State of Iowa

Iowa Administrative Code Supplement

Biweekly

May 12, 1982

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PUBLISHED BY THE
STATE OF IOWA
UNDER AUTHORITY OF SECTION 17A.6, CODE 1981

Pursuant to section 17A.6 of the Iowa Code, the Iowa Administrative Code [IAC] Supplement is published biweekly and supersedes Part II of previous publications.

The Supplement contains replacement pages to be inserted in the loose-leaf 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 administrative rules co-ordinator as provided in sections 7.7, 17A.4 to 17A.6. [It may be necessary to refer to the Iowa Administrative Bulletin* to determine the specific change.] The Supplement may also contain new or replacement pages for "General Information", Tables of Rules Implementing Statutes, and Skeleton Index.

When objections are filed to rules by the Administrative Rules Review Committee, Governor or the Attorney General, the context will be published with the rule to which the objection applies.

Any delay by the Administrative Rules Review Committee of the effective date of filed rules will also be published in the Supplement.

Each page in the Supplement contains a line at the top similar to the following:

IAC 12/29/75 Agriculture[30] Ch 1, p.1

*Section 17A.6 has mandated that the "Iowa Administrative Bulletin" be published in pamphlet form which will contain material formerly published in Part I of the IAC Supplement. The Bulletin will contain Notices of Intended Action, Filed Rules, effective date delays, and the context of objections to rules filed by the Committee, Governor, or the Attorney General.

In addition, the Bulletin shall contain all proclamations and executive orders of the Governor which are general and permanent in nature, as well as other materials which are deemed fitting and proper by the Committee.

INSTRUCTIONS

FOR

Updating Iowa Administrative Code
with Biweekly Supplement

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 correspond to the tab sections in the IAC Binders.

Obsolete pages to IAC 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.

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May 12, 1982 Biweekly Supplement

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

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Professional and Occupational Regulation Commission[637]	Ch 1, p.1—Ch 2, p.1 Ch 5, p.2	Ch 1, p.1—Ch 2, p.1 Ch 5, p.2
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*It is recommended that "Old Pages" be retained indefinitely in a place of your choice. They may prove helpful in tracing the history of a rule.

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37.3(1) The floors of such rooms shall be of suitable, nonabsorbent, impermeable material. The walls and ceilings shall be of material that can be easily washed, cleaned and kept in a sanitary condition. Toilet fixtures shall be of sanitary design and readily cleanable. Doors shall be self-closing and have locks. Toilet tissue shall be provided. Sanitary receptacles shall be provided for waste materials, and such receptacles in the toilet rooms for women shall be covered.

37.3(2) Toilet rooms shall be well-lighted and effectively vented to the outside of the building through the use of electrically powered units.

37.3(3) The toilet rooms shall have lavatories equipped with hot and cold or tempered running water, hand cleansing soap or detergent, and approved hand drying devices or individual sanitary towels. Such facilities shall be kept clean and in good repair.

37.3(4) All food service establishments seating fifty people or more at one time, that are constructed or extensively remodeled after January 1, 1979, shall provide separately designed toilet rooms for men and women.

37.3(5) All places serving beer, cocktails, or alcoholic beverages shall provide separate toilet rooms for men and women.

30—37.4(170A) New construction. If extensive remodeling or the construction of a new facility is required by a food service establishment to comply with these rules, the department or contracting authority may, upon receiving a written request, grant an extension of time in which to comply. In no case shall the department grant an extension of time later than the first day of July, 1980.

30—37.5(170A) Posting inspection notice. Immediately after an inspection of a food service establishment, the licensee or person in charge shall post in a conspicuous place easily accessible to the public no higher than eye level, a notice stating the date of inspection and name of inspector.

37.5(1) The permit holder or operator of any food service establishment which receives two consecutive inspection ratings of under seventy-six, shall post the numerical rating along with the designation of "Poor" in the same manner as required for the inspection notice.

37.5(2) The license holder or operator of any food service establishment which receives two consecutive inspection ratings of under seventy-six may at any time make a written request for a reinspection of the establishment. A written request for reinspection shall be accompanied by a statement signed by the applicant that improvements necessary to raise the rating above seventy-five have been made. The regulatory authority shall make such a reinspection within seven days after receipt of such written request and statement.

30—37.6(170A) Boarding houses. A boarding house is not a food service establishment unless they cater to transient guests. A boarding house catering to transient guests is classified as a food service establishment and, therefore, must have a food service establishment license.

[Filed January 11, 1966; amended September 13, 1966, December 16, 1966, July 30, 1973, November 30, 1973]
[Filed 11/24/75, Notice 10/20/75—published 12/1/75, effective 1/5/76]
[Filed 7/29/77, Notice 4/6/77—published 8/24/77, effective 9/28/77]
[Filed 10/13/78, Notice 8/23/78—published 11/1/78, effective 12/7/78]

CHAPTER 38
FOOD ESTABLISHMENTS

30—38.1 and 38.2 Reserved.

38—3.3(170) Sanitary regulations.

38.3(1) Perishable food shall mean any food of such type or in such condition as may spoil.

38.3(2) Potentially hazardous food shall mean any perishable food which consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, or other ingredients capable of supporting rapid and progressive growth of infectious or toxicogenic micro-organisms.

38.3(3) All employees who contribute in any way to the assembling, dressing, cooking, manufacturing, compounding, or serving of food are required to effectively cover and restrain hair and beards to prevent contamination of foods. Caps, hair spray, bandannas, head scarves and hair nets are acceptable hair restraints provided they both cover and restrain the hair. Wigs must be covered with an acceptable hair restraint. Employers, as well as employees, shall be held responsible if this rule is violated.

30—38.4(170) Temperatures and proper care of foods.

38.4(1) All perishable food shall be stored at such temperatures as will protect against spoilage.

38.4(2) All potentially hazardous food shall, except when being prepared, served, or displayed for service, be kept at or below 45 °F, or 140 °F, or above.

38.4(3) All potentially hazardous food, when placed on display for service, shall be kept hot or cold as required hereafter:

a. If served hot: Displayed in or on a heated facility which can maintain the temperature of the food at 140 °F or above.

b. If served cold: Displayed in or on a refrigerated facility which can maintain the product temperature at 45 °F or below.

38.4(4) Frozen food shall be kept at such temperatures as to remain frozen.

38.4(5) When ready for preparation, potentially hazardous frozen food shall be thawed or prepared for use in the following ways:

a. Thawed at refrigerator temperature of 45 °F or below.

b. Thawed under pure running water 70 °F or below.

c. Quick thawed as part of the cooking process.

In any event, food which is to be thawed by any of the above ways must be put into appropriate containers which will provide for sanitary care of the food during thawing.

38.4(6) Hollandaise and other potentially hazardous sauces prepared from fresh ingredients must be discarded as waste within three hours after preparation. Where sauces require eggs as an ingredient, only shell eggs shall be used.

38.4(7) Custards, cream fillings or similar products which are prepared by hot or cold processes, shall be kept at safe temperatures except during necessary periods of preparation and service. Pastries or puddings shall meet the following requirements as applicable:

a. Pastry fillings shall be placed in shells, crusts or other baked goods immediately following preparation or shall be refrigerated at 45 °F or below in shallow pans, immediately after cooking or preparation and held thereat until combined into pastries or served.

b. All completed custard-filled and cream-filled pastries shall, unless served immediately following filling, be refrigerated at 45 °F or below promptly after preparation and held thereat pending service.

38.4(8) Sugar, catsup and mustard shall be kept in covered or closed containers at all times. Sugar bowls which contain loose, unpackaged sugar will not be permitted.

38.4(9) Mayonnaise and other similar preparations must be kept refrigerated at 45 °F or lower after opening.

30—38.5(170) Storage of food.

38.5(1) Wet storage of packaged food will not be permitted.

38.5(2) Food must be covered, wrapped or placed in proper container to prevent contamination. All containers shall be properly labeled.

38.5(3) Dry ingredients which have been opened must be placed in tightly covered plastic, glass or metal containers.

38.5(4) Storage facilities must be kept clean and provide adequate storage space and be located in a place as to protect food from contamination and unsanitary conditions.

38.5(5) Racks, shelves and other surfaces must be free of corrosion, rust and other unsanitary conditions.

38.5(6) Food in cartons, bags or other containers kept in storerooms, basements, warehouse or other places, shall be placed on platforms, racks or pallets so as to allow space of at least four inches above floor and sufficient space from the wall for proper pest control.

30—38.6(170) Garbage.

38.6(1) All garbage must be kept in metal or plastic containers with tight-fitting lids. Inside garbage cans must be emptied, thoroughly washed and disinfected daily. Suitable plastic liners may be used.

38.6(2) All garbage and refuse must be removed from premises regularly so as not to create problems with insects and rodents, offensive odors or health or fire hazards.

30—38.7(170) Towels.

38.7(1) Individually dispensed sanitary towels are approved by the department.

38.7(2) Air driers are approved by the department.

38.7(3) No roller or common towel shall be kept or used in any food establishment. Cloth towel dispensers that offer a clean section of towel each time used are approved and are not considered roller towels, provided they are serviced regularly and not allowed to leave a loose end of toweling hanging when the roll reaches the end.

38.7(4) Soiled linens, towels, etc. must be kept in proper containers and kept away from food preparation and serving areas.

30—38.8(170) Approved methods of washing and sanitizing equipment and utensils.

38.8(1) For manual washing, rinsing and sanitizing of equipment and utensils in meat departments and other food preparation areas, a sink of not fewer than three compartments shall be provided which is equipped with hot and cold running water under pressure and adequate drainboards so that equipment and utensils can be inverted and air dried.

38.8(2) Procedure is as follows: After the items are prescraped, they must be washed in the first compartment using an effective detergent or other approved cleansing agent and a brush or swab. The temperature of this wash water should be 110°F to 120°F. The items are then rinsed in hot water in the second compartment to remove all detergent or other approved cleansing agent and suds. Temperature of this rinse should be 110°F to 120°F. Finally, the items are sanitized in the third compartment of the sink by immersing them for at least one minute at a temperature of not less than 75°F in a sanitizing solution which contains one of the following:

a. At least 100 PPM of available chlorine,

b. At least 200 PPM of quaternary ammonium compound, or

c. Any other sanitizing agent which has been demonstrated to the satisfaction of the department of agriculture to be effective and nontoxic under use conditions and for which a suitable field test is available.

In using any of these sanitizers, it is important to follow the directions on the label of the product carefully and to measure amounts accurately.

30—38.9(170) Medical certification. The department may require medical certification as proof of freedom from infection and any communicable disease.

30—38.10(170) Insecticide regulations. Insecticide vaporizers using any insecticide that could contaminate food must not be used in rooms or areas where food is prepared or served except under the supervision of a pest control operator licensed under the Iowa state department of agriculture.

30—38.11(170) Walls and ceilings. Interior sidewalls and ceilings of every food establishment shall be made of suitable material approved by the department which can be painted or finished to withstand frequent washing and cleaning.

30—38.12(170) Screens and self-closing doors. The outside doors, windows and other openings of every food establishment shall be fitted with screens and self-closing doors during the summer season, if not otherwise protected from insects.

30—38.13(170) Lighting and ventilation. Every food establishment shall be properly lighted, ventilated and operated with strict regard to the influence of such conditions upon the food handled therein.

This rule is intended to implement chapter 170, The Code.

[Filed 10/13/78, Notice 8/23/78—published 11/1/78, effective 12/7/78]
[Filed 4/23/82, Notice 3/17/82—published 5/12/82, effective 6/16/82]

CHAPTER 39
HOTELS

30—39.1(170B) License. A license is not transferable. Any change in location or ownership requires a new license. A valid license shall be posted no higher than eye level in a conspicuous place easily accessible to the public.

30—39.2(170B) Sanitary requirements. All rooms, corridors, storage areas, linen closets, attics, and basements shall be kept in a clean, orderly condition free of accumulations of refuse. Clothing worn by personnel shall be clean.

39.2(1) *Bedding.* Every bed, bunk, cot, or other sleeping place in a hotel, motel, or motor inn shall be supplied with under sheets, top sheets, and pillow slips. The sheets shall be of sufficient width and length to completely cover the mattress. The pillow slips and sheets after being used by any guest shall be washed and sanitized, or disposed of, and a clean set furnished each succeeding guest. The other bedding shall be thoroughly aired and kept clean at all times. All mattresses, quilts, blankets, pillows, sheets, comforters, and other bedding which have become worn or unsanitary so as to be unfit for use as bedding shall be condemned by an inspector and shall not be used again.

39.2(2) *Vermin.* Every room or article in any hotel which has become infested with bedbugs or other vermin shall be renovated until the same are exterminated.

39.2(3) *Towels.* Individual towels shall be provided for the use of each guest in a hotel, so that two or more guests will not be required to use the same towel.

39.2(4) *Screens and self-closing doors.* The outside doors, windows and other openings of every hotel shall be fitted with screens and self-closing doors during the summer season, if not otherwise protected from insects.

39.2(5) *Drinking cups-glasses sterilized.* No common drinking cup or glass shall be kept or used in any hotel. All cups, glasses and utensils intended for repeated use shall be washed, rinsed and sanitized and shall be suitably protected from contamination until used by the individual guest.

39.2(6) *Ice.* Ice intended for human consumption shall be protected from contamination at all times. Ice machines and storage bins shall have tight-fitting lids and shall be drained through an air gap. Ice buckets or other containers shall be made of a suitable material, approved by the regulatory authority, which can be washed, rinsed and sanitized after each use

or may be fitted with a disposable waterproof liner. Ice shall be dispensed with approved scoops, tongs or other approved ice dispensing utensils or through automatic self-service ice dispensing equipment.

39.2(7) *Floors, walls and ceilings.* Floors, walls and ceilings in every hotel shall be kept clean and in good repair. Floors in every hotel toilet and bathroom shall be made of some suitable nonabsorbent and impermeable material which can be flushed and washed clean with water.

39.2(8) *Premises.* Yards, courts and driveways shall be kept clean and free of litter.

39.2(9) *Garbage.* All garbage and refuse must be kept in metal or plastic containers with tight-fitting lids and must be removed from premises regularly so as not to create problems with insects and rodents, offensive odors, or health or fire hazards.

39.2(10) *Furnishings.* All furnishings, drapes, furniture, accessories, and light housekeeping equipment shall be kept clean and in good repair.

This rule is intended to implement chapter 170B, The Code.

30—39.3(170B) Ventilation. Every hotel constructed or extensively remodeled after January 1, 1979, shall provide proper ventilation in each sleeping apartment either by installing at least one window large enough to ensure good ventilation or an effective mechanical ventilation device.

30—39.4(170B) Toilet and lavatory facilities. All hotels shall have toilet facilities on the premises available to the public. Every hotel constructed after January 1, 1979, and every building thereafter remodeled for use as a hotel shall have toilet and lavatory facilities in every guest room equipped with hot and cold running water. Toilet fixtures shall be of sanitary design and readily cleanable. Toilet facilities, including rooms and fixtures, shall be kept in a clean condition and in good repair. Toilet rooms shall be well-lighted and effectively vented to the outside of the building through the use of electrically powered units.

[Filed 10/13/78, Notice 8/23/78—published 11/1/78, effective 12/7/78]
[Filed 4/23/82, Notice 3/17/82—published 5/12/82, effective 6/16/82]

CHAPTERS 40 to 42
Reserved

CHAPTER 43
MEAT AND POULTRY
[Appeared as ch 17, 1973 IDR]

30—43.1(189A) Federal regulations adopted. Part 301 of Title 9 Chapter III, of the code of Federal Regulations as revised January 1, 1973, is hereby adopted in its entirety by reference and in addition thereto the following subsection shall be expanded to include:

1. Sec. 301.2(a) therein defining the term *"Act"* shall include the Iowa meat and poultry inspection Act, chapter 189A of the Code.
2. Sec. 301.2(b) therein defining the term *"department"* shall include the Iowa department of agriculture.
3. Sec. 301.2(c) therein defining the term *"secretary"* shall include the secretary of agriculture of the state of Iowa.
4. Sec. 301.2(e) therein defining the term *"administrator"* shall include the director of the Iowa meat and poultry inspection service or any officer or employee of the Iowa department of agriculture.
5. Sec. 301.2(t) therein defining the term *"commerce"* shall include intrastate commerce in the state of Iowa.
6. Sec. 301.2(u) therein defining the term *"United States"* shall include the state of Iowa.

This rule is intended to implement section 189A.7 of the Code.

30—43.2(189A) Federal regulations adopted. Part 303, Part 306, Parts 308 through 320, Parts 323 through 326 and Part 329 of Title 9, Chapter III, of the code of Federal Regulations as revised January 1, 1973, are hereby adopted in their entirety by reference. Part 305 except section 305.2, Part 307 except section 307.6, Part 325 except sections 325.3 and 325.12 of Title 9, Chapter III, of the code of Federal Regulations as revised as of January 1, 1973, are hereby adopted in their entirety by reference.

This rule is intended to implement section 189A.7 of the Code.

30—43.3(189A) Forms and marks. Whenever an official form is designated by federal regulation, the appropriate Iowa form will be substituted and whenever an official mark is designated the following official Iowa marks will be substituted.

(4) If the artist is available and agrees to an engagement, complete and return sponsor application P-7 to the Iowa arts council. (Contracts for the sponsoring group and the artist will be prepared and funds reserved for each program only upon receipt of this form.)

(5) Contract P-8 will be sent to the sponsor. Sign and return it within seven days of the date of receipt.

(6) Pay the artist one-half of the currently published fee on site immediately after completion of the program.

(7) Complete program evaluation form P-9 and return it to the Iowa arts council within seven days. (The Iowa arts council will pay the remaining one-half of the artists fee upon receipt of this report.)

c. Artists application and participation procedures. Follow the procedures stated in 2.3(9) *"c"* to *"e"* (excluding contract form P-2).

2.3(11) *Touring arts team (TAT).* The touring arts team has five to seven professional artists who do one to three day residencies in towns with population of fifteen hundred or less. Residency dates run from mid-June to July. Each stop allows for citizens of all ages to participate in varied arts activities. Classes take place during the day; evenings allow for informal performances by artists and local participants..

a. Community guidelines. The community guarantees to meet the following guidelines:

(1) The community must provide a local co-ordinator and committee to manage local details of the TAT residency.

(2) The community must assure general public awareness of the purposes, nature, and schedule of the TAT.

(3) The community must provide necessary spaces, utilities, and services.

(4) The community must protect the personnel and property of the TAT.

(5) The community must provide accommodations and meals for TAT members.

(6)* All communities must pay a materials and equipment fee in cash directly to the arts council, such fees to be set annually and differentiated between first-time or repeating sponsors.

b. Community application procedures. To apply for the TAT, communities must do the following:

(1) Request the TAT packet from the Iowa arts council.

(2) Complete application P-11 and return it to the Iowa arts council by March 31, preceding the program dates. (Applications are processed in order of receipt.)

(3) Repeating sponsors attach a letter stating compelling reasons for the TAT's return to their community.

(4) A municipal official, a school administrator, and a local citizen—co-ordinator must sign the application for the community to be considered for the program.

c. Sponsor notification. All applicants will be officially notified of the results of their application within sixty days of the application deadline. Participating communities will be sent dated commitment contract P-12 which should be signed by the local co-ordinator and returned to the Iowa arts council.

d. Sponsor reporting. The local co-ordinator must fill out and return report P-13 within ten days of the TAT residency.

e. Artists application procedures. Preference will be given to Iowa artists. Artists who want to participate in the TAT must do the following:

(1) Complete and return TAT application form P-14.

(2) Submit a plan for short-intensive classes and workshops for a varied age group.

(3) Submit a resume' of biography. Include samples of current work.

f. Artists audition. All artists must audition to participate in TAT or be previously qualified through the AIS program.

g. Artists notification. All artists will be officially notified of the results of their applications within sixty days of the application deadline. Participating artists will be sent contract P-15. It should be signed and returned to the Iowa arts council.

h. Artist payment. Artists will be paid the currently published fee by the Iowa arts council.

*Emergency pursuant to §17A.5(2)"*b*"(2), The Code.

2.3(12) *Arts and older Americans.* Arts and older Americans serve Iowans isxty years and older. Programs may vary from a one-day session to year-round programming. A single elderly group or a consortium of community-based groups may be involved. Sponsors may include community arts councils, churches, community colleges, area aging agencies, schools or private facilities co-operating with nonprofit, tax-exempt groups.

a. Program guidelines, option A. The expansion arts co-ordinator arranges for an Iowa arts council approved artist to conduct classes. Sponsors must agree to the following guidelines to be eligible for the programs:

(1) The local sponsor must provide at least fifty percent of the program cost.

(2) The program must be participatory in nature.

(3) The program must be directed by an Iowa arts council approved professional artist.

(4) The program should have a minimum of ten participants, each of whom is over sixty years of age.

(5) The program may be in either the performing, visual, or literary arts and involves creative rather than hobby-kit approach.

(6) One local person must be designated to co-ordinate among the Iowa arts council, local sponsor and the participants.

(7) The local sponsor should arrange for facility preparation and maintenance.

(8) The program should be held in a place where seniors generally congregate.

(9) The program must be held at a time which is conducive to mass participation.

(10) The program must meet a minimum of two hours each week.

(11) The program must be open and made available to the entire community.

(12) Some form of media coverage should be arranged and copies should be sent to the Iowa arts council.

b. Guidelines and procedures for artists, option A. Artists must be approved by the Iowa arts council. Guidelines and procedures are the same as stated in 2.3(9)*"c"*(1), (2), (3), (4), and 2.3(9) *"d"*, *"e"*, (excluding contract P-2) and *"f"*. The artist must do the following:

(1) Keep a log of classes which includes the number of students involved and a brief description of the class activity each week.

(2) Purchase the supplies. (The Iowa arts council will inform the artist of the supplies budget.) Left over supplies are left with the group.

c. Program guidelines, option B. The sponsoring group designs the program, arranges for an artist (Iowa arts council approved), and distributes the program funds. Guidelines are as stated in 2.3(12)*"a"*(2), (3), (5), (6), (12), and the following:

(1) Local arts or civic groups must provide an advisory committee of at least three persons to work with administrators and activity directors of senior centers. The committee must include an authorized, bonded fiscal officer, a local co-ordinator to arrange details with the Iowa arts council, and a person responsible for raising local matching funds.

(2) The local group must provide at least one-third of the funds for the project.

d. Procedures for sponsors. The following procedures apply to sponsors involved in option A or option B.

(1) The local sponsor should fill out and return application P-16 for option A or application P-20 for option B. The sponsor will be notified in writing within thirty days of receipt of the application by the Iowa arts council of the status of the application.

(2) Successful application will receive contract P-17 or contract P-21. The contract should be signed and returned within seven days of the date of receipt.

(3) Sponsors must complete and return evaluation and fiscal report P-19 within thirty days of the final class meeting.

2.3(13) *Arts in county care.* This program provides assistance in designing and implementing weekly activities in performing, visual, and literary arts for residents in Iowa county care facilities.

a. Program guidelines and description.

(1) Each county care facility will determine the type of art discipline to be used.

(2) Classes must be taught by an Iowa arts council approved artist and meet two hours each

(2) Sponsors are required to fill out and return touring exhibit evaluation and financial report form P-34, within ten days of the end of the exhibit.

2.3(16) *Art in state buildings (AiSB).* Iowa reserves one-half of one percent of the cost of state construction projects for the acquisition of fine art in state buildings. The art in state buildings advisory committee, appointed by the executive director of the Iowa arts council, advises the council and other state agencies of the overall operation of the AiSB program. The eleven-member committee includes representatives of the department of general services, department of social services, capitol planning commission, board of regents, state legislature, Iowa museum association, Iowa chapter of American institute of architects, and the Iowa arts council. Serving annual rotational memberships are one additional state agency, a professional visual artist, and one private citizen. The committee meets twice a year to review the program.

a. Eligibility. Visual artists, eighteen years of age or older, are eligible for the AiSB program. Initial preference is given to living or deceased Iowa artists (artists' agents or representatives, art dealers, the heirs of artists and art collectors). Those individuals ineligible are the project architect or employees of the architect or employees of the architect's firm or consulting firms, building art selection committee, art in state buildings advisory committee, the Iowa arts council staff, and others excluded by council policies or state law.

b. Announcement of projects. Art purchase projects are announced in Iowa Arts News, in mailing to artists, in the artist/slide registry, and in news releases through the media. Project information is available by contacting the Iowa arts council visual arts co-ordinator.

c. Artist/slide registry. The registry is designed to facilitate application to AiSB projects. However it will be used for additional purposes including advising artists of AiSB programs in other states, as a reference for Iowa arts council programs and special projects, and informing public institutions, professional arts organizations, architects, city planners, art directors, publishers, galleries, universities and colleges, and community arts councils seeking information about visual artists. The artist/slide registry will be available for viewing by making prior arrangements with the Iowa arts council visual arts co-ordinator. Artists wishing to be included in the registry should do the following:

(1) Fill out and return application P-35.

(2) Submit five thirty-five MM slides characteristic of recent work. Examples may or may not be available for purchase. (These slides will be placed in a slide carousel and shown to building art selection committees when considering artists for purchase programs.)

(3) Slides are to be marked with the artist's name and the title of the art work. A small dot must be placed in the lower left-hand corner of the slide.

d. Building art selection committee. The Iowa arts council and the state agency appoint a building art selection committee for each building project to recommend the type of purchase program appropriate for the building and budget, method of selecting the artist or art work, placement of art work in the building, and selection of art work to purchase or selection of the artist for commission. The committee acts only as an advisor with final decisions made by the state agency and the Iowa arts council. Members of the committee will be determined by the council and the principal user.

e. Selection criteria. The following selection criteria is used when selecting the artist and work for state buildings:

(1) Quality of art work. Is the art work original and of high quality?

