, this 30th day of June in the year of our Lord one thousand nine hundred and eighty-six.

*Henry E. Brandt*  
GOVERNOR

*Henry R. Davis*  
Deputy Secretary of State



# State of Iowa

## Executive Department

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

PROCLAMATION OF DISASTER EMERGENCY

WHEREAS, several severe storm systems, with unusually heavy rainfall, passed through eastern Iowa on July 7, 8 and 9, 1986, causing significant damage and flooding of several rural and urban areas in Clinton and Scott counties; and

WHEREAS: the effect of these storms in flooding and flood damage to public facilities, including road and bridge systems within the counties and urban areas; and

WHEREAS: additional effects have been experienced by agricultural farming operations as well as to private property; and

WHEREAS: reports from the local officials have been verified by the Office of Disaster Services; and

WHEREAS: Assistance may be necessary from State agencies for services beyond local resources in repair and restoration of public facilities

NOW, THEREFORE, I, Terry E. Branstad, Governor of the State of Iowa, do hereby proclaim Clinton and Scott counties to be disaster areas and call upon the citizens and agencies of local and state government to render good and sufficient aid to assist this stricken area in its time of need.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Iowa to be affixed. Done at Des Moines, this 11th Day of July in the year of our Lord one thousand nine hundred eighty-six.

*Terry E. Branstad*  
GOVERNOR

Attest:

*Mary Jane O'Neil*  
SECRETARY OF STATE



# State of Iowa

## Executive Department

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

PROCLAMATION OF STATE OF EMERGENCY

WHEREAS, a severe storm system, with heavy rainfall and tornadoes, passed through Iowa June 29th and 30th, 1986, causing significant flooding of several rural and metropolitan areas in Polk, Dallas, and Guthrie counties; and

WHEREAS, the affect of these storms is flood and tornado damage to private property including residences, agriculture land, businesses, and to public property; and

WHEREAS, conditions exist which threaten the public peace, health and safety of the citizens in Dallas, Guthrie and Polk Counties; and

WHEREAS, reports from the local officials have been verified by the Office of Disaster Services and other State agencies;

NOW, THEREFORE, I, Terry E. Branstad, Governor of the State of Iowa, do hereby proclaim Polk, Guthrie and Dallas Counties to be in a state of emergency and call upon the citizens and agencies of local and state government to render good and sufficient aid to assist these stricken areas in their time of need.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Iowa to be affixed. Done at Des Moines, this 1st day of July in the year of our Lord one thousand nine hundred eighty-six.



*Terry E. Branstad*  
 \_\_\_\_\_  
 GOVERNOR

ATTEST:

*Mary Jane Odell*  
 \_\_\_\_\_  
 Secretary of State

  
**State of Iowa**  
**Executive Department**

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

PROCLAMATION OF DISASTER EMERGENCY

WHEREAS, a severe storm system, with heavy rainfall, strong winds, and tornadoes, passed through Iowa June 29th and 30th, 1986, causing significant flooding of several rural and metropolitan areas in Polk, Dallas, Guthrie, Greene and Carroll counties; and

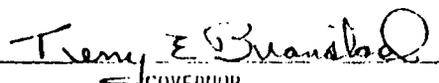
WHEREAS, the affect of these storms is flood and tornado damage to private property including residences, agriculture land, businesses, and to public property; and

WHEREAS, conditions exist which threaten the public peace, health and safety of the citizens in Dallas, Guthrie, Polk, Greene and Carroll counties; and

WHEREAS, reports from the local officials have been verified by the Office of Disaster Services and other State agencies;

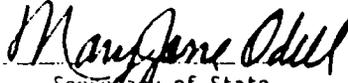
NOW, THEREFORE, I, Terry E. Branstad, Governor of the State of Iowa, do hereby proclaim Polk, Guthrie, Dallas, Carroll and Greene counties to be in a state of disaster emergency and call upon the citizens and agencies of local and state government to render good and sufficient aid to assist these stricken areas in their time of need.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Iowa to be affixed. Done at Des Moines, this 7th day of July in the year of our Lord one thousand nine hundred eighty-six.

