

State of Iowa

# Iowa Administrative Code

Biweekly  
Supplement  
April 5, 1978



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## PREFACE

The Biweekly Supplement to the Iowa Administrative Code (IAC) is published every other Wednesday, first publication being dated July 14, 1975, and will usually be in two parts.

Instructions for updating the IAC can be found following the Preface in the Supplement beginning October 6, 1975.

Initially, two binders designated "Supplements" are furnished for the Biweekly Supplements for retaining Part I material—Notices of Intended Action in one binder and Filed† and Filed Emergency rules in the other. It is suggested that this material be placed alphabetically by agency, numerically by chapters, chronologically within chapter.

Part I contains Notices of Intended Actions by administrative agencies which may be in the form of proposals for new rules or statements of either the terms or substance of the intended actions or a description of the subjects and issues involved, and the time when, the place where, and the manner in which interested persons may be heard. Part I may also contain filed rules and filed emergency rules, in full or in part, which indicate an effective date. All of Part I is indexed in each Supplement and a cumulative index to Notices only is also provided.

Each page of Part I contains a line at the top similar to the following:

IAC Supp. 7/28/75	Agriculture[30]	Notice, p.1
IAC Supp. 9/22/75	Regents[720]	Filed, p.1

Part II contains only replacement pages to be inserted in the looseleaf IAC according to instructions in the respective Supplement. Replacement pages incorporate amendments to existing rules or entirely new rules or emergency or temporary rules which have been adopted by the agency and filed with the Secretary of State. [It may be necessary to refer to Part I to determine the specific change.] Part II may also contain new or replacement pages for "General Information" including an agenda of the Administrative Rules Review Committee which is published prior to statutory or special meeting dates. A cumulative index for Part II is provided.

If rules are filed under emergency provisions, this fact is indicated by an asterisk \* with an editorial note.

If a formal objection to a rule is filed, this is indicated on the proposed or filed rule by an asterisk \* with an editorial note.

Each page in Part II contains a line at the top of each page similar to the following:

IAC 7/28/75	Agriculture[30]	Ch 90, p.1
IAC 9/22/75	Conservation[290]	Temporary, Ch 103, p.1

†"Filed" means filed with the Secretary of State.

# INSTRUCTIONS

## for Updating Iowa Administrative Code with Biweekly Supplement

NOTE: The Iowa Administrative Code, including biweekly supplements [Vols. I to VI and two supplement binders], is available by subscription for \$205.00 plus \$6.15 tax. Subscriptions must be renewed in June of each year (\$110.00 plus \$3.30 tax). Volumes VII to IX and additional Supplement Binders for the IAC are now available. The cost is \$3.00 each, plus 9¢ sales tax. Make checks payable to: Iowa State Printing Division, and send to Grimes State Office Building, Des Moines, Iowa 50319. Be sure to specify which binder or binders you want. For those receiving the IOWA ADMINISTRATIVE CODE under statutory authority of the IOWA CODE, binders are available upon written request to Superintendent of Printing.

NOTE: Please review the "Preface" for both the Iowa Administrative Code and Biweekly Supplement and follow carefully the updating instructions.

The boldface entries in the left-hand column of the updating instructions for both Part I and Part II correspond to the tab sections in the IAC Binders.

It is recommended that material in Part I—**NOTICES** of intended action be placed in one Supplement binder and **EMERGENCY OR FILED RULES** be placed in the other Supplement binder. It may be necessary to expand to a second binder for each category. [White correction liquid used by typists is effective in marking the binder covers.] It is further suggested that all materials be placed alphabetically by agency, numerically by chapters, chronologically within chapters, whenever possible. When inserting rules with the same number, reverse the order of the dates.

Obsolete pages in Part II are listed in the column headed "Remove Old Pages". New and replacement pages in this supplement are listed in the column headed "Insert New Pages". It is important to follow instructions in both columns.

### UPDATING INSTRUCTIONS

#### April 5, 1978 Biweekly Supplement

#### PART I

##### SUPPLEMENT BINDERS

	Insert Notices	Insert Filed or Filed Emergency
<b>Architectural Examiners [80]</b>		2 sheets
<b>Beer and Liquor [150]</b>	2 sheets	
<b>Civil Rights [240]</b>	2 sheets	
<b>Conservation [290]</b>	3 sheets	
<b>Conservation [290]</b>		2 sheets
<b>Employment Agency Licensing [350]</b>		3 sheets
<b>Employment Security [370]</b>	15 sheets	
<b>Employment Security [370]</b>		1 sheet
<b>General Services [450]</b>		1 sheet

## April 4, 1978 Biweekly Supplement (cont'd)

## PART I (cont'd)

## SUPPLEMENT BINDERS

	Insert Notices	Insert Filed or Filed Emergency
<b>Health [470]</b>	4 sheets	
<b>Historical Department [490]</b>	1 sheet	
<b>Judicial Nominating Commission [525]</b>		1 sheet
<b>Labor, Bureau of [530]</b>		2 sheets
<b>Natural Resources [580]</b>	3 sheets—amended Notice, Ch 3, p.1—5 [Insert with Notice Ch 3, IAC Supp. 3/8/78]	
<b>Natural Resources [580]</b>	1 sheet—Notice Amended, Ch 5 [Insert with Notice, 5.2, 5.16, 5.29—5.32, IAC Supp. 3/8/78]	
<b>Nursing Board [590]</b>	1 sheet	
<b>Revenue [730]</b>		Insert 1 sheet—Filed Chs 97—101, p.3, 4, 3/8/78, 4/5/78 [Remove 1 sheet—Filed Chs 97—101, p.3, 4, 3/8/78]
<b>School Budget Review [740]</b>		2 sheets
<b>Secretary of State [750]</b>		1 sheet
<b>Social Services [770]</b>	Insert 1 Sheet, Notice, Ch 24, p.3, 3/22/78, p.4, 3/22/78, 4/5/78 [Remove 1 sheet, Notice, ch 24, p.3, 4, 3/22/78]	
<b>Substance Abuse [805]</b>		4 sheets
<b>Transportation [820]</b>		2 sheets
<b>Voter Registration [845]</b>	1 sheet	
<b>Index, Part I (optional retention)</b>		

**PART II**

NOTE: Additional Volumes VIII and IX binders are now available. See note on page 1 of these instructions.

**IOWA ADMINISTRATIVE CODE**

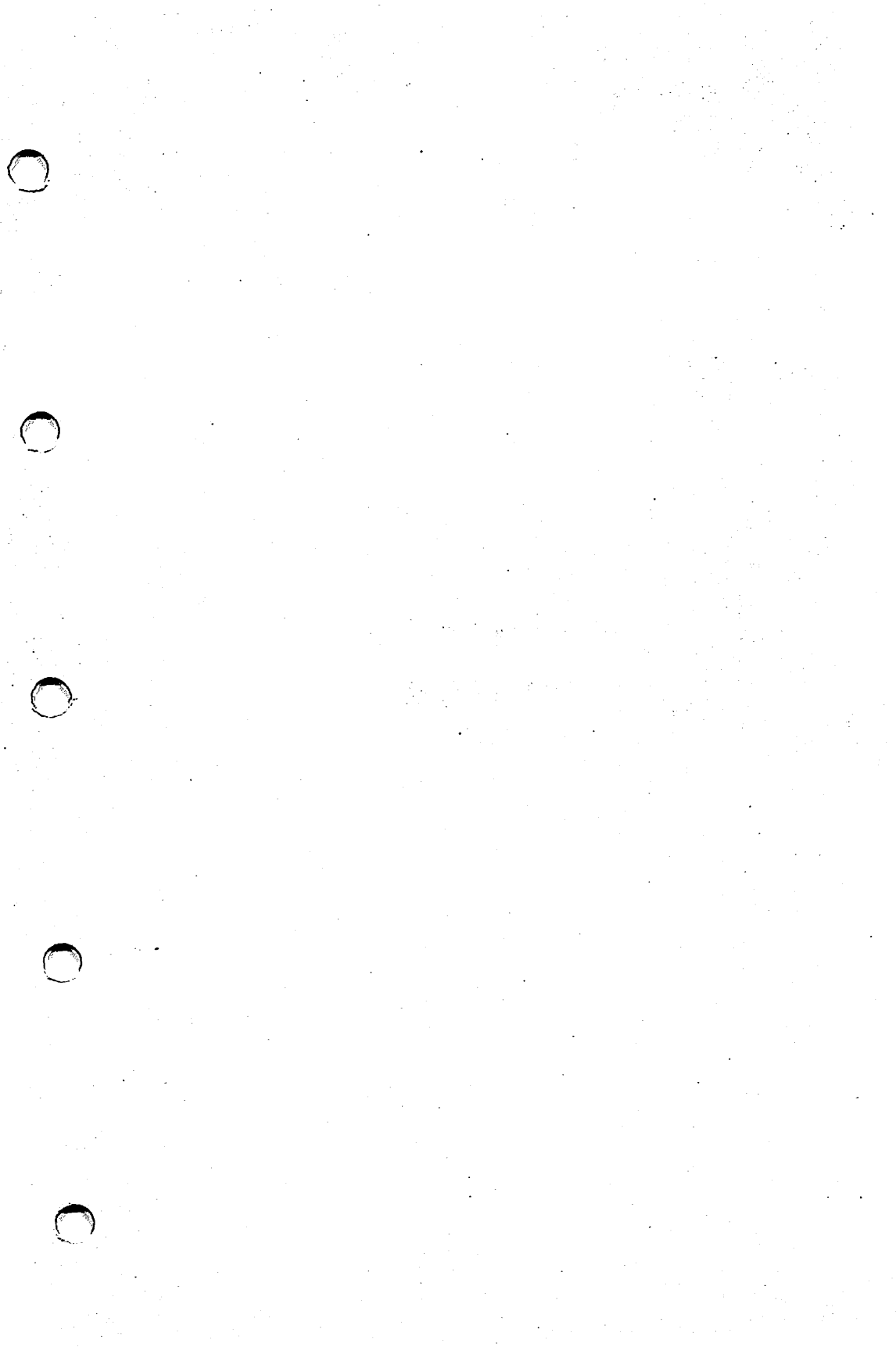
	<b>Remove Old Pages* Agenda, March Mtg.</b>	<b>Insert New Pages Agenda, April Mtg.</b>
<b>General Information (Vol. I)</b>		
<b>Architectural Examiners [80]</b>	Ch 2, p.1, 2	Ch 2, p.1—Ch 2, p.4
<b>Conservation [290]</b>	Analysis, p.4 Ch 108, p.1, 2 Ch 110, p.1	Analysis, p.4 Ch 108, p.1,2 Ch 110, p.1
<b>Drug Abuse [330]</b>	Preamble, p.1, 2	Preamble, p.1, 2
<b>Employment Agency Licensing [350]</b>		Ch 1, p.1—Ch 9, p.2
<b>Employment Security [370]</b>	Analysis, p.1, 2 Ch 2, p.3—Ch 2, p.6 Ch 8, p.2, 3 Ch 8, p.14, 15	Analysis, p.1, 2 Ch 2, p.3—Ch 2, p.6 Ch 8, p.2, 3 Ch 8, p.14, 15
<b>General Services [450]</b>	Analysis p.1 Ch 1, p.5, 6	Analysis, p.1, 2 Ch 1, p.5—Ch 2, p.8
<b>Judicial Nominating Commission [525]</b>		Ch 1, p.1—Ch 1, p.3
<b>Labor, Bureau of [530]</b>	Analysis, p.1, 2 Ch 4, p.1a—Ch 4, p.5 Ch 6, p.2, 3 Ch 2, p.7, 8	Analysis, p.1, 2 Ch 4, p.1a—Ch 4, p.5 Ch 6, p.2, 3 Ch 2, p.7, 8
<b>Public Safety [680]</b>		Ch 1, p.1—Ch 1, p.3
<b>School Budget Review [740]</b>		Ch 1, p.1—Ch 1, p.3
<b>Secretary of State [750]</b>	Ch 12, p.1, 2	Ch 12, p.1, 2
<b>Substance Abuse [805]</b>		Ch 1, p.1—Ch 4, p.2
<b>Transportation [820]</b>	Analysis, p.3, 4 Analysis, p.5, 5a [06,P] Ch 2, p.1— [06,P] Ch 4, p.2 [06,Q] Ch 9, p.1— [06,Q] Ch 13, p.2	Analysis, p.3, 4 Anaiysis, p.5, 5a [06,P] Ch 2, p.1— [06,P] Ch 4, p.2 [06,Q] Ch 9, p.1— [06,Q] Ch 13, p.2

\*It is recommended that "Old Pages" be retained indefinitely in a place of your choice. They may prove to be helpful in tracing the history of a rule.

Faint, illegible text covering the page, possibly bleed-through from the reverse side. The text is too light to transcribe accurately.

**PART I**

**April 5, 1978**





## ARCHITECTURAL EXAMINERS[80]

Pursuant to authority of sections 118.5 and 17A.3 of the Code, the Board of Architectural Examiners amends chapters 1 and 2.

ITEM 1. Amend 1.2(118,17A), Headquarters of the board, by striking the entire paragraph and inserting in lieu thereof the following: "The official mailing address of the board shall be: Iowa Board of Architectural Examiners, 1018 Des Moines Street, Des Moines, Iowa 50319."

ITEM 2. Amend 2.1(1) by striking the entire paragraph and inserting in lieu thereof the following: "Individuals holding a professional degree from a school of architecture where the degree program has been accredited by the National Architectural Accrediting Board (NAAB) will be required to pass the professional examination for registration and the site/design portion of the qualifying examination. All other candidates shall pass the qualifying examination and the professional examination."

ITEM 3. Amend 2.2(118,17A) Admittance to examinations, by striking the entire paragraph and inserting in lieu thereof the following: "The board hereby adopts and incorporates by reference as fully as if set out herein, the standards contained in Section F-16, 'Certification Standards' of Appendix "A", to the 1977 Circular of Information #1 issued by the National Council of Architectural Registration Boards (NCARB). The Circular of Information #1 is available at the board office during all normal business hours."

ITEM 4. Amend 2.3(118,17A), Education and training equivalents, by striking the entire paragraph and inserting in lieu thereof the following: "The board hereby adopts and incorporates by reference as fully as if set out herein, the standards contained in Appendix "A" to the 1977 Circular of Information #1 "Table of Equivalents for Education, Training and Experience", parts F-1 through F-15 and F-17 through F-19 issued by the National Council of Architectural Registration Boards (NCARB). Candidates for registration will be eligible to take the qualifying examination any time after their aggregate education and professional experience equals 7 as described in part F-16 of Appendix "A", Circular of Information #1, dated 1977. Circular of Information #1 is available upon request from the board office."

ITEM 5. Amend 2.3(2) by inserting the following:

**2.3(2) Rules of conduct.**

*a. Competence.*

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

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

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

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

*b. Conflict of interest.*

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

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

(3) An architect shall not solicit or accept compensation from material or equipment suppliers in return for specifying or endorsing their products.

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

*c. Full disclosure.*

(1) An architect, making public statements on architectural questions, shall disclose when he or she is being compensated for making such statements.

(2) An architect shall accurately represent to a prospective or existing client or employer his or her qualifications and the scope of his or her responsibility in connection with work for which he or she is claiming credit.

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

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

2. Refuse to consent to the decision, and

3. In circumstances where the architect reasonably believes that other such decisions will be taken notwithstanding his objection, terminate his or her services with reference to the project.

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

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

(6) An architect possessing knowledge of a violation of these rules by another architect shall report such knowledge to the board.

*d. Compliance with laws.*

(1) An architect shall not, in the conduct of his or her architectural practice, knowingly violate any state or federal criminal law.

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

(3) An architect shall comply with the registraton laws and regulations governing his or her professional practice in any United States jurisdiction.

*e. Professional conduct.*

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

(2) An architect shall neither offer or make any gifts to any public official with the intent of influencing said official's judgment in connection with a project in which the architect is interested.

(3) an architect shall not engage in conduct involving fraud or wanton disregard of the rights of others.

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

ITEM 6. Amend 2.4(118,17A) by adding the following subrule:

2.4(1) Those who are registered in Iowa by reciprocity will have their registration automatically revoked if the registrant has had his or her registration revoked for statutory or competence reasons in any other state where he or she is registered.

2.4(2) Reserved.

[Filed 3/15/78]

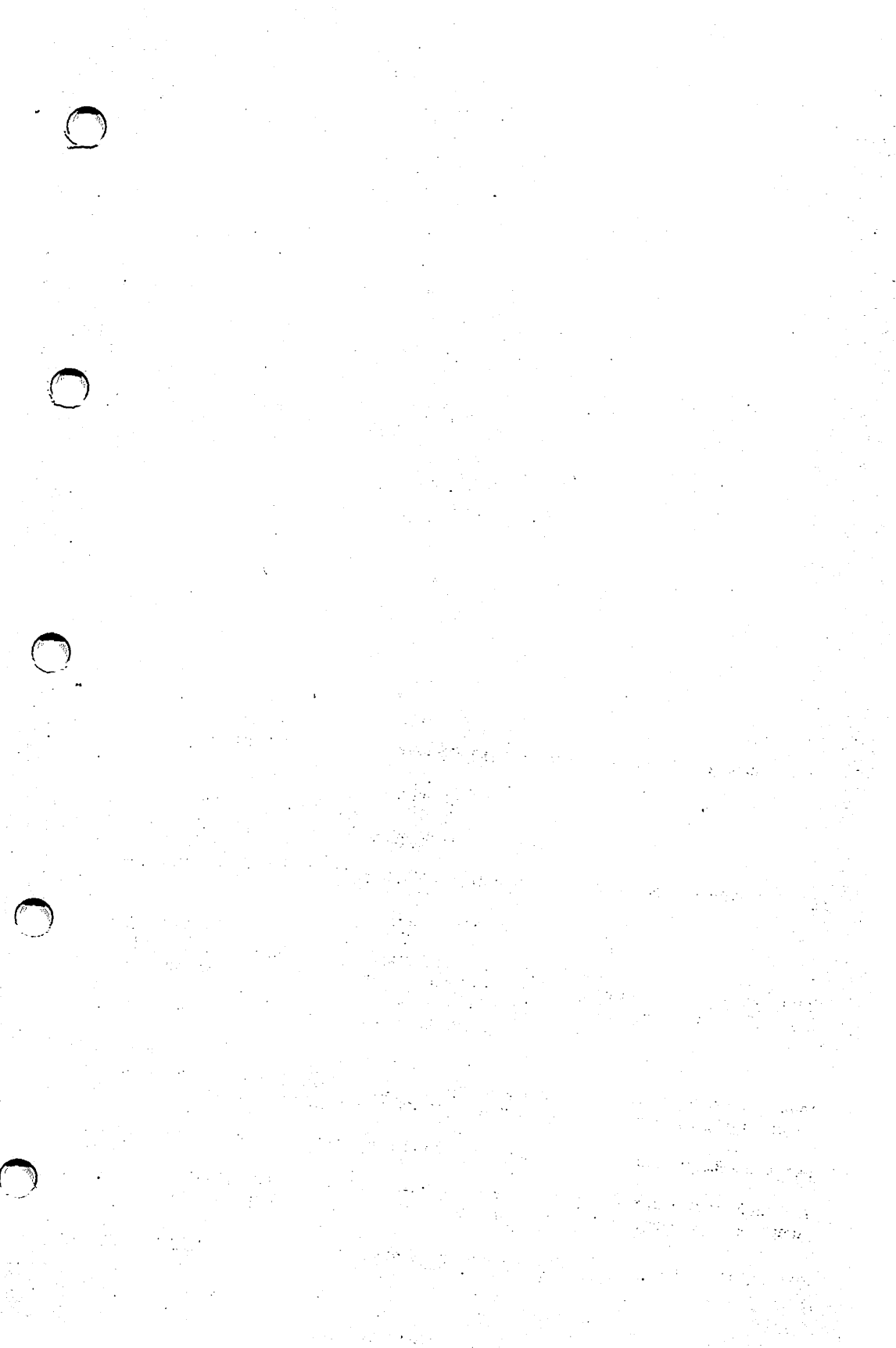
These rules were published under Notice of Intended Action in the November 30, 1977 IAC Supplement.

These rules have been modified from those under Notice.

They shall become effective May 10, 1978.

[Published 4/5/78]

EDITOR'S NOTE: For replacement pages for IAC, see Part II of this Supplement.



# 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 §17A.4(1)"b" of the 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 sections 123.21 and 17A.4(1) of the Code, the Iowa Beer and Liquor Control Department proposes to amend rules appearing in the IAC 150—Chapter 2 relating to Liquor Licensees and Beer Permittees.

Interested persons may submit data, views, or arguments or make oral presentations on the intended action by contacting the Department's office, 300 Fourth Street, Des Moines, Iowa 50319, before 10:00 a.m., May 4, 1978.

Pursuant to the authority of Chapter 123 of the Code, chapter 2 of the IAC is amended by adding the following new rules:

**150—2.16(123) Liquor store checks accepted.** The Iowa state liquor stores may accept checks from holders of a retail liquor control license under the following conditions:

1. The check must be either the personal check of the licensee or the business check of the licensee. The business check must be the named establishment on the license and cannot be a check on another business owned or operated by the licensee.

2. The check must be signed by the licensee. (For all holders of liquor control licenses this is interpreted as those persons whose authorized signatures are on file with the bank for the licensee's account.) However, this does not preclude an agent of the licensee from presenting a check signed by the licensee in the normal transaction of buying liquor.

3. Travelers checks will be accepted from licensees only.

4. Checks or travelers checks will not be accepted from anyone other than licensees.

**2.16(1)** In the event a check is dishonored for good cause, the director shall issue an order suspending the license for a period of thirty days. The order and notice of suspension will be served on the licensee by an agent of the department of public safety. Good cause shall be:

a. When a check is returned for insufficient funds for whatever reason.

b. When a check is written on an inactive or closed account.

c. When a check is written on an account which has a "hold" on it and the licensee had knowledge of the "hold".

d. Checks returned for any other reason will be considered on an individual basis.

**2.16(2)** When a licensee has received notice from the department that the licensee has had a check dishonored for good cause, the privilege of purchasing liquors by check will be withheld during the period of suspension and for a ninety-day period thereafter.

This rule is intended to implement section 123.24 of the Code as amended by the Acts of the Sixty-seventh General Assembly, chapter 71.

**150—2.17(123) Identification cards—licensee.** Each holder of a liquor control license will be furnished with three identification cards. These cards will have the licensee number,

effective date, name of establishment and city preprinted when issued. The licensee must sign the card. (For all licensees this requirement means that all authorized signatures which are on file with the licensee's bank for signing checks, are to be on the identification card. For licensees who have more than one authorized signature on file, those signatures will be on the back of the I.D. cards.) When a licensee purchases liquor, he must present this identification card. Each licensee is authorized to have one card on file at the Iowa state liquor store where he primarily transacts business. This requirement does not preclude an agent of the licensee from presenting a licensee identification card in the normal transaction of business with a state liquor store.

This rule is intended to implement section 123.31(3) of the Code.

# 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 §17A.4(1)"b" of the 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 sections 123.21 and 17A.4(1) of the Code, the Iowa Beer and Liquor Control Department proposes to amend rules appearing in the IAC 150—Chapter 4 relating to License and Permit Department.

Interested persons may submit data, views, or arguments or make oral presentation on the intended action by contacting the Department's office, 300 Fourth Street, Des Moines, Iowa 50319, before 10:00 a.m., May 4, 1978.

Pursuant to the authority of chapter 123 of the Code, chapter 4 of the IAC is amended by adding the following new rule:

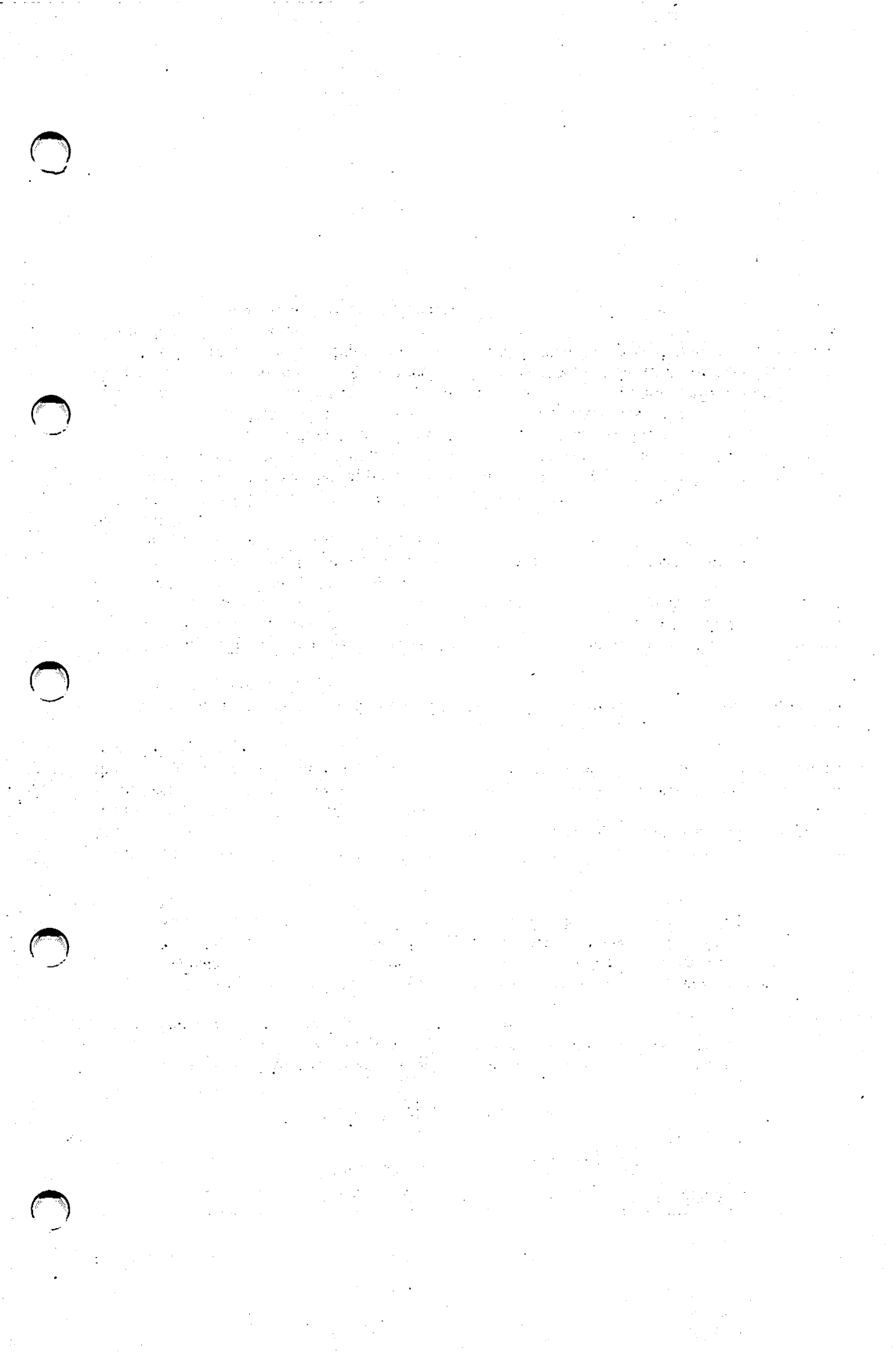
**150—4.5(123) Sunday sales—fifty percent requirement.** A holder or applicant for a liquor control license or beer permit may apply for a Sunday sales permit as provided in section 123.36(6) or section 123.134, Code 1977, as amended. To satisfy the fifty percent requirement, the holder or applicant must:

4.5(1) For a holder of a liquor control license/beer permit, provide a ninety-day statement of gross receipts showing fifty percent or more from goods and services other than beer and liquor.

4.5(2) For an initial application of a liquor control license/beer permit, the local authorities may approve the application providing the applicant provides a ninety-day statement of gross receipts showing fifty percent or more from goods and services other than beer and liquor within fifteen days of the end of the first ninety-day period of operations.

4.5(3) For holders of liquor control licenses who have less than ninety days of operations, the local authorities may approve the application providing the applicant provides a ninety-day statement of gross receipts showing fifty percent or more from goods and services other than beer and liquor within the first fifteen-day period following the end of ninety days of operations.

This rule is intended to implement section 123.36 of the Code.





# CIVIL RIGHTS COMMISSION[240]

## 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” of the 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 section 601A.5(10) of the Code, the Civil Rights Commission proposes to amend chapters 1, 3 and 6 of its rules as they appear in the Iowa Administrative Code.

Interested persons may submit written comments or views to the Civil Rights Commission by sending or delivering them to the commission office located in Suite 540, Liberty Building, 418 Sixth Avenue, Des Moines, Iowa 50319, no later than 4:30 p.m., Friday, April 28, 1978.

Any person wishing to make an oral presentation on these rules may ask to be placed on the agenda for the commission meeting at which these rules will be taken up by contacting Thomas Mann, Jr., Executive Director, at the commission office (address same as above) or by phoning 515/281-4121 no later than 4:30 p.m., Friday, April 28, 1978.

ITEM 1. Amend rule 1.1(601A) by adding the following new subrules:

1.1(7) The term “*terms and conditions of employment*”, as used herein, means all terms and conditions of employment including but not limited to medical, hospital, accident and life insurance or benefits, leave, vacation, and other terms, conditions, and privileges of employment.

1.1(8) The term “*retirement plans and benefit systems*” as used in section 601A.12 of the Code relates only to discontinuation of employment pursuant to the provisions of such retirement plan or system. A retirement plan or benefit system shall be limited to those plans or systems where contributions are based upon the anticipated cost of retirement and the financial needs of the retiree.

1.1(9) The term “*business necessity*” when used as a defense in discrimination cases means more than that there exists a business purpose for adhering to a challenged practice; the test is whether there exists an overriding legitimate business purpose such that the practice is necessary to the safe and efficient operation of the business. To be a business necessity the business purpose must be sufficiently compelling to override any discriminatory impact; the challenged practice must effectively carry out the business purpose it is alleged to serve; and there must be available no acceptable alternative policies or practices which would better accomplish the business purpose advanced, or accomplish it equally well with a lesser differential impact on affected classes.

1.1(10) The term “*public accommodation*” shall include each state and local government unit or tax-supported district of whatever kind, nature or class that offers services, facilities, benefits, grants or goods to the public, gratuitously or otherwise. This paragraph shall not be construed by negative implication or otherwise to restrict any part or portion of the pre-existing definition of the term “public accommodation” in chapter 601A of the Code.

ITEM 2. Amend subrule 1.3(1) by adding the following new paragraph:

After giving notice of a public hearing, the commission may amend a complaint based upon information gained during the course of the investigation. Such amendment will not require a

probable cause finding or attempts at conciliation. The scope of the issues of the public hearing shall be defined by the facts as uncovered in the investigation and shall not be limited to the allegations as stated in the original complaint. Provided, however, that when such amendment is made, respondent may be granted a continuance within the discretion of the hearing officer if the same is needed to allow respondent to prepare to defend on the additional grounds.

ITEM 3. Amend rule 1.15(601A) by adding the following new subsection:

1.15(4) In public accommodations, housing, and credit cases where discrimination is established, the commission may award to the complainant damages for an injury caused by the discriminatory or unfair practices. Unless greater damages are proven, the commission may award remedial damages for pain and humiliation not to exceed five hundred dollars for each violation.

ITEM 4. Amend rule 3.9(601A) by striking the rule and inserting in lieu thereof the following new rule:

#### 240—3.9(601A) Terms and conditions of employment.

3.9(1) It shall be an unlawful employment practice for an employer to discriminate between men and women with regard to terms and conditions of employment.

3.9(2) Where an employer conditions benefits available to employees and their spouses and families on whether the employee is the "head of the household" or "principal wage earner" in the family unit, the benefits tend to be available only to male employees and their families. Due to the fact that such conditioning discriminatorily affects the rights of women employees, and that "head of household" or "principal wage earner" status bears no relationship to job performance, benefits which are so conditioned will be found a prima-facie violation of the prohibitions against sex discrimination contained in the Act.

3.9(3) It shall be an unlawful employment practice for an employer to make available benefits for the wives and families of male employees where the same benefits are not made available for the husbands and families of female employees; or to make available benefits for the wives of male employees which are not made available for female employees; or to make available benefits to the husbands of female employees which are not made available for male employees.

3.9(4) It shall not be a defense under chapter 601A to a charge of sex discrimination in benefits that the cost of such benefits is greater with respect to one sex than the other.

ITEM 5. Amend rule 6.1(601A) by striking the rule and inserting in lieu thereof the following new rule:

#### 240—6.1(601A) General definitions.

6.1(1) The term "*substantially handicapped person*" shall mean any person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

6.1(2) The term "*physical or mental impairment*" means (1) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or (2) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

6.1(3) The term "*major life activities*" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

6.1(4) The term "*has a record of such an impairment*" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

6.1(5) The term "*is regarded as having an impairment*" means (1) has a physical or mental impairment that does not substantially limit major life activities but that is perceived as constituting such a limitation; (2) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or (3) has none of the impairments defined to be "physical or mental impairments," but is perceived as having such an impairment.

6.1(6) The term "*employer*", as used herein, shall include any employer, labor organization, or employment agency insofar as their action or inaction may adversely affect employment opportunities, as defined in section 601A.2(5) of the Code.

ITEM 6. Amend subrule 6.2(6) by striking the subrule and inserting in lieu thereof the following new subrule:

6.2(6) An employer shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped applicant or employee unless the employer can demonstrate that the accommodation would impose an undue hardship on the operation of its program.

Reasonable accommodation may include: (1) Making facilities used by employees readily accessible to and usable by handicapped persons and (2) job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provision of readers or interpreters, and other similar actions.

In determining pursuant to the first paragraph of this rule whether an accommodation would impose an undue hardship on the operation of an employer's program, factors to be considered include: (1) The overall size of the employer's program with respect to number of employees, number and type of facilities, and size of budget; (2) the type of the employer's operation, including the composition and structure of the employer's work force; and (3) the nature and cost of the accommodation needed.

An employer may not deny any employment opportunity to a qualified handicapped employee or applicant if the basis for the denial is the need to make reasonable accommodation to the physical or mental limitations of the employee or applicant.



# 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 §17A.4(1)“b” of the 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.

The state conservation commission under the authority of section 107.24 of the Code, proposes to rescind chapter 3, relating to wildlife refuges, in Iowa Administrative Code September 21, 1977, and adopt the following rule in lieu thereof.

A public hearing for oral presentations will be conducted at the commission's offices, fourth floor, Wallace State Office Building, Des Moines, Iowa, on May 12, 1978, at 9:00 a.m.; consideration will be given to written data, views, or arguments thereto received by the State Conservation Commission, Wallace State Office Building, Des Moines, Iowa 50319, on or before the above date.

### *DIVISION OF FISH AND GAME*

#### CHAPTER 3 WILDLIFE REFUGES

**290—3.1(109) Restrictions.** The following areas under the jurisdiction of the state conservation commission are established as game refuges where posted as such. It shall be unlawful to hunt, pursue, kill, trap or take any wild animal, bird or game on these areas at any time, and no one shall carry firearms thereon. It shall also be unlawful to trespass in any manner on the following areas, where posted as such, between the dates of September 15 and December 15 of each year, both dates inclusive, except that conservation personnel may enter the area at any time in performance of their duties.

Area	County
Lake Icaria .....	Adams
Rathbun Area .....	Appanoose
Wildlife Exhibit Area .....	Boone
Sweet Marsh .....	Bremer
Storm Lake Islands .....	Buena Vista
Big Marsh .....	Butler
South Twin Lake .....	Calhoun
Round Lake .....	Clay
Allen Green Refuge .....	Des Moines
Kettleson Area .....	Dickinson
Ingham Lake .....	Emmet
Forney Lake .....	Fremont
Riverton Area .....	Fremont
Dunbar Slough .....	Greene
Bays Branch .....	Guthrie
McCord Pond .....	Guthrie

West Twin Lake .....	Hancock
Green Island Area .....	Jackson
Hawkeye Wildlife Area .....	Johnson
Muskrat Slough .....	Jones
Colyn Area .....	Lucas
Red Rock Area .....	Marion, Polk, and Warren
Louisville Bend .....	Monona
Five Island Lake .....	Palo Alto
Big Creek-Saylorville Complex .....	Polk
Flint Access .....	Polk
Smith Area .....	Pottawattamie
Lake View Area .....	Sac
Princeton Area .....	Scott
Prairie Rose Lake .....	Shelby
Otter Creek Marsh .....	Tama
Green Valley Lake .....	Union
Rice Lake Area .....	Winnebago
Elk Creek Marsh .....	Worth
Lake Cornelia .....	Wright

This rule is intended to implement sections 109.5, 109.6, and 109.8 of the Code.

# 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 §17A.4(1)"b" of the 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.

The state conservation commission under the authority of section 107.24 of the Code, proposes to rescind chapter 14, relating to waterfowl hunting on Forney Lake and Riverton Area, in Iowa Administrative Code, and adopt the following rules in lieu thereof.

A public hearing for oral presentations will be conducted at the commission's offices, fourth floor, Wallace State Office Building, Des Moines, Iowa, on May 12, 1978, at 9:00 a.m.; consideration will be given to written data, views, or arguments thereto received by the State Conservation Commission, Wallace State Office Building, Des Moines, Iowa 50319, on or before the above date.

### *DIVISION OF FISH AND GAME*

#### CHAPTER 14

#### WATERFOWL HUNTING ON FORNEY LAKE AND RIVERTON AREA

**290—14.1(109) Special hunting.** The following regulations shall be enforced during the waterfowl seasons on Forney Lake and the Riverton Area, both in Fremont County, Iowa.

##### **14.1(1) Reservations.**

*a.* Blind reservations will be accepted by the state conservation commission beginning on the second Monday of September of each year. Reservation for Forney Lake must be made at State Conservation Commission, Forney Lake, Thurman, Iowa. Reservations for the Riverton Area must be made at the State Conservation Commission, Riverton Area, Riverton, Iowa. Reservations will be issued on a first come, first served basis.

*b.* Requests for reservations must be accompanied by \$3.00 for each day requested. In addition, each hunter, including the reservation holder, will be charged \$1.00 when he registers to hunt. Application letters shall contain the reservation request(s) of only one individual.

*c.* Individuals holding reservations must be present at the reservation headquarters at the appropriate area one hour before legal shooting time on day of reservation or reservation will be voided. Reservation fee will not be refunded.

*d.* Persons without reservations will be accommodated each day on a first come, first served basis, if blinds are available.

*e.* No individual may reserve more than one blind for any given day.

*f.* Prior to the opening date of the waterfowl season, no individual may reserve a blind at one area on more than two days on Saturday, Sunday, Veteran's Day, Thanksgiving Day, and the Friday following Thanksgiving Day, and no individual may reserve a blind at one area on more than three other days, during any year.

##### **14.1(2) Controlled sites.**

*a.* Blind sites will be allotted by drawing and party must hunt from assigned blind only. Parties may change blinds by reregistering for the new blind.

*b.* All hunters must stay in blind while hunting except going to and from blinds and retrieving waterfowl.

*c.* No person shall have in his possession or use more than twenty-five shells per day in these controlled areas, said shells to contain shot no larger than size BB.

**14.1(3) *Fee permit.***

*a.* All hunters shall exchange their hunting licenses at the reservation station for a permit. Entire Forney Lake area north of the east-west county road and the north portion of the Riverton Area, where so posted, to be limited to fee hunting from blinds only with a valid permit. No person (except conservation commission personnel in performance of their official duties) shall enter upon these portions of Forney Lake or the Riverton Area during the waterfowl season unless they possess a valid permit.

*b.* Permits will be issued to bona fide hunters, except nonhunters may be issued permits by paying the required fee when extra space is available.

**14.1(4) *Data cards.*** All hunters must return to the reservation station immediately upon leaving the blind and fill out a data card showing birds bagged, before leaving the area.

**290—14.2(109) *Area restriction.*** It shall be unlawful to shoot or carry firearms between the dates of September 15 and December 15 of each year, both dates inclusive, around the perimeter of the entire Forney Lake Refuge within the posted limits of a strip approximately one hundred yards wide, and a similar area where so posted on the Riverton Area.

These rules are intended to implement sections 109.5, 109.6, 109.7 and 109.48 of the Code.



# 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 §17A.4(1)"b" of the 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.

The state conservation commission under the authority of sections 107.24 and 17A.4 of the Code, proposes to rescind chapter 15, relating to waterfowl hunting on Lake Odessa, in Iowa Administrative Code, and adopt the following rule in lieu thereof.

A public hearing for oral presentations will be conducted at the commission's offices, fourth floor, Wallace State Office Building, Des Moines, Iowa, on May 12, 1978, at 9:00 a.m.; consideration will be given to written data, views, or arguments thereto received by the State Conservation Commission, Wallace State Office Building, Des Moines, Iowa 50319, on or before the above date.

### *DIVISION OF FISH AND GAME* CHAPTER 15 WATERFOWL HUNTING ON LAKE ODESSA

**290—15.1(109) Special hunting.** The following regulations shall be in effect during the waterfowl seasons on Lake Odessa, Louisa County, Iowa.

#### **15.1(1) Controlled area.**

*a.* The Lake Odessa public hunting area, where posted as such, shall be designated as a controlled site hunting area. No person (except conservation commission personnel in performance of their official duties) shall enter upon this portion of the Lake Odessa area during the period from the opening day of the waterfowl seasons until the end of the duck seasons each year, unless they possess a valid daily permit issued for the zone in which they wish to hunt. Permits shall be issued, by zones, as follows:

*b.* Controlled area "A". Permits for zone A will be issued at the Schafer's Point check station. A drawing to determine hunting sites will be held ninety minutes before shooting time each day. One person shall fill out a card with the names of all persons in his hunting party (maximum of six) and present the card to the check station attendant prior to the drawing time. If a person's name appears on more than one party card he shall be disqualified from hunting on the area for that day. When a person's name is on one party card, he cannot subsequently hunt with any other party prior to 10:00 a.m. each day. The person who filled out the card shall draw to determine the sequence of site selection. If he successfully draws a number to hunt at a staked site he must pay a fee of \$2.00 for his party, unless at least one member of the party has previously purchased a season permit for \$25.00. Permits for area A will be issued for each party, giving the hunters individual names and the stake site number which they selected. The party shall hunt only at that site and must stay within forty yards of the stake except when retrieving game or when going to and from the area. A party at any one site can use no more than two boats. Decoys must be placed within sixty feet of the stake. Hunting and the location of decoys, at double stake sites, is restricted to one of the stake sites.

*c.* Controlled area "B". Permits for this area will be issued at both the Schafer's Point check station and the Sand Run check station. Permits will be issued on a first come first served basis

beginning ninety minutes before legal shooting time each morning. Each boat will be issued, without charge, a permit showing the name of each member of the party. Hunting sites will not be designated.

*d.* Permittees must exhibit permits to conservation officers upon request.

*e.* Permittees must check out of the check station, where their permit was issued, within thirty minutes after vacating their stake site.

*f.* Boats, blinds and decoys must be removed from the controlled areas and permittees checked out of the check station where their permit was issued within one hour after legal shooting time for waterfowl each day.

**15.2** Reserved.

This rule is intended to implement section 109.6 of the Code.

# CONSERVATION COMMISSION[290]

Pursuant to the authority of sections 107.24 and 17A.4 of the Code, rules, chapter 108, relating to the fishing regulations are hereby rescinded and the following rules adopted in lieu thereof.

*DIVISION OF FISH AND GAME*  
**CHAPTER 108**  
**1978-79 FISHING REGULATIONS**

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

KIND OF FISH	INLAND WATERS OF THE STATE				BOUNDARY RIVERS	
	OPEN SEASON	DAILY CATCH LIMIT	POSSESION LIMIT	MINIMUM LENGTH LIMITS	MISSISSIPPI RIVER	MISSOURI RIVER BIG SIOUX RIVER
Rock Sturgeon	Closed	0	0		Same as inland waters	
Paddlefish*	Continuous	2	4	None	Same as inland waters	
Yellow Perch	Continuous	25	50	None	Same as inland waters except no catch or possession limit.	
Trout	Continuous*	5	10	None*	Same as inland waters	
Catfish	Continuous	8	16	None	Same as inland waters except no catch or possession limit.	
Largemouth Bass	Continuous	5	10	None*	Largemouth and smallmouth black bass: Same as inland waters except aggregate daily catch limit 10; aggregate possession limit 20.	
Smallmouth Bass	Continuous	5	10	None*	Continuous open season aggregate daily catch limit 10, aggregate possession limit 20. No minimum length or weight.	
Combined Walleye and Sauger	Continuous*	5	10	None	Continuous open season; daily catch limit 5; possession limit 10. No minimum length limits.	
Northern Pike	Continuous*	3	6	None	Same as inland waters	
Muskellunge or Hybrid Muskellunge	Continuous*	1	1	30"	Same as inland waters	
All other fish species	Continuous	None	None	None	Same as inland waters	

\*Also see 108.2(109) Exceptions.

Frogs (except Bullfrogs)	Continuous	48	96	None	Same as inland waters
Bullfrogs ( <i>Rana Catesbeiana</i> )	Continuous	12	12	None	Same as inland waters

**290—108.2(109) Exceptions to seasons and limits, set in 108.1(109).**

**108.2(1) *Natural lakes.*** In Lakes West Okoboji, East Okoboji, and Spirit Lake the open season on walleye, sauger, muskellunge or hybrid muskellunge and northern pike shall be April 29, 1978 to February 28, 1979.

**108.2(2) *Minimum length—largemouth and smallmouth bass.*** A minimum length limit on largemouth and smallmouth bass of twelve or fourteen inches shall apply on selected lakes as approved by the commission and posted as such.

**108.2(3) *Paddlefish snagging regulations.***

**a. *Areas.*** Paddlefish snagging shall be limited to the following areas: Iowa boundary waters of the Mississippi and Missouri Rivers; Missouri River oxbow lakes which are open to the river; Iowa River from the lower dam at Iowa City to the Mississippi River and the Des Moines River from the hydroelectric dam at Ottumwa to the Mississippi River.

**b. *Limits.*** The daily catch limit shall be two; possession limit four.

**108.2(4) *Special trout regulations.***

**a. *Brook trout.*** There shall be no open season on brook trout in portions of the South Fork of Big Mill Creek, Jackson County and North Cedar Creek, Clayton County where posted. Fishing for other species in the posted areas shall be by artificial lure only.

**b. *Brown trout.*** The minimum length limit of brown trout shall be fourteen inches in a portion of Bloody Run Creek, Clayton County where posted. Fishing in the posted area shall be by artificial lure only.

These rules are intended to implement sections 109.38, 109.39, 109.67, and 109.76 of the Code.

[Filed 3/15/78]

The Notice of Intended Action was published in the IAC Supplement on February 8, 1978. A public hearing was held on February 28, 1978. No adverse comments or objections were received on the proposal at, or prior to, the hearing.

These rules shall become effective 35 days after filing and publication, May 10, 1978, as provided for in section 17A.5 of the Code. The rules filed under emergency provisions and published February 8, 1978 are rescinded effective May 10, 1978.

[Published 4/5/78]

**EDITOR'S NOTE:** For replacement pages for IAC, see Part II of this Supplement.

# CONSERVATION COMMISSION[290]

The state conservation commission under the authority of sections 107.24 and 17A.4 of the Code amends Chapter 110, Inland Commercial Fishing, in Iowa Administrative Code as follows:

*DIVISION OF FISH AND GAME*  
CHAPTER 110  
INLAND COMMERCIAL FISHING

ITEM 1. Amend 110.2(109) by striking from the first sentence the words "the Red Rock Reservoir and".

ITEM 2. Amend 110.2(109) by adding the following sentence after the third sentence "Commercial fishing at Red Rock Lake shall be from May 1, through March 15.

ITEM 3. Amend 110.2(109) by striking the date "May 1" from the last sentence and adding the date "April 15" in lieu thereof.

These rules are intended to implement section 109.17 of the Code.

[Filed 3/15/78]

The notice of intended action was published in the IAC on February 8, 1978. A public hearing was held on February 28, 1978. No adverse comments or objections were received on the proposal at, or prior to, the hearing.

These rules shall become effective 35 days after filing and publication, May 10, 1978, as provided for in section 17A.5 of the Code. The rule filed under emergency provisions and published February 8, 1978, is rescinded effective May 10, 1978.

[Published 4/5/78]

EDITOR'S NOTE: For replacement pages for IAC, see Part II of this Supplement.

THE UNIVERSITY OF CHICAGO

DEPARTMENT OF CHEMISTRY  
58 CHEMISTRY BUILDING  
CHICAGO, ILLINOIS 60637

RECEIVED  
JAN 15 1964

FROM: [Illegible]

TO: [Illegible]

RE: [Illegible]

DATE: [Illegible]

# EMPLOYMENT AGENCY LICENSING[350]

Pursuant to the authority of section 17A.3 of the Code, the following rules are adopted (Chapters 1-10).

## CHAPTER 1 PURPOSE AND FUNCTION

**350—1.1(95,17A) Purpose.** A commission, known as the Employment Agency License Commission, shall be responsible for the issuance of licenses and carrying out the provisions of chapters 94 and 95 of the Code.

**350—1.2(95,17A) Location.** The administrative duties of the commission shall be handled by the bureau of labor. Forms and information to be used by private employment agencies may be obtained from the Bureau of Labor, Capitol Complex, Des Moines, Iowa 50319, telephone 515-281-3606.

**350—1.3(17A) Extending time and continuances.** For good cause, the commission may modify the time to comply with any rule.

**350—1.4(17A) Quorum.** Two members of the commission must be present at a meeting for official action to be taken.

**350—1.5(17A) Meetings.** The commission shall meet on the third Thursday of January of each year, and upon the request of any member of the commission.

These rules are intended to implement sections 17A.3 and 95.1 of the Code.