(2) Media. Does the art work meet media requirements, as defined in the project guidelines?

(3) Style and nature of art work. Is the art work appropriate for the site and a public building?

(4) Permanence of art work. Is the structure and surface of the art work sound, and will it withstand weathering, avoid excessive maintenance or repair costs?

(5) Management capabilities. Will the project be completed successfully within the time frame and budget?

(6) Cost. Is the cost reasonable?

(7) Artist background. What are the artist's qualifications?

(8) Iowa artist. Preference is given to Iowa artists.

f. Purchase agreements. The state of Iowa will enter into formal purchase agreements with artists for purchasing existing art work or commission contracts for commissioned art work.

This rule is intended to implement sections 304A.4 and 304A.6, The Code.

[Filed 11/17/75, Notice 9/22/75—published 12/1/75, effective 1/5/76]
[Filed 4/30/76, Notice 3/22/76—published 5/17/76, effective 6/21/76]
[Filed emergency 2/9/77—published 3/9/77, effective 2/9/77]
[Filed 12/28/77, Notice 10/19/77—published 1/25/78, effective 3/1/78]
[Filed emergency 5/19/78—published 6/14/78, effective 5/19/78]
[Filed 12/6/78, Notice 11/1/78—published 12/27/78, effective 2/2/79]
[Filed 6/29/79, Notice 4/4/79—published 7/25/79, effective 8/29/79]
[Filed 5/6/81, Notice 3/4/81—published 5/27/81, effective 7/1/81]
[Filed 7/16/81, Notice 5/27/81—published 8/5/81, effective 9/9/81]
[Filed 8/17/81, Notice 7/8/81—published 9/2/81, effective 10/7/81]
[Filed emergency 4/23/82—published 5/12/82, effective 4/26/82]

CHAPTER 3
FORMS

100—3.1(304A) Grants-in-aid forms. The following are forms used in carrying out the grants-in-aid programs.

3.1(1) *Grant application form G-1.* This form requires basic information such as the applicant's name, address and phone number, and detailed fiscal information on the project. It is used to apply for general grants and community partnership incentive grants.

3.1(2) *Revised budget form G-2.* This form is required from grantees who receive less money than they request. It requires basic information and revised fiscal information. It is used for the general grants program and the community partnership incentive program.

3.1(3) *Grants-in-aid program memorandum of agreement form G-3.* This is a formal contract which legally commits the Iowa arts council to release to the grantee, the specified funds and legally binds the grantee to fulfill the requirements of the grants-in-aid program. It is used for all grants-in-aid programs.

3.1(4) *Cash request form G-4.* On this form the grantee indicates the month when the grant funds are needed. It is used for all grants-in-aid programs.

3.1(5) *Financial report form G-5.* This final report form is to be filled out by the grantee after the project is completed. It requires detailed fiscal information on the project. It is used for all grants-in-aid programs.

3.1(6) *Narrative report form G-6.* This final report form is to be filled out by the grantee after the project is completed. It requires the grantee to make a written report, including a description of the project and of problems encountered. It is used for all grants-in-aid programs.

3.1(7) *Performance evaluation form G-7.* Performers receiving funds under the touring artist program are required to have each sponsor fill out a performance evaluation form describing the program, how it was financed, and who benefited from it. This form is used only for touring performers.

3.1(8) *Touring applicants evaluation form G-8.* This form is used by the person designated to audition a touring applicant. It includes an evaluation of technical skill and audience response. It is used only for touring performers.

3.1(9) *Operational support grants application form G-9.* This form is in two parts and requires basic information about applicants to the operational support grants program. Part A requires basic information under the headings of applicant profile (such as name, address, city, county, and the signature of a person with the legal authority to obligate the applicant organization), an activities profile, an attendance/membership profile, a service area profile, an audience development and marketing profile, an artistic development profile, a staff profile, and a financial planning profile. Section B requires basic information in the areas of

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a. Disturbed vegetation shall be re-established.

b. Restoration of terraces shall be in accordance with Drawing No. ISCC PL-2.

c. Such restoration shall be inspected for compliance by the county inspector.

9.3(2) *Future practices and structures.* At locations where the proposed installation of soil conservation practices and structures is made known in writing to the company prior to the securing of an easement on the property, and has been defined by a qualified technician, the pipeline shall be installed at a depth which will allow for future installation of such soil conservation practices and structures, and retain the integrity of the pipeline. The commission shall read this paragraph at information meetings conducted pursuant to section 479.5, The Code 1979.

250—9.4(479) Restoration of agricultural lands.

9.4(1) *Separation of topsoil.*

a. Removal. An existing topsoil layer extending at least one foot in width on either side of the pipeline excavation at a maximum depth of twelve inches shall be removed separately and shall be stockpiled and preserved separately during subsequent construction operations, unless other means for separating the topsoil are provided in the easement.

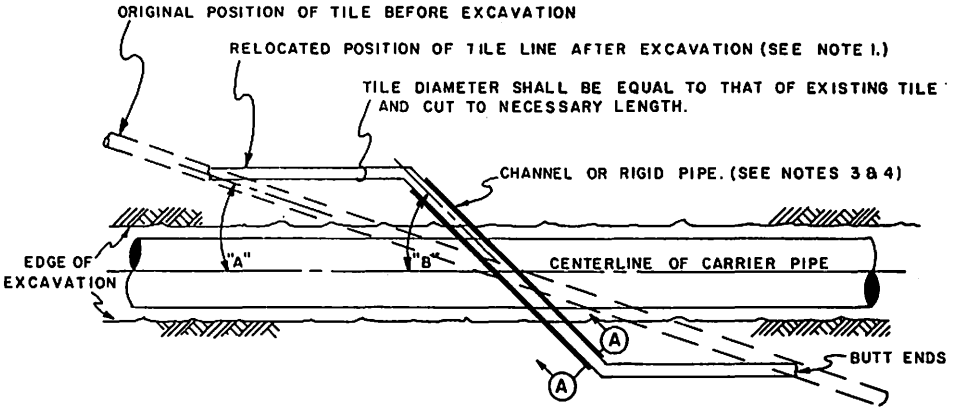
b. Backfill. The topsoil shall be replaced so the upper portion of the pipeline excavation and the crowned surface shall contain only the topsoil originally removed when required by 9.4(1)"*a*".

9.4(2) *Removal of rock.*

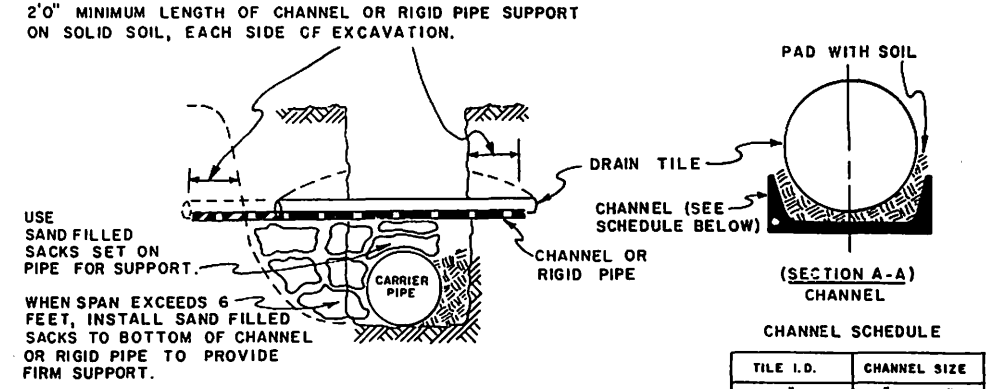
a. The topsoil, when backfilled, and the easement area shall be free of all rock and debris not native to the topsoil prior to excavation, unless otherwise provided for in the easement.

b. Rock which cannot remain in the backfill according to 9.4(2)"*a*" shall be disposed of at locations and in a manner mutually satisfactory to the company and the landowner or his authorized agent.

RESTORATION OF DRAIN TILE



(PLAN VIEW)



(METHOD OF SUPPORT--ELEVATION)

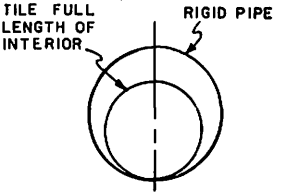
(SECTION A-A)
CHANNEL

CHANNEL SCHEDULE

TILE I.D.	CHANNEL SIZE
3"	4" AT 5.4#
4"-5"	5" AT 6.7#
6"-9"	7" AT 9.8#
10" & LARGER	10" AT 15.3#

NOTES:

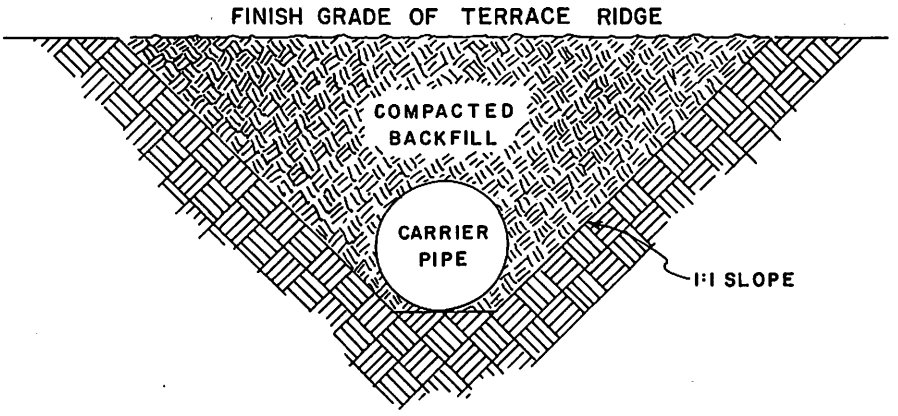
1. TILE SHALL BE RELOCATED AS SHOWN WHEN ANGLE "A" BETWEEN PIPELINE AND ORIGINAL TILE IS LESS THAN 20° UNLESS OTHERWISE AGREED TO BY LANDOWNER AND COMPANY.
2. ANGLE "B" SHALL BE 45° FOR USUAL WIDTHS OF TRENCH. FOR EXTRA WIDTHS, IT MAY BE GREATER.
3. DIAMETER OF RIGID PIPE SHALL BE OF ADEQUATE SIZE TO ALLOW FOR THE INSTALLATION OF THE TILE FOR THE FULL LENGTH OF THE RIGID PIPE.
4. OTHER METHODS OF SUPPORTING DRAIN TILE MAY BE USED IF THE ALTERNATE PROPOSED IS EQUIVALENT IN STRENGTH TO THE CHANNEL SECTIONS SHOWN AND IF APPROVED BY THE LANDOWNER.



(SECTION A-A)
RIGID PIPE

ISCC PL-1

RESTORATION OF TERRACE



NOTE

COMPACTION OF BACKFILL TO BE EQUAL TO THAT OF THE UNDISTURBED ADJACENT SOIL.

ISCC PL-2

This rule is intended to implement section 479.29, subsections 4 and 5, The Code, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, Chapter 159, section 13.

[Filed 1/4/80, Notice 10/17/79—published 1/23/80, effective 2/27/80]
[Filed 4/23/82, Notice 11/25/81—published 5/12/82, effective 6/16/82]

CHAPTER 10
PIPELINES AND UNDERGROUND GAS STORAGE

250—10.1(479) Definitions. Terms not otherwise herein defined shall be understood to have their usual meaning.

10.1(1) *"Approximate right angle"* shall mean within five degrees of a ninety degree angle.

10.1(2) *"Commission"* shall mean the Iowa state commerce commission.

10.1(3) *"Multiple line crossing"* shall mean a point at which a proposed pipeline will either overcross or undercross an existing pipeline.

10.1(4) *"Permanent permit"* shall mean a permit issued after appropriate application to and determination by this commission.

10.1(5) *"Permit"* shall mean a permanent permit or renewal permit issued by the Iowa state commerce commission.

10.1(6) *"Pipeline"* shall mean any pipe, pipes or pipelines used for the transportation or transmission of any solid, liquid or gaseous substance, except water.

10.1(7) *"Pipeline company"* shall mean any person, firm, copartnership, association, corporation or syndicate engaged in or organized for the purpose of owning, operating or controlling pipelines for the transportation or transmission of any solid, liquid or gaseous substance, except water.

10.1(8) *"Renewal permit"* shall mean the reissuance of a permanent permit after appropriate application to and determination by this commission.

10.1(9) *"Underground storage"* shall mean storage of gas in a subsurface stratum or formation of the earth.

10.1(10) Technical terms not defined shall be as defined in 49 CFR Parts 192 and 195, (1981), and ANSI B31.8—(1975).

250—10.2(479) Petition for permit.

10.2(1) Petition for permit shall be made to this commission upon the form prescribed. A typical set of exhibits to such petition, which exhibits are labeled "A", "B", "C", "D" and "E" are described below:

Exhibit "A". A description of the proposed route of the pipeline. This should be as specific and detailed as circumstances permit. This commission would prefer a legal description showing the general direction of the proposed route through each quarter section of land to be crossed, including township and range and whether on private or public property, public highway or railroad right of way, together with such other information as may be deemed pertinent. Construction deviation of one hundred sixty rods from proposed routing will be permitted.

If it becomes apparent that there will be deviation of greater than one hundred sixty rods in some area from the proposed route as filed with this commission, construction of such line in such area shall be suspended. Exhibits "A", "B" and "E" reflecting such deviation shall be filed, and the procedure hereinafter set forth to be followed upon the filing of a petition for permit shall be followed.

Exhibit "B". Maps of proposed routing of the pipeline. Such maps shall have a minimum scale of not less than one inch to one mile. Strip maps will be acceptable. Two copies of such maps shall be filed.

Exhibit "C". A showing on forms prescribed by this commission of engineering specifications covering the engineering features, materials and manner of construction of the proposed pipeline, its approximate length, diameter and the name and location of each railroad and primary highway and the number of secondary highways to be crossed, if any, and such other information as may be deemed pertinent.

Exhibit "D". Satisfactory attested proof of solvency and financial ability to pay damages in the sum of two hundred fifty thousand dollars or more; or surety bond satisfactory to this commission in the penal sum of two hundred fifty thousand dollars with surety approved by

this commission, conditioned that the petitioner will pay any and all damages legally recovered against it growing out of the operation of its pipeline or gas storage facilities in the state of Iowa; or security satisfactory to this commission as a guarantee for the payment of damages in the sum of two hundred fifty thousand dollars.

Exhibit "E". Consent or other showing of right of appropriate public highway authorities, or railroad companies, where the pipeline will be placed longitudinally on, over or under, or at other than an approximate right angle to railroad tracks or highway, when such consent is obtained prior to filing of the petition and hearing thereon shall be filed with the petition.

Should the exact and specific route be uncertain at the time of petition, a statement shall be made by petitioner that all such consents or other showing of right will be obtained prior to construction and copies thereof filed with this commission.

Additional exhibits. If permission is sought to construct, maintain and operate facilities for underground storage of gas, said petition shall include the following information, in addition to that stated above:

a. A description of the public or private highways, grounds and waters, streams and private lands of any kind under which such storage is proposed, together with a map thereof.

b. Maps showing the location of proposed machinery, appliances, fixtures, wells and stations necessary for the construction, maintenance and operation of such facilities.

10.2(2) Petitions proposing new pipeline construction on an existing easement where the company has previously constructed a pipeline shall include a statement indicating whether any unresolved damage claims remain from the previous pipeline construction, and if so shall provide the name of each landowner or tenant, a legal description of the property involved, and the status of proceedings to settle the claim.

A petition for permit proposing a new pipeline construction on an existing easement where the company has previously constructed a pipeline will be rejected by the commission if a damage claim from the installation of its previous pipeline has not been determined by negotiation, arbitration or court action. This paragraph will not apply if the damage claim is under litigation or arbitration.

10.2(3) Statement of damage claims.

a. A petition for permit proposing new pipeline construction will be rejected by the commission if the company does not have on file with the commission written statement as to how damages resulting from the construction of the pipeline shall be determined and paid.

The statement shall contain the following information: The type of damages which will be compensated for, how the amount of damages will be determined, the procedures by which disputes may be resolved, and the manner of payment.

The statement shall be amended as necessary to reflect changes in the law, company policy, or the needs of a specific project.

b. A copy of this statement shall be mailed with the notice of informational meeting as provided for in section 479.5, The Code. Where no informational meeting is required, a copy shall be provided to each affected party prior to entering into negotiations for payment of damages.

c. Nothing in this rule shall prevent a party from negotiating with the company for terms which are different, more specific, or in addition to the statement filed with the commission.

This rule is intended to implement sections 479.5 and 479.17, The Code, and Acts of the Sixty-ninth General Assembly, 1981 Session, Chapter 159, sections 4, 5 and 11.

250—10.3(479) Informational meetings. Not less than thirty days prior to the filing of a petition for a permit to construct a pipeline of not less than five miles in length or future anticipated extension of an overall distance of five miles or an underground storage facility, the pipeline company planning the project shall hold informational meetings in each county in which real property or rights therein will be affected. Informational meetings shall comply with the following:

10.3(1) *Facilities.* Prospective petitioners for a permit shall be responsible for all negotiations and compensation for a suitable facility to be used for each informational meeting,

including but not limited to a suitable building, parking facilities and electronic voice amplification equipment when over one hundred notices are served.

10.3(2) *Location.* The informational meeting location shall be reasonably accessible to all persons, companies or corporations which may be affected by the granting of a permit. Reasonable effort shall be made to select a meeting location that conforms to the access requirements of section 104A.3, subsections 2, 3 and 4, The Code.

10.3(3) *Route deviation.* Prospective petitioners desiring a route corridor to permit minor route deviations beyond the proposed permanent right of way width shall include as affected all parties within the desired corridor. Prospective petitioners may also provide notice to affected parties on alternative route corridors.

10.3(4) *Notices.* Announcement by mailed and published notice of the meeting shall be given to affected parties of interest in real estate. Affected parties of interest in real estate are those persons, companies or corporations listed on the tax assessment roles as responsible for payment of real estate taxes and parties in possession of or residing on the property over which the prospective petitioner will seek easements.

a. The meeting notice shall state the name of the prospective petitioner; state the address of the prospective petitioner's principal place of business; state the general description and purpose of the proposed project; state the general nature of the right of way desired; include a map showing the proposed route; advise that the affected party has the right to be present at the informational meeting and to file objections with the commission; and designate the date, time and place of the meeting.

b. The prospective petitioner shall cause a written copy of the meeting notice to be served, by certified United States mail with return receipt requested, on all affected parties whose address is known. The certified meeting notice shall be deposited in the U.S. mails not less than thirty days prior to the date of the meeting.

c. The prospective petitioner shall cause the meeting notice, including the map, to be published once in a newspaper of general circulation in the county at least one week and not more than three weeks prior to the date of the meeting. Publication shall be considered as notice to affected parties whose residence is not known.

10.3(5) *Personnel.* The prospective petitioner shall provide qualified personnel to speak for it in matters relating to the following:

a. Service requirements and planning which have resulted in the proposed project.

b. When the pipeline will be constructed.

c. In general terms, the elements involved in pipeline construction.

d. In general terms, the rights which the prospective petitioner will seek to acquire through easements.

e. Procedures to be followed in contacting affected parties for specific negotiations in acquiring voluntary easements.

f. Methods and factors used in arriving at an offered price for voluntary easements including the range of cash amount for each component.

g. Manner in which voluntary easement payments are made, including discussion of conditional easements, signing fees and time of payment.

h. Other factors or damages not included in the easement for which compensation is made, including features of interest to affected parties but not limited to computation of amounts and manner of payment.

10.3(6) Informing commission. The commission shall be informed of the selected meeting date, time and location not less than two weeks prior to mailing of the meeting notices in order to allow for scheduling of presiding officers.

This rule is intended to implement section 479.5, The Code.

250—10.4(479) Publication of notice of hearing. When a petition for permit is received by this commission, accompanied by proper exhibits, it shall be docketed for hearing and petitioner shall be advised of the time and place of hearing. Petitioner shall also be furnished copies of the official notice of hearing which petitioner shall cause to be published once each

week for two consecutive weeks in some newspaper of general circulation in each county in or through which construction is proposed. Proof of such publication shall be filed prior to or at such hearing, together with receipts showing that costs of such publication have been paid by petitioner.

250—10.5(479) Objections. All whose rights or interests may be affected by the object of a petition may file written objection thereto. Such written objection shall be filed with the secretary of this commission not less than five days prior to date of hearing. This commission may, for good cause shown, permit filing of objections less than five days prior to hearing, but in such event petitioner shall be granted a reasonable time to meet such objections.

250—10.6(479) Hearing. Hearing shall be not less than ten or more than thirty days from the date of last publication of notice of hearing.

Petitioner shall be represented by one or more duly authorized representatives or counsel or both. This commission may examine the proposed route of the pipeline or location of the underground storage facilities which are the object of the petition or may cause such examination to be made on its behalf by an engineer of its selection. One or more members of this commission or a duly appointed hearing examiner shall consider such petition and any objections filed thereto and may hear such testimony as may be deemed appropriate. One or more petitions may be considered at the same hearing. Petitons may be consolidated. Hearing shall be held in the office of this commission or at such other place within the state of Iowa as this commission may designate.

250—10.7(479) Permanent permit. If after hearing and appropriate findings of fact it is determined a permit should be granted, a permanent permit will be issued. Otherwise such petition shall be dismissed with or without prejudice. Where proposed construction has not been established definitely, the permanent permit will be issued on the route or location as set forth in the petition, subject to deviation of up to one hundred sixty rods on either side of such proposed route. If the proposed construction is not completed within two years from the date of issue, subject to extension at the discretion of this commission, such permanent permit shall be void and of no further force or effect. Upon completion of the proposed construction, maps of the final routing of the pipeline, bearing rechain survey notes, shall be filed with this commission.

A permanent permit shall normally expire twenty-five years from date of issue. No such permit shall ever be granted for a longer period than twenty-five years.

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

250—10.9(479) Amendments of permits. Petition may be filed for amendment of permanent or renewal permit to cover construction of a line paralleling an existing line of petitioner or to make contiguous extension of an existing underground storage area of petitioner. Such petition for amendment shall be made on the form prescribed by this commission. Such petition shall have attached those same exhibits required for a petition for permit. If such petition for amendment is for paralleling construction and the same falls within the one hundred sixty rods permissive deviation of the permanent permit or subsequent renewal permit, the requirement of publication of notice and hearing may be waived. Subject to such exception only, the procedure for petition for permit shall be followed in all instances. Upon appropriate deter-

mination by this commission, an amendment to permanent permit will be issued. Such amendment shall be subject to the same conditions with respect to completion of construction within two years and the filing of final routing maps as attached to permanent permits.

250—10.10(479) Fees. All fees shall be payable to "Iowa state commerce commission."

All fees referred to below shall be paid in the year of issuance of the permit to which they apply. Such fees shall be collected on the basis of approximate mileage as shown in the particular petition. Upon the filing of final routing maps fees shall be paid or refunded on the basis of adjusted mileage.

Construction inspection fee. Upon issuance of a permanent permit, petitioner shall pay a fee of fifty cents per inch of diameter for each mile or fraction thereof of pipeline covered by such permit.

Annual inspection fee. For each calendar year subsequent to the year in which the construction inspection fee was paid, for which year or fraction thereof a permit (permanent or renewal) shall be effective, there shall be paid an annual inspection fee of twenty-five cents per inch of diameter for each mile or fraction thereof of pipeline. Such payment shall be made prior to January 1 of such calendar year.

Paralleling line fee. A construction inspection fee shall be paid upon the issuance of an amendment to permanent permit and an annual inspection fee shall be paid for each year thereafter that such permit is in force. Both such fees shall be determined as above.

Renewal permit fee. Upon issuance of a renewal permit, there shall be a fee of twenty-five dollars per petition, as the same may be consolidated, plus a flat fee of fifty cents per mile or fraction thereof of pipeline involved, irrespective of diameter, to cover the costs and expenses of the commission in conjunction therewith. Such payment shall be in addition to the annual inspection fee.

250—10.11(479) Inspections. This commission shall from time to time examine the construction, maintenance and condition of pipeline, underground storage facilities and equipment used in connection with such pipeline or facilities in the state of Iowa to determine if the same is unsafe or dangerous. One or more members of this commission, one or more duly appointed representatives hereof or the same together may enter upon the premises of any pipeline company within the state of Iowa for the purpose of making such inspections. Except under extreme circumstances, such inspections shall be made after adequate opportunity has been provided for a representative of such company to accompany such inspecting party.

250—10.12(479) Standards for construction, operation and maintenance. All pipelines, underground storage facilities and equipment used in connection therewith shall be constructed, operated and maintained in accordance with either Part 192 or Part 195 of Title 49 of the Code of Federal Regulations (1981), whichever is applicable.

The applicable portions of ANSI B31.8 (1975), Gas Transmission and Distribution Piping Systems, shall be used when constructing, operating and maintaining a gas pipeline or underground storage facility if the applicable portion is not in conflict with 49 CFR Part 192 (1981).

Conflicts between the requirements of this rule and other requirements which are shown to exist by appropriate written documentation filed with the commission shall be resolved by the commission.

250—10.13(479) *Minimum safety standards. Pursuant to the Natural Gas Pipeline Safety Act of 1968, 49 U.S.C. §§1671, et seq. (Public Law 90-481), 90th Congress §1166, dated August 12, 1968), the Secretary of Transportation has issued in 49 C.F.R. Part 192, Minimum Federal Safety Standards relative to "Transportation of Natural and Other Gas By

*Emergency pursuant to §17A.5(2)"*b*"(2),(3) of the Code.