  
 \_\_\_\_\_  
 GOVERNOR



ATTEST:

  
 \_\_\_\_\_  
 Secretary of State

## SUMMARY OF OPINIONS OF THE ATTORNEY GENERAL

THOMAS J. MILLER

June 1986

COUNTIES AND COUNTY OFFICERS

County Attorney; Board of Supervisors; County Budget. Authority of Supervisors to Regulate Salary Increases for Assistant County Attorneys. Iowa Code § 331.904(3) (1985). The county attorney is not required to adhere to uniform salary guidelines established by the board of supervisors for all county employees when determining salary increases for assistant county attorneys and the county board of supervisors may not require the county attorney to disclose the line item category from which salary increases are taken if the salaries are within the budget for the county attorney's office. (Brick to Shoning, State Representative, 6-25-86) #86-6-3(L)

CRIMINAL LAW

Restitution Plans as Judgments. Iowa Code §§ 910.1(4), 910.3, 910.4, 909.6 (1985) and Iowa R. Crim. P. 24(d)(2). A restitution plan does not constitute a judgment and should not be treated as such; a fine receives separate treatment under the Code and is a judgment which constitutes a lien upon the offender's property. (Scase to Hines, Jones County Attorney, 6-5-86) #86-6-2(L)

MUNICIPALITIES

Municipal Home Rule Amendment/Collection of Delinquent Water Charges. Iowa Const. art. III, § 38A; Iowa Code §§ 364.1, 384.84 (1985). Municipal home rule amendment does not authorize city ordinance creating a lien for delinquent water service bills. Municipal home rule amendment enables city ordinance terminating water service to premises until delinquent water bills are paid. Municipal ordinance requiring a maximum deposit equivalent to charge for two and a half months' service is not unreasonable. (Smith to Nystrom, State Senator, 6-25-86) #86-6-4(L)

Library Board of Trustees and Civil Service. Iowa Code ch. 358B, 392 (1985); Iowa Code §§ 392.1, 392.5, 400.6 (1985); Iowa Code § 378.10 (1973); 1964 Iowa Acts, ch. 1088, § 196. Pursuant to House File 2403, which amends the civil service statute, whenever an Iowa Code chapter 392 library board of trustees is given the power to employ library employees, those employees are exempt from application of the civil service statute. (DiDonato to Drake, State Senator, 6-25-86) #86-6-5(L)

Administrative Agencies; Airports. Iowa Code ch. 330 (1985); Iowa Code ch. 392 (1985); Iowa Code §§ 330.17, 330.18, 330.19, 330.20, 330.21, 330.22, 330.23, 330.24, 362.2(23), 364.1, 364.2(3), 392.1, 392.2, 392.3, 392.4; Iowa Const. art. III, § 38A. An airport commission is "an agency which is controlled by state law" so that the definition of an "administrative agency" in section 362.2(23) precludes the authority of a municipality to establish an airport board other than pursuant to chapter 300. However, a board which does not have the power to manage and control the municipal airport, such as an advisory board, may be established pursuant to chapter 392. (DiDonato to O'Kane, State Representative, 6-27-86) #86-6-6(L)

Authority of City to Impose Ordinance Requiring Utility Board to Pay a Fee and to Provide Free Service to City. Iowa Code ch. 388 (1985); Iowa Code §§ 364.1, 364.2(2), 364.3(4), 384.80, 384.80(4), 384.81(1), 384.84, 384.91, 388.1, 388.2, 388.3, 388.4, 388.5, 388.6 (1985); Iowa Const. art. III, § 38A (amend. 25). A municipality has the authority to impose a fee upon a city utility operated by a utility board based upon the costs to the city occasioned by the utility system's use of the streets and other city property. Although a utility board has the power to provide free service to the city, the sole rate setting authority resides with the utility board so that a municipality has no power to require by ordinance that free service be provided to the city by the utility board. (DiDonato to Tabor, State Representative, 6-27-86) #86-6-7(L)