## CHAPTER 2 DEFINITIONS

**350—2.1(94,95) Definitions.**

**2.1(1) "Applicant"** means a person who seeks employment with the assistance of a private employment agency.

**2.1(2) "Licensee"** means a person, firm or corporation, who holds a valid license from the commission.

**2.1(3) "Private employment agency (agency)"** means a person, firm or corporation who shall procure or offer help or employment, or the giving of information where help or employment may be procured and where a fee, privilege or other thing of value is exacted, charged or received for the service.

This rule is intended to implement chapters 94 and 95 of the Code.

## CHAPTER 3 DECLARATORY RULINGS

**350—3.1(17A) Procedures for declaratory rulings.** Any interested person may submit to the commission a petition regarding the application of a statute, rule, decision or other written statement of law or policy to a specific factual situation. The petition shall contain the name(s) of the requesting person(s), the specific factual background of the question, the statute, rule, decision or other written statement of law or policy deemed applicable, and the reasons for the request. The commission shall render a written decision within sixty days unless the commission is unable to convene or reach a decision on the facts presented. Should the commission find the facts insufficient, then no decision need be issued and the commission shall request the

factual situation clarified by an amendment to the petition. Failure by the requesting party to amend the petition within thirty days will cause the commission to dismiss the petition.

This rule is intended to implement section 17A.9 of the Code.

#### CHAPTER 4 APPLICATION AND LICENSE

**350—4.1(95) Application.** An application for a license must be made in writing to the commission upon forms approved by the commission. Forms to be completed include the application and affidavit form, EALC-1, two copies each of employer paid fee and employee paid fee schedules, EALC-2, and EALC-3 respectively.

**350—4.2(95) Name.** No licensee shall use any name, symbol or abbreviation deceptively similar to or reasonably likely to be confused with the name used by an existing licensee, any governmental agency, or nonprofit agency.

**350—4.3(95) Change in officers.** A change in the name of any person required to be reported on the application under section 95.2 of the Code shall be forwarded to the commission within ten days.

**350—4.4(95) Change in address.** The licensee shall notify the commission of any change of address prior to the change.

**350—4.5(95) Multiple locations.** A separate license shall be required for each separate office location operated by a licensee.

**350—4.6(95) Nontransferable.** A license is nontransferable.

**350—4.7(95) Nonissuance of license.** The commission may refuse to issue a license when the commission finds that any of the following conditions exist:

1. The license applicant has violated any of the provisions of chapters 94 or 95 of the Code;
2. The license applicant has violated any of the rules promulgated by the commission;
3. The license applicant or persons connected therewith has engaged in fraudulent, deceptive or dishonest practices;
4. The license applicant is shown for good and sufficient cause to be unfit to operate an employment agency.

These rules are intended to implement section 95.2 of the Code.

#### CHAPTER 5 REVOCATION

**350—5.1(94,95,17A) Complaints.** Complaints by aggrieved parties will be investigated by designees of the commission. The commission or its designee shall notify the aggrieved party in writing of the outcome of the investigation. The commission may take any appropriate action including commencing an action against the licensee for license revocation.

**350—5.2(94,95,17A) Revocation procedures.** When any investigation discloses facts which may establish probable cause that the licensee has substantially violated any provision of chapters 94 or 95 or the rules established by the commission, a hearing may be called by any member of the commission.

**350—5.3(95,17A) Hearing procedures.**

**5.3(1)** When a hearing for revocation is called, the commission shall give notice to the licensee of the intention to revoke the license. Notice shall be completed when the notice is



deposited with the U.S. Post Office by restricted certified mail with return receipt requested and addressed to the licensee at its last known place of business. Notice of hearing shall be not less than twenty calendar days prior to hearing. The procedures including notice, hearing and records shall be in accordance with the provisions of chapter 17A relating to contested cases.

5.3(2) The hearing shall be conducted by the commission or a duly appointed administrative hearing officer.

5.3(3) A licensee may be represented by an officer or employee of the licensee or may be represented by an attorney.

5.3(4) The testimony shall be taken under oath or affirmation.

These rules are intended to implement sections 94.11, 95.5, and 17A.10 to 17A.18 of the Code.

## CHAPTER 6 FEES

### 350—6.1(94) **Permissible fees charged by private employment agency.**

6.1(1) The total amount charged to any applicant in any form by a private employment agency shall not exceed eight percent of the applicant's gross earnings from that employer for which the agency procured the job in any pay period for a period of time not to exceed the first twelve months from the date of employment. This subrule shall not apply to licensees exempted under section 94.6 of the Code.

6.1(2) Fees due the agency are payable as earned, however the applicant may knowingly agree to pay the fee in advance, with the full understanding that the applicant is not required to do so, and the agency guarantees to refund any amounts in excess of eight percent of actual gross earnings, when ascertained. This subrule shall not apply to licensees exempted under section 94.6 of the Code.

6.1(3) No licensee or any person connected therewith shall require any applicant to execute any negotiable instrument, assignment of earnings, or note except for that amount of fee which is past due to the licensee.

350—6.2(94) **Posting.** Each licensee shall keep conspicuously posted at its place of business, a copy of each schedule of fees on file with the commission. The schedules shall be printed in not less than eight point type.

350—6.3(94) **Refund notification.** Each applicant who has paid the fee in advance must be notified at his last known address by the licensee one year after placement that the applicant may have a refund due if the applicant had paid more than eight percent of the gross earnings of the applicant's first year of employment. This subrule shall not apply to licensees exempted under section 94.6 of the Code.

350—6.4(94) **Employer paid fees.** For positions where a representation is made to an applicant that the employer will pay the fee, the licensee shall guarantee that the fee payment shall be without cost to the applicant. Written notice of the provisions of this rule shall be given to all applicants to which this rule applies.

These rules are intended to implement section 94.6 of the Code.

## CHAPTER 7 AGENCY PLACEMENT PROCEDURE

350—7.1(94) **Employment availability verified.** No licensee shall refer an applicant for an employment interview unless the licensee has verified within the past five calendar days that the situation of employment is still available.

350—7.2(94) **Deceptive representations.** No licensee shall pursue a continued or flagrant course of misrepresentation, or make false promises through advertising or otherwise.

**350—7.3(94) Advertising.**

7.3(1) All advertised positions must clearly indicate in the advertisement whether the fee is employer or applicant paid.

7.3(2) No licensee shall advertise any salary information not received from the employer.

7.3(3) No written communication of licensee shall contain language which directly or indirectly is likely to cause the public to be confused, mistaken or deceived that licensee is other than a private employment agency business.

These rules are intended to implement 94.7 of the Code.

## CHAPTER 8 CONTRACTS AND FEE SCHEDULES

**350—8.1(94,95) Schedules furnished.** Any schedule of fees to be charged by a licensee to applicants shall be furnished to all applicants at the time of making an application with the licensee

**350—8.2(94,95) Content.**

8.2(1) No contract or fee schedule shall contain smaller than eight point type.

8.2(2) Contracts and fee schedules shall contain no ambiguous, false or misleading information.

8.2(3) All contracts and schedules of fees of a licensee who solely furnishes or procures vaudeville acts, circus acts, theatrical, or stage or platform attractions or amusement enterprises shall contain language to such effect.

8.2(4) Where the licensee provides the option for advance payment, the contract and applicant paid fee schedule must clearly state that the applicant knowingly agrees to pay the fee in advance with the full understanding that the applicant is not required to do so, and that the licensee guarantees to refund any amount in excess of eight percent of the applicant's gross earnings from that employer for which the agency procured the job for a period of time not to exceed the first twelve months from the date of employment, when ascertained. This subrule shall not apply to those licensees exempted by section 94.6 of the Code.

8.2(5) All applicant paid fee contracts and fee schedule must state the fee in dollar amounts as well as percentages.

8.2(6) All contracts and fee schedules must clearly state that the agency is licensed by the Iowa Employment Agency License Commission and that inquiries may be submitted to the Bureau of Labor, Capitol Complex, Des Moines, Iowa 50319, (515) 281-3606.

These rules are intended to implement sections 94.8 and 95.2 of the Code.

## CHAPTER 9 RECORDS

**350—9.1(94) Applicant's record.** Every licensee shall maintain records on all applicants referred for job interviews. The record shall include:

1. Name and address of applicant;
2. Name of employer to whom the applicant is referred;
3. The date that the applicant was referred to a prospective employer for a job or an interview;
4. Type of job offer;
5. Earnings the employer proposed to pay, if known.

**350—9.2(94) Business transaction record.** Every licensee shall maintain a record called a business transaction record containing consecutively numbered entries. Each entry shall include:

1. The name and address of the applicant placed;
2. Name and address of employer;

3. Name and title of employer representative;
4. Starting date of position;
5. Starting salary;
6. Whether the fee was employer or applicant paid;
7. If the applicant paid fee:
  - a. Method of payment;
  - b. Amount of fee paid;
8. If applicant paid fee in advance:
  - a. Amount of earnings paid by the employer to the applicant, unless such information is refused by applicant and employer;
  - b. Amount of fee paid;
  - c. Amount of refund, if any.

**350—9.3(94) Retention of records.** All records listed in rules 9.1(94) shall be retained for at least two years and all records listed in 9.2(94) shall be kept in the licensee's office for at least five years.

**350—9.4(94) Reports.** Each licensee shall file a report with the commission upon form EALC-4. The report shall be submitted semiannually for the first and second halves of the calendar year. The report is due within thirty days from the end of the reporting period. These rules are intended to implement sections 94.10 and 94.11 of the Code.

## CHAPTER 10 FORMS

**350—10.1(95) EALC-1.** This form shall contain the name of the applicant, and if the applicant be a firm, the names of the members, and if it be a corporation, the names of the officers thereof. It shall contain the name, number and address of the building and place where the private employment agency is to be conducted. The form shall specify the period for which the license is requested. It shall also contain the affidavits of two reputable citizens of the state in no way connected with the applicant, certifying to the good moral character and reliability of the applicant, or, if a firm or corporation, of each of the members or officers thereof, and that the applicant is a citizen of the United States, if a natural person.

**350—10.2(95) EALC-2.** This form shall contain the schedule of employer paid fees. It shall state the name and address of the agency, and the period for which the schedule is effective.

**350—10.3(95) EALC-3.** This form shall contain the schedule of employee paid fees. It shall state the name and address of the agency, and the period for which the schedule is effective.

**350—10.4(95) EALC-4.** This form shall list the number of registrants, placements, applicant paid fees, employer paid fees, applicant paid fees for each percentage charged, and the number of refunds made.

These rules are intended to implement sections 94.10, 94.11 and 95.2 of the Code.

[Filed 3/9/78]

Notice of Intended Action regarding these rules was published in the November 30, 1977, IAC Supplement. These rules shall become effective on June 30, 1978. These rules have been modified from those published under notice.

[Published 4/5/78]

**EDITOR'S NOTE:** For replacement pages for IAC, see Part II of this Supplement.

[The page contains extremely faint and illegible text, likely bleed-through from the reverse side of the document. The text is scattered across the page and cannot be transcribed accurately.]

# EMPLOYMENT SECURITY[370]

## DEPARTMENT OF JOB SERVICE

### NOTICE OF INTENDED ACTION

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

The Iowa Department of Job Service, pursuant to the authority of section 96.11(1) of the Iowa Code, proposes to amend existing rules in chapter 2 appearing in the Iowa Administrative Code, for the purpose of implementing Acts of the Sixty-seventh General Assembly, 1977 Session, Chapter 55.

Interested persons, governmental agencies and associations may present written comments or statements of the proposed amendments not later than April 28, 1978, to Harold D. Keenan, Iowa Department of Job Service, 1000 East Grand Avenue, Des Moines, Iowa 50319. A public hearing will be held at 9:30 a.m., May 8, 1978 at the above named address. The proposed amendments are subject to revision after the department considers all written and oral presentations.

Pursuant to said authority, the following amendments are proposed to chapter 2 of rules appearing in the IAC, relating to Employer's Records and Reports.

**ITEM 1.** Amend 2.3(4), by striking in its entirety and inserting in lieu thereof the following:  
2.3(4) Employer to file report even when no payroll. Every qualified or subject employer is required to send in an employer's contribution and payroll report, form IESC 21, each quarter. Even though an employer finds that for some particular quarter no contributions are due, or they have no employees during period covered, a report must be filed with the department.

This rule is intended to implement section 96.11(7) of the Code.

**ITEM 2.** Amend 2.3(6), "b", line 2, by striking the words "\$4200 (\$6000 in 1976 and 1977) limitation for taxable wages" and inserting in lieu thereof the words "taxable wage base for the calendar year for which the quarterly report is representative."

This rule is intended to implement section 96.19(21) as amended by Acts of Sixty-seventh General Assembly, Chapter 54, section 5.

**ITEM 3.** Amend 2.9(1), line 1 at the top of page 5, between the words "department setting", by inserting the words ", IESC 111, report to determine liability,".

This rule is intended to implement section 96.11(1) of the Code.



THE UNITED STATES OF AMERICA  
 DISTRICT COURT OF THE DISTRICT OF COLUMBIA

IN RE: [Illegible Name]  
 Debtor.

Chapter 11  
 Case No. [Illegible]

IN RE: [Illegible Name]  
 Debtor.

Chapter 11  
 Case No. [Illegible]

IN RE: [Illegible Name]  
 Debtor.

Chapter 11  
 Case No. [Illegible]

IN RE: [Illegible Name]  
 Debtor.

Chapter 11  
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Chapter 11  
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The Iowa Department of Job Service, pursuant to the authority of section 96.11(1) of the Iowa Code, proposes to amend existing rules in chapter 3 appearing in the Iowa Administrative Code, for the purpose of implementing Acts of the Sixty-seventh General Assembly, Chapters 54 and 55.

Interested persons, governmental agencies and associations may present written comments or statements of the proposed amendments not later than April 28, 1978, to Harold D. Keenan, Iowa Department of Job Service, 1000 East Grand Avenue, Des Moines, Iowa 50319. A public hearing will be held at 9:30 a.m., May 8, 1978 at the above named address. The proposed amendments are subject to revision after the department considers all written and oral presentations.

Pursuant to said authority, the following amendments are proposed to chapter 3 of rules appearing in the IAC, relating to Employer's Contribution and Charges.

ITEM 1. Amend 3.1(19), line 3, by striking the date "September 30" and inserting in lieu thereof the date "June 30".

This rule is intended to implement section 96.19(1) as amended by Acts of the Sixty-seventh General Assembly, chapter 55, section 4.

ITEM 2. Amend 3.3(2), by adding new paragraphs "f" and "g" as follows:

*f. Officers of corporation.* The terms "wages" shall not include wages paid to an officer of corporation if such officer is majority stockholder:

(1) Unless, such wage amounts are subject to a tax to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund; or,

(2) If such wages are required to be covered under this chapter of the Code as a condition to receiving a full tax credit against the tax imposed by the Federal Unemployment Tax Act (FUTA) (26 U.S.C. 3301-3309).

This paragraph is intended to implement section 96.19(7)"a"(1) as amended by Acts of the Sixty-seventh General Assembly, chapter 54, section 15.

*g. Remuneration paid by state or political subdivision.* The term "wages" shall not include, effective January 1, 1978, remuneration paid by this state or any of its political subdivisions to:

- (1) An elected official
- (2) A member of a legislative body
- (3) A member of the judiciary of a state or political subdivision
- (4) A member of the state national guard or air national guard

(5) As an employee serving on a temporary duty basis for fire, storm, snow, earthquake, flood, or similar emergency

(6) A person serving in a nontenured policymaking capacity or advisory capacity pursuant to state law which ordinarily does not require duties of more than eight hours per week.

This rule is intended to implement section 96.19(7)"a"(6) as amended by Acts of the Sixty-seventh General Assembly, chapter 54, section 20.

**ITEM 3.** Amend 3.3(3), by adding to the end of paragraph "a" the following sentence: "See subrule 3.3(2)"f" for possible exclusion of wages paid to corporate officers who are majority stockholders."

This rule is intended to implement section 96.19(7)"a"(1) as amended by Acts of the Sixty-seventh General Assembly, chapter 54, section 15.

**ITEM 4.** Amend 3.6(1), paragraph "a", by striking the first sentence and inserting in lieu thereof the following sentence:

"a. As to wages paid on or after January 1, 1972, the first \$4200 (\$6000 in 1976 and 1977) and beginning January 1, 1978, the taxable wage base (see rule 3.6(2)) as determined and announced by the department, including commission, bonuses, tips and the value of noncash payments paid to an employee during a calendar year by an employer is taxable."

This rule is intended to implement section 96.19(21) as amended by Acts of the Sixty-seventh General Assembly, chapter 55, section 5.

**ITEM 5.** Amend 3.6(1), paragraph "b", line 1, following the parenthetical phrase and preceding the word "Base", by inserting the following words:

"and on or after January 1, 1978 the department announced".

This rule is intended to implement section 96.19(21) as amended by Acts of the Sixty-seventh General Assembly, chapter 55, section 5.

**ITEM 6.** Amend 3.6(1), paragraph "d", by striking in its entirety and inserting in lieu thereof the following:

"d. The basic contribution rate is two and seven-tenths per cent. However, the rate for nonconstruction employers newly subject to the Iowa employment security law on or after January 1, 1972 and ending December 31, 1977 will be one and five-tenths per cent until they qualify for a computed rate as provided for in section 96.7(3)"c". The rate for construction employers newly subject to chapter 96 will be four per cent during this same period, until they qualify for a computed rate as provided in 96.7(3)"d".

(1) Beginning January 1, 1978, the rate for nonconstruction employers newly subject to the Iowa employment security law will be at the rate specified in the ninth percentage of excess rank, but not less than one point eight per cent, until they qualify for a computed rate as provided for in 96.7(3)"c".

(2) Beginning January 1, 1978, the rate for construction employers, defined in rule 3.82(96), newly subject to the Iowa employment security law will be at the rate specified in the twenty-first percentage of excess rank until they qualify for a computed rate as provided for in 96.7(3)"d"(3)."

This rule is intended to implement section 96.7(3)"c" and "d" as amended by Acts of the Sixty-seventh General Assembly, chapter 55, sections 2 and 3.

**ITEM 7.** Amend 3.6(1), by striking paragraph "g" in its entirety and reserving "g".

**ITEM 8.** Amend 3.6(2), paragraph "a", line 1, by striking the word "four" and inserting in lieu thereof the word "six". Further, in line 1, by striking the word "except".

This rule is intended to implement section 96.7(3)"d" of the Code.



**ITEM 9.** Amend 3.6(2), paragraph "b", by striking in its entirety and inserting in lieu thereof the following:

*b.* The term taxable wages as used in subrules 3.6(1) and 3.6(2) shall refer to that part of remuneration not in excess of \$4200 (\$6000 in 1976 and 1977) and beginning January 1, 1978, the greater of sixty-six and two-thirds per cent of the statewide average annual wage paid to employees in insured work rounded to the next highest multiple of one hundred dollars based upon the calculation made during the previous calendar year used to determine the maximum weekly benefit amount or that portion of remuneration subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund.

This rule is intended to implement section 96.19(21) as amended by Acts of the Sixty-seventh General Assembly, chapter 55, section 5.

**ITEM 10.** Amend 3.7(2), by adding to the end of the paragraph the following sentence: "The computation for taxable wages for 1978 and future years will be as described in subrule 3.6(2)"*b*" and section 96.7(3)"*d*" of the Code."

This rule is intended to implement section 96.19(21) as amended by Acts of the Sixty-seventh General Assembly, chapter 55, section 5.

**ITEM 11.** Amend 3.17(96), by striking in its entirety and inserting in lieu thereof the following:

**370—3.17(96) Group accounts—section 96.7(13).**

**3.17(1)** Reimbursable employers who desire to form a group account or reimbursable employers who wish to be added to an existing group account shall apply on form IESC 650, application for a group account.

*a.* New group accounts. The application shall list each proposed member and must be signed by each proposed member and shall set out one member as agent for the group with respect to all dealings with the Iowa department of job service.

*b.* Adding a member or members to an already existing group. The application shall list all members of the group including the new member(s) and shall be signed by all members of the group including the new member(s). The application shall set out one member as agent for the group with respect to all dealings with the Iowa department of job service.

**3.17(2)** A government entity(s) shall not be allowed to form a group with a nonprofit organization(s).

**3.17(3)** No application for a group account shall be approved if any member of the group is delinquent in the payment of contributions, interest or penalty, or in the filing of reports, or in the payment of reimbursable benefits.

**3.17(4)** If the application is denied by the department, a notice stating the reasons for denial will be sent to the agent for the group. A new application may be submitted by the group at any time.

**3.17(5)** If the application is approved by the department, a notice will be sent to the agent for the group. Such approval shall be effective with the first day of the quarter in which the application is received.

**3.17(6)** Such group account shall continue for a minimum period of one year from the first day of the quarter in which the application for a group account was received and no member may leave the group during such year except that withdrawal shall be allowed where the member's liability has terminated under sections 96.8(2) or 96.8(4) of the Code.

*a.* If a new member(s) is added to the group during the first year of the group's existence, the group shall continue for one year from the first day of the quarter in which the application to add the member is received and no member may leave the group during such year except where the member's liability has terminated under sections 96.8(2) or 96.8(4) of the Code.

b. If a new member(s) is added to the group after the group has been in existence for one year, only the new member(s) shall be obligated to remain with the group for an additional one-year period from the first day of the quarter in which such member joined the group.

3.17(7) After the group has been in existence for one year, unless provided for differently in subrule 3.17(6)"a" of 3.17(6)"b", any member may withdraw by providing the agent for the group and the department with notice of the withdrawal in writing. Such withdrawal shall become effective with the first day of the quarter following the quarter in which notice is received by the department. For the withdrawal to be effective with the first day of the quarter immediately following the first year of the group's existence, notice of withdrawal must be filed during the last three months of the first year of the group's existence.

3.17(8) A bond or other security equal to two point seven per cent of the taxable wages paid by all members of a nonprofit group in the four calendar quarters immediately preceding the first day of the quarter in which the application is received, shall be required within thirty days of the notice of approval. If one or more members of the group did not pay wages in each of such four calendar quarters, the amount of the bond or deposit shall be determined by the department by using information as is available to estimate the amount of the total taxable wages of the group for a normal four calendar quarter period.

3.17(9) A government group shall not post bond, however, should such group or any member(s) thereof default with respect to any payments due the department, the amount of such delinquency shall be deducted from any further moneys due to the members of the group by the state as provided in 96.14(2).

3.17(10) Each member of a group shall be jointly and severally liable for any defaults by any members of the group with respect to unpaid reimbursable benefit charges and any interest and/or penalty.

3.17(11) Upon the formation of a group, all benefits paid after the effective date of the group based upon wages paid by any member(s) of the group shall be charged to the group regardless of when the wages upon which such benefits were earned except those benefits based upon wages paid when the member(s) was a contributory employer.

3.17(12) Upon the occasion of a member withdrawing from a group and the member continues to be a liable employer, such member shall be liable for the payment of all benefits paid after the date of withdrawal and attributable to employment with such member regardless of when the wages upon which the benefits are based were earned.

3.17(13) Liability for benefits upon termination of a group or withdrawal of a defaulting or no longer liable member.

a. Notwithstanding subrules 3.17(1) to 3.17(12), when a group is terminated upon the application of all members or under subrule 3.17(7) where there are only two members, liability for any reimbursable benefits which the department concludes are not collectible from a defaulting ex-member(s) of the group and said benefits are based upon wages paid prior to or while the group was in existence shall lie with each of the former members of the group jointly and severally.

b. Notwithstanding subrule 3.17(12) when an ex-member of a group is in default at the time of withdrawal from the group or withdraws under subrule 3.17(7) and it is determined that the benefits are not collectible from such member, the group has remained in existence, and the benefits so paid are based upon wages paid prior to or while the ex-member was a member of the group, the group shall be held liable for the payment of such benefits.

3.17(14) Agent's responsibilities.

a. The agent for a group shall be responsible, on behalf of the group members, for all the duties of an employer as set out in the Code and these rules. Specifically such agent shall be responsible for the pro rata apportioning of benefit charges to each member of the group as set out in section 96.7(13) of the Code, and shall accept all legal services and notices on behalf of all members of the group.

b. All correspondence on behalf of the group shall be between the agent for the group and the department.

c. Each member of a group shall submit a quarterly payroll report to the group's agent who shall combine such reports into one report on form IESC 21, employer's contribution and payroll report, and shall submit such combined report to the department on or before the delinquent date for such quarter.

d. The agent shall also submit form IESC 22, a summary of quarterly payroll by location, designating which page(s) of the combined payroll report belongs to each member of the group in the manner provided in subrules 2.13(3) to 2.13(5).

e. Should an agent member withdraw from a group, or resign as agent, it shall immediately advise the department of its intent in writing. Such notice must be made at least ninety days prior to the date of withdrawal. The department shall notify the remaining members of the group of the withdrawal and shall request that the group elect a new agent. Such election must be held and the department notified of the result within thirty days of the notice of withdrawal from the department. Failure to notify the department within thirty days of the new agent shall result in the termination of the group by the department.

### 3.17(15) Transfers and successorships.

a. If a member of a group sells or otherwise transfers its business to a nonmember and the acquiring employer has made or, at the time of acquisition is eligible to and makes an election to make payments in lieu of contributions, the successor shall assume the position of the predecessor in the group as of the date of acquisition.

b. If a member of a group sells or otherwise transfers a substantial portion of its business to a nonmember and the predecessor is a nonprofit organization and the successor is a governmental entity, the successor shall not acquire membership in the group.

c. If a member of a group sells or otherwise transfers a substantial portion of its business to a nonmember and the predecessor is a government entity and the successor is a nonprofit organization, the successor shall not acquire membership in the group.

d. If a member of a group sells or otherwise transfers a substantial portion of its business to an organization or other entity not eligible to make an election to make payments in lieu of contributions, the successor shall not acquire membership in the group.

e. A member of a group may become a successor to any other organization and remain in the group so long as the member remains a nonprofit organization or governmental entity.

f. Successors which are not permitted to enter a group under subrules 3.17(15)"b" to 3.17(15)"d" shall be held liable for benefits which are based upon wages paid by the predecessor the same as provided in 3.17(12) for members withdrawing from a group.

This rule is intended to implement section 96.7(13) as amended by Acts of the Sixty-seventh General Assembly, chapter 54, section 7.

ITEM 12. Amend 3.40(2), "a", line 3, by striking the date "October 1" and inserting in lieu thereof the date "July 1". Further, in line 7, by striking the date "October 31" and inserting in lieu thereof the date "July 31".

This rule is intended to implement section 96.19 (22) as amended by Acts of the Sixty-seventh General Assembly, chapter 55, section 7.

ITEM 13. Amend 3.40(2), "e", by striking in its entirety and inserting in lieu thereof the following:

e. The cutoff date for the July 1 computation of contribution rates for the ensuing calendar year shall be June 30 for charges and July 31 for tax credits. If July 31 falls on Saturday, Sunday or legal holiday, the cutoff date for credits shall be the next following business date.

This rule is intended to implement section 96.19(22) as amended by Acts of the Sixty-seventh General Assembly, chapter 55, section 7.

ITEM 14. Amend 3.43(10), paragraphs "a" and "b", by striking in their entirety and reserving the spaces. Further, by adding new paragraph "d", as follows:

*d. Overpayment to the claimant will cause the employer to be relieved of charges.*

This rule is intended to implement sections 96.6(2) and 96.11(1) as interpreted in the recent Supreme Court of Iowa case, Robert A. Galvin, et al., vs. Iowa Beef Processors, Inc., et al., filed January 18, 1978.

ITEM 15. Amend 3.43(14) by striking in its entirety and inserting in lieu thereof the following:

*3.43(14) Charging benefits on combined wage claims.* When Iowa is the paying state on an interstate claim wherein Iowa wage credits are insufficient to have a valid Iowa claim, charges shall not be made against the Iowa employer's account but shall be charged to the employer reserve. (See Code section 96.20(2).)

This rule is intended to implement section 96.20(2) of the Code.

ITEM 16. 370—3.44(96) is amended by striking the words, "Benefits overpayment" and inserting in lieu thereof the words "Benefits payments."

Further, by striking subrules 3.44(1), 3.44(2), 3.44(3) and 3.44(4) in their entirety and inserting in lieu thereof the following:

*3.44(1) Payments caused by the employer.* If a claimant is paid benefits because of an employer reporting exempt wages or other error on such employer's report, the employer will not be relieved of benefit charges to such employer's account.

*3.44(2) Payments caused by the employer.* If more than one employer is charged benefits because of one employer's error in reporting exempt wages, or any other error in any employer's report, the employer or employers who are not in error will be relieved of any erroneous charges to their account.

*3.44(3) Erroneous payments not caused by employer.* Erroneous payments caused by anything other than employer error shall be charged to the employer reserve. Both the contributory and reimbursable employer shall be relieved of charges.

*3.44(4) Reserved.*

This rule is intended to implement sections 96.7(3)"a"(2) and 96.11(1) as interpreted in the recent Supreme Court of Iowa case, Robert A. Galvin, et al., vs. Iowa Beef Processors, Inc., et al., filed January 18, 1978.

ITEM 17. Amend 3.65(3), line 2, by striking the words "of assessment" and inserting in lieu thereof the words "the assessment is mailed or personally served upon the employer."

This rule is intended to implement section 96.14(3) of the Code.

ITEM 18. Amend 3.70(1), lines 1 and 2, by striking the words "classified as a 501-C-3 tax exempt organization under the Internal Revenue Code" and inserting in lieu thereof the words, "which meets the requirements of section 96.7(9) of the Code".

This rule is intended to implement section 96.7(9) of the Code.

ITEM 19. Amend 3.70(2), line 1, by striking the words "Form IESC 619" and inserting in lieu thereof the words "Election to make payments in lieu of contributions, form IESC 619,".

This rule is intended to implement section 96.7(9) of the Code.

ITEM 20. Amend 3.70(2), "b" by striking in its entirety and inserting in lieu thereof the following:

*b.* A copy of the organization's letter of 501(c)(3) exemption from the internal revenue service. If the organization does not have a 501(c)(3) letter at the time of the filing of its election to become a reimbursable employer, it may file a written request with the

department for an extension of time setting forth the reason for the request, and the department may grant such extension not to exceed 180 days. Included with this request for extension of time should be a copy of the application for exemption, election to make payments in lieu of contributions, or evidence that the request for 501(c)(3) exemption has been made.

This rule is intended to implement section 96.7(9) of the Code.

**ITEM 21.** Amend 3.70(3), line 3, by striking the words, "501-C-3 internal revenue service letter of exemption," and inserting in lieu thereof the words "501(c)(3) internal revenue service letter of exemption, except as otherwise provided in subrule 3.70(2)."

This rule is intended to implement section 96.7(9) of the Code.

**ITEM 22.** Amend 3.70(6) by striking in its entirety and inserting in lieu thereof the following:

**3.70(6)** Those organizations not possessing a 501(c)(3) tax exemption letter from the internal revenue service at the time of their beginning liability will be considered as reimbursable employers and will make payments to reimburse the funds for benefits paid with respect to employment for such entities. The posting of the surety bond, monies or securities will be delayed until the entity has obtained its 501(c)(3) letter. In the event such organization or employing unit fails to obtain the 501(c)(3) letter within the time granted by the department, it shall be considered a denial of reimbursable status. Coverage shall be retroactive to the date such employing unit became subject to the Iowa employment security law and such organization shall pay contributions on all paid wages during this period or the effective date of the election, whichever is later. Any payments for benefits cost shall be credited to his account or refunded.

This rule is intended to implement section 96.7(9) of the Code.

**ITEM 23.** Amend 3.71(3), by striking in its entirety and inserting in lieu thereof the following:

**3.71(3)** Effective January 1, 1978 the term "employment" does not apply to services performed for this state, a political subdivision of this state or an instrumentality thereof by an individual who is: An elected official, a member of a legislative body, a member of the judiciary of a state or political subdivision, a member of the state national guard or air national guard, an employee on a temporary duty basis in the case of fire, storm, snow, earthquake, flood or similar emergency, or in a position designated as a major nontenured policymaking or advisory position pursuant to state law if the position does not ordinarily require duties of more than eight hours per week.

*a.* The exclusion for a governmental entity from coverage of unemployment of the services of an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency applies only to those individuals who are hired or pressed into service to assist directly with an emergency or urgent distress associated with an emergency, including such temporary tasks as fire fighting, rescue, removal of storm debris, cleaning up mud and flood debris, restoration of public facilities, snow removal and road clearance. The exclusion does not apply to permanent employees whose usual responsibilities include emergency situations.

*b.* The provision which excludes an individual employed by a governmental entity who exercises his or her duties in a position defined in state law as a major nontenured policymaking or advisory position, or a policymaking or advisory position which ordinarily does not require duties of more than eight hours per week, covers those individuals holding positions designated by, or pursuant to, state law as a policymaking or advisory position. Political subdivisions which have authority to enact ordinances or resolutions without recourse to the state legislature but under authority of state law may also establish and define such positions. The positions may qualify for the exclusion if the political subdivision

has enacted an ordinance or resolution creating or designating one of its positions as policy-making or advisory, provided power to make the ordinance or resolution is authorized or permitted by the laws of the state. If the state law or local ordinance or resolution properly designated the positions as policymaking or advisory, the exclusion is clearly applicable. Where the law or the ordinance does not clearly and specifically so categorize or label the position, other pertinent factors such as job descriptions, the qualification of individuals considered for and appointed to the position and the responsibilities involved, shall be taken into account in determining the character of the position for purposes of applying the exclusion.

(1) "Policymaker" is defined as generally referring to the determination of the direction, emphasis and scope of action in the development of, and the administration of, governmental programs. Such responsibilities are confined to and inherent in jobs of the higher echelons of government.

(2) An "advisory position" is one which advises established governmental agencies and officers with respect to policy, program and administration without having authority to implement the recommendations.

(3) The word "major" in the phrase "major nontenured policymaking or advisory position" refers to high level governmental positions usually filled by appointment by the chief executive of the political entity (governor, mayor, etc.), or a council, which involves responsibilities affecting the entire political entity, whether it be the state, county or city.

(4) The term "nontenured" is used in its usual meaning to mean that the position is not covered by merit system or civil service law or rules with respect to duration of appointment to the service.

(5) Service in a policymaking or advisory position where the performance of the duties ordinarily does not require more than eight hours per week is exempted. It makes no difference whether the position is tenured or not. If the position ordinarily requires more than eight hours per week, the exclusion does not apply. The number of hours required should be determined by reference to the law establishing the position and the actual time spent by incumbents.

c. An elected official includes an individual appointed to serve the unexpired term of an elected position. Such an individual's services for such period are excluded because he/she is performing excluded services.

d. An official elected by a body other than the public, such as by a vote by the legislature, board of supervisors, council, school board or trustees, to perform services for a government entity, such individual is not excluded from coverage.

e. Services performed for the state national guard or the air national guard are excluded from coverage of the employment security law only as to the services in the individual's "military" capacity. It does not apply to any service performed in any other capacity.

f. If a member of the state national guard or air national guard is employed in a civilian capacity performing services for either organization as distinguished from "military" service, the civilian service would be covered as an employee of a governmental entity to the same extent as any other employee.

This rule is intended to implement 96.19(7)"a"(6) of the Code as amended by Acts of the Sixty-seventy General Assembly, chapter 54, section 20.

**ITEM 24. Amend chapter 3, by adding new rule 3.72(96) as follows:  
370—3.72(96) Elective coverage—governmental entities.**

**3.72(1)** Any governmental entity as defined in section 96.19 of the Code and within the meaning of political subdivision as defined in rule 3.71(96), may elect coverage under 96.7(8), by filing a written application known as "election to pay contributions as a government contributing employer," form IESC T 1440, (on a temporary basis, then it will be changed to form IESC 1642 on a permanent basis), for elective coverage as a governmental contributing employer. Any governmental entity failing to file such an election

will be considered as a governmental reimbursable employer under 96.7(8). The form IESC T 1440 must be signed by a duly constituted governmental official. The election shall be approved, if the department finds that:

a. It is an application for all employees of the entity.

b. The applicant is a "governmental entity" as that term is defined in 96.19 and is within the meaning of a political subdivision as defined in rule 3.71(96).

c. It sets forth the names and addresses of the entity.

**3.72(2)** The effective date of an elective coverage agreement filed by a government entity pursuant to 96.7(8), is the first day of the calendar year in which the election was filed.

**3.72(3)** An agreement for elective coverage pursuant to section 96.7(8) shall be continued in effect from period to period unless a written application for termination has been filed with the department on or before thirty days prior to the beginning of the taxable year for which such termination shall first be effective following the initial two-year period of coverage.

**3.72(4)** An applicant may withdraw an application for elective coverage pursuant to 96.7(8) prior to final approval of the application. The director may upon written request of the applicant, cancel an election coverage agreement which has been finally approved if the applicant shows that the application was submitted through justifiable mistake, or error, or was submitted by a person not having proper authorization to bind the applicant.

**3.72(5)** If a governmental entity is succeeded in whole or in part by another governmental entity, the successor may elect to continue the elective coverage agreement of the predecessor or may elect to terminate the elective coverage agreement of the predecessor. If the successor governmental entity was, prior to the acquisition of the predecessor, a governmental entity under an approved elective coverage agreement, the elective coverage agreement of the predecessor shall be continued to the same extent as the elective coverage agreement of the successor. If the successor governmental entity was, prior to the acquisition of the predecessor, a governmental entity not under an approved elective coverage agreement, the successor shall meet the requirements of this section if it elects to continue the elective coverage agreement of the predecessor.

**3.72(6)** An elective coverage under 96.7(8) of the Code shall be effective for not less than two complete calendar years. Termination of the election coverage shall be pursuant to rule 3.45(96).

**3.72(7)** "Government entity" means a state, a state instrumentality, a political subdivision or a political subdivision instrumentality, or a combination of one or more of the preceding. An instrumentality of one or more states or political subdivisions may be a part of a state, or a political subdivision or be independent of political entities and thereby a separate governmental entity.

This rule is intended to implement section 96.7(8) as amended by Acts of the Sixty-seventh General Assembly, chapter 54, section 4.

ITEM 25. Amend chapter 3, by adding new rule 3.73(96) as follows:

**370—3.73(96) Governmental entities—delinquent accounts.**

**3.73(1)** Any political subdivision or political subdivision entity which is an employer and which becomes delinquent in the payment of contributions or the reimbursement of benefits shall be assessed for the same together with any interest and penalty due thereon.

**3.73(2)** Contributions are due within thirty days of the end of the quarter for which they are incurred. Reimbursable benefit payments are due thirty days after the date of the statement.

**3.73(3)** Should a political subdivision or entity thereof become delinquent for contributions or reimbursable benefit charges for two or more quarters, and assessment of such contributions or charges have been made and the amounts so assessed remain unpaid, the department shall so advise the state comptroller and request that said amounts, including interest and penalty, be deducted from any monies due the political subdivision or entity thereof from the state.

This rule is intended to implement section 96.14(3) as amended by Acts of the Sixty-seventh General Assembly, chapter 54, section 10.

ITEM 26. Amend 3.83(96), by adding new subrule as follows:

3.83(4) *Vacation period or holiday recess.* In section 96.4(5) of the Code, the term "established and customary" vacation period or holiday recess involved in this provision includes those scheduled at Christmas and in the Spring, when those vacation periods or recesses occur within a term.

This rule is intended to implement section 96.4(5) as amended by Acts of the Sixty-seventh General Assembly, chapter 54, section 2.



# EMPLOYMENT SECURITY[370]

## DEPARTMENT OF JOB SERVICE

### NOTICE OF INTENDED ACTION

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

The Iowa Department of Job Service, pursuant to the authority of section 96.11(1) of the Code, proposes to amend existing rules in chapter 4 appearing in the Iowa Administrative Code, for the purpose of implementing Acts of the Sixty-seventh General Assembly, chapters 54 and 55 and section 96.11(1).

Interested persons, governmental agencies and associations may present written comments or statements of the proposed amendments not later than April 28, 1978, to Harold D. Keenan, Iowa Department of Job Service, 1000 East Grand Avenue, Des Moines, Iowa 50319. A public hearing will be held at 9:30 a.m., May 8, 1978 at the above named address. The proposed amendments are subject to revision after the Department considers all written and oral presentations.

Pursuant to said authority, the following amendments are proposed to Chapter 4 of rules appearing in the IAC, relating to Claims and Records.

**ITEM 1.** Amend 4.13(1), by striking in its entirety and inserting in lieu thereof the following:

**4.13(1)** Wages for benefit payment purposes include wages as defined in rule 4.1(96) and section 96.5 of the Code. The following remuneration shall be deducted from job insurance payments.

*a. Holiday pay*—apply as wages.

*b. Commissions*—apply as wages.

*c. Incentive pay*—apply as wages.

*d. Wage interruption insurance.* Any insurance proceeds received or due from wage interruption insurance because of fire, disaster, etc., are considered to be wages and are fully deductible.

*e. Strike pay,* if it is remuneration received for services rendered—apply as wages.

*f. Excused personal leave.* Excused personal leave also referred to as casual pay or random pay is leave time with pay granted to an employee from the job because of personal reasons. It shall be deductible only when taken in conjunction with a scheduled period of vacation in which case it shall be treated as vacation pay and be fully deductible. (See rule 4.14(96).)

*g. Wages in lieu of notice.* Job insurance payments for any such weeks due under the law shall be reduced by the amount of such remuneration.

*h. Remuneration other than cash.* The cash value of all remuneration payable in any medium other than cash, i.e., as board and room, working out a bill for groceries, coal—apply as wages.

*i. Worker's compensation, temporary disability only.* Pertains to the week with respect to which the worker is entitled to compensation for temporary disability, and not to the week in which such payment is paid. The claimant must meet the eligibility conditions of being able and available for work. Job insurance payments for any such weeks due under the law shall be reduced by the amount of such remuneration.

*j. Private pension and retirement pay.* Private pension and retirement pay are deductible if the claimant's employer contributed to the pension or retirement fund from which the claimant is paid. Job insurance payments for any such weeks due under the law shall be reduced by the amount of such remuneration. However, private pensions and retirement pay where only the worker contributed to the fund are nondeductible for job insurance payments and shall be treated as life insurance annuities which are nondeductible.

*k. Police, fire and miner's pensions,* if the employer contributed to the pension fund. Job insurance payments for any such weeks due under the law shall be reduced by the amount of such remuneration.

*l. Federal retirement and federal disability* under any Act of Congress. Job insurance payments for any such weeks due under the law shall be reduced by the amount of such remuneration.

*m. Civil service retirement* for retirement payments under the Civil Service Retirement Act in those instances where the claimant retired on or after July 1, 1957. Job insurance payments for any such weeks due under the law shall be reduced by the amount of such remuneration.

*n. Railroad retirement board payments made as retirement pay.* Job insurance payments for any such weeks due under the law shall be reduced by the amount of such remuneration. However, the claimant shall be disqualified for job insurance payments if the claimant is claiming or receiving railroad unemployment payments from the railroad retirement board.

*o. Federal, old-age benefits (OAB)* under Title II and including disability and survivor payment. Job insurance payments for any such weeks due under the law shall be reduced by one-half of the amount of such remuneration.

*p. Iowa public employees' retirement system (IPERS) and Iowa old-age and survivors insurance system benefits (IOASI).* Job insurance payments for any weeks due under the law shall be reduced by the amount of such remuneration.

*q. Stand by pay.* Where an individual was paid to hold oneself in readiness for a call to specific work for an employer but was not called, since the work was given to another, the payment is to be compensation for stand-by time, such payment shall constitute "wages" for benefits and wages as remuneration for personal services in subrule 3.3(1).

This rule is intended to implement sections 96.3(3) and 96.11(1) of the Code.

**ITEM 2.** Amend 4.22(1), "j" by striking in its entirety and inserting in lieu thereof the following:

*j. Jury duty.* The claimant is considered available for work while serving on jury duty since time spent in jury service is not a personal service performed under a contract of hire in an employment situation but is a public duty required by law. Jury duty does not render the individual as employed and ineligible for benefits even though it may involve the individual's full time. Witness and jury fees will be considered as reimbursement for expenses and not as wages.

This rule is intended to implement sections 96.4(3) and 96.11(1) of the Code.

**ITEM 3.** Amend 4.22(1), "p", by striking in its entirety and inserting in lieu thereof the following:

*p. Work release program while incarcerated.* For those individuals incarcerated in jail, the work release program usually does not meet the availability requirements of section 96.4(3); but the department will review any situation concerning a claimant incarcerated in

a jail, who can meet the able to work, availability for work, and actively seeking work requirements of 96.4(3).

This rule is intended to implement sections 96.4(3) and 96.11(1) of the Code.

**ITEM 4.** Amend 4.22(1), "r", by assigning subparagraph number (1) to the present paragraph beginning "Substitute workers . . ."

Further, by adding new subparagraph (2) as follows:

(2) Substitute teachers. The question of eligibility of substitute teachers is subjective in nature and must be determined on an individual case basis. The substitute teacher is considered an instructional employee and is subject to the same limitations as other instructional employees. As far as payments of benefits between contracts or terms and during customary and established periods of holiday recesses, benefits will be denied if they have a contract or reasonable assurance that such individual will perform such service in the period immediately following such vacation or holiday recess. On-call workers (includes substitute teachers) are not disqualified if the individual is able and available for work, making an earnest and active search for work each week, placing no restrictions on his or her employment and genuinely attached to the labor market.

This rule is intended to implement section 96.4(5) of the Code as amended by Acts of the Sixty-seventh General Assembly, chapter 54, section 2.

**ITEM 5.** Amend 4.22(96), by adding new subrules 4.22(2) and 4.22(3) as follows:

**4.22(2) Benefits based on other than school employment.** After December 31, 1977, benefits which are denied to an individual that are based on services performed in an educational institution for periods between academic years or terms shall cause the denial of the use of such wage credits. However, if sufficient other wage credits remain on the claim to qualify under section 96.4(4) of the Code, the remaining wage credits may be used for benefit payments, if otherwise eligible.

**4.22(3) Eligibility condition—school employee.** Where, at the end of a school year or term, an individual has a reasonable assurance of re-employment for the next ensuing year or term, a valid basis does not exist for a redetermination that the assurance was not bona fide merely on the ground that the assurance was not fulfilled. If, upon later revealed facts, it is determined that the assurance when given was faulty and the assurance purportedly given was not bona fide and therefore is not a valid basis for application of the "between terms" provision, the school employee is entitled to benefits. If the assurance is not fulfilled because of later developments such as budgetary restrictions forbidding the employment of the individual concerned, there would be no basis for a redetermination that the original assurance was not bona fide. The individual would be entitled to benefits, if otherwise eligible from the date when it became clear that the initial assurance would not be fulfilled.

This rule is intended to implement section 96.4(5) of the Code, as amended by Acts of the Sixty-seventh General Assembly, chapter 54, sections 1 and 2.

**ITEM 6.** Amend 4.23(96), by adding a new subrule 4.23(39) as follows:

**4.23(39)** Where the work search on the weekly claim form has been deliberately falsified for the purpose of obtaining job insurance benefits. The general guide for disqualifications for falsification of work search are listed below. It is intended to be used as a guide only and is not a substitute for the personal subjective judgment of the representative because each case must be decided on its own merits. The administrative penalty recommended for falsification is:

a. First offense—six weeks penalty.

b. Second offense—nine weeks penalty.

c. Third offense—total disqualification for the remainder of the benefit year plus consideration of the possibility of filing fraud charges depending on the circumstances.

This rule is intended to implement section 96.5(8) and 96.11(1) of the Code.

ITEM 7. Amend 4.24(14)"a", by adding a new sentence at the end as follows:  
"The provisions of section 96.5(3)"b" of the Code are controlling in the determination of suitability of work."

This rule is intended to implement section 96.5 and 96.11(1) of the Code.

ITEM 8. Amend 4.25(1), by striking in its entirety and inserting in lieu thereof the following:

**4.25(41) Corporate officers.**

a. Where the individual has been employed by a corporation and was the principal officer or manager of the corporation or business and is the controlling stockholder or owner of the business, such an individual is deemed to have voluntarily quit work without good cause attributable to the business or corporation when becoming unemployed. The individual who is responsible for the corporation or business action is responsible for the loss of self-employment and this shall constitute a voluntary leaving of employment without good cause. The unemployment is a condition under the control of this individual. An individual who is both employee and director as well as a minority stockholder is held to have voluntarily quit without good cause attributable to the corporation when he or she votes to sever employment.

b. An individual who is an officer of a corporation may maintain that he or she is unemployed. In order to make a proper decision on this type of case, each must be considered individually, keeping in mind the responsibilities the individual has in the operation of the corporation, the duties that are performed by such an officer of the corporation, the services that are currently performed and the remuneration received for such services.

c. In general, corporate officers who are performing substantial regular corporate duties or management services for the corporation are employees of the corporation and are not unemployed regardless of whether they are compensated for their services.

d. The performance of some service is presumed in cases where the corporate officer is compensated by other than payment of dividends on stock shares owned by such officer.

e. Corporate officers who receive no remuneration and perform no service for the corporation or whose services are of a casual or inconsequential nature, are deemed unemployed if they are not otherwise employed. Other employment may be something performed in operations or production for the corporation as an ordinary employee under direction of management such as bookkeeping, janitor, etc. It may also be work in an activity not related to the corporation.

f. During times when a corporate officer has no corporate management or operational duties or responsibilities, such officer is not employed, unless such officer receives a wage. Individuals may be considered fully employed on a year-round basis because the nature of their work in slow times is to develop new corporate work. In these cases, duties as an officer must be distinguished from duties performed as an employee under direction of management. Persons working as an employee under direction seldom have responsibilities continuing through a layoff but would be wholly unemployed.

g. Issues involving the question of unemployment of corporate officers are largely resolved by the department of sufficient facts. The duties and responsibilities involved in each case might be different depending on the type of business. Most businesses involve some sort of record keeping, filing of reports, banking, payrolls, collecting and paying debts, purchasing goods and supplies, making bids, negotiating contracts, establishing and carrying out policies, repairing and operating equipment, maintaining buildings and equipment, advertising, inventorying, etc., and managing others who might do these and numerous other things for the corporation. In some cases, the minutes of the corporation may outline or summarize the officer's responsibilities, or these may be reported in some other records.

h. Facts may also show that because the business is not sufficiently developed or that because the business is being discontinued, there are no substantial duties and responsibil-

ities for the officer and no substantial services are performed. The fact that a corporation has not been officially discontinued through the office of the secretary of state does not mean that the corporation is still actually doing business.

i. Corporate officers who are found to be unemployed because they do not have substantial corporate responsibilities may still not be available for work. Availability is reviewed separately as with other claimants. To be considered available, the individual must meet the same tests of availability as are met by other eligible claimants. The claimant must be desirous of other work, be free from serious limitations and be seriously searching for work for himself(herself). The reported efforts of a corporate officer to seek work should be studied to distinguish those directed toward obtaining work for such officer as an individual and those directed to obtaining work or business for the corporation. Any effort to obtain business for the corporation to perform is a service to the corporation and is not evidence of the individual's own availability for work.

j. Evidence.