Pipeline" (Revised as of December 31, 1976). On June 29, 1977, the commission adopted the subject Federal Minimum Safety Standards, as amended and as shall be amended by the Secretary of Transportation under the federal Act as the Minimum Safety Standards of the State of Iowa in order to certify compliance with the federal legislation and act as enforcement agent with respect to the Federal Safety Standards as contemplated by section 479.31, The Code 1977.

250—10.14(479) Undercrossing permits. Undercrossings of primary or secondary highways and railroad right of ways shall be at an approximate right angle as herein defined, with an additional construction tolerance of five degrees being permitted, unless permission to vary further therefrom is obtained from the proper authority and filed with this commission.

Permission to undercross primary or secondary highways need be sought only from this commission, except in case of undercrossings installed at other than an approximate right angle, as herein defined, in which case permission must be sought from either the Iowa state department of transportation or the appropriate county board of supervisors.

It is recommended however, that pipeline companies confer with appropriate highway authorities before crossing primary or secondary highways, in order that such companies may determine contemplated future changes in such highways which may influence the location of pipeline facilities. It is further recommended that pipeline companies give such authorities advance notice of their intent to cross highways. It is the policy of this commission to give notice to highway authorities of petitions of pipeline companies for authority to construct pipelines which will cross highways under the jurisdiction of such authorities.

No special permit need be obtained to cross rivers, waters and streams within the state of Iowa where such crossings are included within a petition to this commission.

250—10.15(479) River crossings. This commission has primary state jurisdiction to issue permits to cross rivers, waters and streams within the state of Iowa and its jurisdiction in such respect is paramount to that of the Iowa state conservation commission.

As a matter of co-operation, this commission has agreed to furnish the Iowa state conservation commission information relative to crossings of rivers, waters and streams, together with plats of such crossings upon the filing of a petition indicating such crossings. Pipeline companies shall provide information direct to the Iowa state conservation commission pertaining to the date of commencement of construction where such crossings are involved.

250—10.16(479) Distribution mains. No petition need be made for permit to construct, operate or maintain a gas main or distribution main as technically defined in ANSI B31.8—(1975) and which will be operated at a pressure of less than one hundred fifty pounds per square inch.

250—10.17(479) Accidents. A preliminary report shall be sent to this commission by registered or certified letter within twenty-four hours of any accident arising from, or in any way connected with the operation of a pipeline or underground storage facility within the state of Iowa, which accident results in personal injury or damage in excess of five hundred dollars to the property of others. Such preliminary report shall give the outstanding characteristics of such accident. Such report shall be followed within a reasonable time by a full written report giving complete details of such accident.

No preliminary report need be made in the event of an accident resulting only in damage to the property of the pipeline company. A written report of such accident shall be filed with the secretary of this commission within a reasonable time. Accidents involving damage to the pipeline or underground storage facilities of the pipeline company in an amount less then one thousand dollars, including costs of repair, need not be reported to this commission.

The dollar amounts of damage and repair costs hereinabve referred to must necessarily be the results of the pipeline company's best estimates made at the time of such accident.

250—10.18(479) Removal or relocation of pipelines. Notice of removal from service or relocation of existing pipelines for which permits have been obtained shall be supplied the secretary of this commission. Such notice shall be accompanied by a plat of the pipeline as relocated or, in the case of removal from service, a plat showing the portion of pipeline removed. No such notice need be supplied of a relocation of three hundred feet or less on either side of the survey center line as filed with this commission unless said relocation would result in placing said pipeline within three hundred feet of an occupied residence. Relocations of one hundred sixty rods or more shall require the filing of a petition for permit.

250—10.19(479) Sale or transfer of permit. No permit shall be sold without prior written approval of this commission. No transfer of a permit prior to completion of construction shall be effective until the permittee shall file with this commission written notice of date of transfer and name and address of the transferee.

250—10.20(479) Amendments to rules. These rules are subject to such amendments or exceptions as this commission may deem advisable. Parties desiring to depart from these rules may make written requests to this commission, whereupon appropriate action will be taken. Amendments hereto shall apply only to permits issued after the effective date of such amendments.

[Filed 7/19/60; amended 8/23/62, 11/14/66]
[Filed emergency 7/1/77—published 7/27/77, effective 7/1/77]
[Filed emergency 9/19/77 after Notice 8/10/77—published 10/5/77, effective 9/19/77]
[Filed 4/23/82, Notice 11/25/81—published 5/12/82, effective 6/16/82]

CHAPTER 11
[Previously ch 2, renumbered 10/20/75 Supp.]
ELECTRIC LINE FRANCHISING

250—11.1(478) General information.

11.1(1) *Iowa electrical safety code.* Franchised overhead and underground electric supply line minimum requirements to be applied in installation, operation and maintenance, are found in IAC [250], chapter 25 (476, 476A, 478), Iowa electrical safety code.

11.1(2) *Application of rules.* This chapter shall apply to any individual, company, corporation, or city engaged in the construction, operation and maintenance of electric transmission lines to the extent provided in chapter 478, The Code. These rules shall in no way relieve any utility from any of its duties under the laws of this state.

11.1(3) *Special situations.* For good cause shown the commission may permit deviation from any rule or requirement thereof and adopt another requirement in a special case.

250—11.2 Rescinded effective 10/22/80.

must commence business within sixty days after the date the charter application has been approved or the certificate of approval will be revoked by the administrator.

2.1(5) *Organizational meeting and annual or special membership meetings.* All meetings shall be held in the county where the articles of incorporation and certificate of organization have been filed unless prior approval is received from the administrator to call such meeting at some other location.

This rule is intended to implement section 533.1 of the Code.

[Filed 8/10/79, Notice 5/30/79—published 9/5/79, effective 10/10/79]

CHAPTER 3
EXAMINATION AND SUPERVISION FEES

295—3.1(533) Fees. The administrator has made the following determination with respect to the examination and supervision fees required to operate the credit union department:

3.1(1) The examination fee for state chartered credit unions shall be as follows and payable at the close of each examination by check payable to the administrator:

ASSETS:	BASIC:	ASSETS SCALE:
Less than $25,000	$ 25.00 plus	Nil
Over $ 25,000-$ 50,000	$ 100.00 plus	4¢ per $100 of assets
Over $ 50,000-$ 100,000	$ 150.00 plus	3¢ per $100 of assets
Over $ 100,000-$ 250,000	$ 175.00 plus	3¢ per $100 of assets
Over $ 250,000-$ 500,000	$ 250.00 plus	3¢ per $100 of assets
Over $ 500,000-$ 750,000	$ 425.00 plus	2¢ per $100 of assets
Over $ 750,000-$ 1,000,000	$ 450.00 plus	2¢ per $100 of assets
Over $ 1,000,000-$ 2,000,000	$ 750.00 plus	2¢ per $100 of assets
Over $ 2,000,000-$ 3,000,000	$1,200.00 plus	2¢ per $100 of assets
Over $ 3,000,000-$ 4,000,000	$1,500.00 plus	2¢ per $100 of assets
Over $ 4,000,000-$ 6,000,000	$2,000.00 plus	2¢ per $100 of assets
Over $ 6,000,000-$10,000,000	$2,500.00 plus	2¢ per $100 of assets
Over $10,000,000	$2,850.00 plus	2¢ per $100 of assets

3.1(2) The annual supervision fee for state chartered credit unions shall be calculated on the December 31 asset figure in accordance with the following schedule and the check payable to the administrator will be submitted with the annual financial statement in January of each year:

ASSETS:	MAXIMUM FEE:
Less than $500,000	30¢ per $1,000 ($15 Minimum)
Over $ 500,000-$1,000,000	$150 plus 25¢ per $1,000 in excess of $ 500,000
Over $1,000,000-$2,000,000	$275 plus 20¢ per $1,000 in excess of $1,000,000
Over $2,000,000-$5,000,000	$475 plus 15¢ per $1,000 in excess of $2,000,000
Over $5,000,000	$925 plus 10¢ per $1,000 in excess of $5,000,000

3.1(3) The examination fee and annual supervision fee for credit unions serving corporate members exclusively will be assessed at 25 percent of the amounts calculated under subrules 3.1(1) and 3.1(2).

This rule is intended to implement section 533.62 of the Code.

[Filed 8/10/79, Notice 5/30/79—published 9/5/79, effective 10/10/79]

CHAPTER 4
PROCEDURE FOR ADOPTION OF RULES

295—4.1(17A) Written comments or oral presentations. Any person or agency described in section 17A.2 of the Code may submit written comments or requests to make an oral presentation in connection with a proposed rule. All such comments and requests shall be accepted by the department if received on or before the second business day prior to the scheduled meeting date at which the rule is to be considered. All such comments and requests should be made to the department and include the following information: Name, address, and telephone number of the agency or persons submitting the comments or request; title and number of the proposed rule which is subject to the comment or request; and, with respect to requests for oral presentation, the general content shall be indicated.

295—4.2(17A) Petitions for rulemaking. Pursuant to the provisions of section 17A.7 of the Code, any interested person may petition the department requesting the promulgation, amendment, or repeal of a rule of this agency.

4.2(1) All petitions relating to rulemaking must be made in writing to the chairperson of the credit union review board or the administrator of the credit union department and include the following information: Name and address of the petitioner; a detailed description of the factual situation and an explanation as to the reasons why the petition is submitted; the statutory citations, rules or orders applicable to the issues included in the petition.

4.2(2) Within sixty days after receipt of a petition, this agency will either deny the petition in writing, stating the reasons for denial; or will initiate appropriate rulemaking action pursuant to the applicable provisions of section 17A.4 of the Code.

295—4.3(17A) Petitions for declaratory rulings. Any interested person may submit a petition for declaratory ruling to the department regarding the application of a statute, rule, decision, order or other written statement of law or policy to a factual situation. The petition shall contain the name and address of the person requesting the ruling; a specific factual explanation and background applicable to the question; and, the statute, rule, or other authority deemed applicable and the reason for the request. The department may demand that the request be clarified or that additional facts be set forth. The department will render a decision within thirty days after receipt; however, an additional thirty-day period may be required when extenuating circumstances exist and the petitioner is so notified.

This rule is intended to implement section 17A.4 of the Code.

[Filed 8/10/79, Notice 5/30/79—published 9/5/79, effective 10/10/79]

CHAPTER 5
SMALL EMPLOYEE GROUPS

[The adoption of these rules was set aside on March 16, 1982 by order of the District Court in and for Polk County, CE-7198, Iowa Bankers Association v. Iowa Credit Union Department. The status of that matter will determine the application of this chapter.]

295—5.1(533) Definition. *"Small employee group:"*

5.1(1) Two to one hundred employees having the common bond of a single employer.

5.1(2) One hundred one to three hundred employees having the common bond of a single employer may apply for designation as a small employee group. The administrator, after notice and hearing, shall make such determination based upon the following criteria:

a. The payroll of the employer, both in dollar volume and in numbers;

b. Whether future growth of the number of employees would provide the nucleus for a self-sustaining credit union.

c. Whether workforce turnover would jeopardize the interest needed to sustain a credit union.

d. Past experience of the employer with organizational or operational aspects of a credit union.

CHAPTER 6
BRANCH OFFICES

[The adoption of these rules was set aside on March 16, 1982 by order of the District Court in and for Polk County, CE-7198, Iowa Bankers Association v. Iowa Credit Union Department. The status of that matter will determine the application of this chapter.]

295—6.1(533) Establishment of branch offices.

6.1(1) *Definition.* A branch office is determined to be a place within the state of Iowa where ordinary services of the credit union are provided to the members.

6.1(2) *Application.* A state chartered credit union desiring to establish and operate a branch office shall submit to the administrator an "Application to Establish a Branch Office." The application and instructions for preparing and filing it are furnished upon request.

6.1(3) Reserved for hearing and notice.

6.1(4) *Guidelines.* In determining whether or not approval of a branch office should be granted, the administrator will consider the following factors:

a. Whether the establishment of a branch office is reasonably necessary for service to, and is in the best interest of, the applicant credit union's membership.

b. Whether the member population density and other economic characteristics of the area primarily to be served by the proposed office afford reasonable promise of adequate support for the office.

c. Whether the capital structure of the applicant credit union is adequate in relation to the costs and anticipated increased business, if any, occasioned by the proposed branch office.

d. Whether the operation and management of the applicant credit union is such as will adequately provide for a branch office operation.

e. Such other factors as the administrator determines appropriate or necessary in determining an applicant credit union's ability to establish and operate a branch office.

6.1(5) Reserved.

6.1(6) *Certification.* If after notice and hearing the decision of the administrator is favorable, the administrator shall issue certification to evidence approval for the establishment and operation of the branch office to be effective on a specified date and at a designated location.

295—6.2(533) Change of location of branch office.

6.2(1) A credit union desiring to move its branch office shall submit to the administrator an application to relocate a branch office. The rules governing the establishment of a branch office shall also govern the relocation of a branch office.

6.2(2) If a credit union elects to cease operations at a branch office facility such credit union shall notify the administrator at least sixty days prior to the effective date of ceasing such operations.

These rules are intended to implement section 533.4(19), The Code.

[Filed 11/9/79, Notice 9/5/79—published 11/28/79, effective 1/2/80†]
[Filed 3/28/80, Notice 2/6/80—published 4/16/80, effective 5/21/80]

CHAPTER 7
CREDIT UNION SHARE DRAFTS

[The adoption of these rules was set aside on March 16, 1982 by order of the District Court in and for Polk County, CE-7198, Iowa Bankers Association v. Iowa Credit Union Department. The status of that matter will determine the application of this chapter.]

295—7.1(533) Establishment of share draft program.

7.1(1) *Definitions.* As used in these rules the following definitions shall apply:

a. *"Share draft"* means a negotiable draft which is payable upon demand and which is used to withdraw funds from a share draft account. A share draft is an item for purposes of chapter 554, article 4, The Code. The term does not include a draft issued by a credit union for

†Effective date delayed by the administrative rules review committee seventy days.

the transfer of funds between the issuing credit union and another credit union or a bank, savings and loan association, or other depository financial institution.

b. "Share draft account" means the demand account from which a credit union has agreed that funds may be withdrawn by means of a share draft. A share draft account may bear interest or dividends as determined by the board of directors pursuant to section 533.18 provided that a credit union shall not pay interest or dividends on a share draft account at a rate which exceeds the maximum interest rate which Iowa state banks insured by the federal deposit insurance corporation are permitted by federal law to pay on insured passbook savings accounts.

c. "Share draft liquidity reserve" means the reserve required by the Code to provide for the prompt honoring of share drafts and shall consist of the following items held by the credit union at the close of each business day:

1. All cash.
2. Demand deposits held in banks in the name of the credit union.

7.1(2) *Application.* A state chartered credit union desiring to operate a share draft program shall submit to the administrator a "Share Draft Application". The application and instructions for filing it are furnished upon request to the administrator of the Credit Union Department, 300 Fourth Street, 1st Floor, Des Moines, Iowa 50319.

7.1(3) *Investigation.* The administrator may conduct such investigation as deemed necessary to determine whether approval should be granted.

7.1(4) *Certification.* If the decision of the administrator is favorable, the administrator shall issue certification to evidence approval and the effective date for the establishment and operation of a share draft program.

In the event the request to operate a share draft program is denied, the administrator shall notify the affected credit union the reasons for denial.

295—7.2(533) Share draft liquidity reserve.

7.2(1) The share draft liquidity reserve shall be established daily commencing with the effective date of certification and shall be replenished at the close of each business day thereafter.

7.2(2) The share draft liquidity reserve shall be calculated on an approved form at the close of each business day. The daily liquidity reserve position may be subject to the call of the administrator.

295—7.3(533) Bond Coverage.

7.3(1) The credit union shall furnish to the administrator a copy of the surety bond coverage on persons having custody of or handling share draft funds.

7.3(2) Reserved.

295—7.4(533) Termination of share draft program.

7.4(1) In after notice and opportunity for hearing the administrator orders the credit union to terminate the share draft program because of violation of these rules or any section of Acts of the Sixty-eighth General Assembly, chapter 130, the following procedure shall apply:

a. Within fifteen days following notice of termination, the credit union shall give written notice by first-class mail to all participants in the share draft program. Such notice shall contain the following statements:

(1) The practice of writing share drafts shall terminate _____(date)_____, (this date to be no more than thirty days from the date of the notice to participants).

(2) Share drafts presented to the credit union for payment after _____(date)_____, shall be dishonored and returned to the payee, (this date to be no more than thirty days from the date mentioned in 7.4(1)"*a*"(1)).

7.4(2) The credit union shall provide the administrator with a copy of the notice of termination of the share draft program sent to participants.

CHAPTER 10
NINETY PERCENT REAL ESTATE LOANS

[The adoption of these rules was set aside on March 16, 1982 by order of the District Court in and for Polk County, CE-7198, Iowa Bankers Association v. Iowa Credit Union Department. The status of that matter will determine the application of this chapter.]

295—10.1(533) Loan balances. The total amount of ninety percent real estate loan balances as authorized by section 533.16(4)"*d*",The Code, shall not exceed twenty percent of the total balances of all loans.

295—10.2(533) Summary record. A summary record shall be maintained of real estate loan balances of this type within the credit union's accounting system.

These rules are intended to implement section 533.16(4)"*d*", The Code.

[Filed 12/20/79, Notice 10/31/79—published 1/9/80, effective 2/13/80]

CHAPTER 11
INSOLVENCY

[The adoption of these rules was set aside on March 16, 1982 by order of the District Court in and for Polk County, CE-7198, Iowa Bankers Association v. Iowa Credit Union Department. The status of that matter will determine the application of this chapter.]

295—11.1(533) Determining insolvency.

11.1(1) In determining whether or not the credit union is insolvent the administrator shall consider but not be limited to the following factors:

a. Whether the total dollar amount of delinquent loans considered to be a loss exceeds available reserves.

b. Whether the investments of the credit union are of a prudent nature.

c. Whether expenses exceed income on a consistent basis making it necessary for the credit union to operate on reserves.

d. The quality of the loan portfolio.

e. Contingent liabilities.

11.1(2) Reserved.

295—11.2(533) Exception.

11.2(1) Credit unions in their first year of operation shall be exempt from the provisions of chapter 11.

11.2(2) Reserved.

These rules are intended to implement chapter 533, The Code.

[Filed 12/20/79, Notice 10/31/79—published 1/9/80, effective 2/13/80]

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10.2(96) Employer records and reports—forms
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to the credit of their unemployment fund accounts and by the railroad retirement board to the credit of the railroad unemployment insurance account.

3.1(19) *Payroll, annual (experience rating).* The total amount of taxable wages payable (or paid) by a subject employer for insured work during a calendar year for 940 certification purposes or period of twelve consecutive months ending June 30 of each year for experience rating purposes.

3.1(20) Reserved.

3.1(21) *Rate.* Rate of contribution.

3.1(22) *Reduced contribution rates.* See contribution rates, reduced.

3.1(23) *Reserve account.* See accounts.

3.1(24) *Size-of-firm provision.* The provision of a state employment security law which specifies the minimum number of employees, the minimum period of employment or minimum payroll which an employing unit must have before it is liable for contributions.

3.1(25) *Status report.* A report required of all employing units in a state giving the information on which the state job service department bases its determination as to whether the employing unit is liable for contributions under the state employment security law. Same as liability report.

3.1(26) *Subject employer.* An employing unit which is subject to the contribution provisions of a state employment security law.

3.1(27) *Tax.* See contributions.

3.1(28) *Unemployment trust fund.* The unemployment compensation fund established by this chapter to which all contributions or payments in lieu of contributions are required to be deposited and from which all benefits provided under chapter 96 The Code, shall be paid. See funds.

3.1(29) *Wage item individual.* A line entry on a wage report list or a single wage slip, or a wage and separation report.

3.1(30) *Wage report.* A report by an employer of the wages of individual workers.

3.1(31) *Wage listing.* A report listing workers and their wages by social security number.

This rule is intended to implement sections 96.11(1) and 96.19(1), The Code.

370—3.2(96) Definition of wages for employment during a calendar quarter.

3.2(1) Unless the context otherwise requires, terms used in rules, regulations, interpretations, forms, and other official pronouncements issued by the department shall have the following meaning:

3.2(2) Wages paid include both wages actually received by the worker and wages constructively paid. Wages are constructively paid when they are credited to the account of or set apart for a worker without any substantial restriction as to the time or manner of payment or conditions upon which payment is to be made and must be made available to the worker so that they may be drawn upon by the worker at any time, and their payment brought within the worker's own control and disposition, although not then actually reduced to possession.

3.2(3) Wages payable means wages earned, including wages earned and paid as well as wages earned and unpaid. (See section 96.19(9)*"a", "b".*)

3.2(4) Wages is the name by which the remuneration for employment is designated and the basis on which the remuneration is paid is immaterial. It may be paid in cash or in a medium other than cash, on the basis of piece work or percentage of profits, commission, or it may be paid on an hourly, daily, weekly, monthly or annual basis. Remuneration paid in goods or services shall be computed on the basis of the fair value of the goods or services at the time of payment.

3.2(5) When a money value for board or lodging, or both, furnished a worker is agreed upon in a contract of hire, the amount so agreed upon, if more than the rates specially

determined by the department or the rates prescribed herein, shall be deemed the cash value of the board and lodging.

3.2(6) Cash value of room and board.

a. If board, rent, housing, lodging, meals, or similar advantage is extended in any medium other than cash as partial or entire remuneration for service constituting employment as defined in the Act, (chapter 96 of the Code) the reasonable cash value of same shall be deemed wages subject to contribution.

b. Where the cash value for such board, rent, housing, lodging, meals, or similar advantage is agreed upon in any contract of hire, the amount so agreed upon shall be deemed the value of such board, rent, housing, lodging, meals or similar advantage. Check stubs, pay envelopes, contracts, and the like, furnished to employees setting forth such cash value, are acceptable evidence as to the amount of the cash value agreed upon in any contract of hire except as provided in paragraphs *"d"* and *"e"* of this subrule.

c. In the absence of an agreement in a contract of hire the rate for board, rent, housing, lodging, meals, or similar advantage, furnished in addition to money wages or wholly comprising the wages of an employed individual, shall be deemed to have not less than the following cash value except as provided in paragraph *"d"* of this subrule.

Full board and room per week	$126.35
Meals (without lodging) per week	56.35
Meals (without lodging) per day	8.05
Lodging (without meals) per week	70.00
Lodging (without meals) per day	10.00
Individual meals:	
Breakfast	2.05
Lunch	2.60
Dinner	3.40
A meal not identifiable as either breakfast, lunch or dinner	2.00

d. The department or its authorized representative may, after affording reasonable opportunity at a hearing for the submission of relevant information in writing or in person, determine the reasonable cash value of such board, rent, housing, lodging, meals, or similar advantage in particular instances or group of instances, if it is determined that the values fixed in or arrived at in accordance with paragraph *"c"* of this subrule, or in the contract of hire do not properly reflect the reasonable cash value of such remuneration.

e. If the department determines that the reasonable cash value is other than prescribed in a contract of hire or in paragraph *"c"* of this subrule, the employer's payroll and contribution reports to the department shall thereafter show the value of such remuneration as determined by the department.

f. Notwithstanding the provisions of this paragraph, the cash value of meals which are provided by and for the convenience of the employer on the business premises of the employer shall not be deemed as insured wages under chapter 96 of the Iowa Employment Security Law. Lodging furnished by the employer, for the convenience and on the business premises of the employer, shall not be considered wages if the employee is required to accept the lodging as a condition of employment.

This rule is intended to implement sections 96.11(11) and 96.19(12), The Code.

370—3.3(96) Wages.

3.3(1) *"Wages"* means all remuneration for personal services, including commissions and bonuses and the cash value of all remuneration in any medium other than cash. The reasonable cash value of remuneration in any medium other than cash, shall be estimated and determined in accordance with rule 3.2(96).

must be identified either by making a separate payment or by specifically indicating the separate amounts if both wages and expense allowances are combined in a single payment.

c. Employer's payments to persons performing military services. Cash payments, or the cash value of other remuneration, made voluntarily and without contractural obligation to, or in behalf of, an individual for periods during which such individual is in active service or training as a member of the national guard, or the military or naval forces of the United States, including the organized reserves.

d. Sick pay.

(1) "Wages" shall not include any amounts paid as sick pay if the payments are made by or on behalf of an employer under a plan or system which makes provision for the employee's dependents or classes of employees generally.

(2) In the absence of a plan or system any amounts paid by or on behalf of an employer on account of sickness shall not be included after the expiration of six calendar months following the last calendar month in which the employee worked for such employer.

e. Supplemental unemployment benefit plan (SUB). The term "wages" shall not include the amount of any payment by an employing unit for or on behalf of an individual in its employ, under a plan or system established by such employing unit, with approval of the Iowa department of job service. Such plan or system must make provision for payment to a trust fund on behalf of individuals performing services for it. The account must be used to pay supplemental unemployment benefits to such employing unit's employees over and above any sum to which such employees might be entitled under the provisions of the state employment security law. Such payments to employees are not remuneration for the purposes of reducing or preventing payment of unemployment benefits. Such plan shall contain the following features:

(1) The employer pays into a separately established trust fund an amount per hour (or amount equivalent) worked by the employees covered by the agreement until the maximum amount called for has been reached.

(2) These payments made by the employer into the trust fund are not subject to recovery by the employer under any circumstances.