Chapter 411 Retirement Systems. Iowa Code ch. 411 (1985); Iowa Code §§ 411.1(11), 411.1(12), 411.5(1), 411.6, 411.6(12) (1985); 1984 Iowa Acts, ch. 1285, § 22. In computing a member's earnable compensation pursuant to Iowa Code § 411.1(1)(11) (1985), compensation for holidays means pay or wages in addition to the regular compensation received for work performed on those duty shifts designated as holidays under the applicable pay plan. The annual readjustment of pensions pursuant to Iowa Code § 411.6(12) (1985) includes an increase for compensation for holidays as part of the earnable compensation of active members of the same rank and position on the salary scale as was held by the retired member at the time of retirement even if holiday pay was not explicitly included in the statutory definition of earnable compensation at the time of the member's retirement. In computing the annual readjustment of pensions for those retirees who retired prior to the date that compensation for holidays was included in the pay plan, a reasonable method to determine the amount of increase to be received by those retirees could be based on an average of the compensation for holidays received by active members of the department of the same rank and position on the salary scale as was held by the retired member of the time of the member's retirement. However, this determination is left to the sound discretion of the board of fire trustees. (DiDonato to Connors, State Representative, 6-27-86) #86-6-9(L)

TAXATION

Sales Tax; Casual Sale Exemption. Iowa Code § 422.42(12) (1985 Supp.) and § 422.45(6) (1985). A liquidation sale of a business is not exempt from sales tax as a "casual sale" unless the business is sold to a purchaser who is going to carry on the business as a going concern, thereby satisfying Iowa Code § 422.42(12)(b) (1985 Supp.). (Mason to Holden, 6-2-86) #86-6-1

Tax Amnesty; Eligibility of 1986 Assessments for Amnesty. House File 764, 71st G.A., 2d Sess. §§ 1-4. A timely application for tax amnesty for pre-1986 delinquent taxes should not be denied merely because the Department of Revenue made an assessment in 1986. (Griger to Bair, Director, 6-27-86) #86-6-8(L)

HOSPITALS

County Hospitals. Iowa Code ch. 347 (1985). Op.Att'yGen. #85-10-2(L), opining that a county public hospital does not have authority to operate a medical clinic, was withdrawn on June 25, 1986, by letter from Elizabeth M. Osenbaugh to John E. Casper. Specific fact situations should be analyzed on the basis of 1980 Op.Att'yGen. 388 and the amendments to chapter 347 contained in H.F. 2229 and 2395, 71st General Assembly, 2nd Session.

STATUTES CONSTRUED1973 CODE

378.10

OPINION

86-6-5(L)

1985 CODE

330.17 - .24

331.904(3)

ch. 358B

362.2(23)

364.1

364.1

364.1

364.2(2)

364.2(3)

364.3(4)

378.10

384.80

384.80(4)

384.81(1)

384.84

384.84

384.91

ch. 388

388.1 -.6

392

ch. 392

392.1

392.1 - .4

392.5

400.6

ch. 411

411.1(11)

411.1(12)

411.5(1)

411.6

411.6(12)

422.42(12)

422.45(6)

909.6

910.1(4)

910.3

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OPINION

86-6-6(L)

86-6-3(L)

86-6-5(L)

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86-6-2(L)

86-6-2(L)

IOWA CONSTITUTION

Art. III, § 38A  
Art. III, § 38A  
Art. III, § 38A

OPINION

86-6-4(L)  
86-6-6(L)  
86-6-7(L)

1964 IOWA ACTS

ch. 1088, § 196

OPINION

86-6-5(L)

1984 IOWA ACTS

ch. 1285, § 22

OPINION

86-6-9(L)

71st G.A., 2d sess.

H.F. 764, §§ 1-4

OPINION

86-6-8(L)



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