(1) The duty of establishing he/she was unemployed with respect to a week for which unemployment benefits are claimed is upon the individual. The individual's proof should establish to the satisfaction of the department that his/her wages payable and his/her personal services were none, or that such individual's services were less than full time and his/her wages payable were less than his/her weekly benefit amount.

(2) It is the department's practice to accept the claimant's statements with respect to services performed and wages payable without formal proof of their truth and accuracy. In most cases the claimant's knowledge of his/her responsibility to accurately and properly report his/her earnings and employment and such claimant's knowledge of the penalties for false statements is evidence of the truth and accuracy of these statements. However, where circumstances arise which cause the department to doubt the truth and accuracy of the claimant's statements, the department is justified in requiring proof. Where possible, the department, in its responsibility to assist an individual in establishing his/her claim, should assist the claimant in furnishing necessary evidence. Where it is not possible, the department is justified in advising the claimant of his/her responsibility, the reason his/her report is questioned and allowing the claimant adequate time to act. Benefits are then denied if the claimant fails to present necessary evidence as requested.

This rule is intended to implement section 96.5(1) of the Code.

ITEM 9. Amend 4.31(6), by striking in its entirety and inserting in lieu thereof the following:

**4.31(6)** Disqualification for lack of the conditional \$200 shall be removed upon the verification that the claimant was paid \$200 for insured work during or subsequent to the previous benefit year.

This rule is intended to implement section 96.4(5) of the Code.

ITEM 10. Rescind 4.34(1) and reserve.

This is intended to implement section 96.5(4) as interpreted in the recent Supreme Court of Iowa case, Robert A. Galvin, et al., vs. Iowa Beef Processors, Inc., et al., filed January 18, 1978.

ITEM 11. Amend 4.39(96), line 3, by striking the words "one or more of the following requirements shall be met" and inserting in lieu thereof the words "shall meet the following requirements:".

This rule is intended to implement section 96.4(6) of the Code.

ITEM 12. Amend 4.39(7), by striking the period and adding to the end of the sentence the following:

"and is making satisfactory progress in an approved training course."

This rule is intended to implement section 96.4(6) of the Code.

**ITEM 13.** Amend 4.39(9), line 1, by striking the words "a vocational rehabilitation" and inserting in lieu thereof the word "an". Further, in lines 3 and 4, by striking the words "as if the individual was under a department approved training program."

This rule is intended to implement section 96.4(6) of the Code.

**ITEM 14.** Amend 4.39(96), by adding new subrules 4.39(10), 4.39(11) and 4.39(12) as follows:

**4.39(10)** An individual shall not be eligible for unemployment insurance benefits for any week or part of any week with respect to which he/she is entitled to receive directly or indirectly any incentive payments, living allowance, subsistence, per diem, wage payments or other cash benefits because of his/her participation in such program of instruction when such benefits are payable from federal, state or private funds, or any combination thereof.

**4.39(11)** Furnishing of, or payment for, books, instructional material, tuition, reimbursement for travel expenses or other expenses, or cost of such program of instruction, or the furnishing in cash or in kind of a daily lunch allowance, does not constitute the direct receipt of a payment or benefit under subrule 4.39(10).

**4.39(12)** Definition of training. "Training" as used in these rules means vocational or technical training or retraining in schools or classes (including, but not limited to, field or laboratory work and remedial or academic and technical instruction incident thereto) that is conducted as a program designed to prepare individuals for gainful employment in recognized or new occupations. The term "training" does not include programs of instruction for an individual (including transfer credit programs of instruction given at community colleges) which are primarily intended to lead toward a baccalaureate or higher degree or training that has for its purpose the preparation of individuals for employment in occupations which require a baccalaureate or higher degree from institutions of higher education.

This rule is intended to implement section 96.4(6) of the Code.

**ITEM 15.** Amend 4.54(1), lines 1 and 2, by striking the words "either through employer, claimant, or department error," and inserting in lieu thereof the words "through misrepresentation".

This rule is intended to implement section 96.7(3)"a"(2) and 96.11(11) as interpreted in the recent Supreme Court of Iowa case, Robert A. Galvin, et al., vs. Iowa Beef Processors, Inc., et al., filed January 18, 1978.

**ITEM 16.** Amend chapter 4, by adding new rule 4.57(96) as follows:

**370—4.57(96) Athletes—disqualification.** "Athletes" as used in Acts of the Sixty-seventh General Assembly, chapter 54, section 3, is intended to apply to professional athletes. A professional athlete is an individual whose occupation is participating in athletic or sporting events for wages. A semiprofessional athlete is within the scope of Acts of the Sixty-seventh General Assembly, chapter 54, section 3, if his/her sports services are compensation in covered wages. Auxiliary personnel, such as coaches, trainers, etc., are not considered professional athletes and are not within the scope of Acts of the Sixty-seventh General Assembly, chapter 54, section 3.

**4.57(1)** As used in Acts of the Sixty-seventh General Assmby, chapter 54, section 3, "any services, substantially all of which consist of participating in sports or athletic events" means all services performed by an individual in any subject employment during his/her base year if such individual was engaged in remunerative sports or athletic events for ninety per cent or more of the total time spent in subject employment during such base year.

**4.57(2)** As used in Acts of the Sixty-seventh General Assembly, chapter 54, section 3, "participating in sports or athletic events" means any services performed in an athletic activity by an individual as:

a. A regular player or team member.

- b. An alternate player or team member.
- c. An individual in training to become a regular player or team member.
- d. An individual who, although performing no active services, is retained as a player or team member while recuperating from illness or injury.

4.57(3) The beginning and ending dates of any sport season and the beginning and ending dates of the time period between two successive sport seasons shall be determined by the department after taking into consideration factors of custom and practice within a particular sport, published dates for beginning and ending of a season and any other information bearing upon such determination.

4.57(4) For the purposes of Acts of the Sixty-seventh General Assembly, chapter 54, section 3, a reasonable assurance that an individual will perform services in sports or athletic events in a subsequent season is presumed to exist if:

- a. The individual has an express or implied multiyear contract which extends into the subsequent sport season, or,
- b. The individual is free to negotiate with other teams or employers for employment as a participant in the subsequent sport season, and
- c. There is reason to believe that one or more employers of participants in athletic events is considering or would be desirous of employing the individual in an athletic capacity in the subsequent sport season, and
- d. The individual has not clearly and affirmatively withdrawn from participating in remunerative and competitive sports or athletic events.

4.57(5) Benefits which will be paid with respect to weeks of unemployment during a sports season shall be based on all wage credits of the individual. Wage credits would include those earned in sports as well as in other employment covered by an employment security law. With respect to weeks of unemployment that begins during a period between sports seasons (or similar periods) no benefits are payable on the basis of any athletic or nonathletic wages if substantially all (see subrule 4.57(1)) of the services performed by the individual during the base period were in sports or athletic events.

4.57(6) When a professional athlete is denied benefits because there is a reasonable assurance that he/she will again perform services as a professional athlete in the next ensuing season but the assurance fails to materialize, the denial of benefits is effective until the date established that the assurance is ineffective. Following the ineffective date, benefits can be paid if the individual is otherwise eligible. If an assurance given to an individual is found to be not a bona fide assurance, benefits are payable if the individual is otherwise eligible.

4.57(7) Benefits will be paid with respect to weeks of unemployment between sports seasons (or similar periods) based on wage credits of the individual, paid in other employment covered by employment security law except those in sports or athletic events or training, or preparing to so participate.

This rule is intended to implement section 96.5 as amended by Acts of the Sixty-seventh General Assembly, Chapter 54, section 3.

ITEM 17. Amend chapter 4, by adding new rule 4.58(96) as follows:  
370—4.58(96) Domestic service.

4.58(1) Services of a household nature performed by an individual in or about the private home of the person by whom he/she is employed or performed in or about the club rooms or house of a local college club or local chapter of a college fraternity or sorority by which he/she is employed are included within the term "domestic service."

4.58(2) A private home is the fixed place of abode or resident of an individual or family, including the house and the lands on which the house stands.

4.58(3) It is the service of a general household nature, ordinarily and customarily performed as an integral part of the upkeep and maintenance of a dwelling, residence or private home. In general, services of a household nature in or about a private home include

services rendered by cooks, maids, butlers, valets, laundresses, furnacemen, babysitters, gardeners, footmen, grooms, and chauffeurs of automobiles for family use. In addition, services performed by watchmen, gate keepers, or nurse to members of the household are covered.

**4.58(4)** The services above enumerated are not covered under the term domestic service if performed in or about rooming or lodging houses, boarding houses, clubs (except local college clubs), hotels, or commercial offices or establishments.

**4.58(5)** The term "domestic service" does not include the service of a skilled mechanic engaged in recognized independent craft not habitually rendered as a part of ordinary household duties such as service rendered by carpenters, blacksmiths, electricians, and plumbers. However, a handyman employed on a full-time basis around the employer's private home to care for the furnace, wash windows, lay carpet, mend furniture, and on occasion perform necessary carpentry, plumbing, electrical or painting work would nevertheless be engaged in domestic service. Musicians engaged to render services in and around a private home for the enjoyment of the members of the household and the guests are exempt. Similarly, private secretaries and part-time tutors are within the exemption, even though performing services within the employer's home.

**4.58(6)** Domestic ordinarily means a household servant or one who works for his(her) employer in the employer's home. The word domestic is generic and not a specific designation.

**4.58(7)** Services of a household nature performed in or about the clubrooms or house of a local college club, or in or about the clubrooms or house of a local chapter of a college fraternity or sorority, by a student who is enrolled and regularly attending classes at a school, college, or university are excepted from employment. For the purposes of this exception, the statutory tests are the type of services performed by the employee, the character of the place where the services are performed, and the status of the employee as a student enrolled and regularly attending classes at a school, college, or university.

**4.58(8)** In general, services of a household nature in or about the clubrooms or house of a local college club or local chapter of a college fraternity or sorority include services rendered by cooks, waiters, butlers, maids, janitors, laundresses, furnacemen, handymen, gardeners, housekeepers, and housemothers.

**4.58(9)** A local college club or local chapter of a college fraternity or sorority does not include an alumni club or chapter. If the clubrooms or house of a local college club or local chapter of a college fraternity or sorority is used primarily for the purpose of supplying board or lodging to students or the public as a business enterprise, the services performed therein are not covered under the term domestic service.

**4.58(10)** The term "school, college, or university" within the meaning of this exception is to be taken in its commonly or generally accepted sense.

**4.58(11)** Where an individual is employed by a domestic service organization to perform domestic services in a private home, such individual is an employee of the service firm, not the householder. The firm is responsible for paying the worker, for withholding taxes from the wages, and for paying social security taxes, etc.

This rule is intended to implement section 96.19(7)"a" as amended by Acts of the Sixty-seventh General Assembly, chapter 54, section 23.



# EMPLOYMENT SECURITY[370]

## DEPARTMENT OF JOB SERVICE

### NOTICE OF INTENDED ACTION

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

The Iowa Department of Job Service, pursuant to the authority of sections 96.11(1) and 17A.3 of the Iowa Code, proposes to amend existing rules in chapter 6 appearing in the Iowa Administrative Code, for the purpose of amending the rule which objection was filed January 26, 1977 by the Administrative Rules Review Committee.

Interested persons, governmental agencies and associations may present written comments or statements of the proposed amendment not later than April 28, 1978, to Harold D. Keenan, Iowa Department of Job Service, 1000 East Grand Avenue, Des Moines, Iowa 50319. A public hearing will be held at 9:30 a.m., May 8, 1978 at the above named address. The proposed amendment is subject to revision after the department considers all written and oral presentations.

Pursuant to said authority, the following amendment is proposed to chapter 6 of rules appearing in the IAC, relating to appeals procedures.

**ITEM 1. Amend 6.2(5)"a", by striking in its entirety and inserting in lieu thereof the following:**

**a. The hearing officer shall inquire fully into the matters at issue and shall receive in evidence the testimony of witnesses and any documents which are relevant and material to such matters. The hearing officer may reopen the record of the hearing, for the receipt of relevant and material evidence which has not been presented at the scheduled hearing at any time prior to mailing notice of the decision upon written application by an interested party.**

[The page contains several paragraphs of extremely faint, illegible text. The text is scattered across the page and is too light to be transcribed accurately. There are approximately 6-7 lines of text visible in each of the four main sections.]

# EMPLOYMENT SECURITY[370]

## DEPARTMENT OF JOB SERVICE NOTICE OF INTENDED ACTION

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

The Iowa Department of Job Service, pursuant to the authority of sections 96.11(1) and 17A.3 of the Code, proposes to amend existing rules in Chapter 6 appearing in the Iowa Administrative Code, for the purpose of amending the rules as suggested by the Legal Aid Society and Senator James Redmond, in addition to correcting the Appeal Board rules to make them consistent.

Interested persons, governmental agencies and associations may present written comments or statements of the proposed amendments not later than April 28, 1978, to Harold D. Keenan, Iowa Department of Job Service, 1000 East Grand Avenue, Des Moines, Iowa 50319. A public hearing will be held at 9:30 a.m., May 8, 1978 at the above named address. The proposed amendments are subject to revision after the Department considers all written and oral presentations.

Pursuant to said authority, the following amendments are proposed to Chapter 6 of rules appearing in the IAC, relating to Appeals Procedure.

**ITEM 1.** Amend 6.2(6)“c”, by striking in its entirety and inserting in lieu thereof the following:

c. Any party may appear in any proceeding. Any partnership, corporation, or association may be represented by any of its members, officer, or a duly authorized representative. Any party may appear by an attorney-at-law or any other duly authorized representative of an interested party.

This rule is intended to implement sections 96.6 and 96.7 of the Code.

**ITEM 2.** Amend 6.2(96), by adding a new subrule 6.2(7), as follows:

**6.2(7) Ex parte communications.**

a. Unless required for the disposition of ex parte matters specifically authorized by statute, the hearing officer shall not communicate directly or indirectly with any person or party, nor shall such person or party communicate directly or indirectly with the hearing officer, concerning any issues of fact or law in a contested case unless:

(1) Each party or their representative is given written notice of the communication. Such notice shall contain a summary of the communication, if oral, or a copy of the communication if written, and the time, place and means of such communication.

(2) After such notice all parties shall have the right, upon written demand, to respond to such communication, including the right to be present and heard if the communication is oral and not completed. If the communication is written, or if oral and completed, any other interested party has the additional right to a special hearing for the purpose of responding to the ex parte communication.

b. Any ex parte communication prohibited by section 17A.17(2), of the Code, received by a hearing officer shall be included in the record. If the prohibited ex parte communication is received orally, the hearing officer shall summarize the communication and include it in the record. Any party to the contested case shall be immediately notified of the communication and given a reasonable opportunity to respond, including if necessary, a special hearing.

c. Definition of "ex parte" communication.

(1) An "ex parte" communication is an oral or written communication relating directly with the facts or issues made by an interested party in a contested case procedure or by any other party to the hearing officer assigned to such case, such communication being offered without the knowledge or outside the presence of the other party and with the object of affecting the outcome of the case. The term shall not include:

Statements given by the parties for use by a deputy or a representative in making his or her decision;

Statements used as the basis for the appeal;

Communications dealing only with procedural or scheduling matters, such as requests for subpoenas, withdrawal of appeal, continuances or postponements;

Ex parte communications requesting clarification of the issue or law involved in a particular contested case, but only to the extent of requesting knowledge of the particular section of law and not any facts involved, will be allowed.

(2) Exclusion. Unless required for the disposition of ex parte matters specifically authorized by statute, the hearing officer or others who may make a proposed or final decision in a contested case shall not communicate directly or indirectly with any interested person or party, nor shall such person or party communicate directly or indirectly with the hearing officer concerning any issues of fact or law in a contested case, except as provided in 6.2(7)"c"(1) above, unless:

Each party or representative is given written notice of the communication by the originating party. Such notice shall contain a summary of the communication, if oral, or a copy of the communication if written, and the time, place and means of such communication.

After such notice all parties shall have the right upon written demand, to respond to such communication, including the right to be present and heard if the communication is oral and not completed. If the communication is written, or if oral and completed, all other interested parties shall have the additional right to a special hearing for the purpose of responding to the ex parte communication.

(3) Inclusion. Any ex parte communication prohibited by chapter 17A.17(2) of the Code or the above rules received by a hearing officer shall be included in the record in total if written or in summary if oral.

This rule is intended to implement section 17A.17(2) of the Code.

ITEM 3. Amend 6.4(1), "j", line 2, by striking the words, "board may" and inserting in lieu thereof the words "board. The appeal board may".

Further, in line 4, by striking the word "or".

Further, in line 5, by changing the words "evidence the" to read "evidence. The".

This rule is intended to implement section 96.6(5) of the Code.

ITEM 4. Amend 6.4(1), "m", line 1, at the top of page 9, by striking the word "shall" and inserting the word "may".

This rule is intended to implement section 96.6(5) of the Code.

# EMPLOYMENT SECURITY[370]

## DEPARTMENT OF JOB SERVICE NOTICE OF INTENDED ACTION

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

The Iowa Department of Job Service, pursuant to the authority of sections 96.11(1) and 17A.3 of the Iowa Code, proposes to amend chapter 10 appearing in the Iowa Administrative Code for the purpose of updating the forms.

Interested persons, governmental agencies and associations may present written comments or statements of the proposed amendments not later than April 28, 1978, to Harold D. Keenan, Iowa Department of Job Service, 1000 East Grand Avenue, Des Moines, Iowa 50319. A public hearing will be held at 9:30 a.m., May 8, 1978 at the above named address. The proposed amendments are subject to revision after the department considers all written and oral presentations.

Pursuant to said authority, the department proposes to amend chapter 10 of rules appearing in the IAC, relating to forms, by rescinding obsolete forms and adding or revising current forms.

ITEM 1. Amend 10.2(96), by deleting the following forms, number, name and description:

Chapter 10, page 3, form IESC 101;  
Chapter 10, page 4, forms IESC 101 (continued), IESC 105A, IESC 105B;  
Chapter 10, page 5, forms IESC 650, IESC 1442, "*Number pending-Wage report of a contractor or subcontractor performing service for a general contractor.*"

ITEM 2. Amend 10.3(96), chapter 10, page 6, by deleting the following forms, number, name and description: IESC 19 and IESC 61.

Further, for form IESC 21, strike the form name and insert in lieu thereof the name "*Employer's contribution and payroll report.*"

ITEM 3. Amend 10.3(96), chapter 10, page 6, by striking the name and description of form IESC 63 and inserting in lieu thereof the following:

*"Notice of assessment and lien/notice of jeopardy assessment. When used as a notice of assessment and lien it serves as the notification of amount due and payable prior to the filing of a lien. When used as a notice of jeopardy assessment, it serves as the notice and demand for immediate payment of amount due and payable prior to filing a lien. The jeopardy assessment form is used primarily when it appears the assets may be in jeopardy."*

ITEM 4. Amend 10.3(96), chapter 10, page 6, following form IESC 64, by inserting a new form IESC 64-1 as follows:

IESC 64-1      *Lien recorded letter.* This document is part 4 of the notice of lien assembly. This letter conveys the notice of lien to the county recorder.

ITEM 5. Amend 10.3(96), chapter 10, page 7, by deleting the following forms, number, name and description: IESC 74; IESC 167 and IESC 594.

ITEM 6. Amend 10.3(96), chapter 10, page 8, by deleting the following forms, number, name and description: IESC 1019; IESC 1152; IESC 1184 and IESC 1389.

ITEM 7. Amend 10.3(96), chapter 10, page 8, following form IESC 1252, by inserting a new form IESC 1596 as follows:

*Debit—credit memo.* This dual use document will be issued as a credit memo when net credit is due the employer. The employer will submit this credit memo with the quarterly report applicable to the payment of contributions. This will be issued as a debit memo when an employer's contribution payments are unpaid or underpaid. The employer will immediately return this debit memo with a check for total contributions, interest, and penalties due.

ITEM 8. Amend 10.3(96), chapter 10, page 8, following form KB 126, by striking the words "Number pending", in the Form No. column, and inserting in lieu thereof the form number "IESC 1574" for the form "*Request for correct social security number.*"

ITEM 9. Amend 10.4(96), chapter 10, page 9, by deleting the form number, name and description of the form "B 16".

ITEM 10. Amend 10.4(96), chapter 10, page 12, by changing form number "IESC 174 A" to read "IESC 174W". Further, in the description of form IESC 175 SIR, line 5, correct the word "raises" to read "raised."

ITEM 11. Amend 10.4(96), chapter 10, page 12, by deleting the form, name and description of the form "IESC 175 Y".

ITEM 12. Amend 10.4(96), chapter 10, page 12, following form IESC 175 SIR, by inserting the following:

IESC 175 SIR Part 2 *Informal fact-finding interview.* This notice details the time, location, claimant and issue for the informal hearing and is made up by the area office and directed to the interested employer. The purpose is to provide both the interested claimant and the employer an opportunity to be heard for adjudicating the issue.

IESC 175 SIR Part 3 *Notice of job insurance fact-finding interview.* This is a notice to either or both the claimant and the employer informing them of the fact-finding interview, issues, and nature of the hearing.

ITEM 13. Amend 10.4(96), chapter 10, page 16, following form IESC 1012, by inserting a new form IESC 1321 as follows:

IESC 1321 *Informational letter—refusal of work.* This form letter is used to obtain information from a claimant when an issue of refusal of work has been raised. The claimant has usually regained employment or is residing in another state filing against Iowa wage credits when this format is used.

ITEM 14. Amend 10.4(96), chapter 10, page 17, by striking the form number "IESC 1593" and inserting in lieu thereof the words "Unnumbered (BCI form)".

ITEM 15. Amend 10.4(96), chapter 10, page 17, following form MA 8-55A, by adding new forms as follows:

- MA8-55B *Workers statement of qualifying period employment.* This form is used to obtain information necessary to make a determination regarding entitlement to TRA compensation.
- MA8-55C *Request for TRA following a subsequent separation from adversely affected employment.* This form is used to obtain information regarding the claimant's last total or partial separation from adversely affected employment.
- MA8-57 *Entitlement determination to trade readjustment allowance.* This form is used to inform the claimant of (1) entitlement to TRA compensation, (2) claimant's benefit period, (3) the regular weekly TRA amount and, (4) the claimant's appeal rights.
- ITEM 16. Amend 370—10.6(96), pages 18 and 19, by striking the entire set of forms and descriptions and inserting in lieu thereof the following forms and descriptions:
- | Form No.           | Name and description of form   |
|--------------------|--|
| IESC 221           | <i>Notice of appeal and notice of hearing.</i> This is completed by the appeals section in the administrative office on the receipt of a letter, or written notice of appeal when either the employer or claimant, or interested party appeals the decision of a claims representative. This notifies the appellant and the respondent of the date, time and location of a hearing, sections of law involved, and matters that have been asserted. |
| IESC 222           | <i>Request for withdrawal.</i> This form asks that the appeal from the decision of the representative or administrative hearing officer be withdrawn. This is completed by the appellant and is mailed to the appeals section of this department.  |
| IESC 223           | <i>Notice of postponement/order of dismissal-appeal board.</i> This written communication is directed to respondents and appellants when a hearing before the appeal board is postponed or dismissed.  |
| IESC 224           | <i>Notice of postponement/order of dismissal-appeal section.</i> This written communication is directed to respondents and appellants when a hearing before a hearing officer is postponed or dismissed.   |
| IESC 233<br>Part 1 | <i>Acknowledgment of appeal.</i> This form is used to inform the appellant and the respondent that an appeal has been received by this department for review of an administrative hearing officer's decision. It informs the parties that a transcript of the initial hearing will be transmitted later to the parties in the appeal or to their authorized representative.  |
| IESC 233<br>Part 2 | <i>Transmittal of transcript.</i> This form accompanies the transcript to the parties or to their authorized representatives. It also informs the parties of the opportunity to submit a written brief and argument to the appeal board within seven days from the date of mailing the transcript.   |
| IESC 233-1         | <i>Transmittal of transcript.</i> This form is used in lieu of the IESC 233-Part 2 when a cassette tape is mailed instead of a transcript.   |
| IESC 251           | <i>Notice of appeal/application for rehearing of appeal board decision.</i> This is used by appellants to appeal claims representative's and administrative hearing officers' decisions. It is mailed directly to the appeal section of the department. It is also used to make application for a rehearing to the appeal board.   |
| IESC 433           | <i>Decision of administrative hearing officer.</i> This is used to convey and record the hearing officer's decision on an appeal of a decision by a claims deputy.   |
| IESC 434           | <i>Decision of appeal board.</i> This is used to convey and record the appeal board decision on an appeal of a hearing officer's decision.   |
| IESC 435           | <i>Decision of appeal board on rehearing.</i> This is used to convey and record the appeal board decision.   |

ITEM 17. Amend 10.7(1), chapter 10, page 19, by adding new form ISES 511 as follows:

ISES 511            *Matching application card.* Used by job placement local offices in place of the ISES 511 A-B when a local office is participating in a computer job matching system. The form contains data similar to the ISES 511 A-B but the data is set up for easy entry into a computer. Also, additional items are coded by the local office as required by the computer matching system.

ITEM 18. Amend 10.7(1), chapter 10, page 20, following form ISES 564, by deleting form number, name and description of form, "Number pending-A.I.C. control card".

Further, following form IESC 566, by adding new form IESC 1693 as follows:  
IESC 1693            *Job matching automatic mailer.* Automatically sent to applicants participating in the computer job matching system and requesting information on current employment status. The form is returned by postage paid mail.

ITEM 19. Amend 10.7(3), chapter 10, page 25, by adding to the description of form IESC 997 the following:

"The reverse side is called sponsor's request for termination, and is used by the job placement local office to notify bonding company and state bonding co-ordinator when bondee is terminated or at the end of an eighteen-month period.

Further, immediately following IESC 997, by deleting form number, name and description of form "Number pending-Sponsor's request for termination."

ITEM 20. Amend 10.7(4), chapter 10, page 26, by striking form number "PD H 1495" and inserting in lieu thereof the form number "IESC 1562".

ITEM 21. Amend 10.7(8), chapter 10, page 30, by deleting the following forms, number, name and description: JC 7; MA 6-54A; and MA 6-56A.

ITEM 22. Amend 10.7(9), chapter 10, page 31, by deleting form number, name and description of form "MA 2-149 Iowa department of job service request for WIN automobile repair payments."

ITEM 23. Amend 10.7(9), chapter 10, page 32, by deleting form number, name, description of form "ES 955 Suitable employment certificate."

ITEM 24. Amend 10.7(9), chapter 10, page 33, by deleting form number, name and description of form "IESC 1154 Participant acknowledgment sheet."

ITEM 25. Amend 10.7(10), chapter 10, page 34, by deleting form number, name and description of form "MA 5-17 Jobs optional progress report or invoice."

ITEM 26. Amend 10.7(96) by adding new subrule 10.7(11) as follows:

10.7(11) *Trade Act of 1974.* The following forms are used by department employees to process requests made against the provisions of the Federal Trade Act of 1974.

MA 8-58            *Request and determination of worker entitlement to allowances while in training.* Form to be used when an adversely affected worker is claiming allowances under the Act while attending training.

MA 8-59A            *Weekly request for allowances by worker in training.* Form is to be used if the individual is already in training under CETA and is determined to be entitled to Trade Act benefits. This form to be used in place of the CETA forms.



MA 8-60

*Request for relocation allowance.* An adversely affected worker who wishes to claim a relocation allowance will file an application for such allowance on this form, and the paying state will record its determination with respect to entitlement.

MA 8-61

*Request for job search allowance.* Form to be used by the worker to file a timely application for a job search allowance and for the state agency to determine the claimant's entitlement to the allowance.

MA 8-61A

*State employment service director certification of suitable employment.* Form is used to determine whether or not suitable employment is available within the commuting area and to determine if suitable employment or a bona fide offer of work has been offered the claimant in an area outside the commuting area for the claimant.



*[The text in this section is extremely faint and illegible due to low contrast and noise. It appears to be a multi-paragraph document.]*

# EMPLOYMENT SECURITY[370]

## DEPARTMENT OF JOB SERVICE

Pursuant to the authority of sections 97B.3, 97B.15 and sections 17A.2, 17A.4 and 17A.5 of the Code, the following amendment to chapter 8 of rules appearing in the Iowa Administrative Code, relating to Iowa Public Employees' Retirement System is hereby adopted.

ITEM 1. Amend 8.1(2), by adding the following new paragraph “f”:  
*f. Quorum.* Two-thirds of the members eligible to vote on date of the meeting will constitute a quorum. A simple majority vote will be the vote of the board.  
This rule is intended to implement section 97B.8 of the Code.

[Filed 3/15/78]

Notice of Intended Action regarding this amendment was published in IAC Supplement February 8, 1978, and this amendment shall become effective May 10, 1978. The amendment was modified to conform to statutory requirement.

[Published 4/5/78]

Editor's Note: For replacement pages for IAC, see Part II of this Supplement.



## GENERAL SERVICES[450]

Pursuant to the authority of section 18.4 of the Code of Iowa, the Department of General Services adopts rules pertaining to purchasing procedures for state agencies (chapter 2).

For complete text of chapter 2, see replacement pages for IAC in Part II of this Supplement.

[Filed 3/16/78]

These rules were published under notice of intended action in the December 14, 1977 IAC Supplement. These rules have been modified from those published under notice. These rules will become effective May 10, 1978.

[Published 4/5/78]



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# 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” of the 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.**

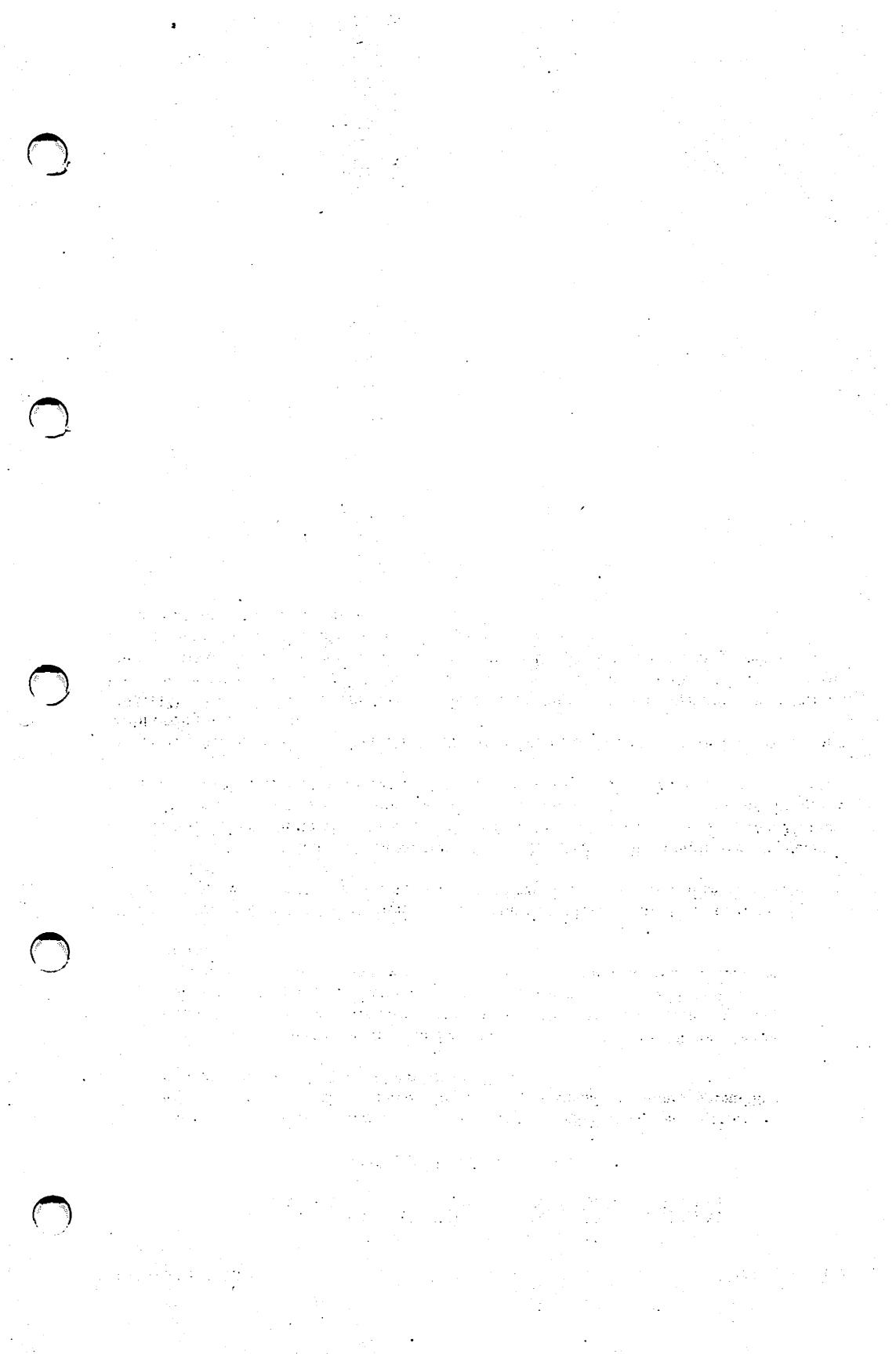
Pursuant to the authority of chapter 17A, sections 135.11(15) and 135.47 of the Code, the department of health proposes to amend the rules relating to the renal disease program by adding the following new subrule.

Any interested person may submit written comments which shall be addressed to Peter J. Fox, Hearing Officer, State Department of Health, Lucas State Office Building, Des Moines, Iowa 50319. Written comments should include the name and address of the person filing the comment. All relevant comments received by 4:30 p.m., April 30, 1978 will be considered.

**ITEM 1. Amend rule 470—111.1(135) “Limitations of assistance and review” by adding the following new subrule.**

**111.1(3) Financial assistance for chronic dialysis and kidney transplantation shall be limited to chronic dialysis and kidney transplantation treatment centers which meet the requirements of the secretary of health, education, and welfare as an end stage renal disease supplier under the provisions of section 226(g) of the Social Security Act.**

**This subrule implements section 135.47 of the Code.**





# HEALTH DEPARTMENT[470]

## BOARD OF PHYSICAL THERAPY EXAMINERS

### NOTICE OF INTENDED ACTION

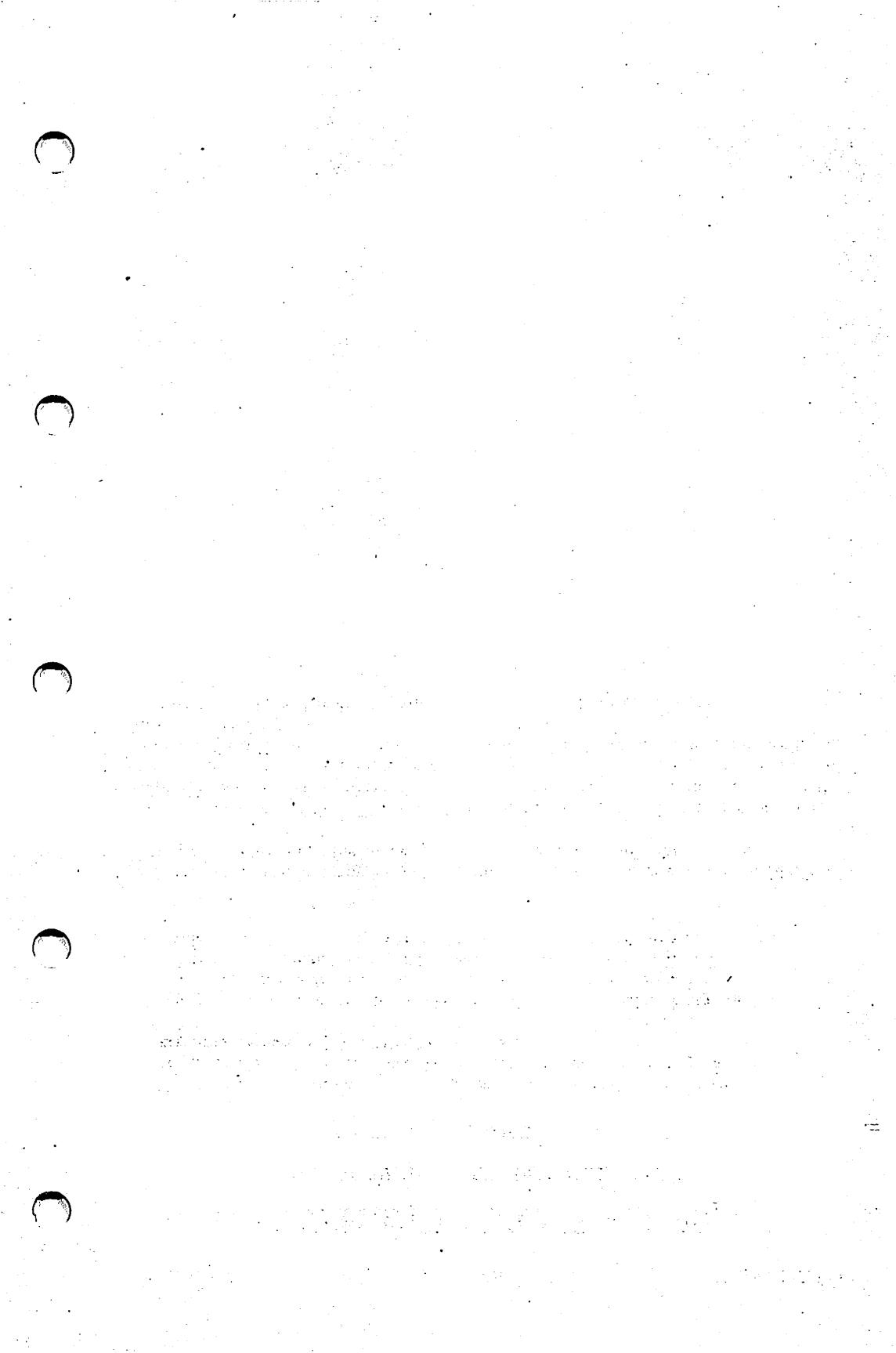
Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in §17A.4(1)“b” of the Code.

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.

The Board of Physical Therapy Examiners, pursuant to the authority of section 147.76 of the Code, proposes to adopt the following new subrule relating to public notice.

ITEM 1. Amend rule 470—137.2(147), General, by adding the following new subrule:  
137.2(6) Persons desiring information concerning the time and place of meetings of the board of physical therapy examiners or other information should write to the division of Licensure and Certification, Iowa State Department of Health, Lucas State Office Building, Des Moines, Iowa 50319.

This subrule is intended to implement section 147.76 of the Code.



# HEALTH DEPARTMENT[470]

## BOARD OF PHYSICAL THERAPY EXAMINERS

### NOTICE OF INTENDED ACTION

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

The Physical Therapy Board of Examiners, pursuant to the authority of chapter 95, section 2, Acts of the Sixty-seventh General Assembly, proposes to adopt the following new rules relating to continuing education.

Any person, governmental agency or association may submit written comments or statements concerning the proposal not later than 4:30 p.m. on Wednesday, April 26, 1978 to Peter J. Fox, Hearing Officer, State Department of Health, Lucas State Office Building, Des Moines, Iowa 50319.

A public hearing on the proposed rules will be held on April 26, 1978 at 3:00 p.m. in the State Department of Health Conference Room, third floor, Lucas State Office Building, Des Moines, Iowa. Any person may make an oral presentation at the hearing concerning the proposed rules.

### CHAPTER 138 PHYSICAL THERAPY CONTINUING EDUCATION

**470—138.1(67G.A.,Ch95) Definitions.** For the purpose of these rules, the following definitions shall apply:

138.1(1) "*Board*" means the board of examiners for physical therapy.

138.1(2) "*Licensee*" means any person licensed to practice physical therapy in the state of Iowa.

138.1(3) "*Hour*" of continuing education means a clock-hour spent after December 31, 1978 by a licensee in actual attendance at and completion of an approved continuing education activity.

138.1(4) "*Approved program or activity*" means a continuing education program activity meeting the standards set forth in these rules which has received advance approval by the board pursuant to these rules.

138.1(5) "*Accredited sponsor*" means a person or an organization sponsoring continuing education activities which has been approved by the board as a sponsor pursuant to these rules. During the time an organization, educational institution, or person is an accredited sponsor, all continuing education activities of such person or organization may be deemed automatically approved.

**470—138.2(67G.A.,Ch95) Continuing education requirements.**

138.2(1) Beginning January 1, 1979 each person licensed to practice physical therapy in this state shall complete during each calendar year a minimum of twenty hours of continuing education approved by the board. Compliance with the requirement of continuing education is a prerequisite for license renewal in each subsequent license renewal year.

138.2(2) The continuing education compliance year shall extend from January 1 to December 31, during which period attendance at approved continuing education programs may be used as evidence of fulfilling continuing education requirements for the subsequent license renewal year beginning July 1 and expiring June 30.

138.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity, either previously accredited by the board or which otherwise meets the requirement herein and is approved by the board pursuant to rule 138.4(67G.A.,Ch95).

138.2(4) A licensee desiring to obtain credit for one or more succeeding calendar years, not exceeding three such years, for completing more than twenty hours of approved continuing education during any one calendar year shall report such carry-over credit at the time of filing the annual report to the board on or before February 1, of the year following the calendar year during which the claimed additional continuing education hours were completed.

138.2(5) It is the responsibility of each licensee to arrange for financing of his or her costs of continuing education.

**470—138.3(67G.A.,Ch95) Standards for approval.** A continuing education activity shall be qualified for approval if the board determines that:

138.3(1) It constitutes an organized program of learning (including a workshop or symposium) which contributes directly to the professional competency of the licensee; and

138.3(2) It pertains to common subjects or other subject matters which integrally relate to the practice of physical therapy; and

138.3(3) It is conducted by individuals who have a special education, training and experience by reason of which said individuals should be considered experts concerning the subject matter of the program, and is accompanied by a paper, manual or outline which substantively pertains to the subject matter of the program.

138.3(4) Except as may be allowed pursuant to rule 138.8(67G.A.,Ch95) hereof, no licensee shall receive credit exceeding ten percent of the annual total required hours for self-study, e.g., television viewing, video or sound-recorded programs, reading, or by other similar means as authorized by the board.

**470—138.4(67G.A.,Ch95) Approval of sponsors, programs, and activities.**

138.4(1) *Accreditation of sponsors.* An organization or person not previously accredited by the board, which desires accreditation as a sponsor of courses, programs, or other continuing education activities, shall apply for accreditation to the board stating its education history for the preceding two years, including approximate dates, subjects offered, total hours of instruction presented, and the names and qualifications of instructors. Approval or denial of a sponsor by the board shall be final. By January 31 of each year, commencing January 31, 1980 all accredited sponsors shall report to the board in writing the education programs conducted during the preceding calendar year on a form approved by the board. The board may at any time re-evaluate an accredited sponsor. If after such re-evaluation, the board finds there is basis for consideration of revocation of the accreditation of an accredited sponsor, the board shall give notice by ordinary mail to that sponsor of a hearing on such possible revocation at least thirty days prior to said hearing. The decision of the board after such hearing shall be final.

138.4(2) *Prior approval of activities.* An organization or person other than an accredited sponsor, which desires prior approval of a course, program or other continuing education activity or who desires to establish accreditation of such activity prior to attendance thereat, shall apply for approval to the board at least ninety days in advance of the commencement of the activity on a form provided by the board. The board shall approve or deny such application in writing within sixty days of receipt of such application. The application shall state the dates, subjects offered, course outline, total hours of instruction, names and qualifications of speakers and other pertinent information.

**138.4(3) *Post approval of activities.*** A licensee seeking credit for attendance and participation in an educational activity which was not conducted by an accredited sponsor nor otherwise approved shall submit to the board, within thirty days after completion of such activity, a request for credit, including a brief resume' of the activity, its dates, subjects, instructors, and their qualifications, related paper, manual, or outline and the number of credit hours requested therefor. A licensee not complying with the requirements of this subparagraph may be denied credit for such activity.

**138.4(4) *Review of programs.*** The board may monitor or review any continuing education program already approved by the board and upon evidence of significant variation in the program presented from the program approved may disapprove all or any part of the approved hours granted the program.

**470—138.5(67G.A.,Ch95) *Hearings.*** In the event of denial, in whole or part, of any application for approval of a continuing education program or credit for continuing education activity, the applicant or licensee shall have the right, within twenty days after the sending of the notification of the denial by ordinary mail, to request a hearing which shall be held within sixty days after receipt of the request for hearing. The hearing shall be conducted by the board or a qualified hearing officer designated by the board. If the hearing is conducted by a hearing officer, the hearing officer shall submit a transcript of the hearing including exhibits to the board after the hearing with the proposed decision of the hearing officer. The decision of the board or decision of the hearing officer after adoption by the board shall be final.

**470—138.6(67G.A.,Ch95) *Report of licensee.*** Each licensee shall file a signed report form provided by the board, no later than February 1 of the year following the calendar year in which claimed continuing education hours were completed. The report shall be sent to the Iowa State Department of Health, Licensing and Certification Section, Lucas State Office Building, Des Moines, Iowa 50319.

**470—138.7(67G.A.,Ch95) *Attendance record report.*** The person or organization sponsoring continuing education activities shall make a written record of the Iowa licensees registered and completing those activities and send a signed copy of such to the board upon completion of the educational activity, but in no case later than February 1 of the following calendar year. The report shall be sent to the Board of Physical Therapy Examiners, Iowa State Department of Health, Licensing and Certification Section, Lucas State Office Building, Des Moines, Iowa 50319.

**470—138.8(67G.A.,Ch95) *Physical disability or illness.*** The board may, in individual cases involving physical disability or illness, grant waivers of the minimum education requirements or extensions of time within which to fulfill the same or make the required reports. No waiver or extension of time shall be granted unless written application therefor shall be made on forms provided by the board and signed by the licensee and a physician licensed by the board of medical examiners. Waivers of the minimum educational requirements for physical disability or illness may be granted by the board for any period of time not to exceed one calendar year. In the event that the physical disability or illness upon which a waiver has been granted continues beyond the period of the waiver, the licensee must reapply for an extension of the waiver. The board may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived by such methods as may be prescribed by the board.

**470—138.9(67G.A.,Ch95) *Exemptions for inactive practitioners.*** A licensee who is not engaged in practice in the state of Iowa residing within or without the state of Iowa may be granted a waiver of compliance and obtain a certificate of exemption upon written application to the board. The application shall contain a statement that the applicant will not

engage in the practice of physical therapy in Iowa without first complying with all regulations governing reinstatement after exemption. The application for a certificate of exemption shall be submitted upon the form provided by the board.

**470—138.10(67G.A.,Ch95) Reinstatement of inactive practitioners.** Inactive practitioners who have been granted a waiver of compliance with these regulations and obtained a certificate of exemption shall, prior to engaging in the practice of physical therapy in the state of Iowa satisfy the following requirements for reinstatement:

**138.10(1)** Submit written application for reinstatement to the board upon forms provided by the board; and

**138.10(2)** Furnish in the application evidence of one of the following:

*a.* The full-time practice of physical therapy in another state of the United States or the District of Columbia and completion of continuing education for each year of inactive status substantially equivalent in the opinion of the board to that required under these rules; or

*b.* Completion of a total number of hours of accredited continuing education computed by multiplying twenty by the number of years a certificate of exemption shall have been in effect for such applicant; or

*c.* Successful completion of the Iowa state license examination conducted within one year immediately prior to the submission of such application for reinstatement.

These rules are intended to implement Acts of the Sixty-seventh General Assembly, chapter 95, section 2.

# HISTORICAL DEPARTMENT[490]

## *DIVISION OF HISTORIC PRESERVATION* 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" of the 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 authority of sections 303.20 to 303.33 of the Code, rules appearing in chapter 12, relating to the establishment of historical preservation districts are hereby amended.

Interested persons may submit written suggestions or comments to the Director, Division of Historic Preservation, 26 East Market Street, Iowa City, Iowa 52240 not later than April 26, 1978.

### Proposed amendments:

ITEM 1. Amend 12.3(1)"b", line 1, by striking the words "all eligible electors" and inserting in lieu thereof the words "property owners and residents".

ITEM 2. Rescind 12.3(1)"c".

ITEM 3. Amend 12.3(2)"a", line 1, by striking "(reference 490—10.7)" and inserting in lieu thereof "(reference 490—17.1)".

ITEM 4. Add 12.3(2)"b"(4) to read as follows:

"(4) The costs of publishing the hearing notices shall be paid by the petitioner's."

ITEM 5. Amend 12.3(4)"a", line 5, by striking the word "list" and inserting in lieu thereof the word "petition".

ITEM 6. Rescind 12.4(1).

ITEM 7. 12.4(2) is renumbered and revised to read as follows:

"12.4(1) The division shall forward to the county commissioner of elections a list of property owners and residents within the proposed district in accordance with 12.3(4)"a" of this chapter. The county commissioner of elections shall appoint from the list three judges and two clerks of election to serve on the election board for the referendum."

ITEM 8. Renumber 12.4(3) to read "12.4(2)".

ITEM 9. Renumber 12.4(4) to read "12.4(3)" and amend line 3, by striking "12.4(3)" and inserting in lieu thereof "12.4(2)".