(3) The trust fund is to be used to pay supplemental unemployment benefits to employees over and above any sum to which they might be entitled under the provisions of a state employment security law.

(4) That the agreement shall provide that such employee is not entitled to receive any payment from the trust fund unless the employee is also concurrently eligible for benefits under a state employment security law.

(5) That the amount which an employee is entitled to receive from such trust fund fluctuates with the length of service with the employer.

(6) That the employee has no vested right in any of the monies paid into the trust fund except as the employee may qualify for benefits under the terms of the agreement.

(7) That any payment made to or on behalf of an employee be from and to a trust fund described in section 401(a) of the United States Internal Revenue Code title 26, of 1970 which is exempt from tax under section 501(a) of said Code.

f. Officers of corporation. The term "wages" shall not include wages paid to an officer of corporation if such officer is a 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).

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.

3.3(3) *The term "wages" shall include:*

a. Small business corporation remuneration. Remuneration paid to officers of "subchapter S" corporations (as defined in 26 U.S.C.A. 1371) shall be deemed to be wages. Any dividends must be approved and recorded in the corporate minutes prior to payment of such dividends. Any income to shareholders shall not be deemed to be dividends if such income is paid regularly, either weekly or monthly, and is not in proportion to such shareholder's amount of stock, or in proportion to such shareholder's investment in the corporation. Any income not qualifying for treatment as dividends shall be treated as wages. See subrule 3.3(2)*"f"* for possible exclusion of wages paid to corporate officers who are majority stockholders.

b. Wages of employees hired with equipment. Where an employee is hired with equipment, except where it is ordinary in custom and usage in the trade or business for employees to furnish such equipment at their own expense, the fair value of the remuneration for the employee's services if specified in the contract of hire, shall be considered wages. If the contract of hire does not specify the employee's wages, or the value of the wages agreed upon under the contract of hire is not a fair value, the department shall determine the employee's wages, taking into consideration the prevailing wages for similar work under comparable conditions, and the wages thus determined shall apply as wages and be so reported by the employer.

c. Members of a union, subject to the direction and control of the union and acting on behalf of the union, are considered employees of the union with respect to the services performed. Payments made to them by the union as reimbursement for time lost from their regular employment are considered wages.

This rule is intended to implement section 96.19(6)*"a"*(1), (6), 96.19(12), The Code.

370—3.4(96) Wages—back pay. Back pay awards to workers shall be reported by the employer as total and taxable wages in the quarter in which the employer actually paid them. Where such wages, awards or a judgment, will be paid by an employer into an account for an individual and it is remuneration for employment, it shall be considered as wages paid in that quarter into which the employer actually paid it to an account for the employee.

3.4(1) If an individual received benefits for a period of unemployment and subsequently receives a back pay award for the same period the benefits shall be recovered by the department.

3.4(2) The department, in its discretion, may reach an agreement with the individual and the employer to allow the employer to deduct an amount equal to the job insurance payments made during this period from the back pay award and pay a sum equal to that amount into the unemployment trust fund. The balance of the back pay award shall then be paid to the individual.

3.4(3) If benefits are recovered by the employer for the unemployment trust fund by deducting them from an individual's back pay award the employer shall still be required to report the entire amount of the award to the department as total and taxable wages in the calendar quarter in which the amount was actually paid to the individual or credited to the individual's account.

3.4(4) If the employer or the individual decline to enter into an agreement to have job insurance benefits deducted from a back pay award then the department shall proceed to

successor. The predecessor must submit in writing an IESC 26, employer notice of change, including the account number.

b. Pursuant to section 96.7(3)"*b*" of the Code of Iowa where one or more employing units have been reorganized, merged or consolidated into a single employing unit and the successor employing unit continues to operate such merged or consolidated enterprise, the employing units involved shall file change of ownership forms IESC 26, employer notice of change, and IESC 111, report to determine liability, with the Iowa department of job service within thirty days from the date of the transaction. In addition to the forms IESC 26 and IESC 111, all entities involved in the merger shall file with the Iowa department of job service the articles of merger, or if there are no articles of merger, a statement advising that the merger has transpired and that all employers involved in the merger are in agreement to the transaction.

(1) The predecessor business or businesses involved in the merger shall each file a final quarterly payroll report form as soon as possible after the merger has occurred but in no case later than thirty days after the close of the quarter in which the merger occurred.

(2) The successor entity shall indicate on the form IESC 111, report to determine liability, whether or not the experience rates of all accounts are to be combined and the rate recomputed for the balance of the calendar year. If the successor employer does not wish to have the accounts combined, he shall indicate on the form IESC 111 that he desires to continue to maintain separate account numbers for the entity or entities involved in the merger or consolidation.

Refer to rules 2.11(96) and 2.12(96).

3.29(2) *Contribution rate.* The successor's contribution rate for the remainder of the calendar year beginning with the date of acquisition shall be assigned as follows:

a. If the successor had no account prior to the transfer and the successor purchased the business of only one predecessor, the rate assigned will be the rate of the predecessor employer.

b. If the successor had no account prior to the transfer and purchased the business of more than one predecessor on the same day, the rate assigned will be the highest of the rates of all the predecessor employers. However, the successor may apply for a computed rate based on the combined experience of all the predecessor employers in accordance with section 96.7(3)"*b*"(2), The Code.

c. If the successor had an account prior to the transfer, the rate assigned will be the successor's existing rate. However, the successor may apply for a computed rate based on the combined experience of the predecessor or predecessors and the experience of the successor in accordance with section 96.7(3)"*b*"(2), The Code.

This rule is intended to implement section 96.7(3)"*b*", The Code.

370—3.30(96) Successorship—liability for contributions.

3.30(1) Any employer who becomes a successor to an employer account shall be held liable for any unpaid contributions, interest, penalty(s) or costs which are owing to the department by the predecessor at the time of the transfer.

3.30(2) Transfers under the Bulk Sales Act, uniform commercial Code of Iowa shall not be held by the department to be exempted from the provisions of section 96.7 of the Code, and the transferee shall be held a successor to the employer account of the transferor and liable for any unpaid contributions, interest, penalty, and costs owed to the department by the transferor notwithstanding any agreement between the two parties pursuant to the Bulk Sales Act.

370—3.31(96) Transfer of segregable portion of an enterprise or business.

3.31(1) *Application and required information.*

a. The reserve account of a distinct and segregable portion of an organization, trade, or business shall be transferred to an employing unit which has acquired such portion only if the successor employing unit:

(1) Files with the department a written application, on form IESC 111—report to determine liability or in letter form, within sixty days after the date of purchase.

(2) Submits necessary information establishing the separate identity of the accounts within thirty days after request therefor is mailed to it by the department unless the time is extended for good cause shown; and

(3) Continues to operate the acquired portion of the business.

b. Necessary information establishing the separate identity of the account includes but is not limited to:

(1) Written agreement to the transfer by the predecessor, the predecessor's signature on IESC 39A, report of employer on transfer of one of two or more employing units, and IESC 39B, report of employer transfer of an employing unit, will be sufficient. (See rule 3.31(1)"*b*"(7), (8));

(2) Date of acquisition of the segregable portion;
(3) Date of commencement of the segregable portion by the predecessor;
(4) Date of commencement of the business retained by the predecessor;
(5) The number of the employees in the segregable portion immediately prior to and subsequent to the date of acquisition;
(6) Type of business organization under which the segregable portion will be continued by the successor; and
(7) Report showing the name of employees, their social security numbers, and their wages attributable to the acquired portion of the business for the six calendar quarters including and immediately preceding the quarter in which the acquisition occurred. (Form IESC 39B signed by the predecessor.)
(8) Report showing the predecessor and successor name, address, accounts numbers, information showing the total taxable wages and benefit charges to be transferred by quarter, for the sixteen calendar quarters including and immediately preceding the date of the acquisition, the total taxable wages and benefit charges to be transferred by year, from the seventeenth quarter preceding the date of transfer back to the beginning of the account, or beginning of the business being transferred, whichever occurred later. (Form IESC 39A signed by the predecessor.)
(9) If the acquisition or purchase did not occur on quarter break (i.e., or January 1, April 1, July 1, October 1, or the last day of the preceding quarter) the predecessor employer may be required to provide a divided payroll report for the quarter in which it occurred; one part to show the entire payroll for the part of the quarter before the sale and one part showing the payroll after the sale.

c. It shall be the sole responsibility of the successor employer to determine whether or not to apply for a partial transfer of experience. An application for a partial transfer may be withdrawn in writing at any time prior to the department mailing notice that the transfer has been approved.

d. It shall be the sole responsibility of the predecessor employer to determine whether or not to grant the partial transfer of experience. Permission to grant the partial transfer of experience may be withdrawn in writing at any time prior to the department mailing notice that the transfer has been approved.

3.31(2) ***Portion of reserve and payroll transferred.*** When the requirements for partial transfer as defined in subrule 3.31(1) have been met, the transfer shall be made in accordance with one of the following:

a. If the predecessor's account has been in existence less than five years prior to the acquisition or purchase date (or more than five years when records are available), the actual taxable wages, contributions, benefit charges, interest earned, and wage records of individual employees (as supplied on form IESC 39B) attributable to the portion acquired shall be transferred; or,

b. If the predecessor's account has been in existence more than five years (and records prior to five years are unavailable) and the acquired portion has also been in existence more than five years,

(1) The actual taxable wages, contributions, benefit charges, and interest earned attributable to the acquired portion for the five-year period immediately preceding the date of acquisition shall be transferred plus

(2) That portion of the predecessor's contributions, benefit charges, and interest earned for the period commencing with the beginning date of the predecessor's account and ending five years prior to the acquisition date equal to the ratio of the taxable wages attributable to the acquired portion for the twelve completed calendar quarters immediately preceding the acquisition date to the total taxable wages reported by the predecessor for the same twelve-quarter period, and

(3) The individual wage records attributable to the acquired portion (as supplied on form IESC 39B); or,

c. If the predecessor's account has been in existence more than five years but the acquired portion came into existence within the last five years, the actual taxable wages, contributions, benefit charges, interest earned and individual wage records (as supplied on form IESC 39B) attributable to the acquired portion shall be transferred.

3.31(3) ***Future benefit charges based on wages paid by the predecessor prior to the acquisition or purchase date.*** The successor employer will receive future benefit charges based on the wage credits transferred to said successor's account for the six-quarter period immediately preceding the acquisition date plus any benefit charges based on wages attributable to the acquired portion prior to the six-quarter period on claims already filed on the date of the acquisition.

3.31(4) *Denial of transfer and appeals.*

a. Upon receipt of application (see subrule 3.31(1)) and accompanying information as required, the department shall issue a determination approving or denying the partial transfer. The determination approving a partial transfer will include notice to both parties as to their contribution rate for the current year. The rates assigned will become final unless a written appeal of the rate is filed within thirty days of the date of the notice by either party.

b. If the department finds in any case that the acquisition of a business or a severable portion thereof was made solely or primarily for the purpose of obtaining a more favorable rate of contribution, the transfer of the reserve account shall not be approved. An acquisition shall be deemed to have been solely or primarily for such purpose if the department finds an absence of any reasonable business purpose for the acquisition other than a more favorable contribution rate.

c. Any determination made hereunder denying a partial transfer shall become conclusive and binding upon both the predecessor and successor unless one or both of them file a written request for reconsideration within fifteen days after written notice is served. A reconsidered determination is subject to the same finality and appeal rights as liability determinations made in accordance with rule 3.34(96).

3.31(5) *Liability of successor for contribution.* Any individual or organization, whether or not an employing unit, which in any manner acquires the organization, trade or business or substantially all of the assets thereof, and is held to be a successor under section 96.7(3)*"b"*, shall be liable for the payment of contribution, interest and penalty, due or accrued and unpaid by such predecessor employer, at the time of acquisition or purchase, if the department concludes that such contributions cannot be collected from the predecessor on the portion of such organization, trade or business acquired by the successor.

3.31(6) *Successor will be found to occur.* If an enterprise or business is leased to a covered employer and any party or entity purchases or assumes the covered employer's lease, or any party or entity acquires a new lease and substantially all of the assets of the covered employer, and the new lessee continues the operation of the enterprise or business to the same basic extent as though there had been no change in the ownership or control of the enterprise or business, such party or entity acquires the covered employer's experience.

3.31(7) *Successor liability will not be found to occur.*

a. Where a covered employing unit is operating an enterprise or business under a lease agreement and it is terminated, there will be no transfer of the covered employing unit's experience unless the lessor takes over and continues to operate the enterprise or business in which case the lessor will be considered the successor to the covered employer's experience.

b. Where an enterprise or business is leased to a covered employer unit, and the lease agreement has terminated with the lessor acquiring a new lessee, the new lessee is not considered to be a successor to the experience of the predecessor lessee unless the new lessee acquires substantially all of the assets of the predecessor lessee and the new lessee continues the operation of the enterprise or business to the same basic extent as though there had been no change in the ownership or control of the enterprise or business.

c. A franchise agreement will be treated the same as lease agreement.

d. If the bankruptcy court closes an enterprise or business, the court become the agent for the bankrupt employer.

(1) Where the court closes the enterprise or business and starts liquidating procedures, the employer's account is placed in an inactive status subject to termination as provided under section 96.8 and no successorship or transfer of the employer's experience is involved, or

(2) If the court appoints a trustee or receiver to continue the operation of the enterprise or business, there will be no transfer of employment experience. The account address will be corrected to include the name of the trustee or receiver for mailing purposes. If the trustee or receiver sells the enterprise or business as a going enterprise the successor will be entitled to the predecessor's experience.

Subsequent to the leaving the individual shall have worked in and been paid wages for equal to ten times the claimant's weekly benefit amount.

b. An employer's account shall not be charged with benefit payments to an eligible claimant who quit such employment but shall be charged to the account of the next succeeding covered employer with whom the individual worked and received wages in insured employment equal to ten times the claimant's weekly benefit amount.

c. The requalification and transfer of charges shall occur for the contributory employer if the requalifying employment is earned with an out-of-state covered employer. However, the transfer of charges shall be made to the balancing account.

d. The requalification shall occur for the employer who is required by law or by voluntary election to reimburse the trust fund for benefits paid if the requalifying employment is earned with an out-of-state covered employer. However, the transfer of charges shall not occur but will accrue to the account of the reimbursable employer.

e. Periods of insured employment with separate employers may be joined to collectively equal ten times the individual's weekly benefit amount when requalification cannot be accomplished by an individual insured employer. The employer from whom the individual left work will not accrue any charges and subsequent employers will not receive charges because none of such employers provided the required minimum of not less than ten times the individual's weekly benefit amount in insured employment except that an employer who is required by law or by election to reimburse the trust fund shall be charged with the benefits paid.

f. Before benefits can be paid or the transfer of charges can occur, sufficient evidence must be present to establish the fact that the criteria in rule 3.43(8)*"a"* has been met. Verification of employment must be made and such verification can be made but is not limited to the following method:

(1) An employment verification form, IESC 1583, is an affidavit prepared in duplicate stating; the insured employer's name, mailing address, the starting date of employment, and wages paid subsequent to that date. The form must be signed by the claimant alleging that the facts are correct. Any misrepresentation in the form may result in overpayment, fraud charges and administrative penalty any or all thereof. A copy of the form must be mailed to the employer or employers for verification. The employer should review the information on the form and certify that it is either correct or in error. If the information is incorrect, the employer should give the proper information. If the employer fails to return the form within five days of date mailed, the information on the form will be presumed to be correct.

(2) Employment check stubs may be used in conjunction with the employment verification form, IESC 1583, to indicate the requalifying period.

3.43(9) *Combined wage claim transfer of wages.*

a. Iowa employers whose wage credits are transferred from Iowa to an out-of-state paying state under the interstate reciprocal benefit plan as provided in section 96.20, The Code, will be liable for charges for benefits paid by the out-of-state paying state, but no reimbursement so payable shall be charged against any employer's account for the purpose of section 96.7, unless wages so transferred are sufficient to establish a valid Iowa claim, and that such charges shall not exceed the amount that would have been charged on the basis of a valid Iowa claim. However, an employer who is required by law or by election to reimburse the trust fund shall be charged with the benefits paid as required in section 96.8(5). Benefit payments shall be made in accordance with the claimant's eligibility under the paying state's law. Charges shall be assessed to the employer which are based on benefit payments made by the paying state.

b. The Iowa employer whose wage credits are transferred will be notified on form IESC 1012 that the wages are transferred, the state to which they are transferred, and the mailing address to which a protest or other information may be mailed.

c. Requests received from the paying state for amounts in excess of an amount equal to potential charges of an Iowa claim will not be charged to the Iowa employer.

3.43(10) *Department's responsibility to recover an overpayment of job insurance benefits.*

a. If an individual has acted in good faith in claiming benefits and it is later determined that the individual is not entitled to receive them the department shall have the right to recover the amount even though the individual was not at fault during the period of the claim.

b. As soon as the amount of the overpayment has been established the department shall mail a first statement of overpayment to the claimant's last known address. This statement will request full repayment in the form of a negotiable check, money order, or bank draft payable to the Iowa Department of Job Service. The total repayment shall be made within thirty days from the date of the first statement.

c. If a claimant fails to respond to the first statement of overpayment a second statement shall be sent thirty days later. The second statement notifies the claimant that full repayment can be made immediately. If the claimant cannot make a full repayment the department will consider a monthly repayment agreement. The first repayment is expected thirty days from the date of the second repayment statement and the additional repayments every thirty days thereafter until the debt is paid in full. The department reserves the right to accept or reject any proposed repayment agreement. The following minimum repayment agreement is acceptable by the department.

Amount of Original Overpayment	Minimum Monthly Payments	Number of Months Required to Liquidate the Overpayment
Under $199	$ 20	1 to 10
$200 to $399	$ 30	7 to 14
$400 to $599	$ 40	10 to 15
$600 to $799	$ 50	12 to 16
$800 to $999	$ 60	14 to 17
$1000 to $1499	$ 70	15 to 22
$1500 to $1999	$ 80	19 to 25
$2000 to $2999	$ 90	23 to 34
$3000 and over	$100	30 to —

d. If a claimant fails to respond to the second repayment statement a third notice shall be sent in approximately thirty days. The third statement informs the claimant that since the department has not received a full repayment or an acceptable proposal to liquidate the debt the account is being referred to the department's legal department for appropriate action. The third notice allows the claimant another thirty days to make full repayment of the indebtedness or a partial payment with a signed repayment agreement to avoid any future legal action by the department. The department may proceed with any appropriate civil action to collect the debt which would include, but not be limited to, a judgment in a court having jurisdiction over the matter. The same type of action may be pursued by the department in those cases where a claimant defaults on a repayment schedule.

e. After all overpayment notices have been issued and all other recourse to collect have been exhausted and the department finds recovery of the overpayment is not possible the amount shall be deducted from any future benefits to which the claimant may be entitled. If the department receives a cash repayment to liquidate all or part of an indebtedness the department shall issue a receipt and mail it to the claimant's last known address. If the department receives a repayment that is not identified by a social security number, name or other means of identification, the money shall be retained until such time as a positive identification can be made and proper credit given to the claimant.

f. Overpayment to the claimant will cause the employer to be relieved of charges except when an employer who is required by law or by election to reimburse the trust fund shall be charged with the benefits paid.

3.43(11) *Extended benefit payments.*

a. Rescinded, effective January 28, 1981.

b. Whenever the state or federal extended benefit trigger is in an "on" condition in compliance with section 96.19, subsections 26 and 28, on all claims with a maximum benefit amount of twenty-six times their weekly benefit amount or less, the extended benefit amount shall be equal to one-half of the claimant's original maximum benefit amount. The employer will be charged with fifty percent of the extended benefit amount paid to the claimant and the federal government will be charged for the remaining fifty percent. Government contributory and government reimbursable employers, however, must bear full cost of the extended benefit program without the fifty percent relief of charges from the federal government.

c. The secretary of labor standard 615.2 states that the aggregate extended benefits paid to an individual in any benefit year shall not exceed the smallest of the following amounts:

(1) Fifty per cent of the total amount of regular compensation payable to the claimant during the claimant's benefit year.

(2) Thirteen times the weekly benefit amount in the claimant's extended benefits period.

(3) Thirty-nine times the claimant's weekly benefit amount in the claimant's regular and extended benefit period.

3.43(12) *Charging of benefits paid to individuals employed by two or more employers.*

a. Whenever wage reports submitted to the department show the employment of an individual by more than one employer in the same calendar quarter, and the department can determine the order of employment from such reports, benefits for total unemployment shall be charged against the employer's account in inverse chronological order. If the department cannot determine the order of employment or if the individual performed service at the same time for two or more employers, benefits shall be charged to each employer's account in the same proportion as wages paid in the quarter.

b. Benefits for partial unemployment shall be charged in the same manner as benefits for total unemployment, except that no charge shall be made against the account of the employer who has continued to employ the individual on a regular recurring basis each week of the employee's claim to the same extent that the employer had previously employed such employee except that an employer who is required by law or election to reimburse the trust fund shall be charged with the benefits paid.

3.43(13) The following methods shall govern the charging of benefits to a subsequent other employer who has changed from a reimbursable status to a contributory status or from a contributory status to a reimbursable status.

a. Benefits will be charged to the other employer according to such employer's status at the time the wages on which the claim is based were paid.

b. If the base period of the claim covers part of the period that the subsequent other employer was reimbursable and part of the period that the subsequent other employer was contributory, the wage credits for the period of time the subsequent other employer was reimbursable will be transferred to such employer's reimbursable account and the wage credits for the period of time the subsequent other employer was contributory will be transferred to such employer's contributory account. The benefit will then be charged to the reimbursable account or the contributory account depending on which wage credits are being used to pay the benefits.

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 balancing account. (See Code section 96.20(2).)

3.43(15) *Relief of charges to employer on transfer of wage credits.* Charging of ten weeks of benefit payments to the balancing account. An amount equal to ten times the

individual's weekly benefit amount will be used when ten weeks of benefit payments are to be noncharged to the succeeding employer on wage credit transfers involved in voluntary quit and misconduct requalifications.

3.43(16) *Government contributor charges.* For the purpose of determining the base rate for government contributory employers as described in section 96.7(8)"*b*", The Code, a percentage of all benefits that are paid but are not chargeable to employer accounts because of various provisions of the law, will be considered as belonging to government contributory employers. The percentage of the nonchargeable benefits considered to be attributable to government contributory employers for each calendar year will be determined by the ratio of the benefits actually charged to government contributory accounts for the year to the total benefits charged to all contributory accounts for the year.

This rule is intended to implement sections 96.3(7), 96.5(1)"*a*", 96.6(2), and section 96.7(3), as amended by Acts of the Sixty-ninth General Assembly, 1981 Regular Session, House File 789, section 3, and sections 96.7(8)"*b*", 96.7(8)"*c*", 96.8(5), 96.9(5), 96.11(1), 96.16(4), 96.19(26), 96.19(28) and 96.20, The Code.

370—3.44(96) Benefits payments.

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 balancing account. This applies to contributory employers only.

3.44(4) Reserved.

3.44(5) Reserved.

3.44(6) Reserved.

3.44(7) *Option of reimbursable credit.* The department should use the option of crediting the account of the reimbursable employer on funds received in those cases as listed in subrules 3.44(1) to 3.44(3). However, provisions should be made for repaying of the employer by refund in those cases where large sums of money are involved and the employer makes the request for the refund rather than credit.

3.44(8) Reserved.

This rule is intended to implement sections 96.7(3)"*a*"(2), 96.11(1) and 96.20(2), as interpreted in the recent Supreme Court Iowa Case, Robert A. Galvin, et al., vs. Iowa Beef Processors, Inc., et al., filed January 18, 1978.

370—3.45(96) Reimbursable employers who terminate their election to reimburse the trust fund.

3.45(1) An employer terminating an election to reimburse the trust fund shall be treated as a newly covered employer for the purpose of establishing a contribution rate.

3.45(2) Separate accounts shall be maintained for the period for which the employer is reimbursable and for the period for which the employer is contributory. The experience of the two accounts shall not be combined for the purpose of computing the employer's contribution rate unless the department finds that the employer who changed from a reimbursable status to a contributory status is unable to reimburse the department for the outstanding benefits (and such benefits continuing to accrue under rule 3.33(1)"*b*"). The department may then, at its discretion, merge such employer's reimbursable account with the employer's contributory account and compute the employer's contribution rate base on

the combined experience of the two accounts. The employer shall remain liable for the outstanding reimbursable benefits, including benefits accruing under rule 3.33(1)"c", and any interest that accrues on the unpaid account.

3.45(3) If on any computation date, such employer has an excess contribution balance in its contributory account, the excess contribution shall be removed from its contributory account and credited to the outstanding balance on its reimbursable account (including any interest due). The excess contribution so removed shall not be considered in computing the employer's following calendar year's contribution rate.

370—3.46(96) Termination of coverage.

3.46(1) Once an employing unit is determined liable, whenever because of its own employment experience, by voluntary election, through succession or because of liability under the Federal Unemployment Tax Act, it remains liable thereafter until liability is officially terminated by the department.

3.46(2) To end liability, an employer must file an application for termination of coverage with the department. This application must be filed by February 15 of the year for which the employer seeks to terminate liability, and it must show that employment experience in the preceding year was such as to make the employer eligible to terminate liability; that is, it must show that in the preceding calendar year the employer did not have one or more persons in employment within twenty or more calendar weeks, and that there was no calendar quarter in that year in which the gross payroll equalled or exceeded one thousand five hundred dollars. This does not apply to coverage for agricultural, domestics or political subdivisions.