ITEM 10. Renumber 12.4(5) and 12.4(6) to read "12.4(4) and 12.4(5)".

ITEM 11. Rescind 12.4(7) to 12.4(9).





# JUDICIAL NOMINATING COMMISSION (STATE)[525]

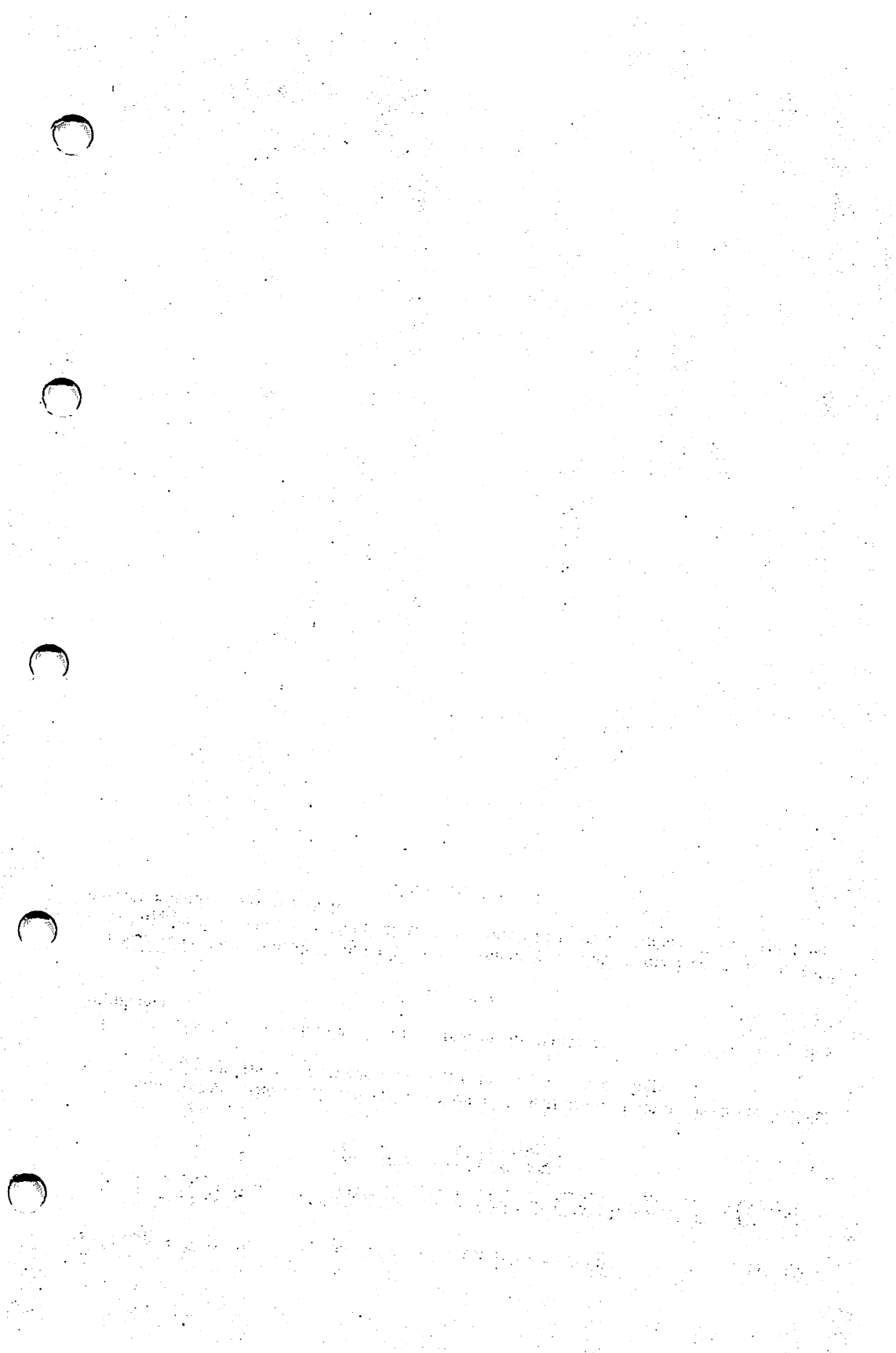
Pursuant to the authority of Article V, section 16 Constitution of Iowa, the State Judicial Nominating Commission adopts the following rules of procedure, chapter 1.

For complete text of chapter 1, see replacement pages for IAC in Part II of this Supplement.

[Filed 3/21/78]

These rules were published under Notice of Intended Action in the December 14, 1977 IAC Supplement. They are identical to those published under Notice. These rules will become effective May 10, 1978.

[Published 4/5/78]



## LABOR, BUREAU OF[530]

Pursuant to the authority of section 88.6(3) and chapter 17A of the Code rules contained in chapter 4 are amended as follows:

ITEM 1. Amend 4.2(1) by striking the subrule and inserting in lieu thereof the following:

4.2(1) Each employer shall, except as provided in 4.2(2): (1) Maintain in each establishment a log and summary of all recordable occupational injuries and illnesses for that establishment; and (2) enter each recordable injury and illness on the log and summary as early as practicable but no later than six working days after receiving information that a recordable injury or illness has occurred. For this purpose, form OSHA No. 200 or an equivalent which is as readable and comprehensible to a person not familiar with it shall be used. The log and summary shall be completed in the detail provided in the form and instructions on form OSHA No. 200.

ITEM 2. Amend 4.2(2) by inserting in line 1 after the word "log" the words "and summary".

ITEM 3. Amend 4.2(2)"a" by inserting in lines 1 and 2 after the words "log" the words "and summary".

ITEM 4. Amend 4.2(2)"b" by inserting in line 1 after the word "log" the words "and summary".

ITEM 5. Amend 530—4.3(88) by striking the rule and inserting in lieu thereof the following:

**530—4.3(88) Records.** Records shall be established on a calendar year basis.

ITEM 6. Amend 4.4(1) by inserting in line 1 after the word "log" the words "and summary".

ITEM 7. Amend 4.5(1) by striking the subrule and inserting in lieu thereof the following:

4.5(1) Each employer shall post an annual summary of occupational injuries and illnesses for each establishment. This summary shall consist of a copy of the year's totals from the form OSHA No. 200 and the following information from that form: Calendar year covered, company name, establishment name, establishment address, certification signature, title, and date. A form OSHA No. 200 shall be used in presenting the summary. If no injuries or illnesses occurred in the year, zeros must be entered on the totals line, and the form must be posted.

ITEM 8. Amend 4.5(2) by striking the subrule and inserting in lieu thereof the following:

4.5(2) The summary shall be completed by February 1, beginning with calendar year 1979.

ITEM 9. Amend 4.5(3) by striking from line 2 the word "annual" and inserting in lieu thereof the words "log and"; by striking from line 5 the words "of the employer"; by striking from line 6 the words "to the lower right hand corner of the annual" and inserting in lieu thereof the words "at the bottom of the last page of the log and"; and by striking from the seventh line the words "annual" and inserting in lieu of the first "annual" the words "log and".

ITEM 10. Amend 4.5(4) by striking from line 4 the word "or" and inserting in lieu thereof the word "for", and by inserting in line 7 after the word summary, the words "portion of the log and summary".

ITEM 11. Amend 530—4.6(88) by striking line 1 and inserting in lieu thereof the following:

**530—4.6(88) Retention of records.** Records provided for in 4.2(88), 4.4(88), and 4.5(88) (including form OSHA No. 200 and its predecessor forms OSHA No. 100 and OSHA No. 102) shall".

ITEM 12. Amend 4.12(1) by striking from line 3 the word "Director" and inserting in lieu thereof the word "Commissioner".

ITEM 13. Amend 4.14(88) by striking from line 2 the words "OSHA Form No. 103".

ITEM 14. Amend 4.16(1) by striking from line 5 the words "OSHA Form No. 100" and inserting in lieu thereof the words "and summary, OSHA Form No. 200" and by striking from line 6 the words "OSHA Form No. 102".

ITEM 15. Amend 4.16(2) by striking from line 4 the words "of occupational injuries and illnesses (OSHA Form No. 100)" and inserting in lieu thereof the words "and summary of occupational injuries and illnesses (OSHA Form No. 200)" and by striking from line 5 the words "(OSHA Form No. 103)".

ITEM 16. Amend 530—4.17(88) by striking the rule and inserting in lieu thereof the following:

**530—4.17(88) IOSH—Research and statistical forms.**

4.17(1) OSHA No. 200—Log and summary of occupational injuries and illnesses.

4.17(2) OSHA No. L-1/WC-1: Employers work injury report and employers first report of injury.

[These forms are being omitted from this publication. For copies of the forms contact Bureau of Labor, Capitol Complex, Des Moines, Iowa 50319.]

These rules are intended to implement sections 17A.3 and 88.6(3) of the Code.

[Filed 3/15/78]

Notice of Intended Action regarding this rule was published in the February 8, 1978 IAC Supplement. These rules shall become effective on May 15, 1978.

[Published 4/5/78]

EDITOR'S NOTE: For replacement pages for IAC, see Part II of this Supplement.

## LABOR, BUREAU OF[530]

Notice is hereby given of the amendment to rule 530—6.9(88) pursuant to the authority of sections 17A.3(1) and 88.16 of the Code.

Amend rule 530—6.9(88) by striking the entire rule and substituting the following in lieu thereof.

**530—6.9(88) Findings of serious and imminent danger hazards.** When a safety consultant finds the existence of a serious or imminent danger hazard, the employer shall be so apprised during the consultative visit and afforded a reasonable time in which to abate these conditions. Recheck consultations shall be conducted for all serious danger situations, and if the consultant is not satisfied by the elimination or diminishment of the serious danger situation, the safety consultant shall notify the IOSH—Enforcement Division of the situation. If an imminent danger hazard is not corrected during the course of an on-site consultation, the safety consultant shall notify affected employees of the condition and shall notify the IOSH—Enforcement Division of the situation.

These rules are intended to implement section 88.16 of the Code.

[Filed 3/10/78]

Notice of Intended Action regarding this rule was published in the January 25, 1978, IAC Supplement. This rule shall become effective on May 15, 1978.

[Published 4/5/78]

**EDITOR'S NOTE:** For replacement pages for IAC, see Part II of this Supplement.



# NATURAL RESOURCES COUNCIL[580]

## NOTICE OF PUBLIC HEARING AND AMENDED NOTICE OF INTENDED ACTION

The Iowa Natural Resources Council, under the authority of sections 455A.8 and 455A.18 to 455A.32 of the Code, as amended, proposes to adopt new rules to chapter 3 relating to regulation of water withdrawals. Notice of Intended Action was published in the March 8, 1978 IAC Supplement. This notice supplements the March 8 notice by publishing the text of rules proposed by the Iowa Natural Resources Council staff.

Interested persons may submit data, views, or arguments in writing on or before May 1, 1978, to Natural Resources Council, Grimes State Office Building, East 14th and Grand, Des Moines, Iowa 50319.

A public hearing on the proposed rules will be held in Des Moines, Iowa, at the Henry A. Wallace Building on May 1, 1978, at 9:00 a.m., DST.

The text of the proposed rules is as follows:

Pursuant to the authority of section 455A.8 of the Code, as amended by Chapter 123 of the Acts of the Sixty-seventh General Assembly, 1977 session, rules of the Iowa Natural Resources Council appearing in 580—chapter 3 of the Iowa Administrative Code relating to permits to divert, store, or withdraw water are hereby amended.

ITEM 1. Amend 3.3(1) by rescinding the entire subrule and inserting in lieu thereof the following:

**3.3(1) *Irrigation permits.***

a. For general farm crops, such as grain and hay (including alfalfa), the maximum annual quantity of water withdrawn shall be equivalent to twelve acre-inches per acre. For specialty crops such as vegetables, fruits, and sod the maximum annual quantity of water withdrawn shall be equivalent to twenty-four acre-inches per acre.

b. The maximum monthly application of water for irrigation of general farm crops shall be six acre-inches per acre.

ITEM 2. Amend chapter 3 by renumbering existing rule 3.4(455A) to read 3.6(455A) and inserting the following as new rule 3.4(455A).

**580—3.4(455A) Restrictions on withdrawals from watercourses.** Withdrawals of water from watercourses shall be subject to the following restrictions:

**3.4(1) *Streams draining less than fifty square miles.***

a. No new withdrawals of water in excess of 200 gallons per minute for consumptive uses shall be permitted from any stream which has a drainage area of less than fifty square miles. Any existing permit for such use which may be renewed after July 5, 1978, shall terminate on or before January 1, 1984. Any existing permit for such use which expires after January 1, 1984, shall not be renewed.

b. Withdrawals of water at rates of 200 gallons per minute or less for consumptive uses from any stream which has a drainage area of less than fifty square miles shall not be permitted to reduce the flow of said stream below the protected flow provided herein.

**3.4(2) *Streams draining fifty or more square miles.*** Withdrawals of water for consumptive uses from any stream which has a drainage area of fifty or more square miles shall not be permitted to reduce the flow of said stream below the protected flow provided herein.

a. Protected flow. The protected flow for each stream or portion thereof is established through the use of the information contained in "Low Flow Characteristics of Iowa Streams," Bulletins Number 9 and Number 10 of the Iowa Natural Resources Council and is designed to provide adequate protection for the supply of water for ordinary household, livestock and

domestic use, for fish and wildlife, for recreational use, for the preservation and enhancement of aesthetic values, and for other uses of public nature.

The following flows expressed in cubic feet per second (cfs) at the identified official U.S. Geological Survey stream gaging locations are hereby established as the protected flows for the following rivers and streams, arranged alphabetically by stream name.

River or Stream	Gage Location	Protected Low Flow (CFS)
Beaver Creek	New Hartford	18
Big Creek	Mount Pleasant	2
Black Hawk Creek	Hudson	4.5
Boone River	Webster City	24
Boyer River	Logan	41
Cedar River	Conesville	1240
Cedar River	Cedar Rapids	937
Cedar River	Waterloo	710
Cedar River	Janesville	185
Cedar River	Charles City	100
Chariton River	Rathbun	2.9
Des Moines River	Keosauqua	490
Des Moines River	Ottumwa	300
Des Moines River	Tracy	300
Des Moines River	Des Moines (14th St.)	390
Des Moines River	Saylorville	200
Des Moines River	Stratford	310
Des Moines River	Fort Dodge	220
Des Moines River	Estherville	22
East Branch Iowa River	Klemme	6
East Fork Des Moines R.	Dakota City	42
East Nishnabotna River	Red Oak	37
East Nishnabotna River	Atlantic	18
Floyd River	James	22
Iowa River	Wapello	1390
Iowa River	Lone Tree	150
Iowa River	Iowa City	150
Iowa River	Marengo	204
Iowa River	Marshalltown	104
Iowa River	Rowan	21
Little Cedar River	Ionia	28
Little Sioux River	Turin	200
Little Sioux River	Correctionville	106
Little Sioux River	Linn Grove	42
Lizard Creek	Clare	4.2
Maple River	Mapleton	50
Maquoketa River	Maquoketa	372
Middle Raccoon River	Panora	20
Middle River	Indianola	14.6
Monona-Harrison Ditch	Turin	27
Nishnabotna	Hamburg	128
Nodaway	Clarinda	15
North Raccoon River	Jefferson	82
North Raccoon River	Sac City	14
North River	Norwalk	5.6



North Skunk River	Sigourney	35
Raccoon River	Van Meter	190
Rock River	Rock Valley	26
Shell Rock River	Shell Rock	147
Shell Rock River	Northwood	23
Skunk River	Augusta	287
Soldier River	Pisgah	20
South Raccon River	Redfield	58
South River	Ackworth	4.1
South Skunk River	Oskaloosa	94
South Skunk River	Ames (below Squaw Creek)	23
South Skunk River	Ames	4.8
Tarkio River	Stanton	0.3
Thompson River	Davis City	13
Turkey River	Garber	210
Upper Iowa River	Decorah	80
Walnut Creek	Hartwick	2
Wapsipinicon River	DeWitt	150
Wapsipinicon River	Independence	17
West Branch Floyd River	Struble	0.85
West Fork Cedar River	Finchford	66
West Fork Ditch	Hornick	12
West Nishnabotna River	Randolph	67
West Nishnabotna River	Hancock	49
White Breast Creek	Dallas	3.2
Winnebago River	Mason City	39

b. The protected flow for points other than the gage location on streams specified in 3.4(2)"a" and for points on ungedged streams shall be established by comparison of available streamflow data and basin characteristics.

c. Cutoff flow. The cutoff flow shall be the sum of the permitted withdrawals for all consumptive uses from that stream or designated portion thereof added to the protected flow for that stream or portion thereof as established by the Iowa natural resources council.

Whenever the flow of a stream or a portion thereof designated by the water commissioner (measured at the applicable stream gaging station) falls below the cutoff flow for that stream or portion thereof, all consumptive withdrawals of water (including irrigation) from that stream or portion thereof shall cease until the water commissioner determines the flow has returned to a level above the cutoff flow and authorizes resumption of withdrawals.

d. Sharing rotation plan. The council, however, may authorize withdrawals which would reduce the flow of the stream or portion thereof to a level below the cutoff flow but above the protected flow after approval of a written sharing and/or rotation plan submitted by all persons engaged in permitted consumptive withdrawals from that stream or designated portion thereof.

This rule is intended to implement sections 455A.2, 455A.8 and 455A.18 of the Code.

ITEM 3. Amend chapter 3 by renumbering existing rule 3.5(455A) to read 3.7(455A) and inserting the following as new rule 3.5(455A).

**580—3.5(455A) Restrictions on withdrawals from groundwater sources.** Withdrawals of water from groundwater sources shall be subject to the following restrictions:

3.5(1) *Withdrawals from unconsolidated aquifers adjacent to streams draining less than fifty square miles.*

a. To protect the flow of small streams from depletion by withdrawals from adjacent unconsolidated aquifers, no new withdrawals of water in excess of 200 gallons per minute for consumptive uses shall be permitted from unconsolidated aquifers at any point within ¼ mile

(1320 feet) of a stream which has a drainage area of less than fifty square miles. Any existing permit for such use which may be renewed after July 5, 1978, shall terminate on or before January 1, 1984. Any existing permit for such use which expires after January 1, 1984, shall not be renewed.

b. Withdrawals of water which would be prohibited by 3.5(1), may be permitted if an applicant conclusively demonstrates, by conducting appropriate tests, that such withdrawals will not reduce the flow of the adjacent stream.

**3.5(2) *Withdrawals from unconsolidated aquifers adjacent to streams draining fifty or more square miles.***

a. Withdrawals of water for consumptive uses from unconsolidated aquifers at any point within 1/8 mile (660 feet) of a stream which has a drainage area of fifty or more square miles shall be considered withdrawals from the stream itself and shall be subject to the protected flow regulation in 3.4(2).

b. Withdrawals of water for consumptive uses from unconsolidated aquifers at any point located between 1/8 mile (660 feet) and 1/4 mile (1320 feet) from a stream which has a drainage area of fifty or more square miles shall cease when the flow of said stream is at or below the 7-day, 1-in-10 year low flow (7Q10).

c. The restrictions imposed by 3.5(2)"a" and 3.5(2)"b" shall not apply to withdrawals from the alluvial aquifers of the floodplains of streams bordering the state of Iowa. Withdrawals of water for consumptive uses from the alluvial aquifers of the floodplains of streams bordering the state of Iowa at any point within 1/8 mile of any interior stream, shall cease when the flow of said interior stream is at or below the seven-day, 1-in-10 year low flow(7Q10).

**3.5(3) *Withdrawals from the Jordan sandstone aquifer.*** Withdrawals of water from the Jordan Sandstone Aquifer including the Prairie du Chien formation and the St. Lawrence formation shall be subject to the following restrictions:

a. No new withdrawals of water in excess of 200 gallons per minute will be permitted for irrigation uses including agricultural crop production, seed or sod production, watering golf course fairways, or large-scale production of specialty crops.

b. Existing permits authorizing withdrawal rates in excess of 200 gallons per minute for agricultural crop production, seed or sod production, watering golf course fairways, or production of specialty crops shall not be renewed if serious impact on other withdrawals or on piezometric groundwater levels is occurring or is forecast.

c. No new withdrawals of water will be permitted for once-through cooling of electrical generating plants, or for consumptive use in cooling generating plants of greater than one hundred megawatts capacity.

d. No new withdrawals of water for industrial use at one plant location in excess of 2,000 gallons per minute will be permitted.

e. The maximum collective long-term decline in ground water levels in the Jordan Sandstone Aquifer in any high use area will not be permitted to exceed 200 feet from the baseline levels as determined from available records of the Iowa Geological Survey.

f. Variances from the restrictions imposed by subrule 3.5(3) will be considered by the council through the provisions of section 455A.19(8) and (9) and rules adopted thereunder.

This rule is intended to implement sections 455A.18 and 455A.19 of the Code.

**ITEM 4.** Amend chapter 3 by renumbering existing subrule 3.1(8) to read 3.5(4).

**3.5(4) *Withdrawals from the Dakota group of the Lower Cretaceous System.*** Effective June 24, 1977, no further consumptive withdrawals of water for either irrigation use or heavy industrial use in excess of 200 gallons per minute shall be permitted from the Dakota Group of the Lower Cretaceous System. Any existing permit for such use from said system which may be renewed after June 24, 1977, shall terminate on December 31, 1980.

This ban shall remain effective until January 1, 1981, or until further rules are adopted concerning such system.

**ITEM 5.** Amend chapter 3 by renumbering existing rule 3.6(455A) to read 3.8(455A) and by adding thereto to read as follows:

**580—3.8(455A) Renewal of permits.**

**3.8(1)** Request for renewal or modification of any water permit shall be in the form prescribed by the council which may be by letter or formal application form. Such requests shall be filed prior to the termination date of the permit, and shall be accompanied by the filing fee when required.

**3.8(2)** Major modifications of irrigation permits are hereby limited to a duration of one year until such time as the Iowa natural resources council adopts a statewide water plan.

*a.* A renewal or modification of a permit proposing a change in the rate, source or quantity of water withdrawn or the amount of land irrigated will constitute a major modification of a water permit and thus be subject to the one-year limit.

*b.* A renewal or modification of a permit proposing a change in the period of irrigation will not constitute a major modification and will not be subject to the one-year limit.

This rule is intended to implement section 455A.20 of the Code as amended by chapter 123, section 9, Acts of the Sixty-seventh General Assembly, 1977 Session.



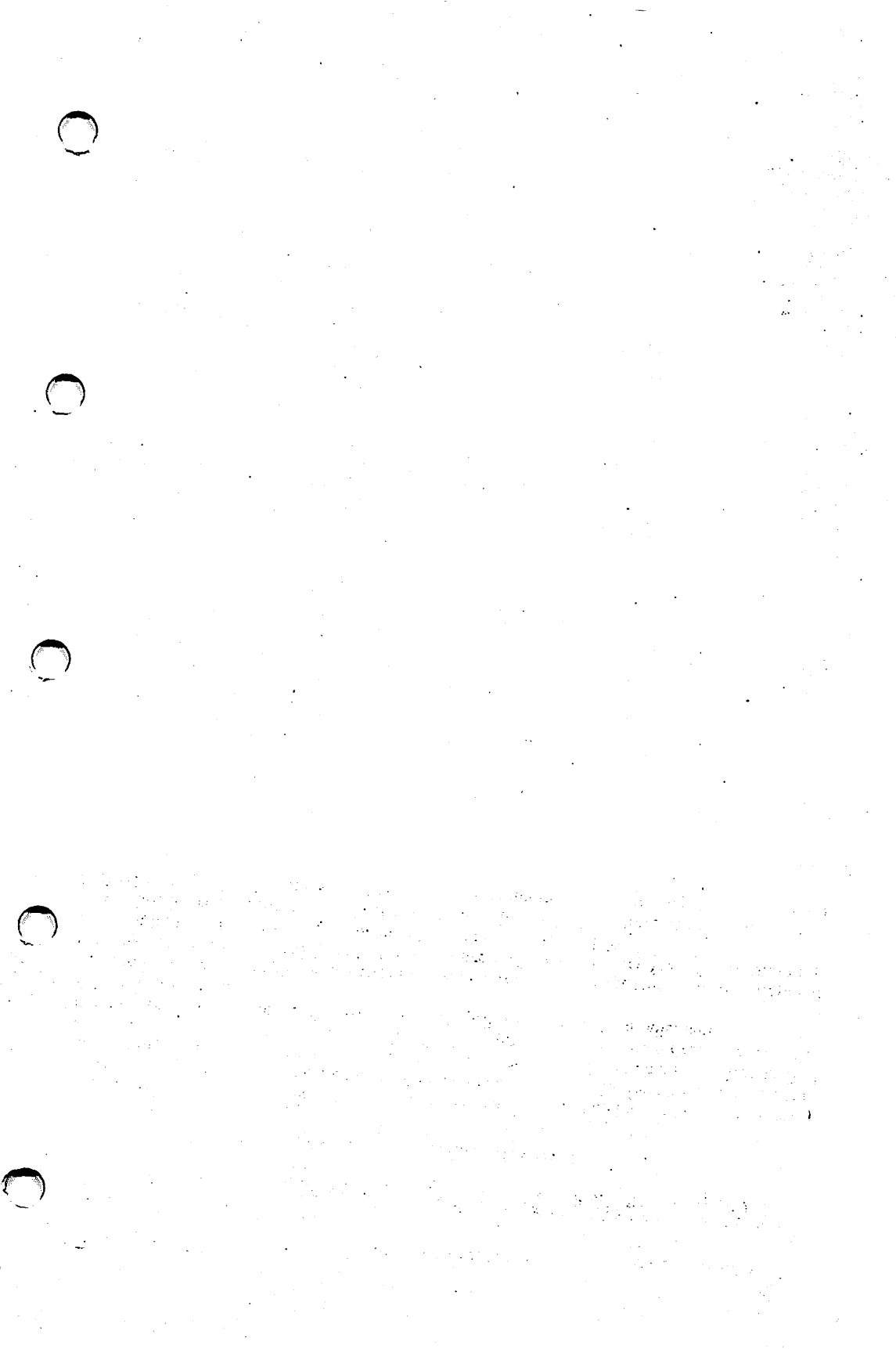
# NATURAL RESOURCES COUNCIL[580]

## NOTICE OF PUBLIC HEARING

The Iowa Natural Resources Council, under the authority of sections 455A.8, proposes to amend rules relating to channel changes found in chapter 5 of its present rules and to adopt new definitions in chapter 2 of its present rules necessary to affect that change. A first draft of these rules was published in the March 8, 1978 IAC supplement. A revised draft of these rules is tentatively planned to be published in the April 19th biweekly supplement of the Iowa Administrative Code.

Interested persons may submit written or oral comments and suggestions on the proposed rule on or before May 1 to the Iowa Natural Resources Council, Wallace State Office Building, East 9th and Grand, Des Moines, Iowa 50319 (phone: (515) 281-5913).

A public hearing on the proposed rules will be held in Des Moines, Iowa at the Wallace State Office Building, East 9th and Grand (second floor conference room) on May 1, 1978 at 10:00 a.m.



# NURSING BOARD[590]

## NOTICE OF INTENDED ACTION

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in §17A.4(1)“b” of the 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 section 147.76 of the Code, the Iowa Board of Nursing proposes to create a new Chapter 6 entitled Registered Nurse Specialties And Additional Acts Which May Be Performed By Registered Nurses/Licensed Practical Nurses, in the Iowa Administrative Code, and adopt the following new rules:

Interested persons may submit written comments no later than April 25, 1978 to Lynne M. Illes, Executive Director, Iowa Board of Nursing, 300-4th Street, Des Moines, Iowa 50319.

### CHAPTER 6

#### REGISTERED NURSE SPECIALTIES AND ADDITIONAL ACTS WHICH MAY BE PERFORMED BY REGISTERED NURSES/LICENSED PRACTICAL NURSES

##### 590—6.1(152) Definitions.

6.1(1) *Advanced registered nurse practitioner (A.R.N.P.)* An advanced registered nurse practitioner is a nurse with current active licensure as a registered nurse in Iowa who is prepared for advanced nursing practice by virtue of additional knowledge and skills gained through an organized post basic program of study and clinical experience approved by the Iowa board of nursing.

6.1(2) *Basic nursing education.* A nursing program preparing a person for initial licensure to practice professional nursing.

6.1(3) *Board.* Unless otherwise clearly indicated as used in this chapter, to mean Iowa board of nursing.

##### 590—6.2(152) Categories and related definitions of advanced registered nurse practitioners.

6.2(1) Nurse anesthetist.

6.2(2) Nurse midwife.

6.2(3) Family nurse practitioner.

6.2(4) School nurse practitioner.

6.2(5) Pediatric nurse practitioner.

6.2(6) Mental health nurse practitioner.

6.2(7) Other categories as may be determined from time to time by the board.

##### 590—6.3(152) Recognition by the board as an advanced registered nurse practitioner.

6.3(1) *Requirements.* The board derives its authority for advanced registered nurse practitioner under the provisions of 152.2 of the Code. These requirements shall consist of the following, however, nothing in this section shall be construed to mean that additional requirements cannot be defined as they relate to a specific nursing category:

a. Active licensure as a registered nurse in Iowa.

*b.* Documentation acceptable to the board of one or more of the following:

(1) Graduation from a program leading to a master's degree in a nursing clinical specialty area with preparation in specialized practitioner skills as approved by the board.

(2) Satisfactory completion of an organized post basic program of study and clinical experience as approved by the board.

*c.* Satisfactory evidence of current clinical competencies if more than one year has elapsed since the completion of the above. Such evidence shall include written documentation attesting to said fact.

*d.* Initial registration fee of \$25.00.

**6.3(2) Registration.** An applicant to practice as an advanced registered nurse practitioner shall submit to the office of the board, certified copies of one or more of the documentation as defined in subrule 6.3(1)"*b.*" Said documentation shall be reviewed by the associate director, nursing practice, to determine if requirements for recognition as an advanced registered nurse practitioner are met. When the associate director, nursing practice, has determined that the applicant meets the requirements as defined in paragraph "*a.*" herein, the name, title, and specialty area of the licensee shall be entered into the official record of the board and said record shall be open to public inspection and the current license of the applicant shall show the same.

*a.* No person shall practice or advertise as, or assume the title of advanced registered nurse practitioner unless their name, title, and specialty area appears on the official record of the board and on their current license.

*b.* No person shall use the abbreviation A.R.N.P. or any other words, letters, signs, or figures to indicate that the person using same is an advanced registered nurse practitioner, unless their name, title, and specialty area appears on the official record of the board and on their current license.

*c.* Any person found to be practicing under the title of advanced registered nurse practitioner or using the abbreviation A.R.N.P. without being registered as defined in this subrule, shall be subject to such disciplinary action as deemed appropriate by the board. Said disciplinary action shall be in accordance with the Iowa Administrative Code, Nursing Board [590], 1.2(1) License revocation or suspension.

**6.3(3) Renewal of registration.** Renewal of registration for the advanced registered nurse practitioner shall be during the same period as the renewal of license to practice as a registered nurse in Iowa.

*a.* The advanced registered nurse practitioner shall be required to complete a special section on the form entitled License Renewal Application for Registered Nurse. Failure to complete said section within the current renewal period will result in termination of registration and the practice in the advanced specialty area.

*b.* The board may refuse to continue registration of any advanced registered nurse practitioner if the board finds from competent evidence that the person fails to meet requirements for advanced registered nurse practitioners as stated herein. However, no such action shall be taken by said board without giving notice and opportunity for hearing as provided in the Iowa Administrative Code.



sonal property at each and provides the supervision and control. X is the operator of a\* chain store with three stores. The fact that the store owners also may be paying chain store tax does not defeat the application of this example. See Zale Corporation vs. Calvert, 1972, 488 S.W.2d 177 and Interco, Inc. vs. Rhoden, 1969 220 So.2d 290. Also see rule 100.5(424).

11. Rule 99.9(424), tenth item, as filed under Notice (now rule 99.11(424) tenth item) is amended by adding in line 5 after the word "stores" the words ", provided that X must also have a control sufficient to enable it to enjoy the advantages of a chain store system as explained within the scope of rule 99.10(424). See Fox vs. Standard Oil Co., 1935, 294 U.S. 87, 55 S. Ct. 333, 79 L.Ed. 780, *Midwestern Petroleum Corporation v. State Board of Tax Commissioners*, et al., 1934, 206 Ind. 608, 187 N.E. 882, 191 N.E. 153; *Maxwell vs. Shell Eastern Petroleum Products*, 1937, 90 F.2d 39, cert. denied 302 U.S. 715, 58 S. Ct. 34, 82 L.Ed. 552; 11 F. Supp. 425; *Ashland Refining Co. vs. Fox*, 1935, 11 F. Supp. 431; *Standard Oil Co. vs. State Board of Equalization*, 1940, 110 Mont. 5, 90 P.2d 229".

12. Rule 99.9(424), eleventh item, as filed under Notice (now rule 99.11(424), eleventh item) is amended by adding in line 4 after the word "Iowa" the words "The franchisor also must have a control sufficient enough to enable it to enjoy the advantages of a chain store system as explained within the scope of rule 99.10(424)."

13. Rule 100.5(424) was amended by adding in line 4 after the word "store." the words "See rule 99.11(424) sixth item."

14. Rule 100.6(424) was amended by adding the following paragraph:

"Co-operative associations organized under the provisions of Chapter 498 of the Iowa Code are not for pecuniary profit whereas those co-operative associations organized under the provisions of Chapter 499 of the Iowa Code are organized for profit. Chapter 499 refers only to those co-operative associations organized after July 4, 1935 and Chapter 498 refers to those organized before July 5, 1935. Thus, any co-operative association organized under Chapter 499 after July 4, 1935, does not qualify for the exemption set forth in 424.3(1) of the Code."

15. Rule 100.10(424) was amended by deleting the second paragraph in its entirety and inserting in lieu thereof the following paragraph:

"Stores, such as but not limited to, gift shops, lounges, magazines or book stores, and novelty stores which are operated in connection with a hotel, motel or rooming house and by the same management as the hotel, motel or rooming house and their dining rooms and cafes would be exempt from the imposition of the chain store tax. However, any of these stores which are not operated by the same management as the hotel, motel or rooming house and their dining rooms and cafes would be subject to the provisions of rules of 99.11(424), sixth item, and 100.5(424) if the operator of the store operates more than one store in Iowa."

The changes to the proposed chain store tax rules as filed under Notice are as follows for each of the items:

Items 1 through 6 above were made as corrective rather than substantive amendments to these rules. The amendment to rule 97.2(424) adds a reference to section 424.10, the amendment to rule 97.6(424) deletes unnecessary language and the amendment to rule 99.9(424), fourth item, merely changes the catchword to clarify its content.

Item 7 above was made because this addition to the rule is necessary to explain that a percentage of profits received, by itself, does not subject a person to the chain store tax. If only the profit factor was used then it is conceivable that almost anything could fit the chain store tax including a landlord and possibly, for example, even Coca Cola Bottling Co., Inc. and every store that sells Coke, because since Coca Cola Bottling Co., Inc. receives a percentage of the profits on each individual sale, it could be considered a chain. This definitely was not the intention of the legislature in enacting the Iowa Chain Store Tax Act of 1935 and this addition helps clarify the department's position concerning franchisors.

Item 8 above was made because it would be considered double taxation, undoubtedly not intended by the legislature in enacting the Iowa Chain Store Tax Act in 1935, to tax the

\*Line omission inserted.

same store twice by counting it in two different chains. This rule should eliminate this problem by looking at the question of who exercises the ultimate control over such a store. Therefore, the same store can be part of only one chain.

Item 9 above was made because at the public hearing on December 20, 1977, on the proposed chain store tax rules, the prominent area of concern with and objection to the rules pertained to franchises. Basically, objection was raised that the proposed rules pertaining to franchises were too broad in comparison with the Iowa Chain Store Tax Law and that stores not owned by franchisors should not be covered by the tax. The department agrees that the proposed rules were drafted too broadly. However, stores not owned by franchisors, but controlled by them, are included within the chain store tax in the opinion of the department.

The mere fact a franchisor receives a percentage of the profits may raise constitutional questions involving the equal protection clause of the United States Constitution's Fourteenth Amendment in the event that person is included within the tax whereas another franchisor conducting business exactly the same but receiving a fee unrelated to profits is excluded. In upholding chain store tax classification, the United States Supreme Court stated in *State Board of Tax Commissioners v. Jackson*, 1931, 283, U.S. 527, 51 S.Ct. 540, 75 L.Ed. 1248 at 75 L.Ed.1258:

"The court below fell into the error of assuming that the distinction between the appellee's business and that of the other sorts of stores mentioned was solely one of ownership. It disregarded the difference shown by the record. They consist not merely in ownership, but in organization, management, and type of business transacted. The statute treats upon a similar basis all owners of chain stores similarly situated. In the light of what we have said this is all that the Constitution requires."

Therefore, something beside a percentage of profits is required to assess the tax, that being control sufficient to enable the franchisor to enjoy the advantages of a chain store system as explained within the scope of rule 99.10(424).

Franchising can reap all of the advantages of chain store operation. *Bedford v. Gamble-Skogmo*, 1939, 104 Colo. 424, 91 P.2d 475. Franchising operations were in existence when the Iowa Chain Store Act was adopted in 1935. Brown, "Franchising—A Fiduciary Relationship," 49 Tex. L.Rev. 650 (1971); Note; Regulation of Franchising, 59 Minn. L. Rev. 1027 (1975); *Bedford v. Gamble-Skogmo*, supra. The operator of chain stores has not, under statutes similar to the Iowa Chain Store Act, been required to actually have legal title to the store. *Bedford v. Gamble-Skogmo, Inc.*, supra; *Gulf Refining Company v. Fox*, 1936, 297 U.S. 381, 56 S.Ct. 510, 80 L.Ed. 731. Franchise operations, depending upon the facts and circumstances of the franchisor's control, have been held by the courts to come within the ambit of chain store taxes with the tax imposed upon the franchisor even where the stores were purportedly operated by leasees or franchisees owning the stores. *Gulf Refining Company v. Fox*, supra; *Bedford v. Gamble-Skogmo, Inc.*, supra; *Fox v. Standard Oil Co.*, supra; *Standard Oil Co. v. State Board*, 1940, 110 Mont. 5, 99 P.2d 229. There is little question but that the franchisor can exercise an effective control over the franchisee since the franchise agreement is drafted by the franchisor who has a superior bargaining position. Brown, supra, Note, 59 Minn. L. Rev. 1027, supra; Notes, Trademark Franchising and Antitrust Law, 27 Syracuse L.Rev. 953 (1976). Moreover, for the chain store tax to be applicable, it is not necessary that a franchisor exercise full control in a strict legal sense or engage in a relationship of principal-agent with the franchisee. 1976 O.A.G 458, 499, and cases cited therein. Section 424.2(8) does contemplate lease arrangements and franchises within its terms, but appears not to include all of them. The statute provides in part:

"The fact that two or more retail stores are ostensibly owned and operated by different persons, shall not defeat the application of this chapter where such stores are under the same general management, supervision, or ownership. Lease and agency, and lease and ownership agreements or contracts, or operation under a common name shall, unless shown to the contrary, be deemed to constitute operation under the same general management, supervision, or ownership." (emphasis supplied)

# SCHOOL BUDGET REVIEW[740]

Pursuant to the authority of sections 442.6, 442.12, 442.13, and 442.14 of the Code, the following rules are adopted.

## CHAPTER 1 RULES FOR SCHOOL BUDGET REVIEW COMMITTEE

**740—1.1(442) Definitions.** For the purpose of this chapter, the following definitions shall be used.

**1.1(1) Budget year.** The budget year is the fiscal year which begins on July 1 following the March 15 final certification of the budget and ends on the following June 30.

**1.1(2) Base year.** The base year is the fiscal year immediately preceding the budget year.

**1.1(3) Controlled budget.** The controlled budget is the total computed by multiplying the district cost per pupil by the total weighted enrollment. [See sections 442.9(1)"a" and 442.4(3), respectively, of the Code, for definitions of "district cost" and "weighted enrollment."]

**1.1(4) Authorized budget.** The authorized budget is the total dollars available as the expenditure limit for a school district for a specific fiscal year. This total is the controlled budget plus miscellaneous income actually received during the fiscal year, unexpended authorized budget of the previous year, amounts from an approved additional enrichment tax, and adjustments made through decisions of the school budget review committee.

**1.1(5) Unexpended authorized budget.** The unexpended authorized budget is the amount of the authorized budget not expended during the budget year. (These funds are commonly termed "unspent amount carried forward" or "carryover dollars." When and if these funds are expended, the certified budget must be amended accordingly.)

**1.1(6) Certified budget.** The certified budget is the amount which has been published and certified as provided for in chapter 24 of the Code and contains the amount proposed to be expended during the budget year. (If the authorized budget exceeds the certified budget, the certified budget must be amended to expand those excess funds.)

**1.1(7) Secretary's balance.** The secretary's balance is the district's cash position at any given time. (It does not have a direct relationship to the "unspent amount carried forward." The "unspent amount carried forward" is a part of the secretary's cash balance until spent.) The secretary's balance may be increased or decreased by action of the local board of directors by levying additional property taxes or reducing the property tax askings. Any other use of the secretary's balance must be authorized by the school budget review committee per provisions of section 442.13(7) of the Code.

**1.1(8) Adjusted enrollment.** The adjusted enrollment is actual enrollment as of the second Friday in January or September in the same calendar year, whichever is larger, plus any adjustments due to declining enrollments. (A school district with an enrollment loss, will have added to its actual enrollment fifty percent of the first five percent of loss and twenty-five percent of the remainder of the loss.)

**1.1(9) Total weighted enrollment.** The total weighted enrollment is the adjusted enrollment plus the additional weighting assigned to children requiring special education as prescribed in section 281.9 of the Code.

**1.1(10) Regular program cost.** The regular program cost includes those amounts not allotted to the area education agency. (When necessary to account for dollars which the local school district has available, the AEA costs are to be deleted.)

This rule is intended to implement section 442.6 of the Code.

**740—1.2(442) Meetings.**

**1.2(1) Composition of committee.**

a. The state superintendent of public instruction, by statute, is a member and shall serve as chairperson and conduct all meetings unless another member of the committee is asked by the state superintendent of public instruction to assume this role.

b. The state comptroller, by statute, is a member and shall serve as secretary unless direction is given by the state comptroller to another person to assume this role. Unless a regular member of the committee, the delegated secretary shall not be a voting member.

c. Three lay members are appointed by the governor on staggered terms. All committee members shall perform their assigned duties until a replacement has been appointed.

d. All members will be eligible to vote on decisions of the committee.

**1.2(2) Meeting arrangements.**

a. Meetings will be conducted in accordance with Robert's Rules of Order.

b. Three members present shall constitute a quorum, and a quorum must be present to conduct a hearing and take official action. In the case only three members are present, it will take three favorable votes to pass a motion.

c. The committee will schedule specific meeting dates in response to requests for hearings by local school districts.

d. Public announcement of the next meeting shall be made through the general media distribution of the department of public instruction.

**1.2(3) Hearing procedures.**

a. School districts desiring a hearing are required to submit a request, either in written form or by telephone, to the committee stating the reason for the hearing.

b. School districts scheduled for hearings will be listed as to time and place and notice will be sent to school officials involved, to the press, and to their respective legislators. These notices will be sent out one week prior to the hearing. Districts desiring to cancel should immediately inform the committee, local press, and legislators.

c. It shall be the responsibility of the administrative officials and board members to present information and materials in support of the school district's request to the committee. In the case of written material, six copies should be submitted prior to the hearing date.

d. Legislators may request permission to address the committee members on the merits or lack of merit of any school district's request.

e. Residents of a district making a presentation to the committee may request permission to address the committee members on the merits or lack of merit of the request. Such a request must be made in writing prior to the hearing date, or permission may be granted to a request made at the hearing, upon a majority vote of the committee members present.

f. School districts with similar appeals may appear and present their appeals jointly.

g. A decision will be made at the end of each day's hearing to either table, deny, or provide an adjustment where a school district has made a request. The school district will be informed by telephone the next working day following a meeting, and a letter will be prepared informing the school district of the resulting decision.

This rule is intended to implement section 442.12 of the Code.

**740—1.3(442) Interpretations.**

**1.3(1) Committee procedure in raising or lowering district cost.**

a. To provide an adjustment where districts are affected abnormally by higher or lower area education agency support service costs, the committee, when requested, shall review and may adjust the district cost to allow for any disparity through giving additional allowable growth.

b. To assist districts to adjust to the loss of categorical funding represented in school assistance in federally affected areas, Title I of Public Law 81-874, which is listed as a miscellaneous income and was subtracted when initially establishing a district cost, the committee when requested, shall review and may increase the district cost through granting committee funds or additional allowable growth to replace the loss of income.

c. The committee may make decisions which will provide additional allowable growth for one or more years, depending upon the assessment of the immediate or long-range needs. These decisions are used for needed repairs or for experimental projects which the committee feels should not come from appropriated funds.

d. The committee, upon request, may make decisions which will provide additional allowable growth in cases where problems arise due to differences in the January or September counts of students needing special education programs.

e. Any errors in calculations which may affect district cost may be brought to the committee for resolution.

f. To determine the district cost of a reorganized school district, the total of the individual controlled budgets of the former districts involved shall be divided by the total weighted enrollments of the former districts involved.

g. Districts desiring to use a portion of the secretary's balance to furnish, equip and contribute to the construction of a new building must submit a formal request to the committee. The committee will make decisions on an individual school basis, but when making a decision, shall use the following guidelines: (1) Requests should not exceed ten percent of the bond issue or of the schoolhouse fund levy provided in section 278.1(7) and; (2) The secretary's balance shall not go below five percent of the controlled budget, minus AEA cost of the year when the proposed expenditure will be made. The applicable secretary's balance shall be that of the preceding July 1 date. Depending on the complexity of the request, a school district may or may not be required to make an appearance before the committee.

This rule is intended to implement section 442.13 of the Code.

1.3(2) Reserved.

**740—1.4(442) Declaratory rulings.** On petition by an interested person, the school budget review committee may issue a declaratory ruling with respect to the interpretation or applicability of any statutory provision, rule or other written statement of law or policy, decision, or order.

Petitions shall be titled "Petition for Declaratory Ruling" and shall include the name and address of all persons or agencies party to the petition. The body of the petition shall include the exact words, passages, sentences or paragraphs which are the subject of inquiry and the specific set of facts involved. The petition may express the petitioner's interpretation and contain documented information in support thereof.

The school budget review committee will refuse to issue a declaratory ruling if the petition does not state with enough specificity the factual situation or the question presented, or if the issuance of the ruling would not be in the best interests of the public, or for any other reason which it deems just and proper.

The school budget review committee, within thirty days of the receipt of a petition, shall issue a ruling or dismiss the petition except in the case where the school budget review committee requests additional information from the petitioner. In that case, the ruling or dismissal will occur within thirty days following the receipt of the requested additional information.

This rule is intended to implement section 17A.9 of the Code.

[Filed 3/17/78]

These rules were published under Notice of Intended Action in the September 21, 1977 Iowa Administrative Code Supplement and have been modified from those under Notice.

These rules become effective May 10, 1978.

[Published 4/5/78]

**EDITOR'S NOTE:** For replacement pages for IAC, see Part II of this Supplement.

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## SECRETARY OF STATE[750]

Pursuant to the authority of section 172C.14, Code of Iowa, the secretary of state adopts the following amendments to chapter 12 of the rules in the Iowa Administrative Code.

**ITEM 1.** Amend the heading and filing requirement statement on form AR 1 and the statement in section A before beginning of numbered paragraphs.

**ITEM 2.** Delete numbered paragraphs 1 and 2 of section B and substitute numbered paragraphs 1, 2 and 3 which are questions relating to the corporate status of the corporations. Renumber paragraph 3 to 4, 4 to 5, 5 to 6, 6 to 7 and 7 to 8 and adding secondary questions following paragraphs 7 and 8 as to what percentage of stock shown bears to issued shares of the corporation.

**ITEM 3.** Amend heading and filing requirement statement of Form AR 2, amend line 1 of subsections 4, 5 and 6 by adding after the words "fiduciary capacity" the words "or as a trustee" and in line 6 of subsections 4, 5 and 6 after the word "fiduciary" add the words "or trustee".

**ITEM 4.** Amend the heading and filing statement on form AR 3 also amend subsection 11 by deleting the words "fiscal year" and substituting the words "your reporting period", also adding a new subsection 12, a space for the processors to add explanations of their filing status.

**ITEM 5.** Amend AR 1, AR 2 and AR 3 last paragraph by deleting the words "12 of the Act" and substituting the words "172C.11 of the Code of Iowa".

[Filed 3/10/89]

Notice of Intended Action regarding these rules was published in the Iowa Administrative Code Supplement on November 16, 1977 and are in identical form to that published under Notice. The rules filed under the emergency provisions and published November 16, 1977 are rescinded effective May 10, 1978. These rules shall become effective May 10, 1978.

[Published 4/5/78]

**EDITOR'S NOTE:** For replacement pages for IAC, see Part II of this Supplement.

[The text in this block is extremely faint and illegible due to the quality of the scan. It appears to be several paragraphs of a document.]



privileges for the days they are absent from work, except for meals or to obtain medical services.

24.3(11) Residents who are unemployed will be allowed furloughs only for meals and for job hunting purposes between the hours of 6:00 a.m. and 6:00 p.m. unless a job interview has been documented at another time.

24.3(12) Out-of-state furloughs are not permitted except in a verified emergency, and with the approval of the director of the division of adult corrections and the governor's office.

24.3(13) Furlough privileges at work release sites shall be granted in accordance with the level system and shall be based upon the established merit point system as follows:

Rating category	Maximum points
Employment stability and performance	10
Money management	10
Absence of disciplinary problems	10
Successful past furloughs	10
Respect for others and co-operative attitude	5
Personal cleanliness and care of living area	5
Total possible points per week	50

All privileges and changes of level shall be earned and require approval by staff. Residents who experience disciplinary problems while on work release may be returned to any previous level or removed from the program.

a. Level I. All residents shall be in Level I for seven calendar days following the starting date of employment.