3.46(3) If the account was established as an affiliated account with another employing unit it cannot be terminated unless the other account is terminated also.

This rule is intended to implement section 96.8(2), The Code.

370—3.47(96) Termination of accounts because of no wage reports.

3.47(1) If, at any time, the department finds by employer liability investigation or otherwise that an employer has paid no wages for any four consecutive quarters, it may on its own motion or by employer request place such account in a pending status. The term "pending" refers to an account that is placed in an inactive status pending termination as provided by section 96.8(4)*"b"* of the Code. Upon determination of pending status the department shall notify the employer on IESC 70, notice of employer status, that the employer's account has been placed in an inactive status and that the employer shall no longer receive a quarterly reporting form IESC 21. However, such employer must notify the department if, at any time, the employer resumes paying Iowa wages.

3.47(2) If, at any time prior to termination, a pending account is found to have paid wages in any quarter, such employer account shall be reactivated, reports secured for all quarters in which the account was in pending, including no wage reports for quarters for which there was no employment, and such account shall receive a computed rate as provided in section 96.7(3). Provided the account has been in existence long enough to qualify for a computed rate.

3.47(3) If on the computation date the department finds that an employer eligible for a computed rate has not paid wages during the eight consecutive calendar quarters immediately preceding the computation date, the employer's account shall be terminated effective the January 1 following the computation date, and the employer shall be so notified on form IESC 66, notice of contribution rate. Prior notice will be given before termination of the account.

The employer may request an extension within thirty days from the date of the notice. The employer's account will not be terminated if the employer demonstrates good cause for an extension of time within the thirty-day period.

Provided, that if the employer pays wages after the computation date and prior to the following January 1, the employer's account shall not be terminated. The rate to be assigned

the employer for the year beginning the January 1 following the computation date shall be "rank 1" of the rate table in effect, if the employer had a "zero" average annual taxable payroll and an "excess contributions" reserve balance on the computation date, or "rank 21" of the rate table in effect, plus any applicable surcharges, if the employer had a "zero" average annual taxable payroll and an "excess benefits" reserve balance on the computation date. If the employer paid wages in any of the quarters used to determine the average annual taxable payroll the employer will receive a normal computed rate in accordance with section 96.7(3)*"d"*, The Code.

This rule is intended to implement section 96.7(3)*"d"*, as amended by Acts of the Sixty-ninth General Assembly, 1981 Regular Session, chapter 19, and section 96.8(4)*"b"*, The Code.

370—3.48(96) Previously covered employers. If an employer's account has been terminated as described in subrule 3.47(3) or because of sections 96.8(2) or 96.8(4), The Code, and such employer is again determined liable, the employer shall be treated the same as a newly covered employer. Under no circumstances will this newly covered employer be given a prior reserve balance whether positive or negative.

370—3.49(96) Voluntary payments of additional contribution.

3.49(1) Any employer may voluntarily pay into the unemployment compensation fund an amount not to exceed the maximum voluntary contribution as required by section 96.7(3)*a*(7) of the Code. Such amount shall be credited to the employer's reserve account. The employer's rate of contribution shall be computed or recomputed as the case may be, with such amount included in this computation. To offset such employer's rate of contribution for any year, such amount shall be paid not later than December 15 of the previous year.

a. If the amount of voluntary payment exceeds the maximum voluntary contribution amount, the excess will be refunded.

b. A voluntary contribution must be postmarked no later than December 15 to be considered paid by December 15. If December 15 falls on Saturday or Sunday, voluntary contributions postmarked the following Monday will be accepted as paid by December 15.

c. Voluntary contributions made after December 15th will be returned to the employer.

d. If a voluntary contribution, accompanied by a written statement designating the rate that the employer is trying to reach, does not reduce the employer's rate as desired, the voluntary contribution will be returned to the employer; or, if there is time before December 15 for the employer to submit an additional voluntary contribution, the department will notify the employer by letter or by telephone, of the amount the voluntary contribution is short and give the employer the option of submitting the additional contribution by December 15 or having the voluntary contribution already submitted returned.

e. Employers will be notified of the new rate on their first quarter reporting form and the employer's canceled check will serve as receipt for the voluntary contribution.

f. No payment forwarded as a voluntary contribution will be applied to the recomputation or redetermination of an employer's rate for any tax year if the employer is delinquent as to any period prior to such tax year. In such cases, the remittance will be first applied to the past indebtedness and the balance, if any, will be considered as a voluntary contribution.

g. The determination of the above amount of voluntary contributions and its adequacy are the sole responsibility of the employer.

3.49(2) Reserved.

This rule is intended to implement section 96.7(3)"*a*"(7), The Code.

370—3.50(96) Rescinded, effective April 9, 1980.

370—3.51(96) Payments in lieu of contributions. The money payments to the unemployment fund which are required by section 96.7 of the Code for those employers who elect to reimburse the department shall be in an amount equal to the regular benefits and one-half of the extended benefits paid, and charged to such employer's account. Government reimbursable employers will be charged all of the extended benefits paid.

This rule is intended to implement section 96.8(5), The Code.

370—3.52(96) Payment checks not honored by bank. An employer is liable for interest where a check in payment of contribution is not honored by bank.

a. It is shown to the department's satisfaction that the lien(s) was filed in error. If this is shown, such lien shall be at the expense of the department.

b. Release of said lien(s) is ordered by a judge having jurisdiction over same.

c. A release is necessary to facilitate payment to the department from proceeds of sale in an equity action.

d. A foreclosure action has been initiated by a secured creditor and it is demonstrated to the department's satisfaction all of the following:

(1) The lien of the secured creditor is properly perfected and is senior to the employment security lien.

(2) The property, both real and personal, does not exceed in value the amount of the secured lien on which the foreclosure is taken.

3.69(2) In such cases, the department may release its lien(s) but such release shall be only in respect to the property foreclosed upon by the secured creditor.

3.69(3) Interest and penalty secured by a lien may be compromised by the department at its discretion.

3.69(4) Upon payment of contributions, interest, penalty, and costs, the department shall execute an IESC 65, satisfaction of lien, by filing same with the recorder's office for the county where the lien was filed. A copy of this satisfaction shall be mailed to the employer.

370—3.70(96) Procedure for filing and processing an election to become a reimbursing employer.

3.70(1) Any nonprofit organization which meets the requirements of section 96.7(9) of the Code can be considered eligible to reimburse the Iowa unemployment trust fund in lieu of paying contributions. Any nonprofit organization wishing to be considered as a reimbursable employer shall file as provided under section 96.7. The election to reimburse the trust fund shall be filed in duplicate on form IESC 619, election to make payments in lieu of contributions, with the department for its consideration.

3.70(2) Election to make payments in lieu of contributions, form IESC 619, must be signed by an authorized official of the nonprofit organization and shall be accompanied by:

a. A letter of intent indicating the organization's desire to be considered for reimbursable status.

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.

c. A corporate charter or other documents that brought the organization into being.

3.70(3) All requests by nonprofit organizations wishing to be considered for reimbursable status shall be filed on form IESC 619 and that form, along with the organization's 501(c)(3) internal revenue service letter of exemption, except as otherwise provided in subrule 3.70(2), shall be directed to the attention of the employer liability and audit department. The request for reimbursable status will be examined by a departmental deputy or other authorized representative and subsequently forwarded to the chief of tax functions for a review of bond or other security approval before final submission of all forms to the department for approval.

3.70(4) All nonprofit organizations requesting reimbursable status shall either post a surety bond, monies or securities in accordance with section 96.7(10). Those organizations requesting a surety bond shall forward to the department total taxable wages paid for covered employment in the four calendar quarters immediately preceding the effective date of the election for reimbursable status. This information shall be recorded on the IESC 619 under the heading bond or deposit information.

3.70(5) In the event this quarterly taxable wages information is not available, the requesting organization will submit estimated quarterly total taxable wage information based on current calendar year wage data or estimates from that data. Subsequently, this information shall be examined by the chief of tax functions or the chief's representative and a surety bond figure shall be approved. Those organizations not wishing to post a surety bond but wishing to deposit monies or securities in accordance with section 96.7 shall submit their proposal in writing to the chief of tax functions for examination and final department approval.

3.70(6) An organization not possessing a 501(c)(3) nonprofit tax exemption at the time its election is submitted shall be granted reimbursable status provided that the exemption is obtained and a copy is filed with the department within one hundred and eighty days of the date the election is submitted. The organization shall post a bond or other surety as provided by law and in these rules. Should the organization fail to obtain an exemption within one hundred and eighty days, the election shall be invalid and the organization shall be required to pay contributions upon all taxable wages paid during the period covered by the invalid election at the contribution rate it would have had if the invalid election had not been made. A new election may not be made by the organization until it has obtained a 501(c)(3) nonprofit tax exemption and has filed a new election. Such new election shall not be retroactive to cover the period of the invalid election. Benefits reimbursed during the invalid election shall be used to offset the contributions due and any excess shall be refunded to the organization.

3.70(7) Any accepted reimbursable employer that has deposited a surety bond shall have that bond in effect for a period of not less than two taxable years and such bond shall be renewed with the approval of the department at such times as the department may prescribe, but in no case less frequently than at two-year intervals as long as the organization continues to be liable for payments in lieu of contributions. The department shall require periodic adjustments to be made on previously filed bonds as it deems appropriate. If the bond is to be increased, the adjusted bond shall be filed by the organization within thirty days from the date the notice of required adjustment was mailed or otherwise delivered to the organization at its last known address.

3.70(8) Failure by the bonded organization to pay the full amount of payments in lieu of contributions when due, together with any applicable interest and penalty as provided in section 96.14 of the Code, shall render the surety liable on the bond to the extent of the bond as though the surety was the organization.

3.70(9) If any newly electing nonprofit organization fails to file a bond or make a deposit, the department may declare that the organization's election to make payments in lieu of contributions to be null and void and the organization shall revert to the status of an organization who has not made an election. The organization may not file a new election for four consecutive calendar quarters following the last quarter in which the determination was established. If any nonprofit organization fails to renew a previously filed bond or to make whole or increase a previously filed bond or other surety, the department may terminate the organization's election for a minimum of four consecutive calendar quarters beginning with the quarter in which written notice is mailed or otherwise provided to the organization of the termination. The department may extend for good cause the period in which a bond or other surety must be filed, renewed, or made whole, but the extension may not exceed thirty days.

3.70(10) The department may for good cause, extend the period within which a notice of election to become a reimbursable employer or a notice to terminate reimbursable status must be filed and permit an election to be retroactive but not any earlier than with respect to benefits paid after December 31, 1969.

3.70(11) If the status of a reimbursable employer is changed to contributory status the employer shall be assigned a new account number with the effective date contributory status takes effect. However, this employer shall not be relieved from paying its billed reimbursable charges into the trust fund for so long as the reimbursable account can legally be charged for them.

3.70(12)* Any eligible employer wishing to change its status from contributory to reimbursable shall have a new account number assigned for the period the reimbursable status takes effect. Those contributions paid in during a contributory period shall remain with that account number and cannot be used as a credit against reimbursable charges.

3.70(13) In the event that a reimbursable employer succeeds to a business entity as provided in sections 96.7(3)"*b*" and 96.19(5)"*b*" such successor employer shall not receive a transfer of account balance from the predecessor account. The account balance shall remain with the predecessor account and be used as an offset against any claims attributable to that account. If a contributory employer becomes a successor to a reimbursable account as provided in sections 96.7(3)"*b*" and 96.19(5)"*b*", such successor employer shall become obligated for the predecessor reimbursable employer charges in the event that the reimbursable predecessor employer cannot meet this obligation.

This rule is intended to implement sections 96.7(9) and 96.7(10), The Code.

*Emergency, pursuant to §17A.5(2)"*b*"(2), The Code.

370—3.71(96) Political subdivision.

3.71(1) The definition of a political subdivision is held to include but not limited to:

a. A political subdivision of a state is an organization or any division, department, agency, commission, or board of a state or local government made by proper authorities thereof, authorized and created under constitutional provisions or statutes, for the purpose of carrying out a portion of the function of government, including both governmental and proprietary functions.

b. A political subdivision of a state or instrumentality is one which is organized to carry on some function or purpose of government for a political subdivision. There is expressed or implied statutory or other authority creating it. It is an independent legal entity, with power to hire, supervise, and discharge its own employees. Generally, it can sue or be sued in its own name, to hold, convey real and personal property and borrow money.

c. Political subdivisions include counties, cities, municipalities, towns, villages, townships, as well as irrigation, flood control, sanitation, utility, reclamation, drainage, improvement, and public school districts and authorities or any combination of these and similar governmental bodies within the state of Iowa.

d. Instrumentalities shall include departments, boards, agencies, commissions, county or municipal corporations, associations and organizations of a political subdivision of the state when it is operated by virtue of the authority, power, or powers conferred upon it by a political subdivision of the state, or when they are controlled, supervised or receive direction, expressed or implied, from a political subdivision of a state or such rights are vested in public authority or authorities, or the political subdivision of a state has the right, expressed or implied, to control or direct the policy, operation or to influence the organizations or action of individuals, parties or interests that control those who manage or administer the affairs of such organizations.

3.71(2) In cases involving the status of an organization as to whether it is a political subdivision of a state or instrumentality thereof, the following factors may be taken into account:

a. Whether the revenues are subject to control by a state, a political subdivision of a state or instrumentality thereof.

b. They may have broad powers of taxation, appropriation or authority to levy special assessments on the land located in the district which will stand as a lien upon the property assessed.

c. It is created or existing by virtue of a political subdivision of the state or instrumentality thereof, which operates in the public interest, without profit to private persons, and whose purpose is presumed to be a public benefit and conducive to the public health, convenience and welfare.

d. Whether it is organized or used for a governmental purpose, or an aid in the function of government or it performs a governmental function.

e. Whether there is an expressed or implied statutory or other authority necessary or existing for the creation or use of the organization.

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. Volunteer firemen and policemen, and snow removal personnel, who are called to duty in emergency situations such as fires, floods, emergency snow removal or similar public emergency to perform services on a temporary basis for which they receive pay, are excluded from coverage. *City of Charles City v. Iowa Department of Job Service,* Law No. 2262, District Court for Floyd County. 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 policymaking or advisory, provided power to make the ordinance or resolution is authorized or permitted by the laws of 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, and 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.

3.71(4) The contribution rate for government contribution employers shall be payable on taxable wages (see section 96.19(20), The Code) paid by such employer for insured work (see section 96.7(8)"*b*").

3.71(5) Exemption from "employment" for individuals performing services for a government entity as part of an unemployment work relief or work training program. Services performed by an individual for a government entity for the purpose of qualifying or repaying a welfare or relief grant will not be considered "employment" provided that:

a. The major purpose of the program under which the work is performed is to relieve individuals from their unemployment or poverty.

b. The government entity does not pay the welfare or relief grant directly to the individual but instead pays items such as rent, power bills, medical bills, etc., for the individual.

c. The services performed by the individuals do not displace regularly employed workers of the government entity.

This rule is intended to implement sections 96.7(8) and 96.19(6)"*a*"(6)"*e*", "*g*", The Code.

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 section 96.7(8) of the Code, 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 section 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 section 96.19 of the Code 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 section 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 under 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 thirty days before the beginning of the taxable year for which such termination shall first be effective following the initial one-year period of coverage.

3.72(4) An applicant may withdraw an applicaton for elective coverage pursuant to section 96.7(8) of the Code 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 section 96.7(8) of the Code shall be effective for not less than one complete calendar year. 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)*"b"*, The Code, as amended by Acts of the Sixty-eighth General Assembly, chapter 33.

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) If an amount due from a governmental entity of this state remains due and unpaid for a period of one hundred twenty days after the due date, the director shall take action as necessary to collect the amount and shall levy against any funds due the governmental entity from the state treasurer, director of the department of revenue, or any other official or agency of this state or against an account established by the entity in any bank. The official, agency or bank shall deduct the amount certified by the director from any accounts or deposits or any funds due the delinquent governmental entity without regard to any prior claim and shall promptly forward the amount to the director for the fund. However, the director shall notify the delinquent entity of the director's intent to file a levy by certified mail at least ten days prior to filing the levy on any funds due the entity from any state official or agency.

This paragraph is an exact quote from Senate File 373 [Sixty-eighth General Assembly]. It is being used as a rule because it conflicts with the preceding paragraph in chapter 96. The preceding paragraph in section 96.14(3) states delinquency as a period exceeding two calendar quarters. The above period of one hundred twenty days is the most recent expression of the legislature.

This rule is intended to implement section 96.14(3) and Acts of the Sixty-eighth General Assembly, chapter 33.

3.74 to **3.81** Reserved.

370—3.82(96) Definition of construction employer.

3.82(1) *Construction.* The term "construction" includes new work, additions, alterations, and repairs. Construction activities are generally administered or managed from a relatively fixed place of business, but the actual construction work is performed at one or more different sites which may be dispersed geographically. If a company has more than one relatively fixed place of business from which it undertakes or manages construction activities and for which separate data on the number of employees, payroll, receipts and other establishment-type records are maintained, each such place of business is considered a separate construction establishment. Each legal entity is considered a separate establishment, even where two or more legal entities carry out construction activities from the same place of business.

in lieu of the normal basis for determining the primary activity and subsequent code assignment of the establishment.

This rule is intended to conform to federal changes in the Industrial Code; implements Acts of the Sixty-eighth General Assembly, Regular Session 1979, chapter 33; and sections 96.7(3)*"d"* and 96.11(7), The Code.

370—3.83(96) Reasonable assurance.

3.83(1) The term *"reasonable assurance"* as applicable to employees of educational institutions, means a written, verbal, or implied agreement that the employee will perform services in substantially the same capacity during the ensuing academic year or term. It need not be a formal written contract. To constitute a reasonable assurance of re-employment for the ensuing academic year or term, an individual must be notified of such re-employment.

3.83(2) When a claim has been filed by an employee of an educational institution, the department shall send a notice of claim, IESC 201a, or claim for unemployment insurance benefits, IESC 423, to the educational institution and such educational institution wishing to protest such a claim shall return such notice to the department and shall include on it a statement as to whether or not the individual who filed a claim had been given reasonable assurance for the ensuing academic year or term. The statement should include the date and method of such notification. A copy of the notification may be attached to the IESC 201a or IESC 423.

3.83(3) If the educational institution or agency submits such a statement of a reasonable assurance, the employee shall be denied benefits. If the statement indicates that there is no reasonable assurance of the employee returning to work for the ensuing academic year or term, the claim will be allowed, subject to meeting all the other eligibility requirements.

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), The Code.

370—3.84(96) Instructional, research and principal administrative employment.

3.84(1) For the purpose of chapter 96, the following definitions apply.

a. Instructional: Services performed for an institution of higher education or educational institution which consist of teaching in formal classroom and seminar situations, tutoring, or lecturing in the activity of imparting knowledge; and/or of services which consist of directing or supervising the instructional activities of others; and/or services which consist of counseling, advising, or otherwise determining curriculum, courses, and academic pursuits for students.

b. Research: Services performed for an institution of higher education or educational unit which consist of careful and systematic study and investigation in a field of science and knowledge, undertaken to establish facts or principles. The work performed is in a predominately intellectual field or artistic endeavor which is varied in character and requires the constant exercise of discretion and judgment in performance. The work further requires advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study.

c. Principal administrative: Services performed for an institution of higher education or educational institution which consist of managing the college, university, or one of its schools or major divisions or departments. Such services include the responsibility for estab-

lishing and administering policies, rules, and regulations which have major impact on the overall operations and functions of the college or university, and/or one of its schools, major divisions, or departments. Work and activities are performed under general direction and broad objectives and missions, with the authority to determine goals and the techniques and methods of operations of the college or university and/or one of its schools, major divisions, or departments. The duties performed by the individual rather than the title held should determine whether the prohibition applies. Neither providing a title nor withholding it should be controlling in itself.

This rule is intended to implement section 96.4(5), The Code.

370—3.85(96) Nonpublic school. *"Nonpublic school"* means any school other than public school. (See 1977 Iowa Code chapter 280, section 2.) It means any school within the state other than a public school, wherein a resident of Iowa may legally fulfill the compulsory school attendance requirement of the Iowa department of public instruction or any school, (1) which operates on a nonprofit basis, (2) which has as its primary purpose the education of its students as determined by the guidelines of the department of public instruction and, (3) which operates on a regular basis for at least eight months or more in a year.

This rule is intended to implement section 96.19(6)*"a"*(6c), The Code.

370—3.86(96) Benefits and compensation—school employees. The terms "benefits" and "compensation" have the same meaning within section 2 of chapter 54, Acts of the Sixty-seventh General Assembly, as "benefits" defined in 96.19(2) of the 1977 Code of Iowa.

This rule is intended to implement section 96.4(5), The Code.

370—3.87(96) Effective date of benefits to school employees. Sections 96.4(5)*"a"*, 96.4(5)*"c"* and 96.4(5)*"e"* are interpreted to mean "for weeks of unemployment beginning after December 31, 1977."

This rule is intended to implement section 96.4(5), The Code.

[Filed 10/28/75, Notice 9/22/75—published 11/17/75, effective 12/23/75]
[Filed 4/29/76, Notice 3/22/76—published 5/17/76, effective 6/21/76]
[Filed 12/9/76, Notice 11/3/76—published 12/29/76, effective 2/2/77]
[Filed emergency 12/23/76—published 1/12/77, effective 12/23/76]
[Filed 9/16/77, Notice 8/10/77—published 10/5/77, effective 11/9/77]
[Filed 9/30/77, Notice 8/24/77—published 10/19/77, effective 11/23/77]
[Filed 5/24/78, Notice 4/5/78—published 6/14/78, effective 7/19/78]
[Filed 8/17/78, Notice 6/28/78—published 9/6/78, effective 10/11/78]
[Filed 12/22/78, Notice 11/15/78—published 1/10/79, effective 2/14/79]
[Filed emergency 6/22/79—published 7/11/79, effective 7/1/79]
[Filed 10/12/79, Notice 6/27/79—published 10/31/79, effective 12/5/79]
[Filed 2/12/80, Notice 10/31/79—published 3/5/80, effective 4/9/80]
[Filed 7/31/80, Notice 4/30/80—published 8/20/80, effective 9/24/80]
[Filed 12/5/80, Notice 10/1/80—published 12/24/80, effective 1/28/81]
[Filed 4/10/81, Notices 1/21/81, 2/18/81—published 4/29/81, effective 6/4/81]
[Filed 4/23/81, Notice 3/18/81—published 5/13/81, effective 6/18/81—agency rescinded prior to effective date]
[Filed emergency 5/11/81—published 5/27/81, effective 5/11/81]
[Filed emergency 6/15/81—published 7/8/81, effective 7/1/81]
[Filed emergency 10/23/81—published 11/11/81, effective 10/23/81]
[Filed 11/6/81, Notice 7/8/81—published 11/25/81, effective 12/30/81]
[Filed emergency 12/2/81—published 12/23/81, effective 12/2/81]
[Filed emergency 12/8/81—published 1/6/82, effective 12/8/81]
[Filed 4/23/82, Notice 11/25/81—published 5/12/82, effective 6/17/82]

a. A claim may be filed under any one or more of the following programs:

(1) The state program of job insurance (JI).

(2) The federal program of unemployment compensation for federal employees (UCFE) established by Title V of the United States Code, and

(3) The federal program of unemployment compensation for ex-military personnel (UCX) established by Title V of the United States Code.

b. Unless otherwise specified, the term claim as used in the following definitions is applicable equally to each of the three programs.

(1) *Additional JI, UCFE, or UCX claim.* A notice filed at the beginning of a second or subsequent series of claims within a benefit year, when a break in job attachment has occurred since the last claim was filed, concerning which state procedures require that separation information be obtained.

(2) *Additional claim.* An application for determination of eligibility for benefits which certifies to the beginning date of a period of unemployment and which would fall within a benefit year previously established for which a continued claim or claims may be filed and which follows a period of employment which occurred subsequent to the date of filing the last new, additional, reopened or continued claim.

(3) *Additional interstate claim.* A claim filed by an interstate claimant within the benefit year of a liable state in which insured status has already been established, after a break in the continuity of filing continued interstate claims, or to establish a new series of claims against that liable state from a new agent state.

(4) *Appealed claim.* See appeal, administrative.

(5) *Combined wage claim.* A claim filed under the interstate wage combining plans. See interstate agreement.

(6) *Compensable claim.* A request for benefit payment which certifies the completion of a week of total or partial unemployment to satisfy a claim benefit for a compensable week.

(7) *Contested claim.* A claim which has been protested by an employer, the department or an interested party regarding the claimant's right to benefits.

(8) *Continued claim.* A continued claim is a request for benefit payment. Continued claims are compensable claims. It is an application which certifies to the completion of a week of total unemployment or partial employment to claim benefit for a compensable week.

(9) *Initial claim.* An application for a determination of eligibility for benefits which determination sets forth the weekly benefit amount and duration of benefits for a benefit year. Either a new or an additional claim.

(10) *Initial interstate claim.* A new or an additional interstate claim.

(11) *Interstate claim.* A claim filed in one state (agent state) against another state (liable state).

(12) *Intrastate.* A claim filed in the state of residence against wages earned in the state of residence.

(13) *Mail claim.* A claim filed by mail instead of being filed by a claimant in person at a job service office.

(14) *New claim.* An application for the establishment of a benefit year.

(15) *New interstate claim.* The first interstate claim filed by a claimant against a liable state which serves as a request for determination of insured status.