(1) Residents may go to job interviews, to work and to receive necessary medical care.

(2) Three food furloughs for a maximum of ninety minutes each may be allowed per day, if that is the only means of eating.

(3) All furloughs shall occur between the hours of 6:00 a.m. and 6:00 p.m. except for documented job interviews at other times outside of curfew hours.

(4) Residents may apply for entry into Level II following seven calendar days, beginning with the starting date of employment, in this level and accumulation of at least twenty-five merit points.

b. Level II.

(1) One three-hour furlough may be allowed outside of curfew hours on work days.

(2) Eight hours of furlough time may be allowed each day on days off, two days per week maximum.

(3) No overnight furloughs shall be allowed in this level.

(4) Residents may apply for entry into Level III following one week in this level and accumulation of at least fifty merit points.

c. Level III.

(1) Six hours of furlough time may be allowed outside of curfew hours on work days.

(2) Twenty-four hours of furlough time may be allowed on days off, two days per week maximum, but if the furlough is for sixteen hours or less, the furlough must take place outside of curfew hours.

(3) Residents may apply for entry into Level IV following accumulation of seventy-five merit points.

d. Level IV.

(1) Eight hours of furlough time may be allowed on work days.

(2) Furloughs may be allowed to a maximum of ninety-six hours, four days, so long as all necessary requirements are met.

(3) Sixteen hours of furlough time may be allowed on days off if overnight privileges are not involved on the same day. Such furloughs must be taken outside of curfew hours.

(4) Residents may apply for entry into Level V following accumulation of one hundred merit points.

**e.\* Level V.**

(1) Eight hours of furlough time may be allowed on work days.

(2) One seven-day furlough may be allowed those residents who have demonstrated successful adjustment by meeting the following requirements:

A minimum of two months at the half-way house.

Accumulation of two hundred merit points.

The furlough will not interfere with employment obligations.

Follow-up checks either physical or by telephone are made by staff at least three times during each furlough.

(3) Residents may apply for entry into Level VI following accumulation of two hundred twenty-five merit points.

**f. Level VI.**

(1) Eight hours of furlough time may be allowed on work days.

(2) One seven-day furlough may be allowed, such furlough not to be consecutive to a fourteen-day furlough, or to immediately precede such furlough.

(3) Up to a fourteen-day furlough may be allowed those residents who meet the following special requirements:

The resident is within thirty days of discharge or estimated parole date.

The resident has accumulated at least two hundred fifty merit points.

The furlough does not interfere with employment responsibilities.

(4) The staff will make a minimum of three follow-up checks weekly, one of which shall be a physical check during the time of the furlough.

(5) Residents shall sign a form authorizing search and seizure at the furlough residence at any time.

*g.* All furlough privileges require staff approval and shall be earned by accumulation of merit points, in addition to meeting designated time limits.

*h.* Food furloughs shall not be allowed beyond Level I, if eating can be done during regular furlough time.

*i.* The first overnight furlough shall be to a "responsible person"; subsequent furloughs may be taken alone unless legal provisions require them to be to a "responsible person".

*j.* With sufficient accumulation of merit points, residents may bypass some levels through exemplary performance at the work release center.

*k.* When residents are not allowed to progress to a higher level they shall be informed in writing as to the reasons for such decision.

*l.* Disciplinary procedures shall be followed prior to backward movement in the level system with appropriate adjustment in merit points.

*m.* The house supervisor shall insure that each resident is evaluated weekly and considered for advancement to the next level, and when a resident has not accumulated sufficient points for advancement, the house supervisor shall inform the resident as to specifically what must be done to accumulate sufficient points to advance to the next level.

**24.3(14)** Residents who have been approved for work release may be granted a furlough, up to a maximum of seven calendar days, to the prospective work release residence for the purpose of locating employment.

*a.* In order to be eligible for job hunting furloughs, residents shall have at least forty dollars prior to leaving the institution and shall report to the residence with that amount.

*b.* No resident is to leave a correctional institution for community placement in state-issued clothing. When a resident has appropriate clothing in which to conduct a job-seeking interview, the fifty dollars allowed for clothes will be sent by check to the half-way house supervisor after the resident is actually signed to work release placement. When the resident does not have personal clothing in which to conduct a job-seeking interview, the institution is to provide up to fifty dollars clothing allowance with clothes purchased locally prior to the resident going on furlough. When the total amount of fifty dollars is not spent, the institution will send the difference by check to the half-way house supervisor with the authorized release money. Selection of clothing should be in keeping with the expected job placement.

## **SUBSTANCE ABUSE, IOWA DEPARTMENT OF[805]**

Pursuant to the authority of chapter 74, section 23, Acts of the Sixty-seventh General Assembly, 1977 session, chapter 1, Departmental Organization, is adopted as temporary emergency rules for a period not to exceed one hundred and eighty days. The Iowa department of substance abuse was created by the Sixty-seventh General Assembly during the 1977 regular session and became effective on January 1, 1978. These temporary rules will provide this newly created department minimal administrative procedures to operate.

For complete text of chapter 1, see replacement pages for IAC in Part II of this Supplement.

[Filed 3/20/78]

Pursuant to section 17A.4(2), the department finds that notices and public participation in the adoption of these rules were impractical since the department does not have any rules under which to operate. Permanent rules are in the process of being developed and will be adopted according to chapter 17A. Notices and public participation will be an integral part of the adoption process of the permanent rules.

Pursuant to section 17A.5(2)"b", the department requests that these rules become effective immediately upon being filed so as to allow the department to fulfill the legislative mandates articulated in chapter 125 of the Code; hence, these rules will benefit individuals who are involved in substance abuse treatment, intervention, education, and prevention programs. These rules will continue in effect for a maximum of 180 days.

[Published 4/5/78]



## **SUBSTANCE ABUSE, IOWA DEPARTMENT OF[805]**

Pursuant to the authority of chapter 74, section 23, Acts of the Sixty-seventh General Assembly, 1977 session, chapter 2, Funding, is adopted as temporary emergency rules for a period not to exceed one hundred and eighty days. The Iowa department of substance abuse was created by the Sixty-seventh General Assembly during the 1977 regular session and became effective on January 1, 1978. These temporary rules will provide this newly created department minimal administrative procedures to operate.

For complete text of chapter 2, see replacement pages for IAC in Part II of this Supplement.

[Filed 3/20/78]

Pursuant to section 17A.4(2), the department finds that notices and public participation in the adoption of these rules were impractical since the department does not have any rules under which to operate. Permanent rules are in the process of being developed and will be adopted according to chapter 17A. Notices and public participation will be an integral part of the adoption process of the permanent rules.

Pursuant to section 17A.5(2) "b", the department requests that these rules become effective immediately upon being filed so as to allow the department to fulfill the legislative mandates articulated in chapter 125 of the Code; hence, these rules will benefit individuals who are involved in substance abuse treatment, intervention, education, and prevention programs. These rules will continue in effect for a maximum of 180 days.

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## SUBSTANCE ABUSE, IOWA DEPARTMENT OF[805]

Pursuant to the authority of chapter 74, section 23, Acts of the Sixty-seventh General Assembly, 1977 session, chapter 3, Licensure, is adopted as temporary emergency rules for a period not to exceed one hundred and eighty days. The Iowa department of substance abuse was created by the Sixty-seventh General Assembly during the 1977 regular session and became effective on January 1, 1978. These temporary rules will provide this newly created department minimal administrative procedures to operate.

For complete text of chapter 3, see replacement pages for IAC in Part II of this Supplement.

[Filed 3/20/78]

Pursuant to section 17A.4(2), the department finds that notices and public participation in the adoption of these rules were impractical since the department does not have any rules under which to operate. Permanent rules are in the process of being developed and will be adopted according to chapter 17A. Notices and public participation will be an integral part of the adoption process of the permanent rules.

Pursuant to section 17A.5(2) "b", the department requests that these rules become effective immediately upon being filed so as to allow the department to fulfill the legislative mandates articulated in chapter 125 of the Code; hence, these rules will benefit individuals who are involved in substance abuse treatment, intervention, education, and prevention programs. These rules will continue in effect for a maximum of 180 days.

[Published 4/5/78]





## SUBSTANCE ABUSE, IOWA DEPARTMENT OF[805]

Pursuant to the authority of chapter 74, section 23, Acts of the Sixty-seventh General Assembly, 1977 session, chapter 4, Procedures, is adopted as temporary emergency rules for a period not to exceed one hundred and eighty days. The Iowa department of substance abuse was created by the Sixty-seventh General Assembly during the 1977 regular session and became effective on January 1, 1978. These temporary rules will provide this newly created department minimal administrative procedures to operate.

For complete text of chapter 4, see replacement pages for IAC in Part II of this Supplement.

[Filed 3/20/78]

Pursuant to section 17A.4(2), the department finds that notices and public participation in the adoption of these rules were impractical since the department does not have any rules under which to operate. Permanent rules are in the process of being developed and will be adopted according to chapter 17A. Notices and public participation will be an integral part of the adoption process of the permanent rules.

Pursuant to section 17A.5(2)"b", the department requests that these rules become effective immediately upon being filed so as to allow the department to fulfill the legislative mandates articulated in chapter 125 of the Code; hence, these rules will benefit individuals who are involved in substance abuse treatment, intervention, education, and prevention programs. These rules will continue in effect for a maximum of 180 days.

[Published 4/5/78]



# TRANSPORTATION DEPARTMENT[820]

## 06 HIGHWAY DIVISION

Pursuant to the authority of section 307.10 of the Code, rule 820—[06,P] chapter 2 entitled "General Requirements for Establishment of the Federal-Aid Urban System and Implementation Procedures for Project Construction on the System" is hereby amended.

ITEM 1. The title of this chapter of rules is amended to read as follows: "General Requirements for Implementing Projects Which Utilize Federal Aid to Urban System Funds".

ITEM 2. Rule 820—[06,P]2.1(307A) is amended by adding two new sentences at the end of the first sentence as follows: "Since urban area boundaries may encompass segments of FAUS routes which are under county jurisdiction, FAUS funds may be utilized for improvements to those segments of the FAUS system. For that purpose, reference to city, as used herein, shall also mean county if and when applicable."

ITEM 3. Amend subrule 2.1(1), paragraph "c", to read as follows:

c. Federal funds are apportioned to the state at the beginning of the fiscal year of the apportionment and remain available for three years following the apportionment year.

(1) Commencing November 1, 1978 the office of urban systems shall annually review the status of unobligated FAUS funds for each urban and urbanized area. If it is found that any area has accumulated in excess of two years of unobligated funds and has no projects in advanced stages of plan development, that area's excess funds shall be withdrawn and placed in a revolving fund to increase other cities' capabilities of borrowing ahead on projects for which they have insufficient funds currently available.

(2) A waiver of the above shall be considered for approval by the office of urban systems upon submittal of an appropriate application by the city or, in urbanized areas, by the regional planning agency. Such applications shall be in the form of a resolution and shall specifically identify proposed projects and schedules for obligating the fund balance.

ITEM 4. Amend subrule 2.1(1), paragraph "d", by changing the letter "d" to "e".

ITEM 5. Amend subrule 2.1(1) by adding new paragraph "d" as follows:

d. Cities with eligible projects but with insufficient allocation to support the full federal share of the project may, with approval of the office of urban systems, "borrow ahead" up to two years of anticipated funds. This feature shall be on a "first come-first serve" basis and shall be limited to the amount of funds held in reserve for this purpose.

ITEM 6. Amend subrule 2.1(3), paragraph "a", by striking the first sentence which reads: "One city, within each urbanized area, shall be responsible for each proposed project and shall provide all necessary contract administration." and insert in lieu thereof the sentence: "The city shall be responsible for each proposed project and shall provide all necessary contract administration."

ITEM 7. Amend subrule 2.1(3), paragraph "c", line 1, by striking the words "designated to provide contract administration,".

ITEM 8. Amend subrule 2.1(3) by adding the following new paragraph "d":

d. If a project should be on a boundary between cities, one city shall be designated to handle all project administration activities for that project.

ITEM 9. Amend subrule 2.1(4), paragraph "d", subparagraph (3), by striking the words "Iowa State Highway Commission Instructional Memorandum 204," and insert in lieu thereof "Iowa Department of Transportation Instructional Memorandum 204,".

ITEM 10. Amend subrule 2.1(4), paragraph "e", subparagraph (2), by striking the phrase following the colon in the second sentence which reads: "A "Final Estimate of Quantities;" "Construction Period Report (for possible liquidated damages, if applicable);" Form 435, "Certificate of Completion of Work;" Form 436, "Final Acceptance of Work;" Form PR 47, "Statement of Materials and Labor;" and Form 303, "Certification of Wages/Certification of Payroll." and inserting in lieu thereof the phrase: "A "Final Estimate of Quantities;" "Construction Period Report (for possible liquidated damages, if applicable);" Form 830435, "Certificate of Completion of Work;" For 830436, "Final Acceptance of Work;" Form PR 47, "Statement of Materials and Labor;" and Form 181014, "Certification of Wages/Certification of Payroll."

[Filed 3/16/78]

A notice of intended action for the adoption of these rules [06,P] Chapter 2 was published in the January 11, 1978 edition of the Supplement to the Iowa Administrative Code. The transportation commission approved the adoption of these rules on March 7, 1978. These rules are to be published as adopted in the April 5, 1978 edition of the Supplement to the Iowa Administrative Code to be effective May 10, 1978. These rules are identical to the ones published under notice.

[Published 4/5/78]

# TRANSPORTATION DEPARTMENT[820]

## 06 HIGHWAY DIVISION

Pursuant to the authority of section 307.10 of the Code, rules 820—[06,Q] Chapter 10(307A) entitled "General Requirements and Covenants for Counties to Borrow Money from the Special Appropriation to the Department of Transportation" are hereby amended.

ITEM 1. Rescind [06,Q] chapter 10(307A) in its entirety.  
[Filed 3/16/78]

This amendment shall be filed in reliance upon the provisions of subsection 17A.4(2) of the Code for the reason as follows: The department finds public participation in the amendment to be unnecessary as the money to be borrowed was a one-time appropriation set aside by the general assembly to be repaid by December 30, 1976 and is no longer available.

This amendment shall be effective thirty-five days after filing with the secretary of state and publication in the Iowa Administrative Code on May 10, 1978.

[Published 4/5/78]

EDITOR'S NOTE: For replacement pages for IAC, see Part II of this Supplement.



# VOTER REGISTRATION COMMISSION[845]

## 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" of the 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 sections 47.7, 47.8 and 48.5 of the Code, the Voter Registration Commission proposes the following amendments.

Written data or arguments may be submitted to the State Registrar of Voters, 1st Floor Lucas Building, Des Moines, Iowa 50319 no later than April 25, 1978.

ITEM 1. Amend the title of chapter 7 by inserting the words "and Maintenance" before the word "Requirements".

ITEM 2. Amend chapter 7 by adding the following new rule:  
845—7.3(47,48) Responsibility of county commissioner of registration to perform edit requirements.

7.3(1) *Effective date.* Effective September 1, 1979, the edit functions specified in 4.3(1)"a"(4) and 6.2(2) must be performed either by the vendor servicing the county or the automated system used by the county.

7.3(2) *Systems incapable of performing edit functions.* Provisions for county in-house systems incapable of performing these edit functions are stated in 6.2(2).

These rules are intended to implement sections 47.7(1) and 48.5(1) of the Code.





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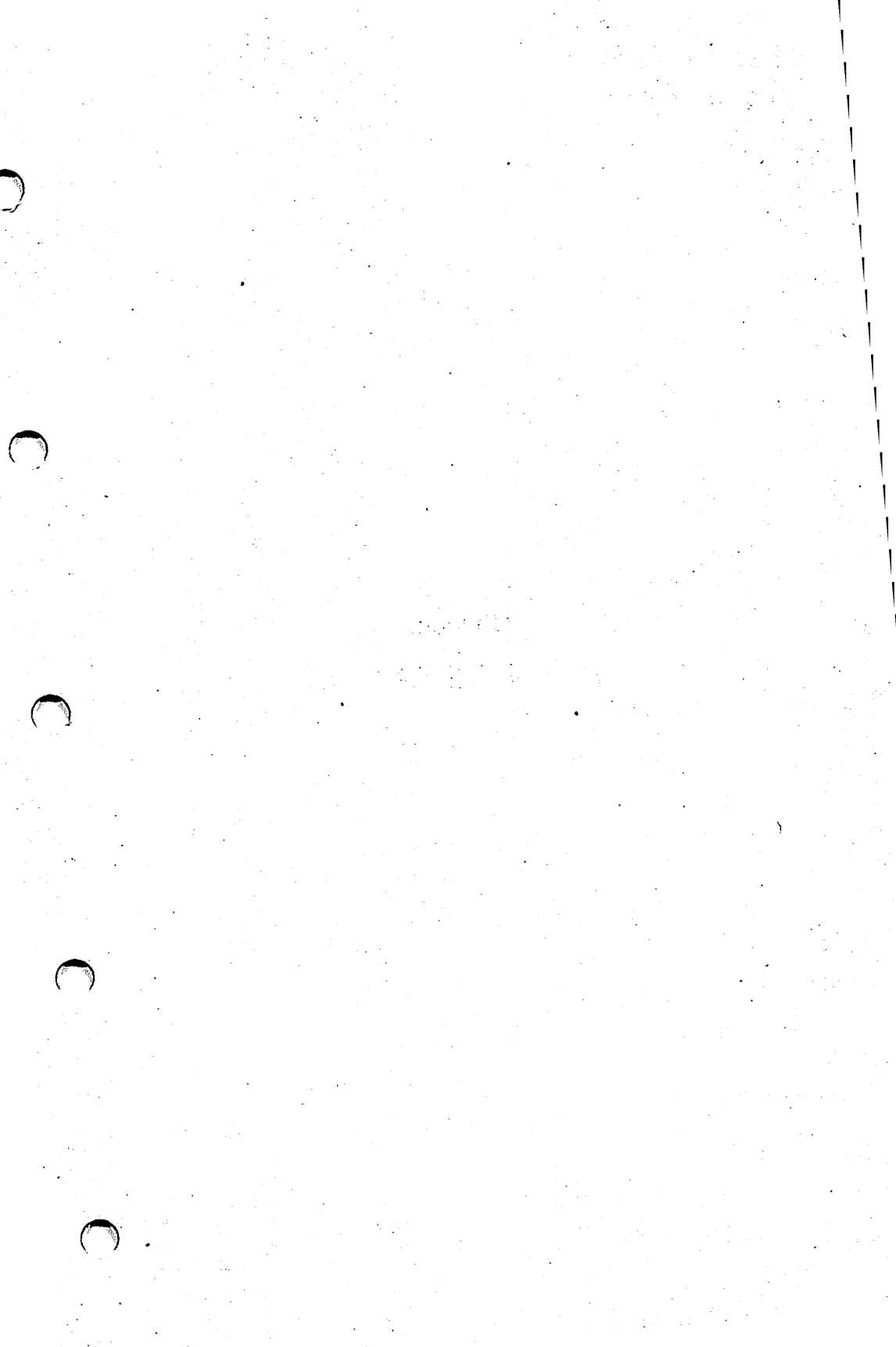
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# **PART II**

**April 5, 1978**



# AGENDA

The Administrative Rules Review Committee will hold its regular meeting Tuesday, April 11, 1978, 7:30 a.m., Senate Committee Room 24. The following rules will be reviewed.

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<b>HEALTH[470]</b>	
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<b>CIVIL RIGHTS[240]</b> Rules of practice, Ch 1 Rules of practice, Ch 3 rescinded Sex-segregated want ads, 4.11, 4.12	3/22/78 3/22/78 3/22/78
<b>CONSERVATION[290]</b> Fishing regulations, Ch 108 Inland commercial fishing, Ch 110	4/5/78 4/5/78
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4/5/78

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# ARCHITECTURAL EXAMINERS[80]

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### DESCRIPTION OF ORGANIZATION

- 1.1(118,17A) Organization and duties
- 1.2(118,17A) Headquarters of the board
- 1.3(118,17A) Meetings
- 1.4(118,17A) Certificates

## CHAPTER 2

### EXAMINATIONS

- 2.1(118,17A) Applications for registration by examination
- 2.2(118,17A) Admittance to examinations
- 2.3(118,17A) Education and training equivalents
- 2.4(118,17A) Applications for registration by reciprocity
- 2.5(118,17A) Fee schedule

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## CHAPTER 1

### DESCRIPTION OF ORGANIZATION

**80—1.1(118,17A) Organization and duties.** The board shall consist of five members who are registered architects and two members who are not registered architects and who shall represent the general public. Annually, the board shall elect from its members a president, vice president and secretary-treasurer. The board shall enforce the provisions of chapter 118 of the Code and shall maintain a roster of all registered architects in the state.

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

**1.1(2) Vice president.** The vice president shall, in the absence or incapacity of the president, exercise the duties and possess the powers of the president. The vice president shall sign all certificates.

**1.1(3) Secretary-treasurer.** The secretary-treasurer shall sign all certificates, and shall also sign all vouchers for payment of expenses of the board.

**1.1(4) Executive secretary.** The board shall employ an executive secretary who will maintain all necessary records of the board and perform all clerical duties in connection with the operation of the board offices.

**80—1.2(18,17A) Headquarters of the Board.** The official mailing address of the board shall be: Iowa Board of Architectural Examiners, 1018 Des Moines Street, Des Moines, Iowa 50319.

**80—1.3(118,17A) Meetings.** Meetings of the board shall be called by the president and board members shall be informed of impending meetings by the executive secretary in writing at least one week before the scheduled date of the meeting.

**80—1.4(118,17A) Certificates.** Certificates issued to successful applicants shall contain the registrant's name, state registration number and signatures of the board president, vice president and secretary-treasurer. All certificates are renewable July 1 of each year. All registrants will receive a notice of renewal and a wallet card indicating current registration.

[Filed 4/8/70, amended 1/2/74]

[Filed 10/1/76, Notice 9/8/76—published 10/20/76, effective 12/8/76]

[Filed 3/15/78, Notice 11/30/77—published 4/5/78, effective 5/10/78]

## CHAPTER 2

### EXAMINATIONS

**80—2.1(118,17A) Applications for registration by examination.** The written examination for architectural registration shall consist of two parts. The two parts are: (1) Qualifying Examination; and (2) Professional Examination.

2.1(1) Individuals holding a professional degree from a school of architecture where the degree program has been accredited by the National Architectural Accrediting Board (NAAB) will be required to pass the professional examination for registration and the site/design portion of the qualifying examination. All other candidates shall pass the qualifying examination and the professional examination.

2.1(2) The qualifying examination shall be a two-day, twenty-two hour examination given in three parts entitled: History and Theory of Architecture and Environmental Planning; Architectural Design and Site Planning; Construction Theory and Practice.

2.1(3) The professional examination shall be a two-day, twenty-hour examination given in four parts entitled: Environmental Analysis; Architectural Programming; Design and Technology; Construction.

2.1(4) The candidate shall either pass or fail the total examination. Candidates will not retain credit from one examination to the next for parts passed in previous examinations.

**80—2.2(118.17A) Admittance to examinations.** The board hereby adopts and incorporates by reference as fully as if set out herein, the standards contained in Section F-16 "Certification Standards" of Appendix "A" to the 1977 Circular of Information #1 issued by the National Council of Architectural Registration Boards (NCARB). The Circular of Information #1 is available at the board office during all normal business hours.

**80—2.3(118,17A) Education and training equivalents.** The board hereby adopts and incorporates by reference as fully as if set out herein, the standards contained in Appendix "A" to the 1977 Circular of Information #1 "Table of Equivalents for Education, Training and Experience", parts F-1 through F-15, and F-17 through F-19 issued by the National Council of Architectural Registration Boards (NCARB). Candidates for registration will be eligible to take the qualifying examination any time after their aggregate education and professional experience equals 7 as described in part F-16 of Appendix "A", Circular of Information #1, dated 1977. Circular of Information #1 is available upon request from the board office.

2.3(1) *Council record.* Applicants for the written examinations are required to make application to the National Council of Architectural Registration Boards, 1735 New York Avenue, N.W., Washington, D. C. 20006 for a council record. This completed council record must be received in the board offices at least thirty days before the test is scheduled.

2.3(2) *Rules of conduct.*

a. *Competence.*

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

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

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

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

b. *Conflict of interest.*

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

(2) If an architect has any business association or direct or indirect financial interest which is substantial enough to influence his or her judgment in connection with his or her

performance of professional services, the architect shall fully disclose, in writing, to his or her client or employer the nature of the business association or financial interest, and if the client or employer objects to such association or financial interest, the architect will either terminate such association or interest or offer to give up the commission or employment.

(3) An architect shall not solicit or accept compensation from material or equipment suppliers in return for specifying or endorsing their products.

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

*c. Full disclosure.*

(1) An architect, making public statements on architectural questions, shall disclose when he or she is being compensated for making such statements.

(2) An architect shall accurately represent to a prospective or existing client or employer his or her qualifications and the scope of his or her responsibility in connection with work for which he or she is claiming credit.

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

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

2. Refuse to consent to the decision, and

3. In circumstances where the architect reasonably believes that other such decisions will be taken notwithstanding his objection, terminate his or her services with reference to the project.

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

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

(6) An architect possessing knowledge of a violation of these rules by another architect shall report such knowledge to the board.

*d. Compliance with laws.*

(1) An architect shall not, in the conduct of his or her architectural practice, knowingly violate any state or federal criminal law.

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

(3) An architect shall comply with the registration laws and regulations governing his or her professional practice in any United States jurisdiction.

*e. Professional conduct.*

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

(2) An architect shall neither offer or make any gifts to any public official with the intent of influencing said official's judgment in connection with a project in which the architect is interested.

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

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

**80—2.4(118,17A) Applications for registration by reciprocity.** All reciprocal registrations are based on a completed state application form together with a council record prepared by the National Council of Architectural Registration Boards and must be approved by three of the registered architects serving on the board.

**2.4(1)** Those who are registered in Iowa by reciprocity will have their registration automatically revoked if the registrant has had his or her registration revoked for statutory or competence reasons in any other state where he or she is registered.

**2.4(2)** Reserved.

**80—2.5(118,17A) Fee schedule.** Under the authority provided in chapter 118 of the Code, the following fees are hereby adopted:

Examination fee .....	\$60.00
Registration fee .....	\$15.00
Annual renewal fee .....	\$25.00
Reinstatement fee .....	\$50.00
Duplicate certificate .....	\$10.00
Application fee (reciprocal) .....	\$10.00
Roster (except to registered architects and governmental agencies) .....	\$25.00

[Filed 10/1/76, Notice 9/8/76—published 10/20/76, effective 12/8/76]

[Filed 3/15/78, Notice 11/30/77—published 4/5/78, effective 5/10/78]

- 71.5(66GA, HF1589) Termination of employment
- 71.6(66GA, HF1589) Claims by program participant
- 71.7(66GA, HF1589) Project reimbursement
- 71.8(66GA, HF1589) Program evaluation and accounting

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- 101.1(109) Mourning dove season

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#### RABBIT AND SQUIRREL SEASONS

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#### PHEASANT, QUAIL AND GRAY (HUNGARIAN) PARTRIDGE HUNTING SEASONS

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#### WATERFOWL REGULATIONS

- 105.1(109) General
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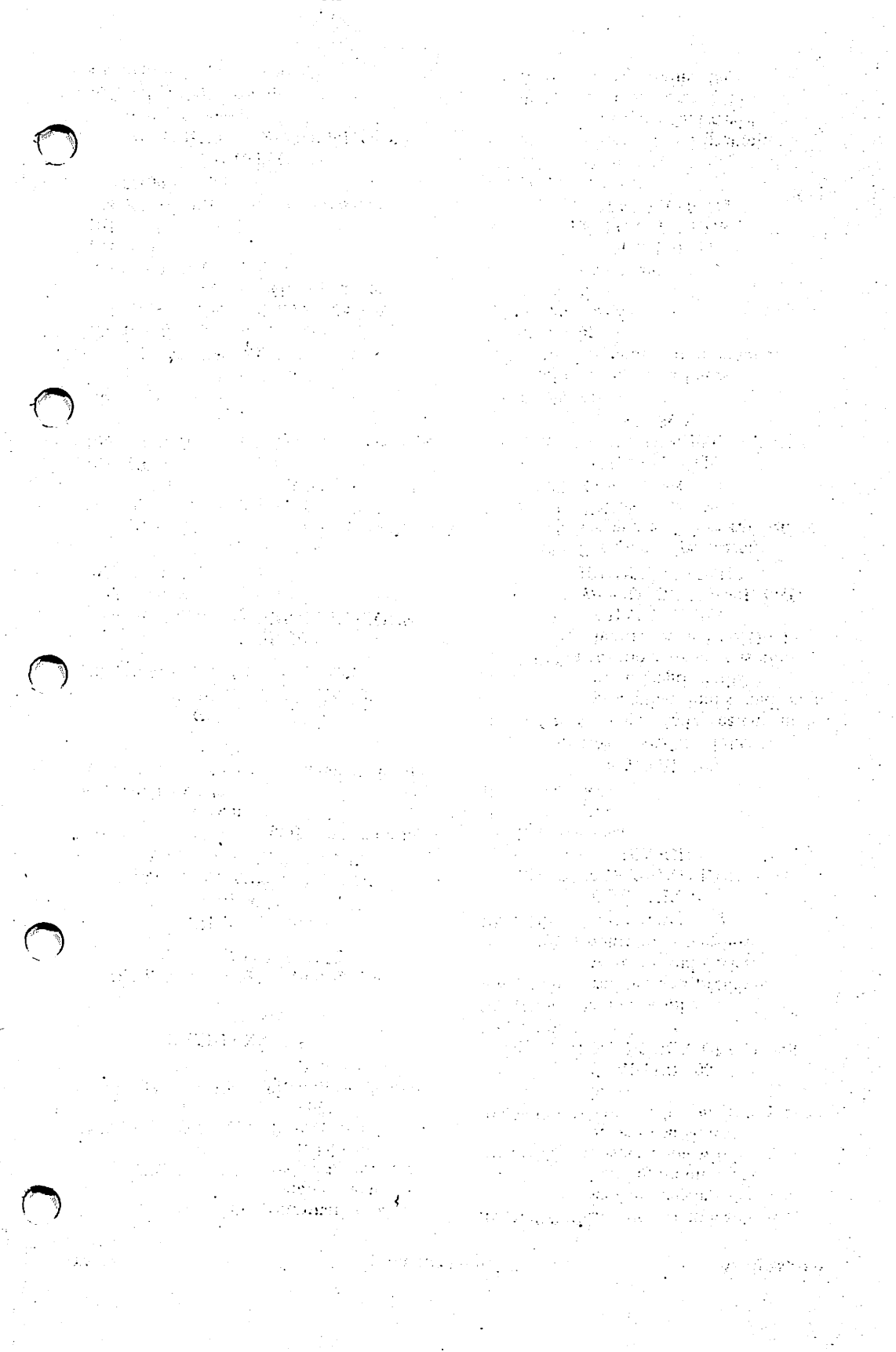
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**CHAPTER 108**  
**1978-1979 FISHING REGULATIONS**

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

KIND OF FISH	INLAND WATERS OF THE STATE				BOUNDARY RIVERS
	OPEN SEASON	DAILY CATCH LIMIT	POSSESS-ION LIMIT	MINIMUM LENGTH LIMITS	MISSISSIPPI RIVER MISSOURI RIVER BIG SIOUX RIVER
Rock Sturgeon	Closed	0	0		Same as inland waters
Paddlefish*	Continuous	2	4	None	Same as inland waters
Yellow Perch	Continuous	25	50	None	Same as inland waters except no catch or possession limit.
Trout	Continuous*	5	10	None*	Same as inland waters
Catfish	Continuous	8	16	None	Same as inland waters except no catch or possession limit.
Largemouth Bass	Continuous	5	10	None*	Largemouth and smallmouth black bass: Same as inland waters except aggregate daily catch limit 10; aggregate possession limit 20.
Smallmouth Bass	Continuous	5	10	None*	Continuous open season aggregate daily catch limit 10, aggregate possession limit 20. No minimum length or weight.
Combined Walleye and Sauger	Continuous*	5	10	None	Continuous open season; daily catch limit 5; possession limit 10. No minimum length limits.
Northern Pike	Continuous*	3	6	None	Continuous open season; daily catch limit 5; possession limit 10. No minimum length limits.
Muskellunge or Hybrid Muskellunge	Continuous*	1	1	30"	Same as inland waters
All other fish species	Continuous	None	None	None	Same as inland waters
Frogs (except Bullfrogs)	Continuous	48	96	None	Same as inland waters
Bullfrogs (Rana Catesbeiana)	Continuous	12	12	None	Same as inland waters

\*Also see 108.2(109), Exceptions.

**290—108.2(109) Exceptions to seasons and limits, set in 108.1(109).**

**108.2(1) *Natural lakes.*** In Lakes West Okoboji, East Okoboji, and Spirit Lake the open season on walleye, sauger, muskellunge or hybrid muskellunge and northern pike shall be April 29, 1978 to February 28, 1979.

**108.2(2) *Minimum length—largemouth and smallmouth bass.*** A minimum length limit on largemouth and smallmouth bass of twelve or fourteen inches shall apply on selected lakes as approved by the commission and posted as such.

**108.2(3) *Paddlefish snagging regulations.***

*a. Areas.* Paddlefish snagging shall be limited to the following areas: Iowa boundary waters of the Mississippi and Missouri Rivers; Missouri River oxbow lakes which are open to the river; Iowa River from the lower dam at Iowa City to the Mississippi River and the Des Moines River from the hydroelectric dam at Ottumwa to the Mississippi River.

*b. Limits.* The daily catch limit shall be two; possession limit four.

**108.2(4) *Special trout regulations.***

*a. Brook trout.* There shall be no open season on brook trout in portions of the South Fork of Big Mill Creek, Jackson County and North Cedar Creek, Clayton County where posted. Fishing for other species in the posted areas shall be by artificial lure only.

*b. Brown trout.* The minimum length limit of brown trout shall be fourteen inches in a portion of Bloody Run Creek, Clayton County where posted. Fishing in the posted area shall be by artificial lure only.

These rules are intended to implement sections 109.38, 109.39, 109.67, and 109.76 of the Code.

[Filed Emergency 1/9/76—published 1/26/76, effective 1/9/76]

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[Filed 3/15/78, Notice 2/8/78—published 4/5/78, effective 5/10/78]



**CHAPTER 110**  
**INLAND COMMERCIAL FISHING SEASON**

**290—110.1(109) Areas.** Inland commercial fishing shall be limited to the following areas: Lake Odessa, Louisa County; Sabula Lake, Jackson County; Red Rock Reservoir and Roberts Creek Lake, Marion County.

**110.1(1) Limitations.** Geographic limitations of commercial fishing at the Red Rock Reservoir shall be from the dam to State Highway 14 on the west and State Highway 92 on the south.

**110.1(2) Reserved.**

**290—110.2(109) Seasons and hours.** The commercial fishing season on Sabula Lake shall be a continuous open season. The commercial fishing season at Lake Odessa and Louisville Bend shall be December 15 through August 31. The commercial fishing season at Roberts Creek Lake shall be from October 1 through April 30. Commercial fishing at Red Rock Lake shall be from May 1 through March 15. Commercial fishing at Lake Odessa shall be limited to one-half hour after sunset to one-half hour before sunrise during the period of April 15 through August 31.

**290—110.3(109) Methods and attendance.** Inland commercial fishing will be limited to the use of trammel and gill nets. Each net must be at least one hundred feet long with a mesh bar measure of three inches or more. All commercial fishing gear must be attended at least once during each forty-eight hour period, unless otherwise specified. Commercial fishing nets set in Red Rock Reservoir during the period from May 28 through September 6 shall be constantly attended or set at least three feet beneath the surface of the water. Commercial fishing nets not in use, fish boxes, and fish taken by commercial fishing shall be removed from public property at the close of each day's operation. Commercial fishing nets, fish boxes and fish shall not be left at public boat landings unless such items are stored in a vehicle properly parked in a parking lot. Commercial fishing buoys shall be subject to the provisions of departmental rule Chapter 31 which relates to navigation aids.

**290—110.4(109) Species.** Permissive catch is limited to the following fish families: Catostomidae (sucker, buffalo), Cyprinidae (carp) and Scraenidae (drum). All other species taken, except gar, must be returned, unharmed, to the water immediately. Gar must be destroyed as required in section 109.114 of the Code.

**290—110.5(109) Permits.** Inland commercial fishing is limited to permit holders. Applications for permits must be made in writing to the state conservation commission 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. All tackle, when in use, must be licensed and tagged with a metal tag, provided by the commission, identifying the equipment and license for its use. Officers appointed by the commission shall have the authority to confiscate any such commercial fishing gear when found in use without such tags attached.

**290—110.6(109) Report of catch.** Monthly records of catch must be kept by the permit holder and returned no later than ten days after the month has ended. Failure to return monthly records will be cause for permit revocation.

**290—110.7(109) Compliance.** Permits will be revoked for any individual failing to comply with the provisions of this rule.

These rules are intended to implement section 109.17 of the Code.

[Filed 8/29/75]

[Filed emergency 4/9/76—published 5/3/76, effective 4/9/76]

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# DRUG ABUSE AUTHORITY[330]

[See also Substance Abuse[805] in IAC]

## CHAPTER 1

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## PREAMBLE

The Acts of the Sixty-fifth General Assembly, chapter 181, section 14, created within the Iowa drug abuse authority, the drug treatment licensing board with the responsibility and authority to oversee all phases of licensure of any drug abuse treatment and rehabilitation program in the state of Iowa.

The promulgation and enforcement of standards in the delivery of direct services is a major step in assuring the delivery of quality drug abuse prevention services to the citizens of Iowa. In addition, the promulgation of standards can facilitate the program evaluation process by ensuring the collection of program management and client data from each licensed program.

The Iowa drug abuse authority will provide for both licensing and certification of drug abuse prevention programs within the state. The authority will first focus on licensing of programs involved with treatment and rehabilitation of drug abusers and drug dependent individuals. The second focus will be the certification of all intervention, education, and other unlicensed programs receiving state or federal funds designated for drug abuse prevention. Intervention, education and other unlicensed programs that do not receive state or federal funds may voluntarily elect to apply for and receive certification.

Any program which received federal funds for drug abuse treatment whose licensing authority has not adopted the state of Iowa licensure standards for drug abuse treatment programs or any unlicensed

program which received federal funds for drug abuse treatment shall provide assurances to the Iowa drug abuse authority and to the federal funding agency that the licensure standards for drug abuse treatment programs are being met and that the program will comply with all requirements, including those covering reporting and inspection, of a licensed program.

This document will describe the procedures necessary for licensing drug abuse treatment programs and the standards with which all licensed programs must comply. Included in the document will be: general information for treatment programs; standards applicable to all treatment programs; standards applicable to residential drug abuse treatment programs; standards applicable to outpatient drug abuse treatment programs; standards applicable to mental health centers; and, methadone requirements.

## CHAPTER 1 DEPARTMENTAL ORGANIZATION

**330—1.1(17A) Functions.** All operations of the drug abuse authority are, by law, the responsibility of the director. The director is immediately concerned with:

1.1(1) The formulation of department policy within the limits set forth in the statutes of the state of Iowa.

1.1(2) The standards of performance of all divisions of the authority.

1.1(3) Relationships with other agencies of the state and with public and private agencies outside of state government.

1.1(4) Educating the public about agency programs.

1.1(5) Develop and implement a long-range comprehensive state plan for drug abuse prevention which identifies resources for providing services.

1.1(6) Co-ordinate a network of drug abuse prevention services in the state.

1.1(7) Review statutes and proposed legislation to determine their consistency with the state plan.

1.1(8) Provide technical assistance, guidance, consultation, information and other relevant services to community groups, local governments, state agencies, and similar groups concerning programs and procedures for effective drug abuse prevention.

1.1(9) Establish evaluation criteria for (a) drug abuse prevention functions, and (b) literature and audiovisual prepared to combat drug abuse.

1.1(10) Develop and maintain a centralized drug abuse data collection and dissemination system.

1.1(11) Maintain and continuously update a record of relevant research completed or in process in the state.

1.1(12) Establish guidelines for the submission of grant applications and assisting communities in preparing applications.

1.1(13) License drug treatment programs and certify education, intervention and other programs.

1.1(14) Provide for the confidentiality of persons in treatment for drug abuse or drug dependence.

**330—1.2(17A) State advisory council.** The director of the authority has, by statute, the advice and counsel of the state advisory council. This twenty-six member council is appointed by the governor and shall serve at his pleasure. The advisory council shall be entirely advisory in character, and may not exercise administrative authority. The director may, with advice of the advisory council, establish district drug abuse advisory councils to perform the same function, with respect to the efforts within the designated district or region to achieve the objective of the comprehensive state plan to combat drug abuse, as is performed by the advisory council with respect to the authority and the programs to which the authority relates.

**330—1.3(17A) Organization at state level.**

1.3(1) The director of the department shall be appointed by the governor with the

# EMPLOYMENT AGENCY LICENSING COMMISSION[350]

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## CHAPTER 1 PURPOSE AND FUNCTION

**350—1.1(95,17A) Purpose.** A commission, known as the Employment Agency License Commission, shall be responsible for the issuance of licenses and carrying out the provisions of chapters 94 and 95 of the Code.

**350—1.2(95,17A) Location.** The administrative duties of the commission shall be handled by the bureau of labor. Forms and information to be used by private employment agencies may be obtained from the Bureau of Labor, Capitol Complex, Des Moines, Iowa 50319, telephone 515-281-3606.

**350—1.3(17A) Extending time and continuances.** For good cause, the commission may modify the time to comply with any rule.

**350—1.4(17A) Quorum.** Two members of the commission must be present at a meeting for official action to be taken.

**350—1.5(17A) Meetings.** The commission shall meet on the third Thursday of January of each year, and upon the request of any member of the commission.

These rules are intended to implement sections 17A.3 and 95.1 of the Code.

[Filed 3/9/78, Notice 11/30/77—published 4/5/78, effective 6/30/78]

**CHAPTER 2  
DEFINITIONS**

**350—2.1(94,95) Definitions.**

**2.1(1) "Applicant"** means a person who seeks employment with the assistance of a private employment agency.

**2.1(2) "Licensee"** means a person, firm or corporation, who holds a valid license from the commission.

**2.1(3) "Private employment agency (agency)"** means a person, firm or corporation who shall procure or offer help or employment, or the giving of information where help or employment may be procured and where a fee, privilege or other thing of value is exacted, charged or received for the service.

This rule is intended to implement chapters 94 and 95 of the Code.

[Filed 3/9/78, Notice 11/30/77—published 4/5/78, effective 6/30/78]

**CHAPTER 3  
DECLARATORY RULINGS**

**350—3.1(17A) Procedures for declaratory rulings.** Any interested person may submit to the commission a petition regarding the application of a statute, rule, decision or other written statement of law or policy to a specific factual situation. The petition shall contain the name(s) of the requesting person(s), the specific factual background of the question, the statute, rule, decision or other written statement of law or policy deemed applicable, and the reasons for the request. The commission shall render a written decision within sixty days unless the commission is unable to convene or reach a decision on the facts presented. Should the commission find the facts insufficient, then no decision need be issued and the commission shall request the factual situation clarified by an amendment to the petition. Failure by the requesting party to amend the petition within thirty days will cause the commission to dismiss the petition.

This rule is intended to implement section 17A.9 of the Code.

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**CHAPTER 4  
APPLICATION AND LICENSE**

**350—4.1(95) Application.** An application for a license must be made in writing to the commission upon forms approved by the commission. Forms to be completed include the application and affidavit form, EALC-1, two copies each of employer paid fee and employee paid fee schedules, EALC-2, and EALC-3 respectively.

**350—4.2(95) Name.** No licensee shall use any name, symbol or abbreviation deceptively similar to or reasonably likely to be confused with the name used by an existing licensee, any governmental agency, or nonprofit agency.

**350—4.3(95) Change in officers.** A change in the name of any person required to be reported on the application under section 95.2 of the Code shall be forwarded to the commission within ten days.

**350—4.4(95) Change in address.** The licensee shall notify the commission of any change of address prior to the change.

**350—4.5(95) Multiple locations.** A separate license shall be required for each separate office location operated by a licensee.

**350—4.6(95) Nontransferable.** A license is nontransferable.

**350—4.7(95) Nonissuance of license.** The commission may refuse to issue a license when the commission finds that any of the following conditions exist:

1. The license applicant has violated any of the provisions of chapters 94 or 95 of the Code;
2. The license applicant has violated any of the rules promulgated by the commission;
3. The license applicant or persons connected therewith has engaged in fraudulent, deceptive or dishonest practices;
4. The license applicant is shown for good and sufficient cause to be unfit to operate an employment agency.

These rules are intended to implement section 95.2 of the Code.

[Filed 3/9/78, Notice 11/30/77—published 4/5/78, effective 6/30/78]

## CHAPTER 5 REVOCATION

**350—5.1(94,95,17A) Complaints.** Complaints by aggrieved parties will be investigated by designees of the commission. The commission or its designee shall notify the aggrieved party in writing of the outcome of the investigation. The commission may take any appropriate action including commencing an action against the licensee for license revocation.

**350—5.2(94,95,17A) Revocation procedures.** When any investigation discloses facts which may establish probable cause that the licensee has substantially violated any provision of chapters 94 or 95 or the rules established by the commission, a hearing may be called by any member of the commission.

**350—5.3(95,17A) Hearing procedures.**

**5.3(1)** When a hearing for revocation is called, the commission shall give notice to the licensee of the intention to revoke the license. Notice shall be completed when the notice is deposited with the U.S. Post Office by restricted certified mail with return receipt requested and addressed to the licensee at its last known place of business. Notice of hearing shall be not less than twenty calendar days prior to hearing. The procedures including notice, hearing and records shall be in accordance with the provisions of chapter 17A relating to contested cases.

**5.3(2)** The hearing shall be conducted by the commission or a duly appointed administrative hearing officer.

**5.3(3)** A licensee may be represented by an officer or employee of the licensee or may be represented by an attorney.

**5.3(4)** The testimony shall be taken under oath or affirmation.

These rules are intended to implement sections 94.11, 95.5, and 17A.10 to 17A.18 of the Code.

[Filed 3/9/78, Notice 11/30/77—published 4/5/78, effective 6/30/78]

## CHAPTER 6 FEES

**350—6.1(94) Permissible fees charged by private employment agency.**

**6.1(1)** The total amount charged to any applicant in any form by a private employment agency shall not exceed eight percent of the applicant's gross earnings from that employer for which the agency procured the job in any pay period for a period of time not to exceed the first twelve months from the date of employment. This subrule shall not apply to licensees exempted under section 94.6 of the Code.

**6.1(2) Fees due the agency are payable as earned, however the applicant may knowingly agree to pay the fee in advance, with the full understanding that the applicant is not required to do so, and the agency guarantees to refund any amounts in excess of eight percent of actual gross earnings, when ascertained. This subrule shall not apply to licensees exempted under section 94.6 of the Code.**

**6.1(3) No licensee or any person connected therewith shall require any applicant to execute any negotiable instrument, assignment of earnings, or note except for that amount of fee which is past due to the licensee.**

**350—6.2(94) Posting.** Each licensee shall keep conspicuously posted at its place of business, a copy of each schedule of fees on file with the commission. The schedules shall be printed in not less than eight point type.

**350—6.3(94) Refund notification.** Each applicant who has paid the fee in advance must be notified at his last known address by the licensee one year after placement that the applicant may have a refund due if the applicant had paid more than eight percent of the gross earnings of the applicant's first year of employment. This subrule shall not apply to licensees exempted under section 94.6 of the Code.

**350—6.4(94) Employer paid fees.** For positions where a representation is made to an applicant that the employer will pay the fee, the licensee shall guarantee that the fee payment shall be without cost to the applicant. Written notice of the provisions of this rule shall be given to all applicants to which this rule applies.

These rules are intended to implement section 94.6 of the Code.

[Filed 3/9/78, Notice 11/30/77—published 4/5/78, effective 6/30/78]

## CHAPTER 7 AGENCY PLACEMENT PROCEDURE

**350—7.1(94) Employment availability verified.** No licensee shall refer an applicant for an employment interview unless the licensee has verified within the past five calendar days that the situation of employment is still available.

**350—7.2(94) Deceptive representations.** No licensee shall pursue a continued or flagrant course of misrepresentation, or make false promises through advertising or otherwise.

**350—7.3(94) Advertising.**

**7.3(1) All advertised positions must clearly indicate in the advertisement whether the fee is employer or applicant paid.**

**7.3(2) No licensee shall advertise any salary information not received from the employee.**

**7.3(3) No written communication of licensee shall contain language which directly or indirectly is likely to cause the public to be confused, mistaken or deceived that licensee is other than a private employment agency business.**

These rules are intended to implement section 94.7 of the Code.

[Filed 3/9/78, Notice 11/30/77—published 4/5/78, effective 6/30/78]

## CHAPTER 8 CONTRACTS AND FEE SCHEDULES

**350—8.1(94,95) Schedules furnished.** Any schedule of fees to be charged by a licensee to applicants shall be furnished to all applicants at the time of making an application with the licensee.

**350—8.2(94,95) Content.**

**8.2(1) No contract or fee schedule shall contain smaller than eight point type.**



8.2(2) Contracts and fee schedules shall contain no ambiguous, false or misleading information.

8.2(3) All contracts and schedules of fees of a licensee who solely furnishes or procures vaudeville acts, circus acts, theatrical, or stage or platform attractions or amusement enterprises shall contain language to such effect.

8.2(4) Where the licensee provides the option for advance payment, the contract and applicant paid fee schedule must clearly state that the applicant knowingly agrees to pay the fee in advance with the full understanding that the applicant is not required to do so, and that the licensee guarantees to refund any amount in excess of eight percent of the applicant's gross earnings from that employer for which the agency procured the job for a period of time not to exceed the first twelve months from the date of employment, when ascertained. This subrule shall not apply to those licensees exempted by section 94.6 of the Code.