(16) *New intrastate extended benefits claim.* The first intrastate claim filed for extended benefits in a new extended benefits period by a claimant in state having extended benefits provisions in its law. Each time such provisions become effective it is considered a new extended benefit period. Such first claims will include those which become effective, without any break in the benefit series, for the week following the week in which regular benefits are exhausted or are terminated by the end of the benefit year.

c. Also included will be first claims filed where there has been a break in the benefit series between the last week for which the claimant filed for regular benefits and the first week for which such claimant filed for extended benefits. This break may have resulted from the fact that the extended duration provisions were not in effect when regular benefits expired, intervening employment, or any other reason.

(1) *New JI, UCFE, or UCX claim.* A request for determination of insured status for purposes of establishing a new benefit year.

(2) *Reopened claim.* The first continued claim in a second or subsequent series of claims in a benefit year when no additional claim is reportable. An application for determination of eligibility for benefits and which certifies to the beginning date of a period of unemployment which would fall within a benefit year previously established for which a continued claim or claims may be filed and which follows a break in a claim series previously established, due to illness, disqualification, unavailability, or failure to report for any reason other than re-employment.

(3) *Transitional claim.* A new claim dated as of any date in the seven-day period immediately following a week benefits were claimed.

(4) *Valid JI, UCFE, or UCX claim.* A new claim on which a determination has been made that the claimant has met the wage or employment requirements (and, under some laws, other eligibility conditions) to establish a benefit year.

(5) Rescinded, effective January 28, 1981.

4.1(26) *Claimant.*

a. An individual who has filed a request for determination of insured status or a new claim. Or,

b. An individual who has filed an initial claim with a job service office until the time the claim is found invalid or the benefit year has expired.

c. Courtesy claimant. See transient claimant.

d. Transient claimant. A transient claimant is defined as one who is moving from place to place and who indicates to the agent-state local office that he will be only temporarily in the area served by that office. Unlike a visiting claimant, a transient claimant does not have the intrastate claim forms and instructions from the regular reporting local office. Refer to subrule 4.23(36).

e. Visiting claimant. A visiting claimant is one who has received permission from his regular reporting office to report temporarily to a local office of another state and who has been furnished intrastate claim forms on which to file claims.

These paragraphs are intended to implement section 96.4(3) of the Code.

4.1(27) Rescinded, effective 6/17/82.

4.1(28) *Claim series.* A series of claims filed for continuous weeks of unemployment or for a period of unemployment during which the lapse in compensability or in reporting is deemed by the state insufficient to interrupt the series.

4.1(29) *Compensable claim.* See claim.

4.1(30) *Compensable week.* See week.

4.1(31) *Compensation.* Same as benefits.

4.1(32) *Contested claim.* See claim.

4.1(33) *Continued claim.* See claim.

4.1(34) *Covered employment.* Same as insured work.

4.1(35) *Covered worker.* An individual who has earned wages in insured work.

4.1(36) *Day.* The period of time between any midnight and the midnight following.

4.6(8) *Availability during weeks of low earnings.*

a. In order to maintain eligibilty, the partial claimant does not have to look for work during any week when such claimant has earnings with the partial employer.

b. Work missed (scheduled but not worked for a partial employer) will be deducted from the job insurance benefits; however, if the time scheduled but not worked equals or exceeds the major portion of the scheduled workweek, the claimant will be disqualified for the week under Code section 96.4(3).

4.6(9) *Separation issues during a claim series on partial claims.*

a. Partial claimants may submit a form IESC 202M after a break of one or more weeks in the reporting sequence without filing an additional claim or reporting in person to an area claims office, unless the partial employer has protested the claim by means of an IESC 203, separation notice, that there has been a complete separation.

b. Upon receipt of the form IESC 203, and IESC 175 SIR, special investigation report, will be issued to the area claims office and the claimant called in for a statement regarding the separation. The area claims office will complete a form IESC 742 to convert the claim to a total claim. The claimant will be advised of the change of status in the claim, and the new work search requirement.

This rule is intended to implement section 96.6(1), The Code.

370—4.7(96) Determination of benefit rights.

4.7(1) *Section 96.6 of the Code pertains to the examination and determination of claims.* In conformity with this section, the department of job service prescribes:

a. Determination of benefit rights of job insurance claims shall be made in conformity with sections 96.6 and 96.4 and the provisions of these rules.

b. When a claim for benefits is filed, the department promptly shall notify the most recent employing unit or employer and all base period covered employers of the claimant that a claim has been filed. Such notification, IESC 201A, notice of claim filing, shall advise the employer that it is mandatory for the employer to protest payment to the claimant upon any statutory grounds, if such grounds exist, and the protest shall be made within the time specified in section 96.6.

c. When an initial claim for benefits is filed, the department shall prepare a statement as to the claimant's weekly benefit amount, total benefits, base period wages, and other data pertinent to the claimant's benefit rights.

d. The claimant shall be given a copy of the initial determination and the reasons therefor and shall be given copies of any additional determinations which adversely affect the claimant's rights to benefits. The mailing of each determination shall specify the appeal rights of the parties and the period within which any appeal must be filed under chapter 96.

(1) The statement shall constitute a final decision unless there are newly discovered facts which affect the validity of the original determination or unless a written request for reconsideration is filed by the claimant (or the claimant's most recent employer) within ten days after delivery or after mailing of the statement or notice, specifying the grounds of objections to the statement of claim.

(2) If such written request for reconsideration is filed by an interested party and is timely, or additional information is obtained by the department, a representative shall examine such written request or information for reconsideration and shall promptly issue a redetermination or transfer the written request to the hearing officer.

e. All base period employers shall be given notice of the name and social security account number of any former employee who has filed an initial claim establishing a benefit year for the purpose of drawing job insurance benefits.

f. In the case where an employer protests that the claimant was not an employee and it is subsequently determined that the worker's name was changed by marriage, it is deemed that the employer was not properly notified and the employer shall be given again the right to protest under section 96.6(2).

g. In any event, should the employer fail to submit the information requested, as above set out, the representative shall make a determination of the claimant's benefit rights based on such information as is available.

This rule is intended to implement section 96.6(2), as amended by Acts of the Sixty-eighth General Assembly, Regular Session, 1979, Chapter 33, section 13.

370—4.8(96) Notice to employers of claims filed.

4.8(1) *Employing units required to respond to notices of claims filed.*

a. The most recent employing unit and all base period covered employers who receive a notice of the first claim filed by a claimant following separation from employment must within ten days of the date of the notice, submit to the department of job service any facts that affect the claimant's rights to benefits, including any facts which disclose the claimant separated from employment voluntarily and without good cause attributable to the employer, or was discharged for misconduct in connection with employment.

b. The most recent employing unit and any base period covered employer may protest the payment of benefits if the protest is postmarked within ten days of the date of the notice of claim filing. If the employing unit has filed a timely report of facts that might adversely affect the claimant's benefit rights, the report will be considered as a protest to the payment of benefits.

c. A most recent employing unit and any base period covered employer who has filed a timely response will be notified in writing of the determination as to the claimant's rights to benefits. If the most recent employing unit or a base period employer of the claimant has submitted timely information indicating the claimant quit voluntarily without good cause attributable to the employer, or was discharged for misconduct in connection with employment, the employer will be notified in writing of the department's decision as to the cause of termination of the claimant's employment.

d. Any other employing unit that paid wages to the claimant in the base period of the claim will be notified of the first claim filed which results in a determination that the claimant is an insured worker. The base period employer so notified must within ten days submit any facts disclosing whether the claimant separated from employment voluntarily and without good cause attributable to the employer or was discharged for misconduct in connection with employment for any deliberate act not in the best interest of the employer. The department shall issue the employer a decision as to the cause of termination of the claimant's employment.

e. Any notice of determination or decision will contain a statement setting forth the right of appeal.

4.8(2) *Mailing of notices of claim filing to employing units.*

a. The notice of first claim filed mailed to the most recent employing unit will be addressed to:

(1) The employing unit's place of business where the claimant was most recently employed; or,

(2) The business office of the employing unit where the records of the claimant's employment are maintained;

(3) Any notice properly addressed to the last known address of the employing unit as set forth in this rule shall be deemed to constitute proper notification to the employing unit of the first claim filed.

b. The notice of the first claim filed will be mailed to an owner, partner, executive officer, department manager or other responsible employee of the employing unit or to an agent designated to represent the employer in job insurance matters.

c. The notice of claim filing mailed to a base period employer who is not the most recent employer of the claimant will be addressed to:

(1) The employing unit's place of business where the claimant was most recently employed; or,

(2) The business office of the employing unit where the records of claimant's employment are maintained; or,

4.13(2) The following items are not considered as wages and are not deductible from job insurance.

a. Self-employment income—however, the worker must meet the eligibility requirements of section 96.4(3).

b. Rescinded, effective 12/5/79.

c. Rescinded, effective 12/5/79.

This is intended to implement the recent Supreme Court of Iowa case, *Hiserote Homes, Inc., vs. Karen K. Riedeman and the Iowa Department of Job Service.*

d. Bonuses which are based on past service.

e. Remuneration for work performed by the claimant in exchange for county relief in the form of groceries, rent, etc.

f. Educational or subsistence allowance under Veterans Readjustment Act of 1966 and educational assistance allowance under War Orphans Act of 1956. In these cases, however, the claimant must still meet the eligibility requirements of section 96.4(3).

g. Payment for unused sick leave.

h. Excused personal leave. (See rule 4.14(96).) If the excused personal leave is not taken in conjunction with a scheduled period of vacation, it shall be nondeductible.

i. National guard duty. This includes reserve unit drill pay for any branch of the armed service.

j. Supplemental unemployment benefit plans approved by the department.

k. Pension to the blind.

l. Payment for terminal leave, any payment received by military personnel for unused leave upon discharge.

m. Compensation for service connected disability.

n. Payments to the surviving spouse of a regular or disability pension based on the work of the deceased spouse.

This rule is intended to implement sections 96.3(3), 96.5"*a*" and "*c*" as amended by Acts of the Sixty-ninth General Assembly, 1981 Regular Session, House File 789, and sections 96.5(5) and 96.11(1), The Code.

370—4.14(96) Payment of excused personal leave—deduction from benefits.

4.14(1) The following procedures shall be used to determine the deductibility or nondeductibility of excused personal leave, or other similar type of income, casual pay, random pay, etc.

a. Definition. Excused personal leave income means leave time which is granted to employees with pay for absence from the job because of personal reasons. This leave is in addition to normal vacation and is granted in conjunction with sickness, illness, etc. However, the leave may be taken in conjunction with regular vacation to extend a vacation period.

b. Excused personal leave income will be nondeductible except when the excused personal leave is taken in conjunction with a scheduled period of vacation. When taken in conjunction with a scheduled period of vacation, it will be deductible and will be treated in the same manner as vacation income which is fully deductible in accordance with rule 4.16(96).

c. It will be the responsibility of the employer to advise the area claims offices as to the type of excused personal leave payment that is made to employees who are in active claim status at the time the personal leave payment is made.

4.14(2) Reserved.

370—4.15(96) Reserved.

370—4.16(96) Vacation pay.

4.16(1) If the employer has properly notified the department within seven days after notification of the filing of the claim that vacation pay has been allocated to a specific vacation period, a sum equal to a day's wages shall be applied to the first and each subsequent work day in such designated vacation period until such amount, either paid or owed, is exhausted.

4.16(2) If the employer, after notification of the filing of a claim fails to designate a specific vacation period but there has occurred a vacation shutdown, a sum equal to a day's wages shall be applied to the first and each subsequent work day in such vacation shutdown period until the amount of such vacation pay, either paid or owed, is exhausted.

4.16(3) Rescinded, effective 12/5/79.

370—4.17(96) Vacation pay procedure.

4.17(1) Employer notice specified vacation or holiday pay only. The IESC 201A, notice of claim filing, returned by the employer for the purpose of notification of vacation pay or holiday pay are not protests. It shall be used to notify the department that vacation or holiday pay is applicable. The form IESC 201A received in the administrative office shall be routed to the area claims office, as indicated, for the following action:

a. Upon receipt of the form IESC 201A, the claims representative shall check the current status of the claim on the computer record to ascertain if any weeks have been reported.

b. The representative shall ascertain that the correct amount of vacation or holiday pay has been reported as shown on form IESC 201A. If the computer record shows any week(s) reported without vacation or holiday pay as the form IESC 201A indicates, the representative shall initiate immediate action to set up an overpayment or underpayment as appropriate.

c. If the computer record shows that the claimant has not reported or claimed for some or all of the weeks indicated for the vacation or holiday pay period, the claims representative shall take no further action on the weeks not claimed. The claims representatives shall follow the appropriate procedure in "*a*" or "*c*" of this subrule.

This paragraph is intended to implement section 96.19(9), The Code.

4.23(40) *Extended benefits.*

a. When extended benefits are in effect and a claimant is filing for extended benefits an individual shall be disqualified for extended benefits for any week claimed during which an individual fails to actively engage in seeking work and the disqualification continues until the individual has been subsequently employed. Any individual who is determined to be ineligible for extended benefits because of failure to actively seek work shall be ineligible for extended benefits until they have been employed during at least four weeks and earned not less than four times their weekly benefit amount after failing to actively seek work. The four weeks of employment need not be consecutive.

b. For the purpose of determining claimant eligibility for extended benefits, an individual shall be treated as actively engaged in seeking work during any week if the individual:

(1) Has engaged in a systematic and sustained effort to obtain work during such week, and

(2) Has furnished tangible evidence that such effort was engaged in during such week.

c. An individual shall be required to accept suitable work during the period in which extended benefits are being claimed. Suitable work shall be defined as any employment within such individual's capabilities unless the individual furnishes evidence satisfactory to the department that such individual's prospects for obtaining work in the individual's customary occupation within a reasonable short period are good. If the individual's prospects for obtaining work are determined by the department to be good, the requirements of section 96.5(3) of the Iowa employment security law shall apply.

This rule is intended to implement Public Law 96-499 and section 96.29, The Code.

370—4.24(96) Failure to accept work and failure to apply for suitable work. Failure to accept work and failure to apply for suitable work shall be removed when the individual shall have worked in and been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

4.24(1) *Bona fide offer of work.*

a. In deciding whether or not a claimant failed to accept suitable work, or failed to apply for suitable work, it must first be established that a bona fide offer of work was made to the individual by personal contact or that a referral was offered to the claimant by personal contact to an actual job opening and a definite refusal was made by the individual. For purposes of a recall to work a registered letter shall be deemed to be sufficient as a personal contact.

b. Upon notification of a job opening for a claimant a representative of the department shall notify such claimant by mail to report to the local job service office for the purpose of a job referral. If such claimant fails to report as directed without good cause such claimant shall be disqualified until such time as such claimant reports to the local job service office.

4.24(2) *Job within claimant's capabilities.*

a. The job offered must be within the claimant's physical capabilities and not require any undue physical skill or particular training which the claimant does not already possess. As the period of unemployment lengthens, work which might originally have been unsuitable may become suitable.

b. If such claimant, separated for lack of work, fails to accept work offered by the employer on recall or fails to apply for work when directed by a representative of the department, such failure shall constitute a refusal of suitable work. In such a situation said claimant shall be disqualified for failure to apply for or accept an offer to work until such time as the individual shall have worked in and been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

c. Rescinded, effective 12/5/79.

4.24(3) *Each case decided on its own merits.* Based upon the facts found by the department through investigation it shall then be determined whether the work was suitable and whether the claimant had good cause for refusal. Each case shall be determined on its own merits as established by the facts. A reason constituting good cause for refusal of suitable work may nevertheless disqualify such claimant as being not available for work.

4.24(4) *Work not suitable if claimant not available.* Before a disqualification for failure to accept work may be imposed, an individual must first be available for work. If the facts indicate that the claimant was or is not available for work, and this resulted in the failure to accept work or apply for work, such claimant shall not be disqualified for refusal since no work is deemed suitable for a claimant when such claimant is not available for work. In such a case it is the availability of the claimant that is to be tested. Lack of transportation, illness or health conditions, illness in family, and child care problems are generally considered to be good cause for refusing work or refusing to apply for work. However, the claimant's availability would be the issue to be determined in these types of cases.

4.24(5) *Bumping rights to a job.* A claimant who fails to exercise seniority rights to bump a less senior employee is deemed to be not available for work.

4.24(6) *Claimant physically unable to perform job.* A medical certification from a licensed and practicing physician must be submitted to support the claimant's statement that work offered is not suitable because of the claimant's physical condition.

4.24(7) *Gainfully employed outside of area where job is offered.* Two reasons which generally would be good cause for not accepting an offer of work would be if the claimant were gainfully employed elsewhere or the claimant did not reside in the area where the job was offered.

4.24(8) *Unemployed and registered for work.* A worker cannot be disqualified for refusing a job during a period in which such worker does not have a current valid job insurance claim for benefits. In general, an offer of employment may be made to an individual at any time; however, before the refusal penalty of disqualification is imposed, it must be shown that at the time of the job offer the claimant was unemployed and had an unexpired valid job insurance claim for benefits.

4.24(9) Reserved.

4.24(10) *Distance to new job.* Without a prior specific agreement between the employer and employee the employee's refusal to follow the employer to a distant new job site shall not be reason for a refusal disqualification.

4.24(11) *Bulletin board notice of work.* A bulletin board notice for employees to work during a plant shut down shall not constitute an offer of work by the company. Such offer of work must be by personal contact to the employee.

4.24(12) *Claimant discourages prospective employers.* When a claimant willfully follows a course of action designed to discourage prospective employers from hiring such claimant, the claimant shall be deemed to have refused suitable work as contemplated by the statute.

4.24(13) *Claimant moved to another state.* A claimant who moves to another state shall not be subject to disqualification for refusal to return to his (her) previous job.

4.24(14) *Employment offer from former employer.*

a. The claimant shall be disqualified for a refusal of work with a former employer if the work offered is reasonably suitable and comparable and is within the purview of the usual occupation of the claimant. The provisions of section 96.5(3)"*b*" of the Code are controlling in the determination of suitability of work.

b. The employment offer shall not be considered suitable if the claimant had previously quit the former employer and the conditions which caused the claimant to quit are still in existence.

4.24(15) *Suitable work.*

a. Regular benefits. In determining what constitutes suitable work, the department shall consider, among other relevant factors, the following:

1. Any risk to the health, safety and morals of the individual.
2. The individual's physical fitness.
3. Prior training.
4. Length of unemployment.
5. Prospects for securing local work by the individual.
6. The individual's customary occupation.
7. Distance from the available work.
8. Whether the work offered is for wages equal to or above the federal minimum wage.
9. Whether the work offered meets the percentage criteria established for suitable work depending on the number of weeks of unemployment.
10. Whether the position offered is due directly to a strike, lockout, or other labor dispute.
11. Whether the wages, hours or other conditions of employment are less favorable for similar work in the locality.
12. Whether the individual would be required to join or resign from a labor organization.

b. Extended benefits period in effect.

(1) The gross weekly wage for the suitable work shall be in excess of the individual's weekly extended benefit amount plus any weekly supplemental unemployment compensation benefits which the individual is receiving.

(2) For extended benefit purposes, the term "suitable work" means any work which is within the capabilities of an individual whose prospects for securing work are not good, and

(3) Provided further, that an individual shall not be denied extended benefits for failure to accept an offer of or apply for any job which meets the definition of suitable work as described in the above subparagraph if the position was not offered to such individual in writing or was not listed with the Iowa department of job service; failure could not result in a denial of benefits under the definition of suitable work for regular benefits, to the extent that criteria are not inconsistent with the rules governing extended benefits requirements; or, the individual furnishes satisfactory evidence to the department that the prospects for obtaining work in such individual's customary occupation within a four-week period are good, in which case the determination of whether or not extended benefits shall be denied shall be made in accordance with the provisions of section 96.5(3) of the Iowa employment security law.

4.24(16) *Handicap accessibility to job.* A job offer shall not be suitable if a handicapped individual has not access to a building or its facilities.

4.24(17) When extended benefits are in effect and a claimant is filing for extended benefits an individual shall be disqualified for extended benefits if the individual fails to apply for or refuses to accept an offer of suitable work which has been offered to the individual in writing or was referred to the individual by the department. To requalify for benefits, the claimant would have to earn at least four times their weekly benefit amount and have employment in each of four weeks subsequent to the job refusal or failure to apply. The four weeks of employment need not be consecutive.

This rule is intended to implement sections 96.4(3), 96.5(3), 96.11(1) and 96.29, The Code, as amended by Acts of the Sixty-ninth General Assembly, 1981 Regular Session, Chapter 19, and Public Law 96-499.

370—4.25(96) Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

4.25(1) The claimant's lack of transportation to the work site unless the employer had agreed to furnish transportation.

4.25(2) The claimant moved to a different locality.

4.25(3) The claimant left to seek other employment but did not secure employment.

4.25(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

4.25(5) The claimant left the employment for compelling personal reasons, with notice but without leave, and was married and not the principal support of such claimant's family.

4.25(6) The claimant left as a result of an inability to work with other employees.

4.25(7) The claimant failed to return to work upon the termination of a labor dispute.

4.25(8) The claimant left to enter military service, either voluntarily or by conscription. While in military service such claimant shall be considered to be on leave from employment. It shall only be considered a voluntary quit issue when upon release from military service such claimant does not return to such claimant's employer within ninety days and offer his (her) services; provided, that such person shall give evidence to the employer of satisfactory completion of such military service and further provided that such person is still qualified to perform the duties of such position.

4.25(9) Reserved.

4.25(10) The claimant left employment to accompany the spouse to a new locality.

4.25(11) The claimant left to get married.

4.25(12) The claimant left without notice during a mutually agreed upon trial period of employment.

4.25(13) The claimant left because of dissatisfaction with the wages but knew the rate of pay when hired.

4.25(14) The claimant left because of illness, but failed to return and offer his (her) services upon recovery.

4.25(15) The claimant left because of illness but without the advice of a licensed and practicing physician.

4.25(16) The claimant is deemed to have left if such claimant becomes incarcerated.

4.25(17) The claimant left because of lack of child care.

4.25(18) The claimant left because of a dislike of the shift worked.

4.25(19) The claimant left to enter self-employment.

4.25(20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.

4.25(21) The claimant left because of dissatisfaction with the work environment.

4.25(22) The claimant left because of a personality conflict with the supervisor.

4.25(23) The claimant left voluntarily due to family responsibilities or serious family needs.

4.25(24) The claimant left employment to accept retirement when such claimant could have continued working.

4.25(25) The claimant left to take a vacation.

4.25(26) The claimant left to go to school.

4.25(27) The claimant left rather than perform the assigned work as instructed.

4.25(28) The claimant left after being reprimanded.

4.25(29) The claimant left in anticipation of a layoff in the near future; however, work was still available at the time claimant left the employment.

4.25(30) The claimant left due to the commuting distance to the job; however, the claimant was aware of the distance when hired.

4.25(31) The claimant left work to keep from earning enough wages during the year to adversely affect claimant's receipt of federal old-age benefits (social security).

4.25(32) The claimant left by refusing a transfer to another location when it was known at the time of hire that it was customary for employees to transfer as required by the job.

4.25(33) The claimant left because such claimant felt that he (she) was not performing the job to the satisfaction of the employer; provided, the employer had not requested the claimant to leave and continued work was available.

4.25(34) The claimant left because work was irregular due to weather conditions; however, this working condition was not unusual in claimant's type of employment.

4.25(35) The claimant left due to an injury upon the advice of a licensed and practicing physician but failed to return and offer his (her) services to the employer upon recovery.

4.25(36) The claimant left due to an injury without the advice of a licensed and practicing physician.

4.25(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of his (her) intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

4.25(38) Where the claimant gave the employer an advance notice of resignation which caused the employer to discharge the claimant prior to the proposed date of resignation, no disqualification shall be imposed from the last day of work until the proposed date of resignation; however, benefits will be denied effective the proposed date of resignation.

4.25(39) The claimant left employment due to pregnancy but not on the advice of a licensed and practicing physician.

4.25(40) Where the claimant voluntarily quit in advance of the announced scheduled layoff, the disqualification period will be from the last day worked to the date of the scheduled layoff. Benefits shall not be denied from the effective date of the scheduled layoff.

4.25(41) Rescinded effective January 28, 1981.

This rule is intended to implement sections 96.4(5), 96.5(1) and 96.19(6)"*a*", The Code.

370—4.26(96) Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

4.26(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

4.26(2) The claimant left due to unsafe working conditions.

4.26(3) The claimant left due to unlawful working conditions.

4.26(4) The claimant left due to intolerable or detrimental working conditions.

4.26(5) The claimant was laid off by the employer for being pregnant; however, availability must still be determined.

370—4.41(96) Unemployed fathers program (ADC-UF). Unemployed fathers program (ADC-UF) under Public Law 94-566, an unemployed father who is eligible for both unemployment insurance and aid to dependent children-unemployed father program (ADC-UF) shall be required to collect any unemployment insurance to which he is entitled before receiving any payments under the ADC-UF program.

This rule is intended to implement Public Law 94-566, section 507.

370—4.42(96) Retention of DSS referral form. When an unemployed father presents his DSS referral form PA-2138-5 to the job insurance representative, the representative will take the form, sign it and complete a form IESC 201. The representative shall notate the form IESC 550 with an ADC-UF and retain the DSS form plus the self-addressed envelope in this form until the IESC 204, Iowa monetary records (determination), is returned.

4.42(1) *Action required upon receipt of form IESC 204.* When a determination, form IESC 204, has been received that the applicant is eligible or ineligible for job insurance, the representative will make a photocopy of the form IESC 204. The copy of the form IESC 204 and the DSS referral form PA-2138-5 are to be placed in the self-addressed, stamped envelope and mailed to the county department. The representative will transpose the necessary information from the form IESC 550 to the form IESC 204 and identify the form IESC 204 as an ADC-UF applicant and file the form in the claim record card file.