8.2(5) All applicant paid fee contracts and fee schedules must state the fee in dollar amounts as well as percentages.

8.2(6) All contracts and fee schedules must clearly state that the agency is licensed by the Iowa Employment Agency License Commission and that inquiries may be submitted to the Bureau of Labor, Capitol Complex, Des Moines, Iowa 50319, (515) 281-3606.

These rules are intended to implement sections 94.8 and 95.2 of the Code.

[Filed 3/9/78, Notice 11/30/77—published 4/5/78, effective 6/30/78]

## CHAPTER 9 RECORDS

**350—9.1(94) Applicant's record.** Every licensee shall maintain records on all applicants referred for job interviews. The record shall include:

1. Name and address of applicant;
2. Name of employer to whom the applicant is referred;
3. The date that the applicant was referred to a prospective employer for a job or an interview;
4. Type of job offer;
5. Earnings the employer proposed to pay, if known.

**350—9.2(94) Business transaction record.** Every licensee shall maintain a record called a business transaction record containing consecutively numbered entries. Each entry shall include:

1. The name and address of the applicant placed;
2. Name and address of employer;
3. Name and title of employer representative;
4. Starting date of position;
5. Starting salary;
6. Whether the fee was employer or applicant paid;
7. If the applicant paid fee:
  - a. Method of payment;
  - b. Amount of fee paid;
8. If applicant paid fee in advance:
  - a. Amount of earnings paid by the employer to the applicant, unless such information is refused by applicant and employer;
  - b. Amount of fee paid;
  - c. Amount of refund, if any.

**350—9.3(94) Retention of records.** All records listed in rule 9.1(94) shall be retained for at least two years and all records listed in rule 9.2(94) shall be kept in the licensee's office for at least five years.

**350—9.4(94) Reports.** Each licensee shall file a report with the commission upon form EALC-4. The report shall be submitted semiannually for the first and second halves of the calendar year. The report is due within thirty days from the end of the reporting period.

These rules are intended to implement sections 94.10 and 94.11 of the Code.  
[Filed 3/9/78, Notice 11/30/77—published 4/5/78, effective 6/30/78]

**CHAPTER 10  
FORMS**

**350—10.1(95) EALC-1.** This form shall contain the name of the applicant, and if the applicant be a firm, the names of the members, and if it be a corporation, the names of the officers thereof. It shall contain the name, number and address of the building and place where the private employment agency is to be conducted. The form shall specify the period for which the license is requested. It shall also contain the affidavits of two reputable citizens of the state in no way connected with the applicant, certifying to the good moral character and reliability of the applicant, or, if a firm or corporation, of each of the members or officers thereof, and that the applicant is a citizen of the United States, if a natural person.

**350—10.2(95) EALC-2.** This form shall contain the schedule of employer paid fees. It shall state the name and address of the agency, and the period for which the schedule is effective.

**350—10.3(95) EALC-3.** This form shall contain the schedule of employee paid fees. It shall state the name and address of the agency, and the period for which the schedule is effective.

**350—10.4(95) EALC-4.** This form shall list the number of registrants, placements, applicant paid fees, employer paid fees, applicant paid fees for each percentage charged, and the number of refunds made.

These rules are intended to implement sections 94.10, 94.11 and 95.2 of the Code.  
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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.

d. The name, social security account number, total wages paid and taxable wages paid to each of the workers during the quarter.

e. The amount of contributions due for the quarter.

f. 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.

(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. 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.

h. 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.

#### **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 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.

#### **370—2.5(96) Filing of quarterly report forms by newly subject or covered employers. Any employing unit which becomes an employer subject to this chapter within any calendar quarter other than by a voluntary election of the employing unit shall file reports for each calendar quarter on form IESC 21, employer's contribution and payroll report. Such reports shall include all wages paid during the current quarter as well as separate quarterly reports for wages paid in prior quarters of the same calendar year. The first quarterly reports of any such employer shall be due on the first day of the calendar month following the close of the calendar quarter in which the employing unit becomes subject to the Code and shall be considered delinquent if not submitted and paid on or before the last day of the month immediately following the quarter in which the employer's liability occurs.**

#### **370—2.6(96) Employer terminating business or changing trade name required to file report. Any employer who terminates business for any reason whatsoever, or transfers or**

sells all or a substantial part of the assets of the organization, trade or business to another, or changes the trade name of such business or address thereof shall, within ten days after such termination, transfer, or change of name or address, give notice in writing to the department of that fact. The employer shall set forth in such notice the former name and address of the business, the new name and address, the name of any new owner, and the employer's own name and present address. Such notification shall be on IESC 26, employer's notice of change, or on 108 RVS, employer's delinquency notice.

### **370—2.7(96) Exempt employing units and exempt employment.**

**2.7(1)** Any employing unit having workers performing services for it which it considers exempt from this Act shall file a form IESC 81, along with supporting exhibits and documents (i.e., contract, statements from employer and claimant) so that a decision can be made as to whether or not such service is in fact exempt from the provisions of this Act.

**2.7(2)** Any employing unit which has established its status as an organization exempt under this Act or that certain employment performed for it is not subject to contributions shall immediately notify the department of any changes in the character of its organization, the purposes and manner of its operation or the changed manner in which employment theretofore determined to be exempt by the department is performed.

**2.7(3)** Whenever an employing unit claims that any employment is not employment under this Act, the burden shall be on the employer to prove the exemption claimed.

### **370—2.8(96) Subject employers.**

**2.8(1)** Requesting determination of status. Whenever an employing unit is in doubt as to whether or\* not an individual is an employee, or is engaged in employment subject to the Act, the employing unit shall submit a statement of all relevant facts to the department for a determination as to the status under the Act of such individual or employment on form IESC 81, information for use in obtaining ruling from the Iowa department of job service as to whether or not a worker is an employee for the purposes of Iowa employment security tax.

**2.8(2)** Notification of status. The department shall maintain a separate account for each employer and shall notify the employer by mailing an IESC 70, notice of employer status, to the last known address. This notice will advise the employer of:

- a. The effective liability date.
- b. The date of the determination.
- c. The assigned industry code.
- d. The section of the law under which the employer was found liable.
- e. The federal identification number (if available).
- f. The Iowa department of job service account number.
- g. The contribution rate for that year.
- h. Whether the account was established new, reestablished or placed on an inactive status.

**2.8(3)** The notice shall be dated and the employer shall have thirty days from the date printed on the notice to protest all or any part of the information printed on the form IESC 70. The protest shall be in writing setting forth:

- a. The name, address and identification number of the employer.
- b. The name, address and official position of the person filing the protest.
- c. A brief statement of the question involved and reason for the protest.

**2.8(4)** Upon receipt of the protest, the department shall proceed to schedule a hearing, and shall mail a notice to the employer at the last known address at least seven days before the hearing, specifying the time and place of the hearing.

### **370—2.9(96) Employing units required to file report to determine liability.**

**2.9(1)** Each employing unit engaged in doing business in the state of Iowa on or after the first day of January, 1936, shall forthwith file a report to determine liability with the

\*Typo error corrected.

department of job service on a form supplied by the department setting forth the names, and addresses of the owners of its business, or if a corporation, association, or joint stock company, the names, and addresses of its officers, its principal place of business, the nature of its business, the number of individuals whom it customarily hires to perform services for it, the place or places where such services are performed, the time when such business was begun, the number of weeks in the year for which it is customary to operate such business and such other information as may be required by such form.

2.9(2) Each employing unit which shall hereafter begin business in the state of Iowa in any manner whatsoever whether by succession to a business already being operated, by starting a new business, or otherwise, shall, within thirty days after beginning such business, inform the department of job services of that fact, request the forms referred to in rule 2.9(1) and make and file the report required of all employing units by said rule.

### 370—2.10(96) Report of a partnership on change in partners.

2.10(1) *Change in partnership.* In any case in which a partnership consisting of two or more partners adds to or deletes a partner or partners and is not required by the internal revenue service to obtain a new federal identification number after such addition or deletion of partner or partners, the partnership shall notify the department of such change by filing an IESC 31, report of a partnership on change in partners, within ten days from the date the change occurred. The department will subsequently correct the partnership account to reflect this change.

2.10(2) *Reporting requirement.* If, after the change in partners the partnership is required to obtain a new federal identification number by the internal revenue service, or if there has been a change of ownership as described in section 96.19(6)"b" or a change of ownership as described in rule 3.28(96), then the new partnership shall notify the department by filing\* IESC 111, report to determine liability, within ten days from the date the change occurred.

### 370—2.11(96) Employer account.

2.11(1) The department shall maintain a separate account for each employer. Any employer having more than one business may have a separate account for each place of business or may combine them into one or more accounts. Each of the accounts will have its own experience rate and if disposed of, the account will be treated as if it were the employer's only account. If the employer sells a particular business that account would transfer to the purchaser (successor). If the employer closes a particular business the account for that business will be put in pending (inactive) status.

2.11(2) Each employer shall report all wages for employment paid by the employer in all employing enterprises and pay all contributions thereon into the active account or accounts maintained by the department. The title of the employer's account shall be the name of the individual, partnership, corporation, association or other organization constituting the employing unit, and may contain the trade name used by the employing unit. Where the employing unit is a fiduciary agent or legal representative, the title of the account shall be the name of the fiduciary or legal representative and the official title.

2.11(3) Each employer's account shall be assigned a number and except as the system of numbering accounts may be changed, the number identifying an employer's account shall not be changed.

### 370—2.12(96) Employer's request to maintain separate accounts.

2.12(1) Any employing unit having two or more separate establishments within this state may file a written request with the department that a separate account number be assigned to each separate establishment. The department at its discretion may grant the employing unit a separate account number for each separate establishment.

2.12(2) In any case in which a single employing unit having two or more separate establishments with separate account numbers sells or conveys such separate establishment

\*Typo error corrected.

to a successor employer, the account experience attributable to the separate establishment shall transfer to the successor employer as provided for in section 96.7(3)"b" of the Code.

**2.12(3)** When a covered employer acquires a separate enterprise or business, the employer shall have the option of carrying two separate accounts, one for each business, or merging the two businesses into one account, except when one of the two businesses is engaged in construction work, in which case the employer must carry separate accounts.

**2.12(4)** When an acquiring employer chooses to carry a separate account for each business, the employer shall succeed to the predecessor's contribution rate for the business acquired, and continue with the employer's established rate for the business the employer had prior to the acquisition of the second business. Future rates shall be based on the experience of each business separately. If the employer chooses to combine the two businesses under one account, the employer will have a choice of having the experience rate of the business recomputed as of the date of acquisition or continuing with the employer's established rate for the balance of the calendar year with future rates being based on the combined experience.

**2.12(5)** Information as to what the combined experience rate would be for the remainder of the year may be obtained by contacting the tax functions department.

**370—2.13(96) Procedure to be followed by an employer wishing to have an active account location coded for notice of claim for unemployment benefit mailing.**

**2.13(1)** Any employing unit reporting under an assigned account and having one or more separate and distinct employing locations in the state of Iowa may request in writing the assignment of a location code for the various separate and distinct establishments. The location code, which is limited to two digits, will be assigned for the specific purpose of mailing IESC 201A, notice of claim filing, to the location coded account so that responsible personnel at that location can make a timely protest on the form IESC 201A if the employment separation was for a disqualifiable reason. Those accounts so wishing may request in writing that all job insurance material other than the IESC 201A, notice of claim filing, be sent to the home office or regional accounting office. All such requests must be from a responsible financial or operating officer of the firm and shall indicate:

- a. Full trade name and address of each location to be coded.
- b. The full trade name and address of the home office or financial office that all job insurance material other than the form IESC 201A is to be sent.

**2.13(2)** It will be permissible to accept this information over the telephone by qualified personnel of the employer liability and audit department providing the employer makes known all of the above requested information and the person receiving this information notes the date it was received, the time it was received, who telephoned the information to the department and the name and telephone number of a responsible party that can be contacted if further verification is needed with respect to the location coding procedure. Employer liability and audit personnel receiving this classified information by telephone will accordingly note this and make it a matter of permanent record.

**2.13(3)** Once an account becomes location coded it will become the responsibility of the employer to complete the IESC 22, summary of quarterly payroll by location. The employer will record the following information on the form IESC 22, if it has not been preprinted on the form by the computer:

- a. Employer account number.
- b. The location code.
- c. Firm name and mailing address for form IESC 201A.
- d. Industrial classification code.
- e. The payroll page numbers for the location code payroll attributable to that location.
- f. The total wages attributable to the location code.
- g. The taxable wages attributable to that location.

**2.13(4)** Once the employer's account is properly location coded the following information will be preprinted by the computer on the form IESC 22:



*c. Location and methods of obtaining information.* All available information may be obtained by written request to the board in care of the following address: Advisory Investment Board, Iowa Public Employees Retirement System, 1000 East Grand Avenue, Des Moines, Iowa 50319.

*d. Board's agenda.* A person who wishes to be placed upon the board's agenda for its next meeting should file a verbal or written request with the executive secretary at least twenty-four hours prior to the meeting. The board may take up matters not included on its agenda.

*e. Costs of copies.* The board may charge persons requesting copies of statements and reports, the actual cost of the reproduction but the rate charged shall not exceed twenty-five cents per page.

*f. Quorum.* Two-thirds of the members eligible to vote on date of the meeting will constitute a quorum. A simple majority vote will be the vote of the board.

This rule is intended to implement sections 97B.5, 97B.8 and 97B.15 of the Code.

### **370—8.2(97B) Records to be kept by the employer.**

**8.2(1) Definition.** Each employing unit having employment performed for it shall maintain records to show the information hereinafter indicated. Such records shall be kept in such form and manner that it will be possible from an inspection thereof to obtain the facts necessary to determine the eligibility of each employee to coverage. Such records shall be open to inspection and be subject to be copied by the department and its authorized representatives at any reasonable time.

**8.2(2) Such records shall show with respect to each employee:** The employee's name, address and social security account number; each date the employee was paid wages or other wage equivalent (room, board, etc.); the total amount of wages paid on each date including noncash wage equivalent; the total amount of wages including wage equivalent on which IPERS contributions are payable; the amount withheld from wages or wage equivalent for the employee's share of IPERS contributions.

**8.2(3) Reports.** Each employing unit shall make such reports at such times as the IPERS office may require, and shall comply with the instructions printed upon any report form issued by the IPERS office pertaining to the preparation and return of such report.

This rule is intended to implement sections 97B.11 and 97B.14 of the Code.

### **370—8.3(97B) Liable employers.**

**8.3(1) Definition.** All public employers in the state of Iowa, its cities, counties, townships, and public schools are required to participate in IPERS, if any employee meets the minimum calendar quarter requirement. Some employers included are: The state of Iowa and its administrative agencies; counties, including their hospitals and county homes; cities including their hospitals; park boards and commissions; recreation commissions; townships; public libraries; cemetery associations; municipal utilities including water works, gas works, electric light and power; school districts including their lunch and activity programs; state colleges and universities; and state hospitals and institutions. Any employing unit, not already reporting to the IPERS office, which fulfills the conditions with respect to becoming an employer, shall immediately give notice to the IPERS office of that fact. Such notice shall set forth the name and address of the employing unit.

**8.3(2) Name change.** Any employing unit which has a change of name, address, or title of such unit or its reporting official, or any other identifying information, shall immediately give notice in writing to the IPERS office of that fact. Such notice shall set forth the former name, address and IPERS account number of the employing unit, the new name and address of the employing unit, and the reason for such change if other than a change of reporting official.

**8.3(3) Termination.** Any employing unit which terminates for any reason whatsoever shall provide the IPERS office with the following:

*a.* Complete name and address of the dissolved entity.

- b. Assigned IPERS account number.
- c. Last date on which wages were paid.
- d. Date on which the entity dissolved.
- e. Reason for the dissolution.
- f. Whether or not the entity expects to pay wages in the future.
- g. Name and address of absorbed employing unit if applicable.

**8.3(4) Reports of dissolved or absorbed employers.** An employing unit that has been dissolved or entirely absorbed by another employing unit is required to file a quarterly or monthly report with IPERS through the last date on which it legally existed. Any wages paid after the legal date of dissolution are reported under the account number assigned to the new or successor employing unit, if any.

**8.3(5) IPERS account number.** Each reporting unit is assigned an IPERS account number. This number should be used on all correspondence and reporting forms directed to the IPERS office.

This rule is intended to implement sections 97B.9—97B.12, 97B.41(3)“a” of the Code.

**370—8.4(97B) Definition of wages for employment during the calendar quarter—other definitions.** Unless the context otherwise requires, terms used in these rules, regulations, interpretations, forms and other official pronouncements issued by the IPERS office shall have the following meaning:

**8.4(1) “Wages”** means all compensation earned by employees, including vacation pay, sick pay, bonus payments, dismissal pay, amounts deducted from employee’s pay for tax-sheltered annuities, and the cash value of wage equivalents.

a. *Vacation pay.* The amount paid an employee during a period of vacation. Payment in lieu of vacation pay and vacation payments to an employee upon termination of employment are included and taxable as wages by IPERS.

b. *Sick pay.* Payments made for sick leave which are a continuation of salary payments.

c. *Bonus payments.* Allowance paid to an employee in addition to salary.

d. *Dismissal pay.* Pay by an employer to an employee whose services are ended independently of the employee’s will or wishes.

e. *Wage equivalents.* Items such as food, lodging and travel pay which are includable as employee income, if they are paid as compensation for employment. The basic test is whether or not such wage equivalent was given for the convenience of the employee or employing unit. Wage equivalents are not taxable under IPERS if given for the convenience of the employing unit. Wages paid in any other form than money are measured by the fair market value of the meals, lodging, travel or other wage equivalents.

**8.4(2) Wages** are taxable in the quarter in which they are actually paid to the employee.

**8.4(3) Wages** which do not equal or exceed the sum of three hundred dollars in any calendar quarter shall be excluded from IPERS coverage unless this amount is necessary to bring the employee’s taxable wages up to the annual covered wage maximum. See subrule 8.6(2).

a. “*Covered wages*” means wages of a member during the period of membership service up to the annual covered wage maximum. Effective January 1, 1976, the annual covered wage maximum is twenty thousand dollars.

(1) Effective July 1, 1973, covered wages shall not include wages to a member after the first day of the month coinciding with or next following such member’s seventieth birthday.

(2) If a member is employed by more than one employer during the calendar year, the total amount of wages paid to such member by such member’s employers shall be included in determining the annual covered wage maximum. If the amount of wages paid to a member by such member’s several employers during a calendar year exceeds the covered wage limit, the amount of such excess shall not be subject to contributions required by Iowa Code section 97B.11. See subrule 8.8(1)“d”.

This rule is intended to implement sections 97B.41(1)“a”, “b” of the Code.

**8.16(2)** A re-entry into public employment by an employee on leave of absence or military leave can be achieved if such individual accepts employment either with the same political subdivision the individual left when such leave began or a different political subdivision with which the individual has no previous connection, provided that:

*a.* In the case of a leave of absence, re-employment begins immediately after the authorized leave period ends.

*b.* In the case of a military leave, re-employment begins within ninety days of the individual's discharge from military service.

Upon a re-entry achieved in accordance with this rule, the member shall retain the service credits earned prior to such authorized leave period.

This rule is intended to implement sections 97B.41(3),(14) of the Code.

**370—8.17(97B) Membership status.**

**8.17(1)** The vested status of a member shall be determined when the member's contribution payments cease. At that time a comparison of the membership date and termination date will be made. If service sufficient to indicate vested status is present, after any periods of interruption in service have been taken into consideration, the member shall receive all the rights and benefits of a vested member in IPERS until or unless such member files for a refund of accumulated contributions. See Code section 97B.41(11).

**8.17(2)** For the purposes of this rule, four quarters of coverage shall constitute a year of membership service for a member employed on a fiscal or calendar year basis. A member working for a school district or other institution which operates on a nine-month basis shall be granted a year of membership service for each year in which the member has three or more quarters of coverage, provided that only one year of membership service credit shall be granted for any twelve-month period.

**8.17(3)** An employee who makes no contributions to the IPERS fund because such employee earned less than the qualifying wage limit in any calendar quarter is an inactive member, unless and until such member either earns an amount equal to or greater than the qualifying wage limit in a succeeding calendar quarter or applies for a refund of accumulated contributions.

This rule is intended to implement section 97B.41(3), (11), (18) of the Code.

**370—8.18(97B) Retirement dates.**

**8.18(1)** The first month of entitlement of a member who qualifies for retirement benefits shall be the first month coinciding with or next following the member's termination date from the payroll of the employing unit, except as provided in 8.18(2).

**8.18(2)** The first month of entitlement of a teacher who qualifies for retirement benefits shall be the first month after such teacher's termination date. The fact that such teacher may have one or two months' salary payable after the date of termination does not affect the retirement date.

This rule is intended to implement sections 97B.48(1), (2) of the Code.

**370—8.19(97B) Wage-earning disqualifications for retired members.**

**8.19(1)** Monthly benefit payments for retired members under age sixty-five years shall cease in the month the member earns an amount in covered employment sufficient to increase such member's calendar year earnings up to or greater than two thousand one hundred dollars. Amounts earned outside of covered employment are disregarded for the purpose of this rule.

**8.19(2)** Monthly benefit payments shall resume for any month in which a member, previously disqualified pursuant to 8.19(1), earns no covered wages.

**8.19(3)** Monthly benefit payments to the member shall resume for the first month of a new calendar year regardless of the member's covered earnings in any previous calendar year, unless the member is disqualified pursuant to 8.19(1).

**8.19(4)** A member over the age of sixty-five years who has completed a year of bona fide retirement and is subsequently re-employed in covered employment shall not be subject to any wage earning disqualification.

**8.19(5)** In order for a member to be eligible for monthly benefit payments, such member must have completed a period of bona fide retirement. A period of bona fide retirement means any period for which the member receives a monthly retirement benefit payment.

This rule is intended to implement section 97B.48(3) of the Code.

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## CHAPTER 9 FEDERAL SOCIAL SECURITY

### 9.1 Reserved.

**370—9.2(97C) Records to be kept by the employer.** Each employing unit having employment performed for it shall maintain records to show the information hereinafter indicated. Such records shall be kept in such form and manner that it will be possible from an inspection thereof to obtain the facts necessary to determine the eligibility of each employee to coverage. Such records shall be open to inspection and be subject to be copied by the commission and its authorized representatives at any reasonable time. Such records shall be kept for a period of five years after the calendar year in which the remuneration to which they relate was paid, or if not paid was due.

**370—9.3(97C) Contents of records.** Such records shall show with respect to each employee:

1. The employee's name, address and social security account number.
2. Each date the employee was paid wages or other wage equivalent (room, board, etc.).
3. The total amount of wages paid on each date including noncash wage equivalent.
4. The total amount of wages including wage equivalent of which IPERS contributions are payable.
5. The amount withheld from wages or wage equivalent for the employee's share of IPERS contributions.

### **370—9.4(97C) Reports.**

**9.4(1)** Each employing unit shall make such reports at such times as the IPERS office may require, and shall comply with the instructions printed upon any report form issued by the IPERS office pertaining to the preparation and return of such report.

# GENERAL SERVICES DEPARTMENT[450]

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Whenever a tie involves one or more Iowa firms and one or more firms outside the state of Iowa the drawing will be held among the Iowa firms only.

Tie bids involving Iowa produced or manufactured products and items produced or manufactured outside the state of Iowa will be resolved in favor of the Iowa product.

**450—1.5(18) Vendors appeal.** Any vendor whose bid has been timely filed, and who is aggrieved by the award of the purchasing division, may appeal the purchasing division decision by filing a written appeal to the director of general services within three days of the date of the award, exclusive of Saturdays, Sundays and legal holidays. Upon receipt of the director of general services written decision the vendor may, if desired, appeal the directors decision by filing a written appeal with the Iowa executive council within three days of the date of the directors written decision, exclusive of Saturdays, Sundays and legal holidays.

**450—1.6(18) Delivery and acceptance of commodities.** When an award has been made to a vendor and the official purchase order issued and received by the vendor, deliveries are to be made in the following manner.

**1.6(1) Deliveries.** All deliveries are to be made only to the point specified on the official purchase order. If delivery is made to any other point it shall be the responsibility of the vendor to promptly reship to the correct location.

**1.6(2) Delivery charges.** All delivery charges should be to the account of the vendor whenever possible. If not, all delivery charges should be prepaid by vendor and added to the invoice.

**1.6(3) Notice of rejection.** The nature of any rejection of a shipment, based on apparent deficiencies disclosed by ordinary methods of inspection, will be given by the receiving agency, to the vendor and carrier within a reasonable time after delivery of the item, with a copy of this notice to the purchasing division. Notice of latent deficiencies which would make items unsatisfactory for the purpose intended may be given by the state of Iowa at any time after acceptance.

**1.6(4) Disposition of rejected item.** The vendor must remove at the vendors expense any item rejected by the state of Iowa. If the vendor fails to remove the rejected item the state of Iowa may dispose of the item offering same for sale, deduct any accrued expense and remit the balance to the vendor.

**1.6(5) Testing after delivery.** Laboratory analysis of an item or other means of testing may be required after delivery. In such cases, vendors will be notified in writing that a special test is being made and that payment will be withheld until completion of the testing process.

**450—1.7(18) How to initiate payment.** It is the intent of the department's purchasing division to process vendor's claims against the state of Iowa as rapidly as possible. However, there are certain procedures that a vendor must follow in order to properly initiate the payment of a claim. If a vendor will follow the outline as listed below, payment can be expected within a reasonable time period.

**1.7(1) Vendor purchase order.** Vendor will receive a copy of purchase order that will serve as authorization to supply items as listed on the purchase order to the agency named and delivery to the designated geographic location.

**1.7(2) Original invoice required.** After the merchandise has been shipped to the agency, the vendor shall prepare an invoice in triplicate, one copy of which must be clearly marked "original copy" or "customer order", and said invoices forwarded to the named agency. Vendors invoice, as submitted, must refer to the order number appearing in the upper right hand corner of the purchase order.

In case where a vendor is not able to render a copy of an invoice as outlined above it will be necessary to proceed as follows: Prepare an invoice in triplicate and clearly state on one copy of same the following: "We certify that the items for which payment has been claimed were furnished for state of Iowa business and that these charges are reasonable proper and correct and none of it has been paid"

(Authorized Signature).

1.7(3) *Warrant issuance.* After the vendors invoices have been received by the agency, and the agency certified that the merchandise has been received as ordered, vendors claim will be submitted to the state comptroller and a warrant issued to vendors account.

1.7(4) *Warrant identification.* The state warrant will be mailed along with a copy of the original vendors claim voucher to assist vendor in identifying the payment. The remittance copy of the voucher is for vendor's file.

1.7(5) *Correspondence.* All correspondence regarding payment should be addressed to the agency named with a copy to the purchasing division.

Invoices bearing cash discounts will receive priority in processing.

1.7(6) *Payment after delivery.* Payment for merchandise or services can only be made after said merchandise has been delivered or services rendered.

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CHAPTER 2  
PURCHASING PROCEDURES FOR STATE AGENCIES

450—2.1(18) *Items purchased by centralized purchasing.* All items of an expendable or nonexpendable nature and certain services used by an agency are to be purchased through the department of general services purchasing division. Some examples of these items are:

Typewriters	Tools	Fuel oil
Adding machines	Medical supplies	Pest control service
Calculators	Dental supplies	Janitorial service
Desks, Chairs	Equipment leasing of all types	All types of office supplies
Tables	Oxygen and acetylene gas	(not carried in central supply)

It shall be the function of the individual agency with offices located within the Des Moines capitol complex area to obtain the following types of services for the agencies' individual needs. Some examples are:

Professional consulting services, newspaper advertising, tuition, court costs, filing fees, hearing officers' fees, outgoing freight, press clippings, rental of conference rooms, exhibit space, office machine service contracts.

Agencies located outside the Des Moines capitol complex shall be responsible for obtaining not only the above types of services but also the following listed services:

Public utilities, engineering fees, architectural fees, large equipment services contracts (including but not limited to elevator services, x-ray equipment, closed circuit television surveillance equipment, etc. Repair parts are not to be included).

The purchasing division will on request assist in obtaining any services required by an agency. It shall be the responsibility of the individual agency to obtain any needed authorization for such expenditures which may be required by the Code of Iowa or by authorization of another branch of state government which may have jurisdiction over fund expenditures.

This rule is intended to implement section 18.3(1) of the Code.

450—2.2(18) *Purchases exempt from competitive bidding.* The director of general services or his or her designee may exempt an item from a competitive bidding procedure when he or she determines that the best interest of the state will be served due to an immediate or emergency need for an item. The agency shall submit to the director in writing a description of the item or items to be purchased, cost of the item and the reasons why the purchase should be or was considered an emergency need or immediate need.

This rule is intended to implement section 18.6(2) of the Code.



**450—2.3(18) Methods of procurement used by central purchasing division.** The department of general services purchasing division, shall purchase all commodities by obtaining competitive bids whenever possible. Bids are to be obtained by use of one of the following methods:

**2.3(1) Formal quotations.**

*a.* Formal sealed bid quotations as outlined in this paragraph will be required on all items costing in aggregate between \$2,500 and \$15,000. The purchasing division will prepare a written "invitation to bid" form and mail same, with a special return bid envelope to the approved list of vendors for the particular class of commodity. The "invitation to bid" shall contain the following information:

- (1) Due date and time of formal public bid opening.
- (2) Complete description of commodity needed.
- (3) Buyer's name or code.

Bids shall be opened publicly and read aloud on the date and at the hour designated on the "invitation to bid" form. Bids as received are to be tabulated and the tabulation will be made available to all interested parties at the centralized purchasing office. An award shall be made within thirty calendar days of the formal bid opening to the lowest compliant bidder. The department of general services purchasing division reserves the right to request up to ninety calendar days to award a contract on highly technical equipment. If an award is not made within the thirty to ninety calendar days as outlined on the bid document the bids shall be rejected and prices as quoted by a vendor shall not be binding unless mutual agreement has been reached for an extension of time.

*b.* Formal quotation as outlined in this paragraph will be required on all nonexpendable items costing in aggregate \$15,000 or more. The purchasing division will prepare a written "invitation to bid" form and handle as in "a" above. In addition to the use of the invitation to bid form a notice will be printed in at least one daily paper in the state of Iowa under the heading "official publication". The official publication shall contain the following information:

- (1) Due date and time of formal bid opening.
- (2) General description of commodity to be purchased.
- (3) Address, name, and phone number of persons to be contacted to obtain official bid form.

Bids shall be opened publicly and read aloud on the date and at the hour designated on the "invitation to bid" form. Bids as received are to be tabulated and the tabulation will be made available to all interested parties at the centralized purchasing office. An award shall be made within thirty calendar days of the formal bid opening to the lowest compliant bidder. The department of general services purchasing division reserves the right to request up to ninety calendar days to award a contract on highly technical equipment. If an award is not made within the thirty to ninety calendar days as outlined on the bid document the bids shall be rejected and prices as quoted by a vendor shall not be binding unless mutual agreement has been reached for an extension of time.

**2.3(2) Informal quotations.** On any item or group of items costing less than \$2,500 the purchasing division shall obtain bids in one of the following ways: By preparing a written "invitation to bid" form and mailing to the approved list of vendors for that particular class of commodity. The "invitation to bid" shall contain the following information:

- a.* Due date "invitation to bid" must be returned.
- b.* Complete description of commodity needed.
- c.* Buyer's name or code.

Bids are to be opened informally on the due date or within twenty-four hours of same, and an award made to the lowest compliant bidder meeting specifications. Bids as received are to be tabulated and the tabulation will be made available to all interested parties at the centralized purchasing office. An award shall be made within at least fifteen days of due date shown. The purchasing section may obtain telephonic bids on any expendable item or group of items costing less than \$500. Said bids must be documented on a special "telephone bid" form.

This rule is intended to implement sections 18.3(1), 18.6(1), 18.6(6) and 18.6(8) of the Code.

**450—2.4(18) Methods and procedures used by agency to obtain commodities.** General services purchasing division will provide the individual agency with several methods of obtaining commodities and equipment. The purpose of contract purchasing is to provide the agencies with a means of obtaining needed commodities in an economical and prompt manner and at the same time control agency inventories. The following methods are available to the agencies:

**2.4(1) Contract purchases.** There are three types of contract purchases used in the purchasing procedures:

*a. General contract.* This form of contract is entered into by general services purchasing division to purchase commodities or equipment items that are in general use by all agencies. These contracts may include such items as:

Typewriters	Filing cabinets
Photographic film	Hand tools
Adding machines	Light bulbs
Laboratory supplies	Surgical dressings

The individual agency will be advised annually of the types of contracts that are on file in the purchasing division and may request copies of any or all of the contracts. The agency then refers to the appropriate contract and prepares the official 7-part state purchase order for items to be delivered from the contract. Contracts of this nature are normally entered into for a period of one year.

*b. Individual contract.* This form of contract is entered into by the general services purchasing division to purchase specific commodities that are primarily used by one agency and that are not commonly needed by another agency. An individual agency may request the purchasing division to enter into this type of contract purchasing to expedite delivery of commodities that fall into this category. These contracts may include such items as:

Uniforms	Ice and snow removal
Janitorial services	Survey equipment and supplies
Shelving	Disposal of wastepaper

The agency then prepares the official 7-part state of Iowa purchase order for commodities as required.

*c. Preitemized contract purchase.* General services purchasing division may enter into a contract purchase agreement for selected groups of commodities on which standard state specifications have been established and the commodities are in common use by a majority of the state agencies. The purchasing division will furnish each state agency with a list of such commodities that will be purchased during the ensuing period. The using agency will then advise the purchasing division on forms provided the anticipated needs of the agency. The purchasing division will obtain bids, award contracts and advise the agencies of the successful contractor of each item listed. The agency or centralized purchasing will then prepare a 7-part official state purchase order for items to be delivered from the contract.

**2.4(2) Requisition purchasing of noncontract commodities.** There are numerous expendable and nonexpendable items that the agency will not be able to purchase under the contract system of purchasing. The agency will then request the department of general services purchasing division to obtain special bids and purchase such items for the agency. This is accomplished by the following procedure:

*a. Agency ascertains needs.*

*b. Agency fills out official requisition form.*

The purchasing division will write detailed specifications, obtain bids and issue a purchase order to the responsible vendor. The purchasing division may contact the requesting agency regarding an item to be purchased to ascertain if the item proposed by a vendor will be acceptable to the agency.

**2.4(3) Field purchases.** The general services purchasing division may authorize an agency to use a 7-part field purchase order form to purchase expendable items provided that the total value of such an order does not exceed \$150.00. Items of equipment are not to be purchased by use of a field purchase order nor can a field purchase order be used to

pay for leased equipment. The use of this type of purchasing should be limited to those items not normally covered by contract. These items could include the following categories:

- Fresh fruits and vegetables
- Emergency medical
- Repair parts for essential equipment
- Building materials needed for emergency repairs

Purchases of this type are made in the following manner:

- a. Agency ascertains needs.
- b. Agency obtains price from one or more vendors.
- c. Agency prepares a special 7-part field purchase order.

**2.4(4)** *Agencies may be authorized to purchase directly.* Upon request, agencies may be permitted to purchase directly from a vendor if the direct purchasing is more economical to the state than purchasing through the department of general services purchasing division. Purchases made under this authority are to be made only on forms as authorized by the director of general services.

Requests to purchase direct should be in writing, if possible, or by telephonic communication to the director of general services or the purchasing division. The request should explain the particular need, estimated cost and the degree of emergency.

The director of the department of general services may grant permanent authorization to an agency to purchase certain commodities for a stipulated period of time, if in his or her opinion the needs of the requesting agency will be best served.

Any agency denied the opportunity to purchase directly may appeal the director's decision to the state executive council.

This rule is intended to implement sections 18.3(1), 18.6(1), 18.6(6) and 18.6(8) of the Code.

**450—2.5(18) Purchases under \$50.00.** In order to serve all agencies in the purchase of expendable supply items such as small purchases of books, subscriptions to a single magazine, special supply items (not carried in central supply) and with a total cost of not more than \$50.00; agencies are allowed to purchase many of these items without notifying centralized purchasing.

The merchandise as described above may be purchased by use of the comptrollers form voucher 1. The form voucher 1 and invoice is to be sent directly to the comptrollers preaudit section for processing.

Agencies will not be permitted to use this method to purchase any type of equipment items, draperies, carpeting, office furniture or any item that is on a statewide GSA contract. Items of this type will be purchased by use of a general services purchase form.

**2.5(1) Definition of equipment.** Any item costing \$100.00 or more and has an anticipated life of two years or more, plus all of the following items:

All types of chairs, tables, full suspension legal/letter-size files (any size), kardex files and desk card file cabinets of more than four drawers, surveying equipment, binoculars and pocket calculators, plus any item that bears a serial number assigned by the original equipment manufacturer.

Hand tools (saws, hammers and screwdrivers, etc.), and normal desk supply items (staplers, punches, wastebaskets, etc.) are not considered equipment.

The comptrollers preaudit sections will not only be preauditing claims for arithmetic errors but will be observing any attempts by an agency to bypass normal purchasing procedures. Violations of normal purchasing procedures could mean that this special purchasing privilege could be withdrawn from a department or the whole program discontinued.

This rule is intended to implement section 18.6(1) of the Code.

**450—2.6(18) Authorization and purchase of certain nonexpendable items.** For agencies requesting the purchase or lease of the following types of equipment it will be necessary that the purchasing document or the requisition from the agency be accompanied by a letter of authorization or a letter of justification for such a purchase.

**2.6(1)** Communication and/or alarm systems. Any form of a two-way radio system, closed or open circuit television system, fire or police alarm system, WATS line or any type of a communications system that involves the use of the telephonic system of transmission, facsimile or data communications must be previously approved and specifications written by the communications division of the department of general services.

**2.6(2)** Printing and reproduction equipment. Any form of printing or reproduction equipment including offset presses, letter presses, office copiers or any type of duplicating or bindery equipment must be previously approved and specifications written by the printing division of the department of general services.

**2.6(3)** All cars and trucks must be previously approved by the vehicle dispatcher division of the department of general services.

**2.6(4)** All data processing equipment or software must be purchased or leased in accordance with chapter 4 of these rules.

**2.6(5)** All microfilming equipment and filing systems must be approved by the records management division of the department of general services.

**2.6(6)** The purchasing division of the department of general services is required to present a nonexpendable item or a group of items estimated to cost in excess of \$15,000.00 to the director of general services or his or her designee for approval. The director of general services, or his or her designee at his or her discretion, may request additional justification or authorization for such a purchase.

This rule is intended to implement section 18.3(1) of the Code.

**450—2.7(18) Purchases denied by director.** The director of general services may refuse to process state agency requisition to purchase, purchase orders, field purchase orders or any other document of acquisition or lease, if, in his or her opinion the purchase would not be in the best interest of the state. The state agency has the right to appeal the director's decision to deny any purchase in accordance with section 18.7 of the Code.

This rule is intended to implement section 18.4 of the Code.

**450—2.8(18) Authorized signatures.** Each state agency shall provide the department of general services purchasing division with a list of those employees authorized to sign the various purchasing documents and requisition forms for the various amounts as outlined below:

1. Any item or group of items costing less than \$2,500.00.
2. Any item or group of nonexpendable items costing in excess of \$2,500.00 but not exceeding \$5,000.00.
3. Any item or group of nonexpendable items costing in excess of \$5,000.00.
4. The department of general services purchasing division may request justification and authorization for a group of expendable items costing in excess of \$2,500.00.

This rule is intended to implement section 18.3(1) of the Code.

**450—2.9(18) Authorization may be granted to "satellite" agencies.** An agency may have one or more "satellite" agencies who receive a direct appropriation of funds by legislative action for supportive operational function. The central agency authority may permit such "satellite" agencies to process their purchasing requirements directly through the purchasing division. Social Services institutions are examples of satellite agencies.

This rule is intended to implement section 18.3(1) of the Code.

**450—2.10(18) Purchase for area agencies or community offices.** An agency may have several area or community offices located throughout the state of Iowa and the purchase for such offices shall be correlated through the central agency authority and processed in the same manner as the requirements of the central agency.

The central agency may delegate some authority to the area or community offices regarding the purchasing procedures but area and community employees shall not be

granted authorization to sign any official state purchasing document. Liquor stores, employment security offices, conservation field offices and social services district offices are examples of area agencies or community offices.

This rule is intended to implement section 18.3(1) of the Code.

**450—2.11(18) Purchases from capital improvement funds.** State agencies may receive a special appropriation of funds by legislative action, for construction of new facilities, repair of present facilities or for the improvement of, or maintenance of real property under the agencies jurisdiction. These funds are usually expended under special contractual arrangements consummated by the agency. However, there may be instances that a portion of capital improvement funds may be used for the purchase of new equipment and/or supplies for a specific project that are not purchased by the general contractor. Purchases of this type shall be handled in the normal purchasing manner as outlined by these rules.

This rule is intended to implement section 18.3(1) of the Code.

**450—2.12(18) Purchases from agency revolving funds authorized by legislative action.** Legislative action may authorize an agency the use of a revolving fund to operate such agency functions as a central distribution center for "satellite" agencies or industrial shops producing merchandise for resale to other government agencies.

Purchases from funds of this type shall be handled in the normal purchasing manner as outlined by these rules.

This rule is intended to implement section 18.3(1) of the Code.

**450—2.13(18) Purchases from special funds and grants.** State agencies may receive special funds or grants to fund specified projects or to assist in the payment of certain programs under the jurisdiction of an agency. Sources of these funds may include federal grants, private foundation grants, bequests, wills and funds donated by organizations or individuals for specified projects. Purchases from funds of this type shall be handled in the normal purchasing manner as outlined by these rules.

This rule is intended to implement section 18.3(1) of the Code.

**450—2.14(18) Purchases from gift accounts, guardian accounts and trustee accounts.** State agencies may have special funds entrusted to them by individuals that are to be used for the benefit of a person or persons placed under the jurisdiction of an agency and said funds are to be used for the benefit of a certain individual or group of individuals. For purchases and expenditures from funds of this type it shall be the responsibility of the agency authority to establish a system that is in accordance with the Code of Iowa and is acceptable to all governing bodies having jurisdiction over the audit and fund accounting system of the state of Iowa.

This rule is intended to implement section 18.3(1) of the Code.

**450—2.15(18) Purchases for agency operated canteens, hobby shops, concession stands and automatic vending stations.** Agencies may be authorized to directly or indirectly operate canteens, hobby shops, concession stands and automatic vending stations under jurisdiction of the agency subject to an annual audit by the auditor of the state of Iowa. Purchase of equipment for the operation of these facilities is to be made through the general services purchasing division.

The purchase of commodities offered for resale by any of these methods shall be the responsibility of the agency authority. It shall be the responsibility of the agency to establish a system of payment for commodities purchased that is in accordance with the Code of Iowa and is acceptable to all governing bodies having jurisdiction over the audit fund accounting system of the state of Iowa.

This rule is intended to implement section 18.3(1) of the Code.

**450—2.16(18) Special handling of partial or incomplete shipment from a vendor.** From time to time it may be necessary for a vendor to make a partial shipment of an order with the balance of the order to be shipped within a specified time period. The agency may elect to:

1. Record the receipt of merchandise and accept that portion delivered and withhold payment until all merchandise has been received as ordered.

2. Record the receipt of merchandise and accept that portion, as delivered. Request the vendor to invoice in triplicate for that portion delivered and present for payment for that portion received (purchase order to be indicated partial payment). Then the agency is to issue a new purchase order for the balance of the merchandise to be delivered at a later date. Reference must be made on the new purchase order to original purchase order issued.

3. If all commodities have not been delivered by the scheduled delivery date the agency may request the central purchasing division to cancel the balance of the order and purchase from the next lowest responsible bidder.

This rule is intended to implement section 18.3(1) of the Code.

**450—2.17(18) Special handling of changed purchase orders.** It may be necessary, at times, to authorize a change in purchase order as originally written. An agency may accomplish a change in an order by proceeding in one of the following manners:

1. If a change is necessary due to an arithmetical error in extension or addition and there is no change in the per unit cost of an item the agency may show the correct total on agency claim voucher. The agency should also correct copy 6 of the original purchase order in their file.

2. If there is a decline in price of an item as shown on the original purchase order the agency is to change unit price to coincide with the invoice price. The agency should also correct copy 6 of the original purchase order in their file.

3. If there is an increase in price or quantity of an item as shown on the original purchase order, change in F.O.B. point or a change in discount the agency is to advise the purchasing division in writing of such changes. The purchasing division will contact the vendor and make a decision if the change is to be allowed. The purchasing division will advise the agency and the vendor of their decision by use of "advise of change in purchase order" form. The agency on receipt of this form will make changes, if authorized, attach copy 3 of change authorization to corrected agency claim voucher and forward to the purchasing division for processing. The agency should attach copy 4 of the change authorization to agency copy 6 of the original purchase order.

This rule is intended to implement section 18.3(1) of the Code.

**450—2.18(18) Procedure to follow for trading in equipment.** An agency may wish to trade in an item of equipment when purchasing new equipment, this may be accomplished by one of the following procedures.

**2.18(1)** Typewriters, adding machines, calculators and certain other items of office equipment are normally purchased by the agency by use of a general contract. The agency prepares the purchase order in the normal manner and lists the following information:

Make—model—serial number—state inventory tag number, description of item, date of purchase, and the trade-in price allowed. The trade-in price is deducted from the cost of the new equipment and forwarded to the purchasing division in the normal manner. The purchasing division will determine if the trade-in allowance is reasonable. If the purchasing division determines it is not reasonable the merchandise will be declared surplus by the department of general services.

**2.18(2)** Any item of equipment being purchased by use of "purchase requisition form". The agency is to list directly after the description of the item to be purchased a description of the item to be traded in.

The central purchasing division will then process the requisition in the normal manner and obtain all necessary information regarding the trade-in allowances.

This rule is intended to implement section 18.3(1) of the Code.

**450—2.19(18) Contract items provided to governmental subdivisions.** Upon request from any governmental subdivision, the general services purchasing division shall furnish a list of items on state contract. The division shall also provide specifications, prices and discount terms for specific items as requested from the governmental subdivisions.

This rule is intended to implement section 18.6(7) of the Code.

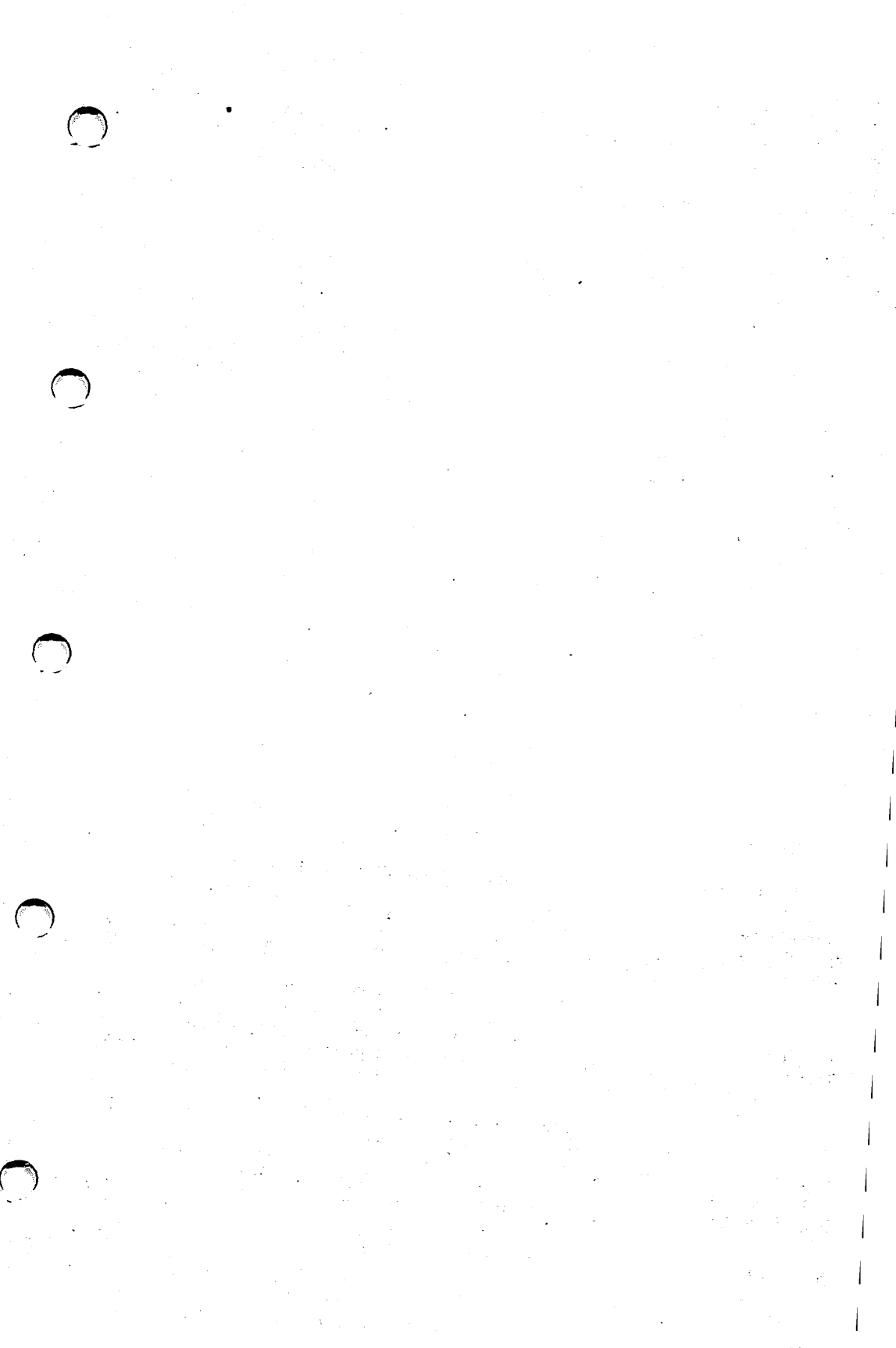
**450—2.20(18) Payment to vendors.** After goods and/or services have been received by a state agency, it is the responsibility of each agency to immediately process the purchasing document and the invoice for payment. It is the responsibility of each agency to initiate payment to the vendor within the discount period.

This rule is intended to implement section 18.3(1) of the Code.

**450—2.21(18) Purchases from Iowa state industries.** The centralized purchasing division will purchase items, materials, supplies and equipment from Iowa state industries in accordance with the provisions contained in chapter 87, Sixty-seventh General Assembly, first session.

[Filed 3/16/78, Notice 12/14/77—published 4/5/78, effective 5/10/78]

CHAPTER 3  
Reserved





# JUDICIAL NOMINATING COMMISSION (STATE)[525]

## CHAPTER 1

### RULES OF PROCEDURE

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- 

## CHAPTER 1

### RULES OF PROCEDURE

**525—1.1(Art.V,§15,ch46) Authority.** The state judicial nominating commission is responsible for making nominations to fill vacancies on the supreme court of Iowa and Iowa court of appeals. The commission in making nominations is governed by Article V, Sections 15 and 16 of the Iowa Constitution, Chapter 46 of the Iowa Code, and these rules of procedure.

**525—1.2(Art.V,§15,ch46) Responsibility of commission.** It is the duty of the commission to nominate the most qualified persons available for appointment to the supreme court of Iowa or the Iowa court of appeals. In carrying out this duty the members of the commission should not limit their consideration to persons who have been suggested by others or to persons who are known to be available for appointment to the supreme court or court of appeals. The members should always keep in mind that often the persons with the highest qualifications do not actively seek judicial appointment. Thus, it is incumbent upon the members to seek out well qualified persons and to encourage them to agree to accept the nomination.

**525—1.3(Art.V,§15,ch46) Procedure.**

**1.3(1)** When a vacancy on the supreme court or court of appeals occurs or will occur within sixty days, the secretary of state is obligated to so notify the chairman of the state judicial nominating commission. Within ten days of receiving the notice of vacancy the chairman shall call a public meeting of the commission and give notice as prescribed in section 46.13.

**1.3(2)** In addition, at the time of calling the public meeting the commission chairman shall make a news release to the public media, including Associated Press, United Press International, Iowa Daily Press Association, Iowa Press Association, and also the Iowa State Bar Association by notification to the secretary's office. Said news release shall include the following:

- a. That a vacancy has or will occur on the supreme court or court of appeals.
- b. That a meeting of the commission is to be held at a designated time and place.
- c. That any citizen may submit in writing to any commissioner the names of persons for consideration and express views concerning such potential nominee.
- d. The name and address of each commissioner.

**1.3(3)** In order to be considered for balloting a person must have been nominated in writing by a commissioner by mail addressed to the secretary with a copy to the other commissioners postmarked at least ten days before the date of balloting and answers to the

questionnaire must have been mailed by the commissioner or the nominee to the secretary and all other commissioners postmarked at least seven days prior to the balloting. Upon timely request in writing, a commissioner shall make available to a candidate for nomination the questionnaire herein required and shall nominate such candidate as provided herein. Such nomination shall not of itself be considered as an endorsement of the candidate. The secretary shall prepare a register of the names eligible for balloting in accordance with these rules, which together with answers to the questionnaires provided for herein shall be public information.

1.3(4) The commission shall submit a questionnaire to each person it is considering for nomination. The questionnaire shall include the questions deemed relevant by the commission as to the background and qualifications of the person and shall ask the person whether he will serve if appointed.

1.3(5) Commission members shall conduct investigations into the qualifications, both private and professional, of persons being considered by the commission.

1.3(6) The commission may arrange for one or more commission members to interview persons it is considering in order to determine their qualifications.

1.3(7) Selection of the nominees of the commission shall be made at private meetings. Voting shall be conducted by secret ballot. The secretary of the meeting shall prepare a list of all persons being considered by the commission for nomination. On the first ballot each member of the commission present must vote for three persons per vacancy. A person shall be nominated upon receiving eight, or more, votes. The balloting shall thereafter continue until three persons per vacancy shall receive at least eight votes. On ballots subsequent to the first ballot, members shall vote for only so many persons as there are nominees remaining to be selected. At any time during such meeting the commission may reconsider any vote previously taken. Other discussions, investigations, recesses or adjournments as the commission deems appropriate may occur at any point in the selection process by a majority vote.

1.3(8) After the commission has chosen by ballot the persons it will nominate, it shall hold an adjourned public meeting, the time and place to be announced by the chairman of the commission. At this meeting the commission shall formally nominate the persons selected under subrule 1.3(7) and the nominations shall immediately thereafter be communicated to the governor and to the chief justice of the supreme court.

#### **525—1.4(Art. V, §15, ch46) Rules for private meetings.**

1.4(1) With the exception of the public meetings required by law and these rules of procedure, all meetings of the commission may be confidential upon a vote of two-thirds of the members present.

1.4(2) The commission may receive any testimony or information that may aid it in the selection of nominees.

1.4(3) Full and frank discussion among the members of the commission concerning any person being considered by the commission is encouraged.

1.4(4) Consideration of persons shall be in alphabetical order.

#### **525—1.5(Art. V, §15, ch46) Miscellaneous.**

1.5(1) The commission may act only at a meeting at which a quorum of eight members are present. The commission may act by majority vote of members present except in the formal making of the nominations, which shall require the affirmative vote of the majority of the full statutory number of commissioners. (Section 46.14)

1.5(2) The chairman shall preside at any meeting at which he is present; and in his absence the commission may choose a member to act as temporary chairman.

1.5(3) The commission shall choose an official secretary to serve at the pleasure of the commission. It is the duty of the secretary, or one so acting, to prepare and keep the minutes of all meetings. In the secretary's absence the commission may choose a member to be acting secretary.

1.5(4) The minutes of meetings of the commission must record the names of the members present, any objections to the holding of the meeting on the ground of lack of or insufficiency of notice, any action taken by the commission, and any other matters that the commission may deem appropriate.

1.5(5) The minutes of nonpublic meetings shall be kept confidential and are available, prior to the formal nominations, to commission members only. After nominations have been submitted to the governor, the minutes shall be sealed and sent to the clerk of the supreme court, and thereafter may be available to commission members only upon concurrence of a majority of the commission. Five years after the governor's appointment of one of the nominees, the record of proceedings for that appointment may be destroyed upon authorization by the commission.

1.5(6) A commission member may at the request of the governor discuss the merits of any nominee with the governor or his representative following submission of nominations by the commission and prior to appointment, but the commissioner shall not, however, disclose the discussion or voting in executive session of the commission. In all other respects, except as otherwise provided, the commission shall keep the results of all investigations and private meetings in the strictest confidence.

1.5(7) If and when funds are available, the commission shall provide each commission member with a handbook that shall include:

a. The constitutional and statutory provisions relating to the state judicial nominating commission.

b. These rules of procedure.

c. Personal attributes and qualities desired in a nominee; and

d. The canons of judicial ethics.

1.5(8) Each member of the commission is entitled to receive at least five days notice of a meeting of the commission unless he waives in writing notice of the meeting or unless the commission at its next previous meeting designates the time and place of the meeting. All waivers of notice and a copy of the notice of a meeting shall be filed with the minutes of the meeting.

[Filed 3/21/78, Notice 12/14/77—published 4/5/78, effective 5/10/78]



# LABOR, BUREAU OF[530]

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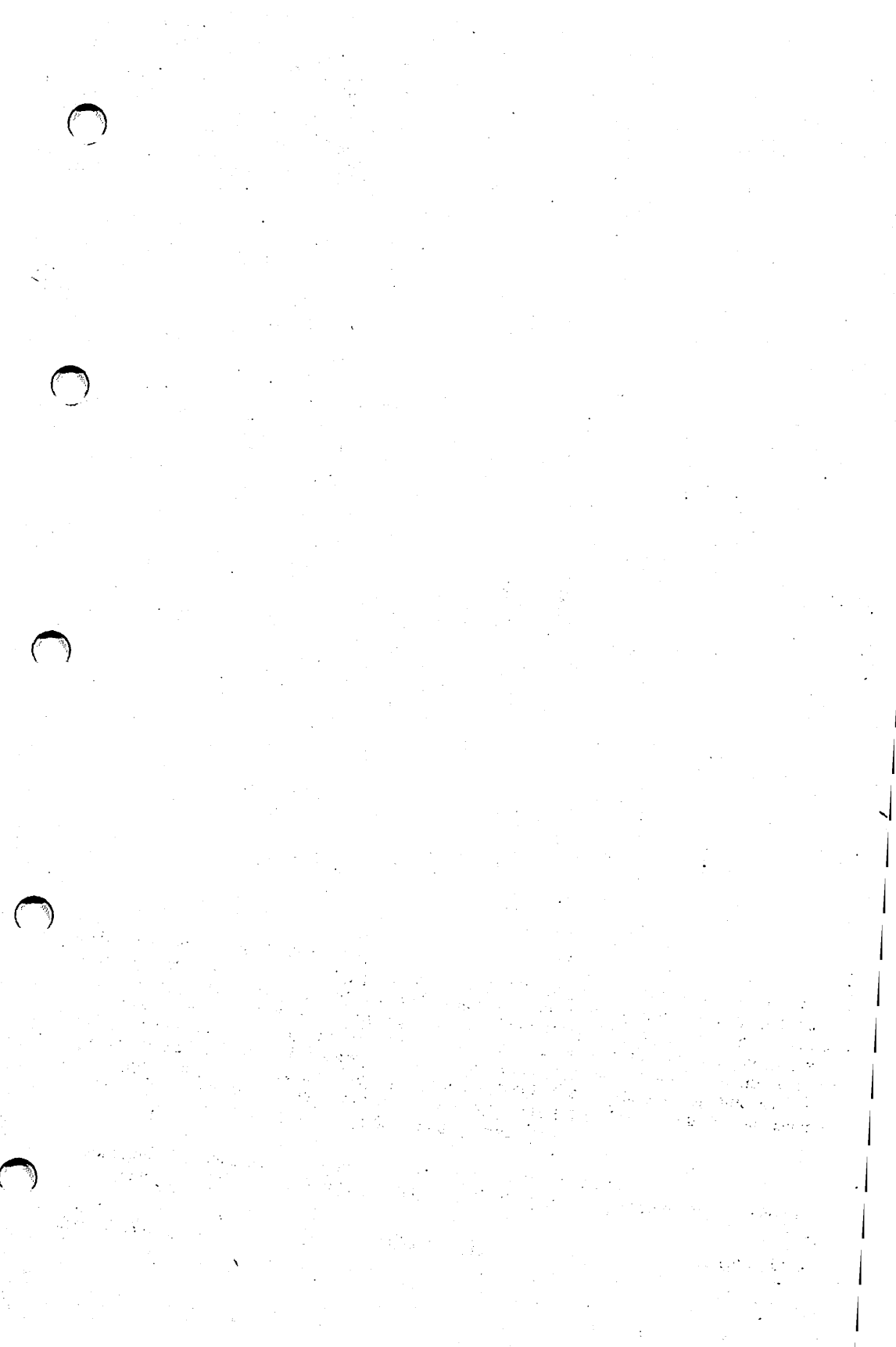
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occupational accidents and illnesses, and for maintaining a program of collection, compilation and analysis of occupational safety and health statistics.

**530—4.2(88) Log of occupational injuries and illnesses.**

4.2(1) Each employer shall, except as provided in 4.2(2): (1) Maintain in each establishment a log and summary of all recordable occupational injuries and illnesses for that establishment; and (2) enter each recordable injury and illness on the log and summary as early as practicable but no later than six working days after receiving information that a recordable injury or illness has occurred. For this purpose, form OSHA No. 200 or an equivalent which is as readable and comprehensible to a person not familiar with it shall be used. The log and summary shall be completed in the detail provided in the form and instructions on form OSHA No. 200.





4.2(2) Any employer may maintain the log and summary of occupational injuries and illnesses at a place other than the establishment or by means of data-processing equipment, or both, under the following circumstances:

a. There is available at the place where the log and summary is maintained sufficient information to complete the log and summary to a date within six working days after receiving information that a recordable case has occurred, as required by 4.2(1).

b. At each of the employer's establishments, there is available a copy of the log and summary which reflects separately the injury and illness experience of that establishment complete and current to a date within forty-five calendar days.

**530—4.3(88) Records.** Records shall be established on a calendar year basis.

**530—4.4(88) Supplementary record.**

4.4(1) In addition to the log and summary of occupational injuries and illnesses provided for under 4.2(88), each employer shall have available for inspection at each establishment within six working days after receiving information that a recordable case has occurred, a supplementary record for each occupational injury or illness for that establishment. The record shall be completed in the detail prescribed in the instructions accompanying Occupational Safety and Health Administration OSHA Form No. 101. Workmen's compensation, insurance or other reports are acceptable alternative records if they contain the information required by OSHA Form No. 101. The state of Iowa Form L-1/WC-1 meets the above requirements. If no acceptable alternative record is maintained for other purposes, OSHA Form No. 101 shall be used or the necessary information shall be otherwise maintained.

4.4(2) Pursuant to section 88.18 all employers shall report in writing to the Iowa bureau of labor any occupational injury or illness that results in two or more lost workdays. This report shall be made as early as practicable, but no later than six working days after receiving information that an occupational injury or illness has occurred that will result in two or more lost workdays. The forms to be used for reporting under this rule are those prescribed under 4.4(1).

**530—4.5(88) Annual summary.**

4.5(1) Each employer shall post an annual summary of occupational injuries and illnesses for each establishment. This summary shall consist of a copy of the year's totals from the form OSHA No. 200 and the following information from that form: Calendar year covered, company name, establishment name, establishment address, certification signature, title, and date. A form OSHA No. 200 shall be used in presenting the summary. If no injuries or illnesses occurred in the year, zeros must be entered on the totals line, and the form must be posted.

4.5(2) The summary shall be completed by February 1 beginning with calendar year 1979.

4.5(3) Each employer, or the officer or employee of the employer who supervises the preparation of the log and summary of occupational injuries and illnesses, shall certify that the annual summary of occupational injuries and illnesses is true and complete. The certification shall be accomplished by affixing the signature of the employer, or the officer or employee who supervises the preparation of the annual summary of occupational injuries and illnesses, at the bottom of the last page of the log and summary or by appending a separate statement to the log and summary certifying that the summary is true and complete.

4.5(4) Each employer shall post a copy of the establishment's summary in each establishment in the same manner that notices are required to be posted in 3.1(88). The summary covering the previous calendar year shall be posted no later than February 1, and shall remain in place until March 1. For employees who do not primarily report for work at a single establishment, or who do not report to any fixed establishment on a regular basis,

employers shall satisfy this posting requirement by presenting or mailing a copy of the summary portion of the log and summary during the month of February of the following year to each such employee who receives pay during that month. For multiestablishment employers where operations have closed down in some establishments during the calendar year, it will not be necessary to post summaries for those establishments.

A failure to comply with the requirements of this subrule may result in the issuance of citations and assessment of penalties pursuant to sections 88.7 and 88.14.

**530—4.6(88) Retention of records.** Records provided for in 4.2(88), 4.4(88), and 4.5(88) (including form OSHA No. 200 and its predecessor forms OSHA No. 100 and OSHA No. 102) shall be retained in each establishment for five years following the end of the year to which they relate.

**530—4.7(88) Access to records.** Records provided for in 4.2(88), 4.4(1) and 4.5(1) shall be available for inspection and copying by field safety technicians during any occupational safety and health inspection provided for under section 88.6 or by the labor commissioner or his designee for the purposes of any statistical compilation under section 88.18.

**530—4.8(88) Reporting of fatality or multiple hospitalization accidents.** Within forty-eight hours after the occurrence of an employment accident which is fatal to one or more employees or which results in hospitalization of five or more employees, the employer of any employees so injured or killed shall report the accident either orally or in writing to the Iowa bureau of labor. The reporting may be by telephone or telegraph. The report shall relate the circumstances of the accident, the number of fatalities and the extent of any injuries. The labor commissioner may require such additional reports, in writing or otherwise, as he deems necessary, concerning the accident.

**530—4.9(88) Falsification or failure to keep records or reports.** Falsification of or failure to maintain records or file reports as required by this chapter, or in the details required by forms and instructions issued under this chapter, may result in the issuance of citations and assessment of penalties as provided for in sections 88.7, 88.8 and 88.14.

**530—4.10(88) Change of ownership.** Where an establishment has changed ownership, the employer shall be responsible for maintaining records and filing reports only for that period of the year during which he owned such establishment. However, in the case of any change of ownership, the employer shall preserve those records, if any, of the prior ownership which are required to be kept under this chapter. The records shall be retained at each establishment to which they relate, for the period or remainder thereof, required under 4.6(88).

**530—4.11(88) Definitions.**

4.11(1) "*Act*" means the Iowa Occupational Safety and Health Act of 1972, chapter 88.

4.11(2) The definitions and interpretations contained in section 88.3 shall be applicable to such terms when used in this chapter.

4.11(3) "*Recordable occupational injuries or illnesses*" are any occupational injuries or illnesses which result in:

a. Fatalities, regardless of the time between the injury and death, or the length of the illness; or

b. Lost workday cases, other than fatalities, which result in lost workdays; or

c. Nonfatal cases without lost workdays which result in transfer to another job or termination of employment, or require medical treatment (other than first aid) or involve: Loss of consciousness or restriction of work or motion. This category also includes any diagnosed occupational illnesses which are reported to the employer but are not classified as fatalities or lost workday cases.

4.11(4) "*Medical treatment*" includes treatment administered by a physician or by registered professional personnel under the standing orders of a physician. Medical treatment does not include first aid treatment even though provided by a physician or

registered professional personnel.

4.11(5) "*First aid*" is any one-time treatment and any followup visit for the purpose of observation of minor scratches, cuts burns, splinters and so forth, which do not ordinarily require medical care. Such one-time treatment and followup visit for the purpose of observation is considered first aid even though provided for by a physician or registered professional personnel.

4.11(6) "*Lost workdays*" is the number of days (consecutive or not) after, but not including, the day of injury or illness during which the employee would have worked but could not do so; that is, could not perform all or any part of his normal assignment during all or any part of the workday or shift, because of the occupational injury or illness.

4.11(7) *Establishment.*

a. A single physical location where business is conducted or where services or industrial operations are performed. (For example: A factory, mill, store, hotel, restaurant, movie theatre, farm, ranch, bank, sales office, warehouse, central administrative office or governmental agency or subdivision thereof). Where distinctly separate activities are performed at a single physical location (such as contract construction activities operated from the same physical location as a lumber yard), each activity shall be treated as a separate establishment.

b. For firms engaged in activities such as agriculture, construction, transportation, communications and electric, gas and sanitary services which may be physically dispersed, records may be maintained at a place to which employees report each day.

c. Records for personnel who do not primarily report or work at a single establishment, and who are generally not supervised in their daily work, such as traveling salesmen, technicians, engineers, etc., shall be maintained at the location from which they are paid or the base from which personnel operate to carry out their activities.

#### 530—4.12(88) *Petitions for recordkeeping exceptions.*

4.12(1) *Submission of petition.* Any employer who wishes to maintain records in a manner different from that required by this chapter may submit a petition containing the information specified in 4.12(3) to the Regional Commissioner of the Bureau of Labor Statistics, BLS Regional Office, Kansas City, Missouri. State and local governmental units in Iowa shall submit their petitions to the labor commissioner of the Iowa bureau of labor.

4.12(2) *Opportunity for comment.* Affected employees or their representatives shall have an opportunity to submit written data, views or arguments concerning the petition to the labor commissioner within ten working days following the receipt of notice under 4.12(3)"e".

4.12(3) *Contents of petition.* A petition filed under 4.12(1) shall include:

a. The name and address of the applicant;

b. The address of the place or places of employment involved;

c. Specifications of the reasons for seeking relief;

d. A description of the different recordkeeping procedures which are proposed by the applicant;

e. A statement that the applicant has informed his affected employees of the petition by giving a copy thereof to them or to their authorized representative and by posting a statement giving a summary of the petition and by other appropriate means. A statement posted pursuant to this paragraph shall be posted in each establishment in the same manner that notices are required to be posted under 3.1(88). The applicant shall also state that he has informed his affected employees of their rights under 4.12(2);

f. In the event an employer has more than one establishment he shall submit a list of the states in which such establishments are located and the number of establishments in each such state. In the further event that certain of the employer's establishments would not be affected by the petition, the employer shall identify every establishment which would be affected by the petition and given the state in which they are located;

g. Any petition granted pursuant to 29 C.F.R. 1904.13 shall be granted automatically as if it were applied for pursuant to this rule.

**530—4.13(88) Description of statistical program.** Section 88.18 directs the labor commissioner to develop and maintain a program of collection, compilation and analysis of occupational safety and health statistics. The program shall consist of periodic surveys of occupational injuries and illnesses.

**530—4.14(88) Duties.** Upon receipt of an Occupational Injuries and Illnesses Survey Form, the employer shall promptly complete the form in accordance with the instructions contained therein and return it to the Iowa bureau of labor.

**530—4.15(88) Employees not in fixed establishments.** Employers of employees engaged in physically dispersed operations such as occur in construction, installation, repair or service activities who do not report to any fixed establishment on a regular basis but are subject to common supervision may satisfy the provisions of 4.2(88), 4.4(1) and 4.6(88) with respect to such employees by:

1. Maintaining the required records for each operation or group of operations which is subject to common supervision (field superintendent, field supervisor, etc.) in an established central place;
2. Having the address and telephone number of the central place available at each worksite; and
3. Having personnel available at the central place during normal business hours to provide information from the records maintained there by telephone and by mail.

**530—4.16(88) Small employers.**

**4.16(1)** An employer who had no more than ten employees at any time during the calendar year immediately preceding the current calendar year need not comply with any of the requirements of this chapter except 4.4(2) concerning two or more lost workday injuries and 4.8(88) concerning fatalities or multiple hospitalization accidents (i.e., he need not maintain the log, and summary, OSHA Form No. 200, the supplementary record, OSHA Form No. 101 or State of Iowa Form L-1/WC-1, nor prepare or post the summary).

**4.16(2)** Subrule 4.16(1) shall not apply when an employer has been notified in writing by the United States Bureau of Labor Statistics that he has been selected to participate in a statistical survey of occupational injuries and illnesses. If selected, an employer will be required to maintain the log and summary of occupational injuries and illnesses (OSHA Form No. 200) in accordance with 4.2(88) and to make reports in accordance with 4.14(88) for the period of time which is specified in the notice.

This rule is intended to implement section 88.6(3) of the Code.

**530—4.17(88) IOSH—research and statistical forms.**

**4.17(1)** OSHA No. 200—Log and summary of occupational injuries and illnesses.

**4.17(2)** OSHA No. L-1/WC-1: Employers work injury report and employers first report of injury.

[These forms are being omitted from this publication. For copies of the forms contact Bureau of Labor, Capitol Complex, Des Moines, Iowa 50319]

These rules are intended to implement sections 17A.3 and 88.6(3) of the Code.

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## CHAPTER 5 RULES OF PRACTICE FOR VARIANCES, LIMITATIONS, VARIATIONS, TOLERANCES AND EXEMPTIONS

**530—5.1(88) Purpose and scope.** This chapter contains rules of practice for administrative proceedings to grant variances and other relief under sections 88.5(3), 88.5(6), and 88.5(7)

consultation. During such conference, the employer representative shall be afforded an opportunity to bring to the attention of the safety consultant any pertinent information regarding conditions in the workplace.

**530—6.4(88) Representatives of employers and employees.**

6.4(1) The safety consultant shall be in charge of on-site consultation and questioning of persons. A representative of the employer and a representative authorized by the employees shall be given an opportunity to accompany the safety consultant during the consultation of any workplace for the purpose of aiding in such consultation. Safety consultant should encourage the employer to keep the number of participants to a minimum so as to not impede the conduct of the consultation.

6.4(2) The safety consultant is authorized to deny the right of accompaniment under this rule to any person whose conduct interferes with a fair and orderly consultation.

**530—6.5(88) Trade or governmental secrets.** At the commencement of a consultation, the employer may identify areas in the establishment which contains or which might reveal trade or governmental secrets. If the safety consultant has no clear reason to question such identification, information obtained in such areas, including all negatives and prints of photographs and environmental samples, shall be labeled "confidential—trade/governmental secrets" and shall not be disclosed except in accordance with the provisions of section 88.12.

**530—6.6(88) Consultation with employees.** If it is agreeable with the employer, the safety consultant may consult with employees concerning matters of occupational safety and health to the extent that they deem necessary for the conduct of an effective and thorough consultation. During the course of a consultation, any employee shall be afforded an opportunity to bring any violation of the Iowa Occupational Safety and Health Act which he has reason to believe exists in the workplace to the attention of the safety consultant.

**530—6.7(88) Posting requirements.** A notice to the employer that a consultation is to be conducted should be posted until the consultation is conducted along with a copy of the request for consultation at a prominent place where it will be readily observable by all affected employees. Where employees do not primarily work at or report to a single location, the documents may be posted at the location from which the employees operate to carry out their activities. The employer shall take steps to insure that the documents are not altered, defaced, or covered by other material.

**530—6.8(88) Written report.** As soon as possible but no later than ten working days after each consultation, the safety consultant shall provide the applicant with a written report of his findings which shall be posted for three working days in the same manner as in rule 6.7(88).

**530—6.9(88) Findings of serious and imminent danger hazards.** When a safety consultant finds the existence of a serious or imminent danger hazard, the employer shall be so apprised during the consultative visit and afforded a reasonable time in which to abate these conditions. Recheck consultations shall be conducted for all serious danger situations, and if the consultant is not satisfied by the elimination or diminishment of the serious danger situation, the safety consultant shall notify the IOSH—Enforcement Division of the situation. If an imminent danger hazard is not corrected during the course of an on-site consultation, the safety consultant shall notify affected employees of the condition and shall notify the IOSH—Enforcement Division of the situation.

This rule is intended to implement section 88.16 of the Code.

**530—6.10(88) Admissibility of findings.** Findings based upon any consultation shall not be admissible for any purpose in any OSHA proceeding. However, the employer may present the written report to any Field Safety Technician during any subsequent compliance inspection in order to indicate the employer's good faith.

**530—6.11(88) Separation of functions.** The IOSH Consultative Services and Training Division shall be a separated division within the Bureau of Labor.

**530—6.12(88) Training programs.** The Consultative Services and Training Division shall be responsible for directing and co-ordinating all programs aimed at informing interested groups of the scope and application of the Iowa Occupational Safety and Health Act.

[Filed 10/11/72]

[Filed 3/10/76, Notice 10/6/75—published 4/5/76, effective 5/10/76]

[Filed 3/10/78, Notice 1/25/78—published 4/5/78, effective 5/15/78]

### CHAPTER 7 PROCEDURES

**530—7.1(91) Request for rule change.**

**7.1(1)** Any person may request that the bureau adopt, amend, or repeal any rule. To be valid the request shall:

- a. Be addressed to the commissioner of labor.
- b. Be in writing.
- c. State the names of those requesting the change.

**2.303(2)** The sheriff in his or her discretion may issue the permit. The permit shall be issued on Form WP1 or WP2 and the sheriff may restrict or limit the authority granted by the permit.

**2.303(3)** Residents who wish to renew the permit to carry weapons shall comply with the renewal procedures established by the sheriff, which may include a training program, an examination or qualification on a firing range and shall pay a fee established by the Code.

**2.303(4)** Nonresidents of Iowa who wish to obtain a permit to carry weapons shall apply to the commissioner. The applicant shall:

- a. Submit a fully and accurately completed application on Form WP1 or WP2;
- b. Submit a certificate of completion (Form WP0) of a training program, except a certified peace officer, that includes qualifying on a firing range.
- c. Submit a statement showing a reasonable justification for going armed, on Form WP5;
- d. Submit two completed fingerprint cards, Form WP7;
- e. Comply with the requirements of the Code and;
- f. Pay a fee as established by the Code.

**2.303(5)** If the commissioner determines that a permit will be issued, the commissioner may issue the permit (Form WP1 or WP2) and may restrict or limit the authority granted by the permit.

**2.303(6)** Nonresidents who wish to renew a permit to carry weapons shall reapply for the permit in the same manner and by the same procedures as provided in 2.303(4). The renewal fee is established by the Code.

**2.303(7)** State employees who are required by their employment to go armed shall apply to the commissioner for a permit on Form WP1 or WP2. The applicant shall:

- a. Submit a fully and accurately completed application on Form WP1 or WP2;
- b. Submit a certification of completion (Form WP0) of a training program, except a certified peace officer, that includes qualifying on a firing range.
- c. Submit a statement showing a reasonable justification for going armed on Form WP5;
- d. Unless a certified peace officer, submit two complete fingerprint cards, Form WP7;
- e. Comply with the requirements of the Code and;
- f. Pay a fee as established by the Code.

g. Attach a statement by the manager or administrator of their organization or agency that shows that the applicant is required to go armed in his or her employment and that the permit is reasonably justified. The statement shall further provide that the organization or agency will insure compliance with any restrictions or limits imposed by the commissioner on the authority granted by the permit and will return the permit if the employment of applicant or the need to go armed terminates.

**2.303(8)** If the commissioner determines that a permit will be issued, the commissioner may issue the permit (Form WP1 or WP2) and may restrict or limit the authority granted by the permit.

**2.303(9)** State employees who wish to renew the permit to carry weapons shall reapply for the permit in the same manner and by the same procedure as provided in 2.303(7).

This rule is intended to implement Sections 2405, 2406, and 2410 of Chapter 1 of Division XXIV of Chapter 1245 of the Sixty-sixth General Assembly, 1976 Session.

**680—2.304(17A,66thGA,Ch1245) Firearm purchase or transfer.**

**2.304(1)\*** The application (Form WP3) for a permit to purchase pistols or revolvers may be made to the sheriff of any county.

**2.304(2)** The permit (Form WP4) to purchase pistols or revolvers shall be issued to the person applying for the permit immediately upon submission to the sheriff of the completed application.

**2.304(3)** Any person who sells or transfers ownership of a revolver or pistol, whether such person is a dealer or otherwise, shall report within five days to the county sheriff the sale or transfer of such weapon, on Form WP4, and the sheriff upon receipt of such

\*Printer's error corrected.

information shall make a permanent record of the same in a book specially kept for that purpose. A copy of this report (Form WP4) shall be forwarded by the sheriff to the commissioner. Any person who transfers the ownership of a revolver or pistol to a person related to him or her within the second degree of consanguinity or affinity shall be exempt from the reporting requirements of this rule.

This rule is intended to implement Sections 2412, 2418 and 2419 of Chapter 1 of Division XXIV of Chapter 1245 of the Sixty-sixth General Assembly, 1976 Session.

**680—2.305(17A,66thGA,Ch1245) Reports and remittance to the state.**

**2.305(1)** Each sheriff shall remit to the commissioner, by the seventh working day of the month which follows the month in which a permit to carry a weapon was issued, those fees and portions of fees as required by the Code.

**2.305(2)** These fees shall be remitted by the sheriff by a check made payable to: Iowa Department of Public Safety.

**2.305(3)** Page 2 of Form WP1 or page 2 of Form WP2 shall accompany said remittance.

**2.305(4)** Page 1 of Form WP4 shall be sent to the commissioner by the sheriff within seven working days from the day received by the sheriff.

**2.305(5)** Page 2 of Form WP6 shall be sent to the commissioner by the sheriff within seven working days from the date the permit holder received notification of the permit revocation.

This rule is intended to implement Sections 2410, 2412 and 2415 of Chapter 1 of Division XXIV of Chapter 1245 of the Sixty-sixth General Assembly, 1976 Session.

[Filed 6/30/75]

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[Filed emergency, 12/21/77, published 1/11/78, effective 12/21/77]



# SCHOOL BUDGET REVIEW[740]

## CHAPTER 1 RULES FOR SCHOOL BUDGET REVIEW COMMITTEE

- 1.1(442) Definitions
- 1.2(442) Meetings
- 1.3(442) Interpretations
- 1.4(442) Declaratory rulings

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## CHAPTER 1 RULES FOR SCHOOL BUDGET REVIEW COMMITTEE

**740—1.1(442) Definitions.** For the purpose of this chapter, the following definitions shall be used.

**1.1(1) Budget year.** The budget year is the fiscal year which begins on July 1 following the March 15 final certification of the budget and ends on the following June 30.

**1.1(2) Base year.** The base year is the fiscal year immediately preceding the budget year.

**1.1(3) Controlled budget.** The controlled budget is the total computed by multiplying the district cost per pupil by the total weighted enrollment. [See sections 442.9(1)"a" and 442.4(3), respectively, of the Code, for definitions of "district cost" and "weighted enrollment."]

**1.1(4) Authorized budget.** The authorized budget is the total dollars available as the expenditure limit for a school district for a specific fiscal year. This total is the controlled budget plus miscellaneous income actually received during the fiscal year, unexpended authorized budget of the previous year, amounts from an approved additional enrichment tax, and adjustments made through decisions of the school budget review committee.

**1.1(5) Unexpended authorized budget.** The unexpended authorized budget is the amount of the authorized budget not expended during the budget year. (These funds are commonly termed "unspent amount carried forward" or "carryover dollars." When and if these funds are expended, the certified budget must be amended accordingly.)

**1.1(6) Certified budget.** The certified budget is the amount which has been published and certified as provided for in chapter 24 of the Code and contains the amount proposed to be expended during the budget year. (If the authorized budget exceeds the certified budget, the certified budget must be amended to expend those excess funds.)

**1.1(7) Secretary's balance.** The secretary's balance is the district's cash position at any given time. (It does not have a direct relationship to the "unspent amount carried forward." The "unspent amount carried forward" is a part of the secretary's cash balance until spent.) The secretary's balance may be increased or decreased by action of the local board of directors by levying additional property taxes or reducing the property tax askings. Any other use of the secretary's balance must be authorized by the school budget review committee per provisions of section 442.13(7) of the Code.

**1.1(8) Adjusted enrollment.** The adjusted enrollment is actual enrollment as of the second Friday in January or September in the same calendar year, whichever is larger, plus any adjustments due to declining enrollments. (A school district with an enrollment loss, will have added to its actual enrollment fifty percent of the first five percent of loss and twenty-five percent of the remainder of the loss.)

**1.1(9) Total weighted enrollment.** The total weighted enrollment is the adjusted enrollment plus the additional weighting assigned to children requiring special education as prescribed in section 281.9 of the Code.

**1.1(10) Regular program cost.** The regular program cost includes those amounts not allotted to the area education agency. (When necessary to account for dollars which the local school district has available, the AEA costs are to be deleted.)

This rule is intended to implement section 442.6 of the Code.

**740—1.2(442) Meetings.****1.2(1) *Composition of committee.***

a. The state superintendent of public instruction, by statute, is a member and shall serve as chairperson and conduct all meetings unless another member of the committee is asked by the state superintendent of public instruction to assume this role.

b. The state comptroller, by statute, is a member and shall serve as secretary unless direction is given by the state comptroller to another person to assume this role. Unless a regular member of the committee, the delegated secretary shall not be a voting member.

c. Three lay members are appointed by the governor on staggered terms. All committee members shall perform their assigned duties until a replacement has been appointed.

d. All members will be eligible to vote on decisions of the committee.

**1.2(2) *Meeting arrangements.***

a. Meetings will be conducted in accordance with Robert's Rules of Order.

b. Three members present shall constitute a quorum, and a quorum must be present to conduct a hearing and take official action. In the case only three members are present, it will take three favorable votes to pass a motion.

c. The committee will schedule specific meeting dates in response to requests for hearings by local school districts.

d. Public announcement of the next meeting shall be made through the general media distribution of the department of public instruction.

**1.2(3) *Hearing procedures.***

a. School districts desiring a hearing are required to submit a request, either in written form or by telephone, to the committee stating the reason for the hearing.

b. School districts scheduled for hearings will be listed as to time and place and notice will be sent to school officials involved, to the press, and to their respective legislators. These notices will be sent out one week prior to the hearing. Districts desiring to cancel should immediately inform the committee, local press, and legislators.

c. It shall be the responsibility of the administrative officials and board members to present information and materials in support of the school district's request to the committee. In the case of written material, six copies should be submitted prior to the hearing date.

d. Legislators may request permission to address the committee members on the merits or lack of merit of any school district's request.

e. Residents of a district making a presentation to the committee may request permission to address the committee members on the merits or lack of merit of the request. Such a request must be made in writing prior to the hearing date, or permission may be granted to a request made at the hearing, upon a majority vote of the committee members present.

f. School districts with similar appeals may appear and present their appeals jointly.

g. A decision will be made at the end of each day's hearing to either table, deny, or provide an adjustment where a school district has made a request. The school district will be informed by telephone the next working day following a meeting, and a letter will be prepared informing the school district of the resulting decision.

This rule is intended to implement section 442.12 of the Code.

**740—1.3(442) Interpretations.****1.3(1) *Committee procedure in raising or lowering district cost.***

a. To provide an adjustment where districts are affected abnormally by higher or lower area education agency support service costs, the committee, when requested, shall review and may adjust the district cost to allow for any disparity through giving additional allowable growth.

b. To assist districts to adjust to the loss of categorical funding represented in school assistance in federally affected areas, Title I of Public Law 81-874, which is listed as a miscellaneous income and was subtracted when initially establishing a district cost, the committee when requested, shall review and may increase the district cost through granting committee funds or additional allowable growth to replace the loss of income.

c. The committee may make decisions which will provide additional allowable growth for one or more years, depending upon the assessment of the immediate or long-range needs.

These decisions are used for needed repairs or for experimental projects which the committee feels should not come from appropriated funds.

*d.* The committee, upon request, may make decisions which will provide additional allowable growth in cases where problems arise due to differences in the January or September counts of students needing special education programs.

*e.* Any errors in calculations which may affect district cost may be brought to the committee for resolution.

*f.* To determine the district cost of a reorganized school district, the total of the individual controlled budgets of the former districts involved shall be divided by the total weighted enrollments of the former districts involved.

*g.* Districts desiring to use a portion of the secretary's balance to furnish, equip and contribute to the construction of a new building must submit a formal request to the committee. The committee will make decisions on an individual school basis, but when making a decision, shall use the following guidelines: (1) Requests should not exceed ten percent of the bond issue or of the schoolhouse fund levy provided in section 278.1(7) and; (2) the secretary's balance shall not go below five percent of the controlled budget, minus AEA cost of the year when the proposed expenditure will be made. The applicable secretary's balance shall be that of the preceding July 1 date. Depending on the complexity of the request, a school district may or may not be required to make an appearance before the committee.

This rule is intended to implement section 442.13 of the Code.

1.3(2) Reserved.

**740—1.4(442) Declaratory rulings.** On petition by an interested person, the school budget review committee may issue a declaratory ruling with respect to the interpretation or applicability of any statutory provision, rule or other written statement of law or policy, decision, or order.

Petitions shall be titled "Petition for Declaratory Ruling" and shall include the name and address of all persons or agencies party to the petition. The body of the petition shall include the exact words, passages, sentences or paragraphs which are the subject of inquiry and the specific set of facts involved. The petition may express the petitioner's interpretation and contain documented information in support thereof.

The school budget review committee will refuse to issue a declaratory ruling if the petition does not state with enough specificity the factual situation or the question presented, or if the issuance of the ruling would not be in the best interests of the public, or for any other reason which it deems just and proper.

The school budget review committee, within thirty days of the receipt of a petition, shall issue a ruling or dismiss the petition except in the case where the school budget review committee requests additional information from the petitioner. In that case, the ruling or dismissal will occur within thirty days following the receipt of the requested additional information.

This rule is intended to implement section 17A.9 of the Code.

[Filed 3/17/78, Notice 9/21/77—published 4/5/78, effective 5/10/78]



CHAPTER 12  
FORMS OF ANNUAL AGRICULTURAL REPORTS

**750—12.1(172C) Corporation, limited partnerships and nonresident alien annual agricultural reports.** AR1 is adopted as the annual agricultural report form to be filed by corporations, domestic or foreign as defined in chapters 491, 496A, 497, 498, 499, 504 and 504A of the Code, by limited partnerships, nonresident aliens or any of the foregoing identified as a beneficiary owning or leasing agricultural lands or engaged in farming or certain farm activities as prescribed in the Act.

**12.1(1) Fiduciary annual agricultural report.** AR2 is adopted as the fiduciary annual agricultural report form to be filed by every person acting in a fiduciary capacity on behalf of any corporation, limited partnerships, or nonresident alien individual, who holds agricultural land in this state, outside the corporate limits of any city.

**12.1(2) Annual beef and pork processors.** AR3 is adopted as the annual beef and pork processors report form to be filed by any processor of beef or pork in Iowa.

**12.1(3) Filing annual reports, public inspection.** Forms AR1, AR2 and AR3 are to be filed in the office of the secretary of state on or before the filing dates as shown on the report forms, AR1 at the time of filing annual corporation report, AR2 on or before January 31 and AR3 on or before March 31st.

Copies of forms AR1, AR2, and AR3 are kept in the corporation department of the secretary of state's office in the State Capitol Building, Des Moines, Iowa and may be inspected by anyone during any working day.

1. Amend Form AR1, section A, subsection 2 by, adding and underlining the words "of an estate, trust, conservatorship, etc'.
2. For emphasis:  
In section A, subsection 7, underline the words "owned and operated".  
In section A, subsection 8, underline the words "by" and "to others".  
In section A, subsection 9, underline the words "to" and "by others".

[The amendments to chapter 12 are mandated by and intended to implement changes made in chapter 172C of the Code by senate file 231 of the first session of the Sixty-seventh General Assembly, 1977, and are intended to clarify forms AR 1 the Annual Agricultural Report, Form AR 2 the Fiduciary Annual Agricultural Report, AR 3 the Annual Beef and Pork Processors Report. The rules state that the forms are kept in the corporation department of the secretary of state's office and may be inspected by any one during a working day.]

ITEM 1. Amend the heading and filing requirement statement on form AR 1 and the statement in section A before beginning of numbered paragraphs.

ITEM 2. Delete numbered paragraphs 1 and 2 of section B and substitute numbered paragraphs 1, 2 and 3 which are questions relating to the corporate status of the corporations. Renumber paragraph 3 to 4, 4 to 5, 5 to 6, 6 to 7 and 7 to 8 and adding secondary questions following paragraphs 7 and 8 as to what percentage of stock shown bears to issued shares of the corporation.

ITEM 3. Amend heading and filing requirement statement of Form AR 2, amend line 1 of subsections 4, 5 and 6 by adding after the words "fiduciary capacity" the words "or as a trustee" and in line 6 of subsections 4, 5 and 6 after the word "fiduciary" add the words "or trustee".

ITEM 4. Amend the heading and filing statement on form AR 3, also amend subsection 11 by deleting the words "fiscal year" and substituting the words "your reporting period",

also adding a new subsection 12, a space for the processors to add explanations of their filing status.

ITEM 5. Amend AR 1, AR 2 and AR 3 last paragraph by deleting the words "12 of the Act" and substituting the words "172C.11 of the Code of Iowa".

These rules are intended to implement sections 172C.5 to 172C.8 and 567.9, Code of Iowa, 1977.

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# SUBSTANCE ABUSE, IOWA DEPARTMENT OF[805]

## CHAPTER 1 DEPARTMENTAL ORGANIZATION

- 1.1(67GA,ch74) Definitions
- 1.2(67GA,ch74) Organization
- 1.3(67GA,ch74) Commission
- 1.4(67GA,ch74) State advisory council
- 1.5(67GA,ch74) Area

## CHAPTER 2 FUNDING

- 2.1(67GA,ch74) Funding for alcohol programs
- 2.2(67GA,ch74) Funding for drug programs

## CHAPTER 3 LICENSURE

- 3.1(67GA,ch74) Licensure
- 3.2(67GA,ch74) Suspension and revocation

## CHAPTER 4 PROCEDURES

- 4.1(17A) Request for rule change
- 4.2(17A) Declaratory decision
- 4.3(17A) Informal procedures
- 4.4(17A) Contested cases
- 4.5(17A) Ex parte communications
- 4.6(17A) Decisions and orders—rehearing
- 4.7(17A) Judicial review

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## CHAPTER 1 DEPARTMENTAL ORGANIZATION

**805—1.1(67GA,ch74) Definitions.** Unless otherwise indicated, the following definitions shall apply to the specific terms used in these rules:

**1.1(1) "Chemical dependency"** means an addiction or dependency either physical or psychological, on a chemical substance. Persons who take medically prescribing drugs shall not be considered chemically dependent if the drug is medically prescribed and the intake is proportionate to the medical need.

**1.1(2) "Facility"** means a hospital, institution, detoxification center, or installation providing care, maintenance and treatment for substance abusers and licensed by the department under section 125.13 as amended by Acts of the Sixty-seventh General Assembly, chapter 74.

**1.1(3) "Chemical substance"** means alcohol, wine, spirits and beer as defined in chapter 123 of the Code and drugs as defined in section 230A.2, subsection 3, which when used improperly could result in chemical dependency.

**1.1(4) "Department"** means the Iowa department of substance abuse.

**1.1(5) "Substance abuser"** means a person who habitually lacks self-control as to the use of chemical substances or used chemical substances to the extent that his or her health is substantially impaired or endangered or that his or her social or economic function is substantially disrupted.

**1.1(6) "Director"** means the director of the Iowa department of substance abuse.

**1.1(7) "Commission"** means the commission on substance abuse within the department.

**1.1(8) "Incapacitated by a chemical substance"** means that a person, as a result of the use of a chemical substance, is unconscious or has his or her judgment otherwise so impaired that he or she is incapable of realizing and making a rational decision with respect to the need for treatment.

**1.1(9) "Incompetent person"** means a person who has been adjudged incompetent by a court of law.

**1.1(10) "Intoxicated person"** means a person whose mental or physical functioning is substantially impaired as a result of the use of a chemical substance.

1.1(11) "*Residence*" means the place where a person resides. For the purpose of determining the Iowa county, if any, is liable pursuant to chapter 125 for payments of costs attributable to its residents, the following rules shall apply:

a. If a person claims an Iowa homestead, then the person's residence shall be in the county where that homestead is claimed, irrespective of any other factors.

b. If paragraph "a" does not apply, and the person continuously has been provided or has maintained living quarters within any county of this state for a period of not less than one year, whether or not at the same location within that county, then the person's residence shall be in that county, irrespective of other factors. However, this paragraph shall not apply to unemancipated persons under eighteen years of age who are wards of this state.

c. If paragraphs "a" and "b" do not apply, or, if the person is under eighteen years of age, is unemancipated, and is a ward of this state, then the person shall be unclassified with respect to county of residence, and payment of all costs shall be made by the department as provided in chapter 125.

d. An unemancipated person under eighteen years of age who is not a ward of the state shall be deemed to reside where the parent having legal custody, or the legal guardian, or legal custodian of that person has residence as determined according to this subrule.

e. The provisions of this subrule shall not be used in any case to which section 125.26 is applicable.

**805—1.2(67GA,ch74) Organization.** The Iowa department of substance abuse was created by Acts of the Sixty-seventh General Assembly during the 1977 regular session. The department is responsible for developing, implementing, and administering a comprehensive substance abuse program pursuant to sections 125.1 to 125.26 as amended by Acts of the Sixty-seventh General Assembly, chapter 74.

Information concerning the department which is not described in these rules may be obtained by writing the Iowa Department of Substance Abuse, Liberty Building, Suite 230, 418 Sixth Avenue, Des Moines, Iowa, 50319. Concerned parties wishing to submit or request other types of information may write to the above-mentioned address.

1.2(1) *Director—appointment.* The director of the department is appointed by the governor for a four-year term with the approval of two-thirds of the members of the senate. Pursuant to Acts of the Sixty-seventh General Assembly, chapter 74, section 10, the powers of the director enables him/her to:

a. Plan, establish and maintain treatment, intervention and education and prevention programs as necessary or desirable in accordance with the comprehensive substance abuse program.

b. Make contracts necessary or incidental to the performance of the duties and the execution of the powers of the director, including contracts and public and private agencies, organizations and individuals to pay them for services rendered or furnished to substance abusers or intoxicated persons.

c. Solicit and accept for use any gift of money or property made by will or otherwise, and any grant or money, services or property from the federal government, the state, or any political subdivision thereof or any private source, and do all things necessary to co-operate with the federal government or any of its agencies and the commission in making an appropriation for any grant.

d. Co-ordinate the activities of the department and co-operate with substance abuse programs in this and other states, and make contracts and other joint or co-operative arrangements with state, local or private agencies in this and other states for the treatment of substance abusers and intoxicated persons and for the common advancement of substance abuse programs.

e. Require that a written report, in reasonable detail, be submitted to the director at any time by any agency of this state or of any of its political subdivisions in respect to any substance abuse prevention function, or program for the benefit of persons who are or have been involved in substance abuse, which is being conducted by the agency.



*f.* Submit to the governor a written report of the pertinent facts at any time the director concludes that any agency of this state or of any of its political subdivisions is conducting any substance abuse prevention function, or program for the benefit of persons who are or have been involved in substance abuse in a manner not consistent with or which impairs achievement of the objectives of the state plan to combat substance abuse, and has failed to effect appropriate changes in the function or program.

*g.* Keep records and engage in research and the gathering of relevant statistics.

*h.* Employ a deputy director who shall be exempt from the merit system and shall serve at the pleasure of the director. The director may employ other staff necessary to carry out the duties assigned to the director.

*i.* Do other acts and things necessary or convenient to execute the authority expressly granted to him.

**1.2(2) Director—duties.** Pursuant to Acts of the Sixty-seventh General Assembly, chapter 74, section 12, the duties of the director are:

*a.* Prepare and submit a state plan subject to approval by the commission and in accordance with the provisions of Title XLII, United States Code, section 4573. The state plan shall designate the department as the sole agency for supervision of the administration of the plan and shall provide for the appointment of a citizens advisory council on substance abuse.