4.42(2) *ADC-UF applicants eligible for job insurance.* If an unemployed father applicant, ADC-UF, is eligible for job insurance it disqualifies the family for aid to dependent children—unemployed fathers for any week in which he receives such compensation, even though job insurance may be less than need.

4.42(3) *Protested claims on unemployed fathers.* Individual applicants filing claims may experience lengthy delays because of protest adjudication. To expedite the determinations of individuals participating in the ADC-UF program, claims personnel engaged in fact-finding interviews will identify all forms IESC 175-SIR, special investigation report, with the notation ADC-UF to the right of the protest text (issues) located right of center on the form IESC 175-SIR. Then the form IESC 175-SIR will receive special handling.

370—4.43(96) Duplicate benefit warrants.

4.43(1) *Undelivered warrant.* It any warrant issued in payment of benefits is returned undelivered to the department of job service by the postmaster or remains outstanding

beyond a period of six months from date of issuance after the end of the quarter in which the warrant was issued (twelve months on federal warrants), every reasonable effort shall be made by the department of job service to secure the correct mailing address of the claimant, in order to complete delivery of an undelivered warrant or ascertain the reason an outstanding warrant has not been cashed.

4.43(2) *Canceled warrant.* On the last day of each calendar month, the comptroller shall cause to be cancelled each benefit warrant which, at this time, has been outstanding six months or longer, whether or not the warrant has been returned as undelivered. Any individual who has an outdated warrant may contact any representative of any area claims office for assistance in the preparation of, or may request from the department of job service, miscellaneous claim form CPA-3333, for the reissuance of the warrant. The miscellaneous claim form shall be transmitted to the state appeal board for determination as to payment or nonpayment of the warrant. The state appeal board will make such determination at their regular monthly meeting.

4.43(3) *Lost warrant.* In the event a warrant issued in payment of benefits is lost, stolen, mutilated, destroyed, or canceled under conditions cited in subrules 4.43(1) and 4.43(2), the payee shall contact a representative of the department of job service and provide the information requested. The representative will forward the information to the administrative office where it will be ascertained whether the warrant is outstanding. If the warrant has not been redeemed, a stop payment will be placed on the warrant and a form CPA-3359, affidavit and agreement for issuance of duplicate warrant, will be mailed to the area claims office for completion by the individual. The affidavit is a sworn statement that the original warrant was not received and it will be surrendered if received.

4.43(4) *Forged warrants.* In the event the original warrant has been endorsed by and paid to someone not authorized to receive payment, the payee whose endorsement was forged will be given the opportunity to examine the endorsement (copy of the warrant). If the payee determines that the endorsement is a forgery, the form IESC 1593, affidavit as to forged endorsement will be prepared in duplicate by the claimant and transmitted to the claims department. The IESC 1593 will be sent to the bureau of criminal investigation for handwriting analysis to determine if the warrant was forged. If after verification it is shown that a forgery existed, a duplicate warrant will be issued to the payee.

4.43(5) *Employer account credit.* At the time of cancellation of any outstanding benefit warrant(s), the employer account shall be credited with the amount of the warrant(s) so canceled. The reissuance of any benefit warrant canceled in subrule 4.43(1) or 4.43(2) shall be charged to the employer account.

This rule is intended to implement section 96.9(8), The Code.

370—4.44(96) Payments of benefits due deceased person.

4.44(1) Benefits due deceased claimants. In the event a person or claimant has not been paid for benefits, such claimant's representative or a family member, shall submit the IESC 202M, continued mail claim, which was signed prior to the claimant's death. An eligible week for a deceased claimant will be one where the form IESC 202M is completed by the claimant prior to death. If benefits are due a deceased person, such benefits shall be paid to the person or persons who have been issued letters testamentary or of administration pursuant to an application therefor filed within thirty days after the claimant's death.

4.53 Reserved. [Rescinded, effective 9/24/80]

4.54 Reserved. [Rescinded, effective 9/24/80]

370—4.55(96) Determination of overpayment.

4.55(1) A determination that a claimant, by reason of the claimant's own fault, or through employer or agency error, has received benefits to which the claimant was not entitled shall be made by the department on the basis of such facts as it may obtain.

4.55(2) A notice of determination, IESC 175-OP, notice of overpayment, shall be promptly given to the affected claimant. The notice shall be dated and shall advise the claimant as to the benefit weeks involved and the amounts of the payments with respect to each week.

4.55(3) Upon receiving a written request for review, the department may affirm, modify, or reverse the prior decision, or refer the matter to a hearing officer. The claimant shall be promptly notified of the decision or referral. Unless the claimant files an appeal within ten days after the date of mailing, the decision shall be final.

4.55(4) Claimants affected by determinations made in accordance with this rule shall have the same rights to further appeal as are provided in section 96.6, The Code.

4.55(5) Whenever it is found that a claimant has received benefits through error and has been charged with an overpayment, no further benefits shall be paid to the claimant until the total amount of overpayment has been reimbursed or otherwise liquidated to the satisfaction of the department.

4.55(6) The claimant may make refund of overpayment by cash or by means of an offset against future benefit payments at the discretion of the department.

4.55(7) Any benefits which may become due an individual against whom an erroneous overpayment is outstanding shall be used to reduce the amount of the erroneous overpayment.

4.55(8) Overpayments of eighteen dollars or less will not be set up against future benefits because the administrative cost would exceed the overpayment. However, if the claimant is in active reporting status, the next payment to the claimant will be adjusted in order to recoup the overpayment.

This rule is intended to implement sections 96.3(7) and 96.16(4), The Code.

370—4.56(96) Administrative penalties.

4.56(1) When, subsequent to the filing of a valid claim, it has been determined that within the preceding thirty-six calendar months the claimant fraudulently reported or failed to report wages earned during a week, or failed to disclose a material fact upon separation from employment from such claimant's most recent employing unit or employer, with intent to obtain benefits, or failed to disclose a material fact concerning such claimant's ability to work, availability for work, or any other eligibility requirements, with intent to obtain benefits, such claimant shall forfeit all job insurance benefits for the week in which the determination is made and for a period of not more than such claimant's remaining benefit year.

4.56(2) Any penalties imposed by this rule shall be in addition to those imposed by section 96.16.

4.56(3) Sources of information concerning application of administrative penalty shall be the same as those pertaining to fraud and overpayment, namely:

a. Employer report of wages, with comparative analysis of same with concurrent benefit payments.

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 club rooms or house of a local college club, or in or about the club rooms 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 club rooms 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, furnace person, handymen(women), 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 club rooms 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"*, The Code.

[Filed 10/28/75, Notice 9/22/75—published 11/17/75, effective 12/23/75]
[Filed 4/29/76, Notice 3/22/76—published 5/17/76, effective 6/21/76]
[Filed 12/9/76, Notice 11/3/76—published 12/29/76, effective 2/2/77]
[Filed 9/30/77, Notice 8/24/77—published 10/19/77, effective 11/23/77]
[Filed 5/24/78, Notice 4/5/78—published 6/14/78, effective 7/19/78]
[Filed 8/17/78, Notice 6/28/78—published 9/6/78, effective 10/11/78]
[Filed 12/22/78, Notice 11/15/78—published 1/10/79, effective 2/14/79]
[Filed emergency 6/22/79—published 7/11/79, effective 7/1/79]
[Filed 10/12/79, Notice 6/27/79—published 10/31/79, effective 12/5/79]
[Filed emergency 11/29/79—published 12/26/79, effective 11/29/79]
[Filed 2/12/80, Notice 10/31/79—published 3/5/80, effective 4/9/80]
[Filed 7/31/80, Notice 4/30/80—published 8/20/80, effective 9/24/80]
[Filed 12/4/80, Notice 10/1/80—published 12/24/80, effective 1/28/81]
[Filed 4/10/81, Notice 2/18/81—published 4/29/81, effective 6/4/81]
[Filed emergency 6/15/81—published 7/8/81, effective 7/1/81]
[Filed 11/6/81, Notice 7/8/81—published 11/25/81, effective 12/30/81]
[Filed 4/23/82, Notice 11/25/81—published 5/12/82, effective 6/17/82]

CHAPTER 5
FRAUD CONTROL SPECIAL INVESTIGATION UNIT

370—5.1(96) Definitions.

5.1(1) *Administrative penalty.* The disqualification of a claimant from the receipt of benefits, due to fraud or misrepresentation or the willful and knowing failure to disclose a material fact, for a period of not more than the remaining benefit year, including the week in which such determination is made.

5.1(2) *Allegation of fraud.* Any form of communication from a party which implies fraudulent activity.

5.1(3) *Anonymous tip.* Information about suspected fraudulent activity received from a party who wishes to remain unidentified.

5.1(4) *Appeals.* A request for a review by an appeals authority of the department for any determination made by a representative of the department, and including any request for a review by a higher appeals authority of a decision made by a lower appeals authority. It also includes any appeal from a determination of a representative, or any appeal or request for a hearing by a properly affected party.

5.1(5) *Area job insurance office.* Full-time claims office in which all types of job insurance claims functions are performed.

5.1(6) *Benefits.* Money payments to an individual with respect to unemployment. See subrule 4.1(18).

5.1(7) *Claim.* A request for benefit payment. See subrule 4.1(25).

5.1(8) *Claimant.* See subrule 4.1(26).

5.1(9) *Department.* The Iowa department of job service. "Department" may also refer to units within the department of job service.

5.1(10) *Earnings.* The remuneration for services performed.

5.1(11) *Employing unit.* Any individual or entity which engages the services of one or more individuals; one for whom employees work and who pays their wages or remuneration.

5.1(12) *Evidence.* Any witnesses, records, documents, copies of documents, statements, demonstrations, or any other relevant testimony or concrete objects before the department or at an appeal hearing or trial of an issue for the purpose of inducing belief in the minds of the hearing officer, department, court or jury as to the truth of a contention.

5.1(13) *Fact-finding interview.* A face-to-face discussion between a claimant and a claims examiner for the purpose of obtaining from the claimant a statement containing information on a specific eligibility or disqualification issue. This differs from a periodic interview in that a specific issue must exist as a result of a statement made by the claimant, the liable state, an employer, or the job service staff.

5.1(14) *Fraud.* The intentional misuse of facts or truth to obtain job insurance benefits for oneself or another or to avoid the verification and payment of employment security taxes; a false representation of a matter of fact, whether by statement or by conduct, by false or misleading statements or allegations; or, by the concealment or failure to disclose that which should have been disclosed, which deceives and is intended to deceive another so that they or the department shall not act upon it to their or its legal injury.

5.1(5) *Fraudulent activity.* Actions based on or in the spirit of fraud.

5.1(16) *Initial determination.* The first determination with respect to a claim or a request for determination of insured status.

5.1(17) *Intent.* The design, resolve, or determination with which an individual or group of individuals acts in order to reach a preconceived objective.

5.1(18) *Internal audit.* The audit of local offices, conducted by the fraud department, to ensure that proper procedures and policies are being adhered to by area job insurance office personnel.

24.14(3) *Denial of renewal of a permit.* The permittee shall have a right to an evidentiary hearing on the denial of renewal of a waste water operation permit which has been issued pursuant to chapter 19, DEQ rules. The commission shall be the agency before which a hearing is held pursuant to this subrule.

24.14(4) *Permit conditions.* The permittee shall have a right to an evidentiary hearing on any condition or requirement of a waste water or water supply construction permit issued pursuant to chapter 19 or 22, DEQ rules, or of a waste water operation permit issued pursuant to chapter 19. The commission shall be the agency before which a hearing is held pursuant to this subrule. Such permits shall become effective upon issuance unless the permittee exercises the right to request an evidentiary hearing within the time allowed by subrule 24.12(5). Where the permittee exercises such right the permit shall be effective when the controversy over the subject permit conditions has been resolved informally or after hearing on the matter.

24.14(5) *Time for request.* An applicant or permittee must exercise the right to a hearing granted by subrule 24.12(2), 24.12(3) or 24.12(4) by requesting such a hearing within thirty days of the receipt of the notice of agency action on the permit. Failure to request a hearing within the thirty-day period shall terminate the right to any administrative hearing on the permit.

These rules are intended to implement chapters 17A and 455B of the Code.

[Filed 12/19/75, Notice 10/6/75—published 1/12/76, effective 2/16/76]
[Filed 10/13/78, Notice 5/3/78—published 11/1/78, effective 12/6/78]
[Filed without Notice 2/2/79—published 2/21/79, effective 3/28/79]

TITLE IV

SOLID WASTE DISPOSAL

CHAPTER 25
DEFINITIONS

400—25.1(455B) Definitions. For the purpose of this title, the following terms shall have the meaning indicated in this chapter. The definitions set out in section 455B.75, The Code, shall be considered to be incorporated verbatim in these rules.

25.1(1) *"Commission"* means the environmental quality commission.

25.1(2) *"Composting"* means the controlled, biological decomposition of selected solid organic waste materials under aerobic conditions resulting in an innocuous final product.

25.1(3) *"Construction and demolition waste"* means waste building materials including wood, metals and rubble which result from construction or demolition of structures. Such waste shall also include trees.

25.1(4) *"Construction and demolition waste disposal site"* means a sanitary landfill which accepts only construction and demolition wastes.

25.1(5) *"Department"* means the Iowa state department of environmental quality.

25.1(6)* *"FAA certificated airport"* means an airport serving air carriers certified by the Civil Aeronautics Board that has been issued an airport operating certificate from the Administrator of the Federal Aviation Administration pursuant to section 612 of the Federal Aviation Act, 49 U.S.C. §1432, and 49 C.F.R. part 139. (Note: As of July 1, 1978, this definition would include the municipal airports in or near Iowa as follows: Moline, Illinois; Omaha, Nebraska; and Burlington, Cedar Rapids, Des Moines, Dubuque, Fort Dodge, Mason City, Ottumwa, Sioux City, and Waterloo, Iowa.)

25.1(7) *"Flood plain"* means the area adjoining a river or stream which has been or may be hereafter covered by flood water.

25.1(8) *"Garbage"* means all solid and semisolid, putrescible animal and vegetable wastes resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial byproducts, and shall include all such substances from all public and private establishments and from all residences.

*Emergency, pursuant to §17A.5(2)"*b*"(2) of the Code.

25.1(9) *"High water table"* is the position of the water table which occurs in the spring in years of normal or above normal precipitation.

25.1(10) *"Incineration"* means the processing and burning of waste for the purpose of volume and weight reduction in facilities designed for such use.

25.1(11) *"Land application"* means a method through which sludge is applied to the ground surface. Land application may include sub-surface injection.

25.1(12) *"Land pollution"* means the presence in or on the land of any solid waste in such quantity, of such nature and for such duration and under such condition as would affect injuriously any waters of the state, cause air pollution or create a nuisance.

25.1(13) *"Monitoring well"* means any well installed solely for the sampling of ground water quality at a given location and depth and constructed in a manner approved by the department.

25.1(14) *"Open burning"* means any burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack.

25.1(15) *"Open dumping"* means the depositing of solid wastes on the surface of the ground or into a body or stream of water.

25.1(16) *"Private agency"* is defined in section 28E.2.

25.1(17) *"Public agency"* is defined in section 28E.2.

25.1(18) *"Public water supply system"* means a system for the provision to the public of piped water for human consumption, if such system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least sixty days out of the year. Such term includes (1) any collection, treatment, storage, and distribution facilities under control of the supplier of water and used primarily in connection with such system, and (2) any collection (including wells) or pretreatment storage facilities not under such control which are used primarily in connection with such supply system. A public water supply system is either a "community water system" or a "noncommunity water system".

a. "Community water system" means a public water supply system which serves at least fifteen service connections used by year-round residents or regularly serves at least twenty-five year-round residents.

b. "Noncommunity water system" means a public water supply system that is not a community water system.

25.1(19) *"Recycling"* means the reutilization of natural resources and man-made products.

25.1(20) *"Refuse"* means putrescible and nonputrescible wastes, including but not limited to garbage, rubbish, ashes, incinerator ash, incinerator residues, street cleanings, market and industrial solid wastes and sewage treatment wastes in dry or semisolid form.

25.1(21) *"Refuse collection service"* means a publicly or privately operated agency, business or service engaged in the collecting and transporting of solid waste for disposal purposes.

25.1(22) *"Rubbish"* means nonputrescible solid waste consisting of combustible and noncombustible wastes, such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery or litter of any kind.

25.1(23) *"Rubble"* means stone, brick or similar inorganic material.

25.1(24) *"Salvageable material"* means discarded material no longer of value for its original purpose but which has value if reclaimed.

25.1(25) *"Salvaging"* means the systematic removal of salvageable material in a formal and orderly manner as a part of the normal operating procedure of a sanitary disposal project.

25.1(26) *"Sanitary disposal"* means a method of treating solid waste so that it does not produce a hazard to the public health or safety or create a nuisance.

25.1(27) *"Sanitary disposal project"* is defined in section 455B.75, The Code.

25.1(28) *"Sanitary landfill"* means a method of disposing of solid waste on land by utilizing the principles of engineering to confine the solid waste to the smallest practical

CHAPTER 3
PERMITS TO DIVERT, STORE, OR WITHDRAW WATER

580—3.1(455A) When permit required. A permit to divert, store, or withdraw water shall be required for specific uses as follows:

3.1(1) *Municipal use.* A permit for the entire use shall be required when any municipal corporation or person supplying a municipal corporation increases its water use in excess of one hundred thousand gallons, or three percent, whichever is the greater; per day more than its highest per day beneficial use prior to May 16, 1957, and for the withdrawal of water from any aquifer or other source not utilized prior to May 16, 1957, or from an aquifer or other source utilized prior to May 16, 1957, where the withdrawal point is more than 0.5 mile from the point of withdrawal prior to said date.

3.1(2) *Industrial use.* A permit for the entire use shall be required for the withdrawal of water for industrial use in excess of 5,000 gallons per day, subject to the exemption contained in section 455A.1 of the Code. A permit shall be required for withdrawals of water from any aquifer or other source not utilized prior to May 16, 1957, or withdrawals from any aquifer or other source at a withdrawal point more than 0.5 mile from the location utilized prior to May 16, 1957.

3.1(3) *Storage (surface).* A permit shall be required for the storage of 18 acre-feet or more of water in permanent storage. No such permit shall be granted by the water commissioner prior to issuance of a council order approving the plans and specifications for the impounding structure. No permit from the water commissioner shall be required for waste stabilization lagoons, waste storage basins, or similar structures which are used solely for waste water treatment or disposal. A permit authorizing withdrawals of water from an artificial reservoir formed by an officially designated grade stabilization structure which was constructed with federal, state, or local cost-sharing funds shall not be granted unless the person applying for such a permit provides written approval for such withdrawals from the soil conservation district in which the structure is located.

3.1(4) *Diversion from surface into aquifer.* A permit is required for diversion of water or any other material from the surface directly into any aquifer. Diversion by tile or ditch into a sinkhole or quarry excavated in carbonate rock is presumed to be a diversion from the surface directly into an aquifer in the absence of convincing evidence to the contrary.

3.1(5) *Drain tile lines.* Water in drain tile lines shall be considered surface water.

3.1(6) *Closed cooling systems.* A permit shall not be granted for the withdrawal of ground water for use solely as a coolant in a closed system without returning such ground water to the aquifer from which it came unless applicant demonstrates compelling reasons for not returning the water.

3.1(7) *Miscellaneous uses.* Unless otherwise provided herein, a permit shall be required for the use of more than five thousand gallons of water per day for any purpose.

a. Poultry, livestock, and domestic animals. Any use of water for these purposes which is an extraordinary use; a permit shall be required.

b. Drainage at construction sites. Withdrawals of water to lower the water table as necessary at a construction site shall be exempt from securing a permit except when such withdrawals cause or can reasonably be expected to cause material damage to public or private interests. After an investigation of those withdrawals allegedly causing material damage, the water commissioner shall require prompt appropriate action for the alleviation of damages. Where agreement cannot be reached on the action necessary for the alleviation of damages, withdrawals of water shall cease immediately upon notification by the water commissioner and an application for a permit shall be submitted.

c. Test pumping.* The water commissioner may authorize test pumping of sources of water to determine adequacy of the source and effects of such withdrawals and may require applicant to acquire technical assistance of the Iowa geological survey or other appropriate sources of such assistance so as to maintain supervision of the testing as deemed necessary by the water commissioner. The water commissioner may authorize by registration test pumping of sources of water to determine adequacy of the source and effects of such withdrawals and may require applicant to acquire technical assistance of the Iowa Geological Survey or other appropriate sources of such assistance so as to maintain supervision of the testing as deemed necessary by the water commissioner. No such registration for test pumping shall be for a period of more than one year.

d. Rural water districts. A permit shall be required for withdrawals of water by any rural water district having its own source of water and such withdrawals shall be classified as a municipal-type use.

e. Nonrecurring minor uses. Any use of water which is a minor, nonrecurring use, including but not limited to highway construction and maintenance, charging of lagoons, drilling wells, and hydrostatic testing of pipelines, shall not require a permit but rather may be registered with the water commissioner on such forms as the water commissioner shall provide. Such registration shall be for up to one year and may be reregistered at the discretion of the water commissioner should the project require more than one year to complete. After an investigation of those registered withdrawals allegedly causing material damage, the water commissioner shall require prompt appropriate action for the alleviation of damages, withdrawals of water pursuant to registration shall cease immediately upon notification by the water commissioner and an application for a permit shall be submitted.

f. Research contracts. The withdrawal of water for research purposes by the Iowa Geological Survey (IGS) through its agents, employees, or contractees may be authorized by registration in aquifers approved by the council and under such conditions as the council may set. Such registration shall be for periods of up to one year and may be reregistered at the discretion of the water commissioner upon request by the IGS should the research require more than one year to complete. The withdrawal of water pursuant to such registration shall be conducted under the direct supervision of the IGS and its employees and according to a schedule adopted by or approved by IGS. The IGS shall contract with each individual who is co-

*Emergency, pursuant to §17A.5(2)"*b*"(3), The Code.

rule 3.7(455A) concerning the applicant's responsibility to furnish geological and test pumping information when requested by the water commissioner or council.

b. Application for irrigation permit. An applicant who proposes to irrigate row crops in a field which includes soils more erodible than Capability Subclass IIe as defined by the U.S.D.A. Soil Conservation Service (S.C.S.), or slopes greater than six percent where a modern S.C.S. Soil Survey is not available, shall submit a soil conservation plan prepared with the assistance of S.C.S. for the field in which row-crop irrigation is proposed. The plan shall be accompanied by the applicant's written explanation of how operation of the proposed irrigation system will be compatible with the conservation plan. However, the water commissioner may waive the requirement of a formal soil conservation plan if the erodible area of the field is small and the potential for violation of soil loss limits established by the soil conservation district is minimal.

c. Application for permit to dewater a rock quarry. Section 455A.25(3), The Code, and subrule 3.1(4) of these rules require that a permit be obtained before diverting water or material from the surface directly into any underground watercourse or basin. When the water commissioner investigates an application for a permit to pump water for dewatering of a quarry excavated in carbonate rock, the commissioner shall consider the potential for pollution of an underground watercourse or basin from drainage of surface water into the quarry. If available information, including topographic and subsurface geological information, support a finding that drainage of surface water into the quarry would constitute a violation of the permit requirement in 455A.25(3) and might cause pollution of an underground watercourse or basin if not controlled, then the commissioner shall require that the applicant either request a permit under 455A.25(3), The Code, and 3.1(4) of these rules to authorize a drainage of surface water into the quarry, or construct and maintain a means of controlling surface water which would otherwise drain into the quarry. Examples of suitable methods of controlling surface drainage are low berms or artificial drainage ways constructed as needed to reduce runoff of surface water from adjacent land into the quarry. If a rock quarry site is located on a flood plain, the surface runoff control plan will be reviewed by the INRC flood plain division to assure that diversion structures do not adversely affect the efficiency or unduly restrict the capacity of the floodway of the adjacent stream or otherwise violate the statutory criteria contained in sections 455A.18 and 455A.33, The Code.

d. Application for permit for municipal-type use. An applicant for a water permit for a municipal-type use, except for a rural water system, shall indicate on a form provided by the water commissioner the type of waste water disposal system planned in conjunction with the proposed water distribution system. If the planned waste water disposal system does not require approval by the Iowa department of environmental quality or a local board of health which has a permit program for reviewing on-site waste water disposal systems, the water commissioner or council may request that plans be submitted for the waste water disposal system and may request that such plans be reviewed by the department of health or designee to determine the adequacy of the proposed waste water disposal system to prevent pollution of surface water or ground water at the project site.

e. Application for permit to divert water into an aquifer. An applicant for a permit to divert water or any other material from the surface into an aquifer shall submit information showing that the requested diversion will not pollute the aquifer. The water commissioner will forward a copy of an application for diversion of water or other material into an aquifer and copies of supporting information to the executive director of the department of environmental quality. Section 455A.25(3), The Code, requires that approval of the DEQ executive director be obtained before the water commissioner can issue a permit to divert water or other material into an aquifer.

f. Water storage permits co-ordinated with construction approvals. An application for approval of the construction, operation, and maintenance of a dam is deemed to be an application for a water storage permit required by subrule 3.1(3). A $25.00 water storage application fee must accompany the application for construction approval. A water storage determination/permit may be consolidated as part of an order by the director approving construction, operation and maintenance of the impounding structure. However, the water commissioner or designated deputy commissioner shall sign the determination/permit.

This rule is intended to implement sections 455A.2 and 455A.17 to 455A.36, The Code.