*b.* Develop, encourage, and foster statewide, regional and local plans and programs for the prevention of substance abuse and the treatment of substance abusers and intoxicated persons in co-operation with public and private agencies, organizations and individuals, and provide technical assistance and consultation services for these purposes.

*c.* Co-ordinate the efforts and enlist the assistance of all public and private agencies, organizations and individuals interested in the prevention of substance abuse and the treatment of substance abusers and intoxicated persons.

*d.* Co-operate with the department of social services on establishing and conducting programs to provide treatment for substance abusers and intoxicated persons.

*e.* Co-operate with the department of public instruction, boards of education, schools, police departments, courts and other public and private agencies, organizations and individuals in establishing programs for the prevention of substance abuse and the treatment of substance abusers and intoxicated persons, and in preparing curriculum materials thereon for use at all levels of school education.

*f.* Prepare, publish, evaluate and disseminate educational material dealing with the nature and effects of chemical substances.

*g.* Develop and implement, as an integral part of treatment programs, an educational program for use in the treatment of substance abusers and intoxicated persons, which program shall include the dissemination of information concerning the nature and effects of chemical substances.

*h.* Organize and implement, in co-operation with local treatment programs, training programs for all persons engaged in treatment of substance abusers and intoxicated persons.

*i.* Sponsor and implement research in co-operation with local treatment programs into the causes and nature of substance abuse and treatment of substance abusers and intoxicated persons, and serve as a clearinghouse for information relating to substance abuse.

*j.* Specify uniform methods for keeping statistical information by public and private agencies, organizations and individuals, and collect and make available relevant statistical information, including number of persons treated, frequency of admission and readmission, and frequency and duration of treatment.

*k.* Develop and implement, with the counsel and approval of the commission, a comprehensive plan for treatment of substance abusers and intoxicated persons, said plan to be co-ordinated with health systems agencies.

*l.* Assist in the development of, and co-operate with, substance abuse education and treatment programs for employees of state and local governments and businesses and industries in the state.

*m.* Utilize the support and assistance of interested persons in the community, particularly recovered substance abusers, to encourage substance abusers to voluntarily undergo treatment.

*n.* Co-operate with the commissioner of public safety in establishing and conducting programs designed to deal with the problem of persons operating motor vehicles while intoxicated.

*o.* Encourage general hospitals and other appropriate health facilities to admit without discrimination substance abusers and intoxicated persons and to provide them with adequate and appropriate treatment, and may negotiate and implement contracts with hospitals and other appropriate health facilities with adequate detoxification facilities.

*p.* Encourage all health and disability insurance programs to include substance abuse as a covered illness.

*q.* Review all state health, welfare, education and treatment proposals to be submitted for federal funding under federal legislation, and advise the governor on provisions to be included relating to substance abuse and substance abusers and intoxicated persons.

**805—1.3(67GA,ch74) Commission.** There is a nine-member commission on substance abuse established within the department of substance abuse. The members are appointed by the governor based on their interest in and knowledge of substance abuse. Two of the members are individuals who have direct contact with substance abuse clients as part of their regular work.

**1.3(1) Responsibilities of commission.** Pursuant to Acts of the Sixty-seventh General Assembly, chapter 74, section 4, the commission is responsible for establishing policies and governing the performance of the department in discharging the duties imposed upon it.

**1.3(2) Terms.** Commission members are appointed to terms of four years, except that initial appointments to the membership of the commission shall be staggered so that four members shall be appointed to terms of two years and five members shall be appointed to terms of four years.

*a.* Terms of office shall commence on the first day of July of the year of appointment.

*b.* Vacancies occurring during a term of office shall be filled for the balance of the unexpired term in the manner of original appointment.

*c.* No member shall be appointed to serve more than two consecutive four-year terms.

**1.3(3) Meetings.** The commission shall meet at regular intervals at least six times a year. Additional meetings may be called by the chairperson or at the request of the majority of commission members. The sites of the meetings are determined by the commission.

*a.* The chairperson presides at each meeting or in the chairperson's absence the vice chairperson shall preside. All meetings are open to the public in accordance with the open meetings law, chapter 28A of the Code.

*b.* The chairperson may appoint committees of the commission as necessary to conduct the business of the commission. Committee meetings shall comply with chapter 28A of the Code.

*c.* The commission shall give advance public notice of the time and location of regular commission meetings to the news media.

*d.* Agenda items for commission meetings shall be submitted to the department office at Iowa Department of Substance Abuse, Liberty Building, Suite 230, 418 Sixth Avenue, Des Moines, Iowa—50319 at least fifteen days prior to the commission meeting. At the discretion of the chairperson, additional issues may be addressed in response to issues raised by individuals attending the meeting.

**1.3(4) Organization.** The commission is organized annually and selects from its membership a chairperson and a vice chairperson.

**1.3(5) Commission—additional duties.** Pursuant to section 125.7 of the Code, the commission shall:

- a. Consider and approve or disapprove all applications for a license and all cases involving the renewal, denial, suspension or revocation of a licensure.
- b. Act as the sole agent to allocate state, federal and private funds which are appropriated or granted to, or solicited by the department.
- c. Approve the comprehensive substance abuse program, and the funding therefor, developed by the department pursuant to sections 125.1 to 125.26.
- d. Establish policies governing the performance of the department in the discharge of any duties imposed on it by law.
- e. Establish policies governing the performance of the director in the discharge of the director's duties.
- f. Advise or make recommendations to the governor and the general assembly relative to substance abuse treatment, intervention and education and prevention programs in the state.
- g. Promulgate rules necessary to carry out the provisions of chapter 125 as amended by chapter 74, Acts of the Sixty-seventh General Assembly, 1977 regular session, subject to review in accordance with provisions of chapter 17A.
- h. Investigate the work of the department, and for this purpose it shall have access at any time to all books, papers, documents and records of the department.
- i. Submit to the governor and the general assembly an annual report covering the activities of the department.

**805—1.4(67GA,ch74) State advisory council.** There is established within the department a state advisory council who is comprised of nine members and who advise the director in administering chapter 125 of the Code as amended by Acts of the Sixty-seventh General Assembly, chapter 4. The governor appoints the members of the advisory council, who serve at the pleasure of the governor, and the governor shall designate the chairperson of the advisory council. The director or a designee shall serve as the council's secretary. The advisory council shall be entirely advisory in character and may not exercise administrative authority.

**1.4(1) Composition.** Members of the substance abuse advisory council are, to the extent practicable, drawn from different geographical areas of the state, and shall provide representation for:

- a. Nongovernmental organizations concerned directly or indirectly with substance abuse such as local citizen groups, employee groups, national groups, labor and management, and other provider, consumer and consumer advocate groups.
- b. Public agencies concerned directly or indirectly with substance abuse, such as local elected officials or representatives of health and mental health agencies, welfare agencies, and law enforcement agencies.
- c. The minority, poverty, and major population groups which are significantly affected by the problems of substance abuse.
- d. At least one representative of the state health co-ordinating council.

**1.4(2) Compensation.** Members of the council shall serve without compensation but shall receive reimbursement for travel and other necessary expenditures actually incurred in the performance of their duties.

**805—1.5(67GA,ch74) Area.** Pursuant to section 125.6 of the Code as amended by Acts of the Sixty-seventh General Assembly, chapter 74, section 6, the state is divided into the following catchment regions:

- Region I. Allamakee, Clayton, Fayette, Howard, and Winneshiek counties.
- Region II. Cerro Gordo, Floyd, Franklin, Hancock, Kossuth, Mitchell, Winnebago, and Worth counties.
- Region III. Buena Vista, Clay, Dickinson, Emmet, Lyon, O'Brien, Osceola, Palo Alto, and Sioux counties.
- Region IV. Cherokee, Ida, Monona, Plymouth, and Woodbury counties.

- Region V. Calhoun, Hamilton, Humboldt, Pocahontas, Webster, and Wright counties.  
Region VI. Hardin, Marshall, Poweshiek, and Tama counties.  
Region VII. Black Hawk, Bremer, Buchanan, Butler, Chickasaw, and Grundy counties.  
Region VIII. Delaware, Dubuque and Jackson counties.  
Region IX. Clinton, Muscatine and Scott counties.  
Region X. Benton, Cedar, Iowa, Johnson, Jones, Linn, and Washington counties.  
Region XI. Boone, Dallas, Jasper, Madison, Marion, Polk, Story, and Warren counties.  
Region XII. Audubon, Carroll, Crawford, Greene, Guthrie, and Sac counties.  
Region XIII. Cass, Fremont, Harrison, Mills, Montgomery, Page, Pottawattamie, and Shelby counties.  
Region XIV. Adair, Adams, Taylor, Clarke, Decatur, Ringgold, and Vinton counties.  
Region XV. Appanoose, Davis, Jefferson, Keokuk, Lucas, Mahaska, Monroe, Van Buren, Wapello and Wayne counties.  
Region XVI. Des Moines, Henry, Lee, and Louisa counties.
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## CHAPTER 2 FUNDING

**805—2.1(67GA,ch74) Funding for alcohol programs.** Pursuant to the executive order of the governor, Acts of the Sixty-seventh General Assembly of the 1977 regular session, chapter 74, sections 36 to 43, were delayed until July 1, 1978; therefore, section 125.27 of the Code will continue to operate during the duration of these emergency rules. The director may, consistent with the comprehensive alcoholism program, enter into written agreements with an approved facility to pay seventy-five percent of the cost of care, maintenance and treatment of an alcoholic confined as a voluntary patient within the county calculated from the projected number of clients to be served by the substance abuse center at a reasonable charge per day agreed upon by all involved parties, further calculated upon all other projected incomes to be received by the service center, be they federal, state, county, municipal, third party (insurance), patient fees, donations, or others.

**2.1(1) Applications.** Applications for funding shall be submitted on forms prepared by the department which will include the following information:

- a. The name and address of the applicant.
- b. Name of the project director and name of the chairperson or president of the board of directors.
- c. Description of the project.
- d. Description of the geographic area.
- e. Description of the needs assessment.
- f. Description of the project's structure and function.
- g. Articulation of the project's objectives, activities and evaluation.
- h. Budget forms.

**2.1(2) Submission.** The grant application form shall be submitted to the Iowa department of substance abuse, the respective health systems agency, and county boards of supervisors in the program service area.

**2.1(3) Review.** After the Iowa department of substance abuse review, health systems agency review, and county board review, the commission shall review these applications and allocate funds consistent with the comprehensive alcoholism program. The director of the department may enter into written agreements with such approved programs.

**805—2.2(67GA,ch74) Funding for drug programs.** Pursuant to the executive order delaying sections 36 to 43, chapter 74, of the Acts until July 1, 1978, the director may, consistent with the comprehensive drug program, enter into written agreement with licensed facilities to provide care, maintenance and treatment of drug abusers confined as voluntary

patients within the county, calculated from projected charges per day agreed upon by all involved parties, further calculated upon all projected income to be received by the program be it federal, state, county, municipal, third party (insurance), patient fees, donations or others.

**2.2(1) Application.** Applications for funding shall be submitted on forms prepared by the department which will include the following information:

a. The name and address of the applicant.  
b. Name of the project director and name of the chairperson or president of the board of directors.

c. Description of the project.

d. Description of the geographic area.

e. Description of the needs assessment.

f. Description of the project's structure and function.

g. Articulation of the project's objectives, activities and evaluation.

h. Budget forms.

**2.2(2) Submission.** The grant application form shall be submitted to the Iowa department of substance abuse, the respective health systems agency, and the county board of supervisors in the program service area.

**2.2(3) Review.** After the Iowa department of substance abuse review, health systems agency review, the commission shall consider these applications and allocate funds consistent with the comprehensive drug program. The director of the department may enter into written contracts with such approved programs.

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## CHAPTER 3 LICENSURE

**805—3.1(67GA,ch74) Licensure.** Pursuant to section 125.7 of the Code as amended by the Acts of the Sixty-seventh General Assembly, 1977 regular session, chapter 74, section 7, the commission is required to consider and approve or disapprove all applications for a license and all cases involving the renewal, denial, suspension or revocation of a license. Due to the categorical broadness involved in licensure rules and the need to have public inspection of these rules, temporary emergency rules for licensure of substance abuse programs that are being adopted shall be minimal and limited in scope.

**3.1(1) Programs prior to December 31, 1977.** Substance abuse programs which had a valid license on December 31, 1977 issued by the Iowa drug abuse authority or programs which had approval status on December 31, 1977 from the Iowa division on alcoholism will continue to operate with the license or approval in full force until such time as revocation by the department is necessary to safeguard the general health and welfare of residents of the state of Iowa or until such time as the commission has approved and implemented licensure rules in accordance with chapter 17A of the Code.

**3.1(2) Programs after December 31, 1977.** Programs not licensed or approved on December 31, 1977:

All treatment programs which were not licensed or approved on December 31, 1977, applying for a license to operate a substance abuse treatment program in the state of Iowa, and who are applying for funding from the department, shall be considered for licensure on the basis of comparable programs which are operating pursuant to Acts of the Sixty-seventh General Assembly, chapter 74, section 15. Programs applying to the department for both funding and a license to operate shall not be licensed nor shall any payment be made pursuant to chapter 74, if the program fails to comply with the department's funding criteria or which does not permit inspection by the department or examination of all records, including financial records, methods of administration, general and special dietary programs, the disbursement of drugs and methods of supply, and any other record the commission deems relevant to the establishment of such a system.

All treatment programs which were not licensed or approved on December 31, 1977, applying for a license to operate a substance abuse treatment program in the state of Iowa and are not requesting funds from the department shall be evaluated by the department on the basis of standardized formats developed by the department. The evaluation will include a tri-phase process.

a. Applying for a license constitutes the first phase of the licensure process. The department will mail an application form to all applicants for licensure.

(1) An applicant for licensure shall submit at least the following information on forms provided by the department:

1. The name and address of the applicant substance abuse treatment.
2. The name and address of the executive director of such substance abuse treatment program.
3. An outline of the staff table of organization, names and qualifications.
4. The names and addresses of members of the board of directors, sponsors, or advisory boards of such substance abuse treatment program and existing articles of incorporation and bylaws.
5. The names and addresses of all physicians, other professionally trained personnel, medical facilities, and other individuals or organizations with whom the substance abuse treatment program has a direct referral agreement or is otherwise affiliated.
6. A description of the nature of treatment services provided by such substance abuse treatment program setting forth program goals and objectives and a description of the treatment methodology.
7. Submission of materials substantiating compliance with all related federal, state and local acts, ordinances, rules and amendments thereto, i.e., state fire marshal's rules, board of health and building code compliance.
8. The source of funds used to finance such substance abuse program, and the annual budget of the organization.

(2) An applicant for licensure shall submit a completed application to the department within twenty days from the date the forms are received. The department shall have ninety calendar days from the day the application is received by the department to review the application for completion and request additional material as needed. A licensure site visit shall be scheduled in written format with a copy mailed to the chairperson of the board, the commission chairperson, and the regional co-ordinators. Applicants failing to return the forms shall be notified by registered mail that all programs must be licensed in order to continue operating. The licensure examination process may include case record audits and interviews with staff and clients, consistent with the confidentiality safeguards of state and federal law.

b. The prelicensure site visit constitutes the second phase of the licensure process.

(1) All treatment programs applying for the first time for a license to operate a substance abuse treatment program in the state of Iowa will be visited by the licensing and accreditation manager within ninety days following the application review process for determination of the program's status.

(2) A prelicensure site inspection report will, subsequently, be submitted to the prospective program director and may be sent to the commission within ten working days after completion of the site visit.

(3) The treatment program may request technical assistance from the department. The department may also request that technical assistance be provided to the program if quality control issues are noted during a site visit.

c. The onsite visit for licensure and commission hearing is the third phase of the licensure phase.

(1) A licensing site inspection shall be scheduled following such time that technical assistance requested by the program from the department has been provided consistent with the deficiencies articulated in the prelicensure site inspection report and the program notifies the department that corrective measures have been completed.

(2) The onsite visit team will consist of: Regional co-ordinator, designated members of the department, the licensure and accreditation manager (team leader) and selected consultants as approved by the director.

(3) The team will inspect the program that has applied for a license in order to verify information contained in the application and the corrective measure taken by the program.

(4) The commission shall meet to consider all cases involving issuance, denial, suspension or revocation of a license. Upon approval of an application for licensing by the commission, a license shall be issued by the department.

**805—3.2(67GA, ch 74) Suspension and revocation.** Pursuant to Acts of the Sixty-seventh General Assembly, chapter 74, section 20, the commission may suspend or revoke a license for any of the following reasons:

1. Violation by the program, its director or staff, of any rule promulgated by the department pertaining to substance abuse treatment programs.

2. Permitting, aiding or abetting the commitment of an unlawful act within the facilities maintained by the program, or permitting, aiding or abetting the commitment of an unlawful act involving chemical substances within the program.

3. Conduct or practices found by the department to be detrimental to the general health or welfare of a participant in the program or the general community.

4. Deviation by the program for the plan of operation originally licensed which, in the judgment of the department, adversely affects the character, quality or scope of services intended to be provided to substance abusers within the scope of the program.

**3.2(1) Notice from commission.** When the commission determines that a person in a licensed program may have committed an act, or may have engaged in conduct or practices justifying suspension or revocation of license, the commission shall notify the program director by certified mail (return receipt requested) of their intent to suspend or revoke the license. After review of the act, conduct or practice by the commission, a final disposition regarding the suspension or termination of the license will be made and notification sent to the program director.

**3.2(2) Hearing.** If the suspension or revocation is protested within thirty days after receipt of the notice, the commission shall conduct a hearing determining the issue of suspension or revocation of the license. Notice of the hearing shall be mailed at least ten days before the date of the hearing. The notice shall state the matters of law and fact to be determined at the hearing, and the date, time and place of the hearing.

**3.2(3) Summary suspension.** If the commission finds that the health, safety or welfare of the public are endangered by continued operation of a substance abuse treatment program, summary suspension of a license may be ordered effective on the date specified in the order.

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## CHAPTER 4 PROCEDURES

**805—4.1(17A) Request for rule change.** Any person may petition the department to adopt, amend, or repeal any rule. To be valid the petition shall:

1. Be addressed to the chairperson of the commission.
2. Be in writing.
3. State the name(s) of those requesting the change.
4. Set forth the new proposed rule, the rule as it would appear after the requested amendment, or the rule as it would appear subsequent to the requested deletions.
5. Describe specifically the reasons for the requested change.
6. Detail the statutory authority under which the new rule, if any, would exist.

Within sixty days of the receipt by the commission of the proposed rules, the requested modification or the requested deletion, the commission shall either deny the request stating the reasons for the denial in writing or initiate rulemaking proceedings in accordance with chapter 17A of the Code.

**805—4.2(17A) Declaratory decision.** Any interested person may submit to the chairperson of the commission a petition regarding the application of a statute, rule, decision, order or other written statement of law or policy to a specific factual situation. The petition requesting the opinion shall contain the name(s) of the requesting person(s), the specific factual background of the question, the statute, rule, decision, order or other written statement of law or policy deemed applicable, and the reasons for the request. The commission shall render a written decision within thirty days unless the commission is unable to reach a decision on the facts as presented. Should the commission find the facts insufficient then no decision need be issued and the commission shall request that the factual situation be clarified by an amendment to the petition. Failure by a requesting party to amend the petition within fifteen days will cause the commission to dismiss the petition.

**805—4.3(17A) Informal procedures.** Parties to any factual controversy that could result in a contested case may meet informally for the purpose of settling the dispute. The parties may reach any decision they desire, subject only to the substantive requirements of the department.

The commission or a designee may be asked to suggest any course of action the commission deems appropriate, but any suggestions by the commission is not binding unless the parties voluntarily adopt it as their agreement.

**805—4.4(17A) Contested cases—Notice of hearings.** The chairperson of the commission shall send notice of the hearing to all interested parties by certified mail or by personal service as in civil actions, at least ten days prior to the date of the hearing unless a shorter period of time is agreed upon by all parties. The notice shall include the time, the place and nature of the hearing and a reference to the particular sections of the statutes and rules involved.

a. Hearings shall be conducted in a manner pursuant to chapter 17A of the Code of Iowa.

b. The record in a contested case shall include:

1. All pleadings, motions and intermediate rulings.
2. All evidence received or considered and all other submissions.
3. A statement of all matters officially noticed.
4. All questions and offers of proof, objections and rulings therein.
5. All proposed findings and exceptions.
6. Any decision, opinion or report by the officer presiding at the hearing.



**805—4.5(17A) Ex parte communications.** The notice required pursuant to section 17A.4 of the Code, concerning ex parte communications in contested cases, shall include the name of the hearing officer, the name of the party to whom the communication will occur, the nature of the communication, the place of the communication and the time of the communication. The notice shall be in writing and shall be delivered either by personal service as in civil actions or by certified mail return receipt requested. The time of the communication must be at least three days subsequent to the service of the notice.

**4.5(1) Hearing officer.** Any individual who is assigned to hear a contested case who communicates, directly or indirectly, in connection with any issue of fact or law in that contested case with any party or the representative of any party to that contested case, without giving the required notice and opportunity to be heard to all parties shall be required to submit the communication if written or a summary of the communication if oral for inclusion in the record of the proceedings.

Any party to a contested case or the representative of any party who communicates, directly or indirectly, in connection with any issue of fact or law in that contested case with any person assigned to hear that case without giving the required notice and opportunity to be heard to all parties shall be required to submit the communication if written or a summary of the communication if oral for inclusion in the record of the proceedings.

**4.5(2) Sanctions—parties.** Sanctions against the parties or their representatives who communicate with the hearing officer on any issue of fact or law in a contested case without giving notice and the opportunity to participate to all parties may include a decision against the party on the merits; censure, suspension, or revocation of the privilege to practice before the department; or whatever may be just and equitable.

**4.5(3) Sanctions—hearing officer.** Sanctions against the individual who was assigned to hear the case and participated in communications with any party or the representative of any party on any issue of fact or law in that contested case without giving notice and the opportunity to participate to all parties may include: Censure, suspension or dismissal from the department or whatever may be just and equitable.

**805—4.6(17A) Decisions and orders—rehearing.**

**4.6(1) Proposed or final decision.** A proposed or final decision or order in a contested case shall be in writing or stated in the record. A proposed or final decision shall include findings of the fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of underlying facts supporting the findings. If, in accordance with department rules, a party submitted proposed findings of fact, the decision shall include a ruling upon each proposed finding. Each conclusion of law shall be supported by cited authority or by a reasoned opinion. Parties shall be promptly notified of each proposed or final decision or order by the delivery to them of a copy of such decision or order in the manner provided by chapter 17A of the Code of Iowa.

**4.6(2) Rehearing.** Any party may file an application for rehearing, stating the specific grounds therefor and the relief sought, within twenty days after the issuance of any final decision by the department in a contested case. A copy of such application shall be timely mailed by the applicant to all parties of record not joining therein. Such an application for rehearing shall be deemed to have been denied unless the agency grants the application within twenty days after its filing.

**805—4.7(17A) Judicial review.** Judicial review provisions shall be the exclusive means by which a person or party who is aggrieved or adversely affected by agency action may seek judicial review of such agency action pursuant to the judicial review provisions of chapter 17A of the Code of Iowa.

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b. The state may participate in city-initiated separations as an unscheduled project.

**1.3(5) *Project planning reports and predesign project agreements for proposed construction projects on primary road extensions.***

a. As early as possible after an urban project is included in the department "Five-Year Construction Program", a planning report of the project shall be developed and shall be reviewed with the officials of a city or town prior to the public hearing.

b. A predesign project agreement which shall outline (1) the general concepts of the project, (2) responsibilities for right-of-way acquisition, storm sewer costs and utility adjustment costs, and (3) the parking and access control restrictions to be applied to the project shall be submitted to the city officials.

**1.3(6) *Project agreements and preconstruction project agreement for proposed construction projects on primary road extensions.***

a. The department will maintain a close liaison with the municipality during the development of the project plan so all parties will be fully informed of the details involved in the proposed improvement.

b. When the plan is sufficiently complete to provide typical cross sections, plan and profile drawings and incidental details, the department shall submit to the municipality a project agreement for approval of the plan for the project and consenting to the improvement in accordance with the plan. Terms for the reimbursement to the state and the local financial participation shall be stated in this agreement.

**1.3(7) *Reverting primary road extension to a city.*** When a primary road extension is to be reverted to the city either by relocation or by elimination by agreement, the state shall make every effort to put the extension in good and sufficient condition "for the traffic thereon", prior to its removal from the system. The district engineer and the city engineer shall inspect the extension to determine what is necessary to place the extension in good condition. Upon request the state shall apply the estimated cost required to place the extension in good condition to an improvement project initiated by the city on the street.

[This rule is intended to implement section 307A.7]

[Filed July 1, 1975]

## CHAPTER 2 GENERAL REQUIREMENTS FOR IMPLEMENTING PROJECTS WHICH UTILIZE FEDERAL AID TO URBAN SYSTEM FUNDS

**820—[06,P]2.1(307A) City responsibility.** The city shall be responsible for compliance with provisions of city, state and federal statutes, policies and procedures and instructions regarding applications, planning, design, construction and reimbursement of "Federal-Aid Urban System", hereinafter referred to as FAUS, projects. Since urban area boundaries may encompass segments of FAUS routes which are under county jurisdiction, FAUS funds may be utilized for improvements to those segments of the FAUS system. For that purpose, reference to city, as used herein, shall also mean county if and when applicable.

**2.1(1) *Fund allocations.*** Federal-aid apportionment to Iowa for FAUS funds is based on the ratio of population in Iowa urban areas to the United States population in urban areas.

a. FAUS funds will be allocated to Iowa urban areas by a population factor. In urbanized areas, each policy committee shall establish the procedures to be followed for the allocation of funds within the urbanized area and also, the method whereby the urbanized area will provide the necessary matching funds.

b. Each urban area will be credited with a population or per capita share of available FAUS funds. Projects will be accepted on a "first come - first serve" basis up to the limit of current federal apportionments and corresponding obligation authority available to Iowa.

c. Federal funds are apportioned to the state at the beginning of the fiscal year of the apportionment and remain available for three years following the apportionment year.

(1) Commencing November 1, 1978 the office of urban systems shall annually review the status of unobligated FAUS funds for each urban and urbanized area. If it is found that

any area has accumulated in excess of two years of unobligated funds and has no projects in advanced stages of plan development, that area's excess funds shall be withdrawn and placed in a revolving fund to increase other cities' capabilities of borrowing ahead on projects for which they have insufficient funds currently available.

(2) A waiver of the above shall be considered for approval by the office of urban systems upon submittal of an appropriate application by the city or, in urbanized areas, by the regional planning agency. Such applications shall be in the form of a resolution and shall specifically identify proposed projects and schedules for obligating the fund balance.

d. Cities with eligible projects but with insufficient allocation to support the full federal share of the project may, with approval of the office of urban systems, "borrow ahead" up to two years of anticipated funds. This feature shall be on a "first come-first serve" basis and shall be limited to the amount of funds held in reserve for this purpose.

e. Federal-aid funding for FAUS is a reimbursement program rather than a grant program and each participating urban area shall provide initial funding for each project.

**2.1(2) Systems planning requirements.**

a. To qualify for FAUS funds, each urbanized area shall be required to have a continuing planning process, pursuant to the provisions of Section 134, Title 23, U.S.C.

b. Priorities for FAUS projects in urbanized areas will be determined by the policy committee. Projects will be selected by the policy committee and shall be a part of a program which serves to implement an area-wide plan, developed within the planning process and held valid by that policy committee.

c. Priorities for FAUS projects in urban places, not within an urbanized area, will be determined by the elected municipal officials.

d. After June 30, 1976, the FAUS shall be located in each urbanized area and such other urban areas as the department may designate and shall consist of arterial routes and collector routes, exclusive of urban extensions of the federal aid primary system. The routes on the FAUS shall be designated by appropriate local officials with the concurrence of the department, subject to the approval of the secretary of the U.S. department of transportation, and in the case of urbanized areas, shall also be in accordance with the planning process required pursuant to the provisions of section 134 of this title. FAUS realignment shall be based upon anticipated functional usage in the year 1980 or a planned connected system.

e. Urban area boundaries will be established in accord with the urban and urbanized area definitions by local and department officials, in cooperation with each other, subject to the approval of the secretary of the U.S. department of transportation.

**2.1(3) Project administration.**

a. The city shall be responsible for each proposed project and shall provide all necessary contract administration. Contracts may be let by either a city or the department, but approval must be obtained from both before award can be made.

b. Prior to the department granting authorization for a city to administer a project, the city shall provide written assurance to the district engineer that the city can fulfill the requirements of Federal Highway Administrative Policy and Procedure Memorandum 21-6.3, "Contract and Force Account (General Procedures)."

c. The city shall also be responsible for providing the necessary project preliminary engineering, right-of-way acquisition and relocation assistance programs and construction inspection engineering. Future maintenance of a completed federal-aid project shall be the responsibility of the local jurisdiction where the project is located, unless otherwise specified in the "Urban Project Agreement."

d. If a project should be on a boundary between cities, one city shall be designated to handle all project administration activities for that project.

**2.1(4) Project procedures and responsibilities.**

a. *Right-of-way.* The city will normally acquire necessary project right-of-way and provide relocation assistance benefits. The city must provide written assurance of compliance with real property acquisition policies as required by Part 25, Title 49, "Code of Federal Regulations."



(1) The city shall take all necessary legal action to discontinue and prohibit any use of project right-of-way for business purposes. The city shall prevent any future encroachment or obstruction within the limits of project right-of-way, including the erection of private signs thereon and the erection of signs on private property which will overhang said right-of-way.

(2) The city will effect whatever steps may be required to legally establish the grade lines of the new highway facilities constructed under said project.

(3) Parking regulations to be imposed and maintained by the city shall be included in "Urban Project Agreement."

*b. Plans, specifications and estimates.* The city or their consultant will prepare the construction plans, specifications and estimates and take whatever action necessary to comply with federal laws and regulations. Project design shall be in accord with department policy, standards and guides for highway geometrics or other approved modifications.

(1) The department is directly responsible for the FAUS program in Iowa. To meet this responsibility, the following shall apply: For all projects, current department specifications and supplemental specifications shall be used. The department and the federal highway administration.

(2) Project development, including but not necessarily limited to, public participation, environmental impact analyses, location and design study reports and public hearings shall be the responsibility of the city.

*c. Project lettings and contract award.*

(1) FAUS projects may be let by the city, provided the city's letting procedures have been approved by federal highway administration.

The department shall let projects for cities, unable to obtain federal highway administration approval of letting procedures and will let projects for cities, if so requested. If the department is to let a project, the nomenclature of the bid items shall conform to the department's bid item descriptions.

(2) If the city holds the project letting, the city will advertise the letting, conduct the letting and determine the low bid. Projects will require bidder prequalification by the department in accord with department specification 1102. The city shall only issue bid proposal forms to contractors who have prequalified by the department as applicable.

The city shall submit either copies of all bid proposals or a tabulation of bids received to the department, along with a city council resolution for acceptance or rejections of the low bid.

*d. Materials testing and construction inspection.*

(1) The city engineer, or the city's consultant, acting in the capacity of resident construction engineer, shall prepare and file with the district engineer daily, weekly and monthly project report forms, change and extra work orders, subcontract requests and other forms as are normally utilized on construction projects.

The city engineer, or consultant, will be responsible for assuring that the project is constructed in accordance with approved project plans and specifications.

The inspection force shall use testing and documentation methods, report forms and inspection procedures specified or normally used by the department as indicated in appropriate "Instructions to Resident Engineer."

The city engineer or his consultant, shall report directly to the district engineer (or authorized representative) on all matters concerning construction and materials activities.

(2) The department shall provide source testing of materials and progress and final record sampling and testing required by the project. Source testing will be limited to those material sources normally included in the department's geographic coverage. The department will provide shop fabrication inspections outside of its normal geographic coverage if specified in the "Urban Project Agreement." The department will bill the city for testing services according to its normal policy.

(3) The city or its consultant will provide the necessary project documentation and job control testing. Sampling and testing shall be in accordance with "Iowa Department of Transportation Instructional Memorandum 204," and current supplements.

(4) The city or its consultant shall supervise the construction with an adequate inspection force, the qualifications of which shall be subject to review by the department. Testing and inspection equipment will be furnished by the city or its consultant and shall be subject to calibration and approval by the department.

*e. Contract payments.*

(1) During progress of the project work, the city may submit progressive billings to the district engineer covering eligible payments that have been expended by the city for said work.

(2) Upon completion of construction, a final project inspection will be made by the city engineer or his consultant, the district engineer or his representative and the federal highway administration. The city will accept the project, make final payment to the contractor and will forward project documentation to the district engineer along with: A "Final Estimate of Quantities;" "Construction Period Report (for possible liquidated damages, if applicable);" Form 830435, "Certificate of Completion of Work;" Form 830436, "Final Acceptance of Work;" Form PR 47, "Statement of Materials and Labor;" and Form 181014, "Certification of Wages/Certification of Payroll."

(3) Should the federal highway administration withdraw federal participation in the project or any parts of the project, because of noncompliance of specifications, documentation or any other reason, it shall be the full responsibility of the city to provide the financial resources in substitute for the federal participation.

(4) Upon receipt of final federal reimbursement, these funds will be forwarded to the city. These rules are intended to implement section 307A of the Code.

[Filed July 1, 1975]

[Filed 3/16/78, Notice 1/11/78—published 4/5/78, effective 5/10/78]

**CHAPTER 3  
GENERAL REQUIREMENTS FOR THE PREPARATION AND SUBMITTAL  
OF STREET SYSTEM MAPS BY CITIES FOR ROAD USE  
TAX ALLOCATION**

**820—[06,P]3.1(307A) Maps required by city.** Each city in the state shall have on file with the highway division, department of transportation, a map showing the arterial street system and local street system of such city as approved by the department.

**3.1(1) Maps approved by department.** Each newly incorporated city must file their street systems map with and have it approved by the department. The department shall notify the treasurer of the state of such compliance before the city is eligible for "Road Use Tax" allocation.

New developments resulting in changes of land use or traffic conditions may justify additional arterial streets or changed conditions may require an arterial street to be changed to a local street. Errors in the previous submission or in the maps may justify correction. Changes in the corporate boundary brought about by annexation will require a revision of the street system map and tabulation. These changes should not be made until annexation procedures are final and the city or town has accepted jurisdiction of the county roads involved in the annexation.

**3.1(2) General requirement for map preparation.** The map shall be prepared showing all streets in the city and town. The scale of the map shall be determined by the size of the community and shall be such as to adequately show all platted streets by an open band at least one-sixteenth inch wide. All primary road extensions are a part of the arterial system.

*a.* The map shall be on such materials as can be reproduced. Also, it should be the type of material upon which additions can be readily made.

*b.* The map shall show the street names, railroads, grade separations, rivers and streams, bridges, schools, parks and any other land use that may be important to the location of arterial streets.

- c. The following symbols shall be used to show the various classifications:

Extension of primary road

Arterial street

Local street

- Optional symbols:

Local street - platted but not in use

Future arterial street - the symbol for "Future Arterial Street" should be used for those sections of the arterial street system which are not a part of the present street system and will require the purchase or dedication of right of way.

- d. Map to show legend and scale.

- e. Map to show approval by local official and date of approval.

- f. Map to show approval by highway division and date of approval.

3.1(3) *Tabulation of streets.* A tabulation of the arterial street system and mileage shall be made on Form RUT-1 (a, b) and submitted with the map. Streets shall be listed in alphabetical or numerical order with a space between each group. It is suggested that a coordinate system be included on maps of the larger cities to aid in location of the street.

These rules are intended to implement section 312.10 of the Code.

[Filed July 1, 1975]

#### CHAPTER 4 GENERAL REQUIREMENTS FOR BIKEWAY AND WALKWAY FACILITIES

820—[06,P]4.1(307A) **General requirements for bikeway or walkway construction on the primary system.**

4.1(1) *Bikeway or walkway construction as a part of a primary road construction project.* Subject to the availability of state and federal funds, the department may design and construct bikeway and walkway facilities as an incidental part of primary road construction or reconstruction project when the following conditions are met:

a. A public agency has requested the inclusion of a bikeway or walkway facility in conjunction with the project or the department has identified a viable potential for such a facility.

b. The proposed facility is a part of an overall plan which has been reviewed and approved by the Iowa conservation commission, pursuant to chapter 308A of the Code.

c. The facility, as proposed, will not impair the safety of the motorist, bicyclist or pedestrian.

d. A public agency other than the department has formally agreed to operate and maintain the facility and to ban all motorized vehicles from the facility, other than maintenance vehicles and, when snow conditions and local statute and the Code permits, snowmobiles.

e. The initiating public agency can reasonably show that the facility will have sufficient use to justify the construction and maintenance of the facility.

4.1(2) *Bikeway or walkway construction within the right-of-way of existing segments of the federal-aid primary road system.* Upon approval of a proper agreement, the department may authorize a public agency to design and construct bikeway and walkway facilities within the right-of-way of existing segments of the federal-aid primary road system for the expressed purpose of utilizing federal-aid primary funds. The public agency shall be responsible for providing the required matching funds (thirty percent) in order to utilize federal-aid funds, or may utilize their own funds entirely.

The granting of such authorization (subject to the regulations as promulgated in subsection 1, section 1, chapter 1, volume 6 of the "Federal-Aid Program Manual" as revised from time to time) shall be considered when the following conditions are met.

a. The proposed facility is a part of an overall plan which has been reviewed and approved by the Iowa conservation commission, pursuant to chapter 308A.

b. The facility, as proposed, will not impair the safety of the motorist, bicyclist or pedestrian.

c. A public agency other than the department has formally agreed to operate and maintain the facility and to ban all motorized vehicles from the facility, other than maintenance vehicles, and when snow conditions and local statute and the Code permits, snowmobiles.

d. The initiating public agency can reasonably show that the facility will have sufficient use to justify the construction and maintenance of the facility.

**820—[06,P]4.2(307A) Bikeway and walkway construction within the federal-aid secondary system or farm-to-market system.**

4.2(1) Upon the request of a county (subject to the availability of federal-aid secondary funds to be utilized), the department may authorize the county, or other public agency under agreement with the county, to design and construct bikeway and walkway facilities as an incidental feature of a federal-aid secondary construction project or as an independent facility on an existing segment of the "Federal-Aid Secondary System." The county shall be responsible for providing the required matching funds (thirty percent or may utilize county funds entirely).

4.2(2) The granting of such authorization (subject to the regulations as promulgated in subsection 1, section 1, chapter 1, volume 6 of the "Federal-Aid Program Manual" as revised from time to time) shall be considered when the following conditions are met:

a. The proposed facility is part of an overall plan which has been reviewed and approved by the Iowa conservation commission, pursuant to chapter 308A.

b. The facility, as proposed, will not impair the safety of the motorist, bicyclist or pedestrian.

c. The county or other public agency under agreement with the county, has formally agreed to operate and maintain the facility and to ban all motorized vehicles from the facility, other than maintenance vehicles and, when snow conditions and the Code permits, snowmobiles.

d. The county can reasonably show that the facility will have sufficient use to justify the construction and maintenance of the facility.

**820—[06,P]4.3(307A) Bikeway and walkway construction within the federal-aid urban system.**

4.3(1) Upon the request of an urban area (over 5,000 population), acting on their own behalf or for another public agency, the department may authorize the design and construction of bikeway and walkway facilities as an incidental feature of a federal-aid urban system project or as an independent facility on an existing segment of the federal-aid urban system, subject to the availability of the federal-aid urban system funds. The urban area shall be responsible for providing the required matching funds (thirty percent) or may utilize local funds entirely.

4.3(2) The granting of such authorization (subject to the regulations as promulgated in subsection 1, section 1, chapter 1, volume 6 of the "Federal-Aid Program Manual" as revised from time to time) shall be considered when the following conditions are met:

a. The proposed facility is part of an overall plan which has been reviewed and approved by the Iowa conservation commission, pursuant to chapter 308A.

b. The facility, as proposed, will not impair the safety of the motorist, bicyclist or pedestrian.

c. The urban area or other public agency under agreement with the urban area has formally agreed to operate and maintain the facility and to ban all motorized vehicles from the facility, other than maintenance vehicles and, when snow conditions, local statute and the Code permits, snowmobiles.

These rules are intended to implement section 217, chapter 2, Title 23 of the U.S. Code and chapter 308A of the Code.

CHAPTER 8

GENERAL REQUIREMENTS FOR THE INSTALLATION OF LIGHTING AT THE INTERSECTIONS OF PRIMARY AND SECONDARY ROADS

820—[06,Q]8.1(307A) The county shall be responsible for design of the installation and for preparation and submission of plans. The department shall approve the plans before construction.

8.1(1) Lighting plans submitted for approval shall indicate complete dimensions of the intersection including pavement and shoulders, location of proposed luminaires, mounting height, mastarm length, and lateral and vertical light distribution of the luminaire. The lighting system must comply with current department standards and specifications for highway lighting, with the following general conditions:

- a. Poles shall have breakaway bases if they are within thirty feet of the traveled way, and pole footings shall be constructed with tops flush with the ground surface.
- b. The electrical distribution system shall be adequate for the intended loads and shall be underground from the control station.
- c. Luminaires shall be specifically designed for highway lighting. The luminaire shall be rigidly mounted and shall contain semi- or cut-off glare control. Luminaires shall be mercury vapor, 400 watt.
- d. Mounting height and lumen output of luminaires shall be consistent throughout an installation. The standards below are recommended:

<u>Mounting height</u>	<u>Luminaire output</u>
30 feet to 34 feet	11,000 lumens
34 feet to 40 feet	21,000 lumens

Mounting height is measured from the light source to the road surface directly below it.  
e. Cantilevered luminaires shall not extend beyond pavement edge.

8.1(2) Reserved.

This rule is intended to implement chapter 307A of the Code.  
[Filed July 1, 1975]

CHAPTER 9

TO DEFINE THOSE ACTIVITIES PERFORMED FOR AND SUPPLIES FURNISHED TO COUNTIES BY THE DEPARTMENT FOR WHICH REIMBURSEMENT WILL BE REQUIRED

820—[06,Q]9.1(307A) The department will bill counties for all functions performed for the counties on emergency relief projects (ER). The counties should insure that all eligible costs are charged to the project in order that the federal aid section of the office of accounting will include them in billings to the federal highway administration, including work performed by the department.

820—[06,Q]9.2(307A) Services by the department for which reimbursement will be required from the counties.

9.2(1) The county shall reimburse the department for the following items when performed in conjunction with a farm-to-market funded project, and the items shall be charged to the county's farm-to-market fund. A county may also request any of the following items and will be billed the cost thereof on any locally funded project.

- a. Structural analysis: A detailed field or office study of an existing or proposed structure in order to determine condition or load-carrying capacity.

*b.* Hydraulic analysis: An in-depth field or office review of hydraulic functioning and adequacy of a proposed or existing drainage complex.

*c.* Shop drawings: A review of details on drawings of steel fabrication prepared by the steel fabricating company.

*d.* Shop inspection: Inspection of steel fabrication at the assembly point to determine compliance with plans, specifications and approved shop drawings.

*e.* Bridge soundings: The taking of soundings and identifying depth and type of material encountered below surface level at structure locations on secondary roads.

*f.* Soil borings and analysis: The taking of soil borings to identify depth and type of material encountered below surface level along existing or proposed roadway, and calculations, based on field data, to be incorporated in completed plan.

*g.* Physical testing: Inspection, laboratory or field testing, and documentation of results to a county on any material samples for any purpose obtained by the department, county or consultant.

*h.* Material exploratory work: The conduction of a survey of location and quantity of anticipated material sources.

*i.* Inspection supplies and equipment repairs: All inspection equipment furnished by the laboratory will be on loan to the counties and shall be returned upon completion of the project or the season. All inspection supplies furnished from warehouse stock shall be paid for by the receiving county and shall not be returned for credit. The cost of all equipment repairs performed for a county shall be charged to that county.

*j.* Manuals and publications: The department will provide each county with a single copy of each publication required to be used by them (i.e. standard specifications). Any additional copies requested by a county will require reimbursement from the county. All publications requested by a county and not required by the department will be at the county's expense.

*k.* Office supplies: Items which are not required to be submitted by the department for substantiation or operation of the secondary road system.

*l.* Printing services: Preparation and printing of blue prints, offset prints, photo processes, and other printing performed for counties.

*m.* Origin and destination studies: Field and office traffic studies.

*n.* Rental of electronic data processing equipment: Use of department of transportation computers for road, bridge and culvert design, road profile adjustment, and other secondary road work.

*o.* Schools: Extended instruction on various road subjects, attended by county personnel on application basis.

*p.* Pile bearing tests: Test loading of piles to determine pile load-bearing capacity.

*q.* Tabulation of bids: All lettings; by subscription.

*r.* Checking falsework plans.

9.2(2) Reserved.

These rules are intended to implement chapter 307A of the Code.

[Filed July 1, 1975]

## CHAPTER 10

[Rescinded, effective 5/10/78]

CHAPTERS 11 and 12  
ReservedCHAPTER 13\*  
GENERAL REQUIREMENTS FOR IMPLEMENTING THE  
PAVEMENT MARKING DEMONSTRATION PROGRAM

820—[06,Q]13.1(307A) **Source of funds.** The Federal Aid Highway Act of 1973 authorized funds to carry out a pavement marking demonstration program to improve markings on all highways except interstate, and thereby provide greater safety for vehicles and pedestrians. Iowa's appropriations for this program are \$437,536 for fiscal 1974, \$1,326,139 for fiscal 1975, and \$1,310,249 for fiscal 1976.

820—[06,Q]13.2(307A) **Administration of funds.** The federal highway program manual (FHPM) volume 6, chapter 8, contains the general federal requirements for implementation of this program.

The department of transportation (DOT) may use a portion of the pavement marking demonstration funds on the primary road system.

Project funds for those cities and counties wishing to participate in this program shall be available on a first-come, first-serve basis. No matching funds are needed for this program. The city or county having the jurisdiction of the roadway shall first pay the cost of the marking and shall be reimbursed by DOT for all eligible, claimed costs after DOT receipt of federal aid funds earned by the project.

820(06,Q)13.3(307A) **Use of funds.** All highways and streets, except the interstate system, are eligible under this marking program whether on a federal aid system or not, provided that for centerline marking projects, the pavement width is sixteen feet or more, and for edgeline markings projects, the pavement width is twenty feet or more.

Priority shall be given to projects on two-lane rural highways on the federal aid secondary systems or not on any federal aid system and to projects on route or systems having a high accident rate when it is probable the adequate markings will reduce the high accident rate.

13.3(1) **Renewal of pavement markings.** Funds may be used to renew pavement markings which were applied under this program and which conform with the 1972 Iowa Manual on Uniform Traffic Control Devices (MUTCD). If edgelines are placed for the first time, existing centerline markings may be renewed, if renewal is necessary to provide adequate markings, at the same time and both shall conform to the MUTCD.

Funds may be used to renew markings applied under this program for as long as necessary to enable the effectiveness of the markings to be evaluated during a period of at least two years.

\*Emergency, pursuant to sections 17A.4(2) and 17A.5(2)"b"(2) of the Code.

13.3(2) *Marking materials.* Highway traffic paint and reflective spheres shall be the normal marking materials; however, these funds may be used to upgrade the quality of the marking materials if proper justification is provided by the requesting agency and the proposed markings conform to the MUTCD.

820—[06,Q]13.4(307A) **Project procedure.** The state, county or city shall determine the location of the projects. The project shall have logical termini even if it extends into another jurisdiction.

13.4(1) *Agreement to participate.* An "agreement to participate" shall be executed by each participating county or city.

The agreement to participate shall define the responsibility for plan preparation, construction and materials inspection, contract letting and awarding to low bidder, or use of force account procedures, payment to the contractor, method and time for claiming reimbursement of federal funds, retention of records, auditing of claim and payment of costs found to be ineligible.

13.4(2) *Plan preparation.* The state, county or city shall prepare the plans for the work.

13.4(3) *Work accomplishment—contract or force account.* The work may be accomplished by force account or by contract. Contracts may be let at public letting or negotiated, provided that all state and federal requirements are met. All contract proposals shall be reviewed by DOT prior to advertising and contracts shall be concurred in by DOT prior to award.

13.4(4) *Payment for project work and reimbursement.* The cost of work on all projects shall be paid by the local agency involved and then eligible costs reimbursed by DOT from federal funds earned by the project.

13.4(5) *Documentation of project completion.* A certificate of completion, form 435, and final payment, form 436, must be completed for each project. A claim for reimbursement must be submitted to DOT for work done if federal aid is to be received.

820—[06,Q]13.5(307A) **Project reports.** Each county or city participating in this program shall make periodic reports on their respective projects, as requested by DOT, on the effectiveness of the program including a summary of available accident statistics based on a limited sampling.

These rules are intended to implement chapter 307A of the Code.

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#### CHAPTER 14\*

##### GENERAL REQUIREMENTS FOR IMPLEMENTING THE SAFER ROADS DEMONSTRATION PROGRAM

820—[06,Q]14.1(307A) **Source of funds.** The Federal Aid Highway Act of 1973 provides funds to correct safety hazards on all public roads not on a federal aid system (23 USC 405). Appropriations are specified for the three fiscal years beginning with 1974.

Iowa's share of the appropriations under this program are: \$873,070 for fiscal 1974; \$1,746,141 for 1975; and \$1,665,484 for 1976.

Federal funds must be matched on a ninety percent federal, ten percent local basis.

820—[06,Q]14.2(307A) **Allocation of funds.** Nine hundred thousand dollars of the three years' total appropriations shall be allocated for the improvement of railroad-highway grade crossing protection. This allocation shall be administered by the department of transportation (DOT) for projects on the primary, secondary or municipal routes not on a federal aid system. The remainder of the safer roads demonstration appropriation, including any funds which may be transferred from the pavement marking demonstration program, (23 USC 151) shall be allocated to Iowa's cities and counties in the same ratio as the Iowa road

\*Emergency, pursuant to sections 17A.4(2) and 17A.5(2)"b"(2) of the Code.