580—3.3(455A) Conditions on permitted water uses. This rule includes permit restrictions which apply to various types of permitted water uses. A permitted use may be subject to additional restrictions related to its potential effects on surface or ground water. Requirements and restrictions which relate to particular types of water sources are found in rules 3.4(455A), 3.5(455A), 3.7(455A) and 3.11(455A) to 3.13(455A).

3.3(1) *Irrigation permits.*

a. Authorized irrigation season. Permits shall authorize irrigation of general farm crops such as row crops, small grain and hay from April 1 to September 30 and specialty crops such as vegetables, fruits, and sod from April 1 to October 31 unless the water commissioner or council finds that a different period is justified.

b. Authorized annual amount. Permits shall authorize withdrawals equivalent to 12 acre-inches per acre for general farm crops and 24 acre-inches per acre for specialty crops unless the water commissioner or council finds that a different amount is justified. Factors to be considered in determining whether a different amount is justified include soil types and potential water availability during drought events. Notwithstanding the general criteria in this paragraph, permits for irrigation of general farm crops from the alluvial aquifers of the Missouri and Mississippi rivers shall authorize withdrawals of up to 18 acre-inches per acre if requested by the applicant unless the water commissioner or council finds that a different amount is justified.

c. Conservation plan for erosion control. When subrule 3.2(3) requires that an applicant for an irrigation permit submit a soil conservation plan, any permit granted to the applicant shall make authorization of irrigation contingent upon the permittee's compliance with the soil conservation plan.

d. Irrigation scheduling. The water commissioner or council may require that irrigation of general farm crops be scheduled according to a method recommended by the water commissioner to minimize the potential for waste of water or by an equivalent method selected by the permittee and approved by the water commissioner or council.

e. Irrigation system check valve. Each irrigation permit shall require the permittee to submit documentation that an adequate check valve has been installed to prevent back-siphoning of contaminants into the water source before a fertilizer, pesticide, herbicide, or other additive is introduced into the irrigation system.

3.3(2) The amount of water authorized for industrial use shall be consistent with industry-wide usage for the same or similar purposes and shall provide for growth where need therefor is demonstrated by the applicant.

3.3(3) The amount of water authorized for municipal use shall not exceed two hundred

report as part of the review of an application for renewal of a water storage permit and shall consider the following additional factors:

a. The physical condition of the dam and appurtenant structures as related to safety of the dam.

b. The permittee's record of compliance with the conditions of the expiring storage permit and the approval order which authorized construction, use and maintenance of the dam.

c. Changed circumstances including upstream or downstream development which may affect the hazard classification of the dam or its ability to function as intended.

3.20(5) *Conditions of cancellation or suspension of water storage permits.* When a water storage permit is canceled or suspended pursuant to section 455A.28, The Code, the gate on the low level or dewatering outlet shall be opened and the impoundment drained in accordance with the procedures in 580—chapter 7 and the impoundment shall remain drained unless storage of water is again authorized. Additional measures including breaching of the dam may be required if necessary to reduce risk of damage associated with dam failure.

This rule is intended to implement sections 455A.2, 455A.18, 455A.20, 455A.22, 455A.27, and 455A.28, The Code.

[Filed 10/9/75, Notice 8/25/75—published 10/20/75, effective 11/24/75]
[Filed Emergency 6/24/77—published 7/13/77, effective 6/24/77]
[Filed 7/5/77, Notice 6/1/77—published 7/27/77, effective 8/31/77]
[Filed 5/10/78, Notice 3/78/78; Amended Notice 4/5/78—published 5/31/78, effective 7/5/78*]
[Filed emergency 8/4/78—published 8/23/78, effective 8/4/78]
[Filed 9/14/78, Notice 7/12/78—published 10/4/78, effective 11/8/78]
[Filed 11/5/80, Notice 9/17/80—published 11/26/80, effective 12/31/80]
[Filed 2/23/82, Notice 12/9/81—published 3/17/82, effective 4/21/82]
[Filed 2/24/82, Notice 11/11/81—published 3/17/82, effective 4/21/82]
[Filed 4/23/82, Notice 11/11/81—published 5/12/82, effective 6/16/82]

CHAPTER 4
COUNCIL—ESTABLISHED FLOOD PLAINS—ENCROACHMENT LIMITS

580—4.1(455A) Regulations established. Regulations established by the council and local units of governments for the orderly development and wise use of the flood plains of any river or stream shall:

4.1(1) *Flood plain.* Delineate the limits of the flood plain or flood hazard area.

4.1(2) *Floodway.* Identify the area needed to convey the regulatory flood through establishment of encroachment limits.

4.1(3) *Minimum levels of flood protection.* Establish minimum levels of flood protection for any flood plain development or use having a maximum, high, or moderate damage potential.

4.1(4) *Nonconforming uses and structures.* Provide for existing nonconforming uses and structures.

*See Delays, IAB 6/28/78, p.194.

580—4.2(455A) Flooding characteristics. The Iowa natural resources council regional flood, the regulatory flood, and various flood frequencies shall be considered as flooding characteristics of a stream or river.

4.2(1) *Iowa natural resources council regional flood.* In determining the magnitude of the Iowa natural resources council regional flood, consideration shall be given to the following flood flow determination methods:

a. Standard project flood as computed by the corps of engineers.

b. Experienced Iowa floods as determined from experienced Iowa flood chart.

c. Rainfall-runoff relationships.

d. Other hydrologic information available to the council.

4.2(2) *Other floods.* In determining the regulatory flood and various flood frequencies the council shall give consideration to the following:

a. Log pearson type III flood frequency method.

b. U. S. geological survey flood frequency studies.

c. Corps of engineers flood frequency studies.

d. Other studies and reports including site experience which reasonably identify the flood frequencies of a river or stream.

580—5.55(455A) Waste water treatment facilities. The following criteria shall apply to wastewater treatment facilities.

5.55(1) *Location.* Waste water treatment facilities shall not be located so as to individually or collectively conflict with 4.3(455A) governing the establishment of encroachment limits.

5.55(2) *Flood protection.* Flood protection for waste water treatment facilities shall be provided to the level necessary for high damage potential buildings or building complexes unless evidence is submitted indicating the facility is of a lesser damage potential.

580—5.56(455A) Sanitary landfills. The following criteria shall apply to sanitary landfills.

5.56(1) *Location.* Sanitary landfills shall not be located so as to individually or collectively conflict with 4.3(455A) governing the establishment of encroachment limits.

5.56(2) *Flood protection.* Flood protection for the active working portion of the sanitary landfill shall be provided to the level necessary for high damage potential buildings or building complexes.

580—5.57(455A) Water supply treatment facilities. The following criteria shall apply to water supply treatment facilities.

5.57(1) *Location.* Water supply treatment facilities shall not be located so as to individually or collectively conflict with 4.3(455A) governing the establishment of encroachment limits.

5.57(2) *Flood protection.* Flood protection for water supply treatment facilities shall be provided to at least the level necessary for high damage potential buildings or building complexes.

580—5.58(455A) Stream protective devices. The following criteria shall apply to stream protective devices.

5.58(1) *Overflow.* Stream protective devices shall be constructed in a manner which will not cause premature overbank flow.

5.58(2) *Velocity.* Increased velocities resulting from the construction, operation, and maintenance of stream protective devices shall be limited so as not to cause excessive scour in the channel as determined by the council.

5.58(3) *Stability.* Stream protective devices shall be anchored securely to the bank or constructed in a stable manner so as not to become dislodged and result in the scattering of debris in adjacent and downstream reaches.

5.58(4) *Water quality and aesthetics.* Stream protective devices shall not adversely affect the water quality, fish and wildlife habitat or aesthetics of the stream.

580—5.59(455A) Pipeline river or stream crossings. The following criteria shall apply to pipeline river and stream crossings.

5.59(1) *Protection.* Pipeline river or stream crossings shall be sufficiently buried in the stream bed and banks or otherwise sufficiently protected to prevent rupture.

5.59(2) *Overflow and velocities.* Pipeline river or stream crossings shall be constructed, operated, and maintained so as not to create premature overbank flow or excessive scour to the channel or banks.

5.59(3) *Spoil.* Spoil material resulting from the construction of a pipeline crossing shall be disposed of in a manner which will not obstruct low flow or flood flows.

580—5.60(455A) Miscellaneous construction. The following criteria shall apply to miscellaneous construction.

5.60(1) *Structures, obstructions, or deposits.*

a. Location. Miscellaneous structures, obstructions, or deposits shall not be located so as to individually or collectively conflict with 4.3(455A) governing the establishment of encroachment limits.

b. Protection. Miscellaneous structures, obstructions, or deposits shall be provided with the minimum level of flood protection associated with the designated damage potential as indicated in 5.54(1) of these rules governing buildings and building complexes.

5.60(2) *Excavation.*

a. Spoil. Spoil material resulting from an excavation shall be disposed of in a manner consistent with 5.60(1)"*a*" of these rules pertaining to miscellaneous structures, obstructions, or deposits.

b. Levees. Levees protecting excavations shall meet the requirements of 5.60(1)"*a*" pertaining to miscellaneous structures, obstructions, or deposits.

c. Control of surface runoff into rock quarries. When the director or council investigates an application for approval of excavation of a quarry in carbonate rock on a flood plain or floodway, the director or council shall consider the potential for pollution of an underground watercourse or basin from drainage of surface water into the quarry. If available information including topographic and geological information support a finding that drainage of surface water into the quarry would constitute a violation of the permit requirement in 455A.25(3), The Code, and might cause pollution of an underground watercourse or basin if not controlled, then the director or council shall require that the applicant either request a permit under 455A.25(3), The Code, and 3.1(4) of these rules to authorize drainage of surface water into the quarry, or construct and maintain a means of controlling drainage of surface water which would otherwise drain into the quarry.

These rules are intended to implement sections 455A.2, 455A.17, 455A.18, 455A.25 and 455A.33, The Code.

5.61 to 5.79 Reserved.

DIVISION IV
GENERAL CRITERIA

580—5.80(455) General conditions. Council orders and administrative waivers approving an activity or project shall be subject to the following conditions.

5.80(1) *Maintenance.* The applicant and any successor in interest to the real estate on which the project or activity is located shall be responsible for proper maintenance.

5.80(2) *Responsibility.* No legal or financial responsibility arising from the construction or maintenance of the approved works shall attach to the state of Iowa or the agency due to the issuance of an order or administrative waiver.

5.80(3) *Lands.* The applicant shall be responsible for obtaining such government licenses, permits, and approvals, and lands, easements, and rights-of-way which are required for the construction, operation, and maintenance of the authorized works.

5.80(4) *Change in plans.* No material change from the plans and specifications approved by the director or council shall be made unless authorized by the director or council.

5.80(5) *Revocation of order or waiver.* A council order or administrative waiver may be revoked if construction is not completed within the period of time specified in the council order or waiver.

5.80(6) *Performance bond.* A performance bond may be required when necessary to secure the construction, operation, and maintenance of approved projects and activities in a manner that does not create a hazard to the public's health, welfare, and safety. The amount and conditions of such bond shall be specified as special conditions in the council order.

580—5.81(455A) Variance.

5.81(1) *In general.* Where evidence is presented that additional private or significant public damage will not result from flood plain or floodway construction (other than channel changes) subject to regulation under chapter 5 of these rules, the director or council may permit variance to the criteria stated in the chapter.

5.81(2) *Channel change variances.* The director or council may grant variances to the criterian stated in this chapter for channel changes (other than channel changes on

protected streams) only in the following instances: (a) For comprehensive flood control projects in urban areas where channelization is the best alternative available; (b) for public projects such as roads or road grade protection where a channel change is the only reasonable and practicable alternative; (c) in cases whereby natural channel erosion has significant probability of eroding the structural stability of a building or other structure and bank erosion control measures are not feasible or practical under the circumstances; (d) in other cases where the applicant can clearly show that there are no adverse effects on the public interest.

5.81(3) *Protected stream channel change variance.* The director or council may grant variances to the prohibition of channel changes on protected streams for those cases listed in 5.81(2)"*b*" and "*c*", but such variances will be with provisions for mitigation of environmental damage.

5.82 to 5.94 Reserved.

DIVISION V

PROTECTED STREAM DESIGNATION PROCEDURE

[Rules 5.95 to 5.97 prior to 11/29/78 appeared as 5.30 to 5.32]

580—5.95(455A) Protected streams.

5.95(1) *Protected streams defined.* Protected streams shall include: All streams listed in 5.95(2); and other streams designated as protected streams pursuant to the procedures of 5.96(455A), which upon designation will be listed in 5.95(2).

5.95(2) *List of protected streams.* Streams designated as protected streams are the following:

ALLAMAKEE COUNTY

Bear Creek, mouth to west county line;
Clear Creek, mouth to north line of section 15, T100N, R5W;
Clear Creek, mouth to west line of section 25, T99N, R4W;
Cota Creek, mouth to west line of section 10, T97N, R3W;
Dousman Creek, mouth to south county line;
French Creek, mouth to east line of section 23, T99N, R5W:
Hickory Creek, mouth to south line of section 28, T96N, R5W;
Irish Hollow Creek, mouth to north line of section 17, T100N, R4W;
Little Paint Creek, mouth to north line of section 30, T97N, R3W;
Norfolk Creek, mouth to confluence with Teeple Creek (section 24, T97N, R6W);
Paint Creek, confluence with Little Paint Creek to road crossing in section 18, T97N, R4W;
Patterson Creek, mouth to east line of section 3, T98N, R6W;
Silver Creek, mouth to south line of section 31, T99N, R5W;
Suttle Creek, mouth to south county line;
Teeple Creek, mouth to west line of section 11, T97N, R6W;
Trout Run, mouth in section 16, T98N, R4W through one mile reach;
Unnamed tributary to the Yellow River, mouth to north line of section 12, T96N, R5W;
Unnamed tributary to Village Creek, mouth to west line of section 23, T98N, R4W;
Upper Iowa River, from Lane's Bridge at river mile 6 to west county line;
Village Creek, mouth to west line of section 19, T98N, R4W;
Waterloo Creek, mouth to north county line;
Wexford Creek, mouth to west line of section 25, T98N, R3W;
Yellow River, mouth to west county line;

CLAYTON COUNTY

Bear Creek, south line of section 18, T91N, R4W to south line of section 26, T91N, R5W;
Bloody Run, mouth to source;
Brownfield Creek, mouth to spring source (section 31, T91N, R3W);
Buck Creek, mouth to west line of section 9, T93N, R3W;
Cox Creek, confluence with Kleinlein Creek (a.k.a. Spring Creek) to south line of section 12, T91N, R6W;
Dry Mill Creek, mouth to west line of section 9, T93N, R4W;
Hewett Creek, mouth to south line of section 29, T92N, R6W;
Kleinlein Creek, (a.k.a. Spring Creek) mouth to spring source (section 10, T91N, R6W);
Maquoketa River, south county line to west county line;
Miners Creek, mouth to west line of section 1, T92N, R3W;
Mink Creek, mouth (section 30, T93N, R6W) to west county line;
Mossey Glen Creek, mouth (section 3, T91N, R5W) to south line of section 3, T91N, R5W;
North Cedar Creek, mouth (section 8, T94N, R3W) to source;
Pecks Creek, mouth to south line of section 15, T91N, R3W;
Pine Creek, mouth (section 26, T91N, R4W) to confluence with Brownfield Creek (section 25, T91N, R4W);

580—5.96(455A) Protected stream designation procedure.

5.96(1) *Eligible petitioners.* Any state agency, governmental subdivision, association or interested person may petition the council, according to the rules of this division, to designate a stream as a protected stream. However, if the stream had been the subject of a similar petition filed within the past two years, the council shall not accept a petition except upon a majority vote.

5.96(2) *Content of petition.* The petition for protected stream designation shall contain the following: (a) Names, addresses, and the phone numbers of the petitioners; (b) location of the stream nominated for designation; (c) reasons why the stream is nominated, each reason being stated in a separate numbered paragraph; and (d) adequate evidence supporting the reasons for nomination. Eleven copies of the petition shall be filed with the director of the council.

5.96(3) *Director review of petition.* Upon receipt of a petition for designation of a stream as a protected stream, the director of the INRC shall make an initial determination as to whether the petition complies with 5.96(2) and whether the stream has a sufficient number of environmental amenities listed in 5.96(7) that further investigation is warranted. If the director finds the petition not in compliance with 5.96(7) or that further investigation is not warranted, agency proceedings to designate the nominated stream as protected shall cease and the petitioner shall be notified of the reasons for refusing to accept and act upon the petition. A petitioner aggrieved by the director's decision may appeal the decision within thirty days to an executive committee of at least three council members.

5.96(4) *Notice of initiation of protected stream designation proceedings.* Upon director or council acceptance of a petition nominating a stream for protected stream designation, the director of the INRC shall do the following:

a. Notice of intended action. Publish a notice of intended action in the Iowa Administrative Code biweekly supplement, the content of which identifies the nominated stream and requests public input into the protected stream designation procedure.

b. Council notification. Notify the council at the next meeting of the filing of a petition for protected stream designation;

c. Interested agency notification. Notify regional planning commissions, county board of supervisors, city councils, soil conservation districts through which the nominated stream runs, the Iowa conservation commission, the department of environmental quality, the department of soil conservation, the department of agriculture and the Iowa geological survey;

d. County-wide notification. Publish notice of the filing of the petition in a newspaper of general circulation for two consecutive weeks in each county in which the nominated stream is located.

5.96(5) *Director investigation report.* Upon director or council acceptance of a petition nominating a stream for protected stream designation, the director of the INRC shall do the following:

a. Investigation. Supervise a field staff investigation of the stream nominated for protected stream status for the purpose of assessing the effect that extending INRC flood plain regulation would have on the factors listed in 5.96(7);

b. Report. File a report with the council at a monthly council meeting held within one year after the notice of intended action was published; the report shall specifically state findings of fact or each reason alleged in the petition in support of a protected stream designation and convey a staff recommendation, including any minority recommendations and recommendations of other governmental bodies and interested persons on whether or not the stream should be regulated;

c. Interagency co-ordination. Invite the Iowa conservation commission, the department of environmental quality, Iowa geological survey, and any other agency or governmental subdivision expressing an interest in the proceeding to participate in the field investigation and preparation of the report, and request their assessment of whether extension of INRC jurisdiction over the nominated stream would have either an adverse or beneficial impact on

their agency's water resource programs.

5.96(6) *Council determination.* After receipt of the director's report and the public has had an opportunity to submit written comments and make an oral presentation, the council shall make a determination in writing whether or not to designate the stream identified in the petition as a protected stream, except that the council may continue the proceeding as needed to collect or analyze additional data. The council's determination shall be based on the factors listed in 5.96(7), as applied to the nominated stream and its flood plain and, to other relevant streams and flood plains located in the same watershed as the nominated stream, as well as any underground water system hydrologically connected to the nominated stream.

5.96(7) *Basis for protected stream designation.* Council determination of whether or not to classify a stream as a protected stream shall be based on the balancing of the costs and benefits of possible flood plain development as it would affect the following factors: (a) Maintenance of stream fishery capacity; (b) water quality preservation; (c) wildlife habitat preservation; (d) flood control; (e) flood plain management; (f) existing flood plain developments; (g) soil erosion control; (h) the needs of agriculture and industry; (i) the maintenance and enhancement of public recreational opportunities; (j) the public's health, welfare and safety; (k) compatibility with the state water plan; (l) property and water rights of landowners; (m) other factors relevant to the control, development, protection, allocation, and utilization of the nominated stream and water hydrologically connected to it.

580—5.97(455A) Protected stream declassification procedure. The procedure for removing a stream from the list of protected streams in 5.95(2) of these rules shall be the same as the rules for designation of a stream as a protected stream, except that all notices, investigations and reports shall be addressed to the issue of declassification.

These rules are intended to implement sections 455A.1, 455A.2, 455A.17, 455A.18 and 455A.33 of the Code.

[Filed 10/9/75, Notice 8/25/75—published 10/20/75, effective 11/24/75]
[Filed 5/5/78, Notice 3/8/78; Amended Notice 4/19/78—published 5/31/78, effective 7/5/78]
[Filed 9/14/78, Notice 7/12/78—published 10/4/78, effective 11/8/78]
[Filed 11/13/78, Notice 9/20/78—published 11/29/78, effective 1/3/79]
[Filed emergency 11/5/80—published 11/26/80, effective 11/5/80]
[Filed 2/23/82, Notice 12/9/81—published 3/17/82, effective 4/21/82]
[Filed 2/24/82, Notice 11/11/81—published 3/17/82, effective 4/21/82]
[Filed 4/23/82, Notice 11/11/81—published 5/12/82, effective 6/16/82]

CHAPTER 22
COMMUNITY SERVICES BLOCK GRANT

630—22.1(7A) Purpose.

22.1(1) The community services block grant program as established by Title VI, subtitle B, Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981, makes available to the state of Iowa funds to be used:

a. To provide a range of services and activities having a measurable and potentially major impact on causes of poverty in the community or those areas of the community where poverty is a particularly acute problem;

b. To provide activities designed to assist low-income participants including the elderly poor:

1. To secure and retain meaningful employment;
2. To attain an adequate education;
3. To make better use of available income;
4. To obtain and maintain adequate housing and a suitable living environment;
5. To obtain emergency assistance through loans or grants to meet immediate and urgent individual and family needs, including the need for health services, nutritious food, housing, and employment-related assistance;
6. To remove obstacles and solve problems which block the achievement of self-sufficiency;
7. To achieve greater participation in the affairs of the community; and
8. To make more effective use of other programs related to the purposes of this program;

c. To provide on an emergency basis for the provision of such supplies and services, nutritious foodstuffs, and related services, as may be necessary to counteract conditions of starvation and malnutrition among the poor;

d. To co-ordinate and establish linkages between governmental and other social services programs to assure the effective delivery of such services to low income individuals; and

e. To encourage the use of entities in the private sector of the community in efforts to ameliorate poverty in the community.

22.1(2) Reserved.

630—22.2(7A) Definitions. The following terms used in these rules shall have the definitions assigned as follows:

22.2(1) The terms "*eligible entity*", "*community agency*" or "*community action program*" mean any organization which was officially designated as a community action agency or a community action program under the provisions of section 210 of the Economic Opportunity Act of 1964 for fiscal year 1981, unless such community action agency or community action program lost its designation under section 210 of such Act as a result of a failure to comply with the provisions of such Act.

22.2(2) The term "*poverty line*" means the official poverty line established by the director of the Office of Management and Budget. Generally the Secretary of the Department of Health and Human Services revises the poverty line annually (or at any shorter interval the secretary deems feasible and desirable), and this poverty line shall be used as a criterion of eligibility in community service block grant programs. The required revision shall be accomplished by multiplying the official poverty line by the percentage change in the consumer price index during the annual or other interval immediately preceding the time at which the revision is made.

22.2(3) The term "*program year*" refers to the year beginning on October 1 and ending the succeeding September 30. The program year is numbered for that year in which it ends. Funding may extend beyond the program year in which it is awarded.

630—22.3(7A) Apportionment distribution.

22.3(1) *Iowa apportionment.* In accordance with Public Law 97.35, Title VI, subtitle B, recipient agencies shall receive from the community services block grant for fiscal year 1982 an amount in the same ratio to the total funded to the state as the organizations received in fiscal year 1981 under Section 221 of the Economic Opportunity Act of 1964, as amended.

22.3(2) *State administrative fees.* The state shall reserve for its expenses of operation of the program an amount not to exceed five percent of the state's apportioned amount described in subrule 22.3(1).

22.3(3) *Distribution to eligible entities.* An amount not less than ninety percent of the funds received according to subrule 22.3(1) shall be distributed to eligible entities according to the formula described in rule 22.5(7A).

22.3(4) *Fund transfers.* The remaining five percent of the funds received under subrule 22.3(1) shall be apportioned to eligible entities according to the method described in rule 22.5(7A), unless, during the second session of the Sixty-ninth General Assembly, the funds are appropriated by said assembly for use under the Older Americans Act of 1965, the headstart program under subchapter B of chapter 8 of subtitle A of Title VI of Public Law 97-35 or the energy crisis intervention program under Title XXVI of Public Law 97-35. The transfer of such funds is limited in amount and purpose as described above by Public Law 97-35, Title VI, subtitle B, section 675.

22.3(5) *Local share.* There shall be no local share required under this program.

630—22.4(7A) Eligibility requirements. The eligibility requirements for participation in the community services block grant program for program year 1982 are as follows:

22.4(1) *Organization.* The organization must meet the definition of an eligible entity as defined in rule 22.2(7A).

22.4(2) *Accounting system.* Any private agency must obtain an accounting system certification in accordance with section 7A.8, The Code, if the total amount of grants and contracts received by the organization from the state during the program year will exceed one hundred fifty thousand dollars.

22.4(3) *Board composition.* In the case of a community action agency or nonprofit private organization, each board will be constituted so as to assure that:

a. One-third of the members of the board are elected public officials, currently holding office, or their representatives, except that if the number of elected officials reasonably available and willing to serve is less than one-third of the membership of the board, membership on the board of appointive public officials may be counted in meeting such one-third requirement;

b. At least one-third of the members are persons chosen in accordance with democratic selection procedures adequate to assure that they are representative of the poor in the area served; and

c. The remainder of the members are officials or members of business, industry, labor, religious, welfare, education, or other major groups and interests in the community (Public Law 97-35, section 675).

22.4(4) *Ineligible recipients.* Individuals, political parties and for-profit organizations, partnerships and corporations are ineligible for direct assistance from the state under this program.

630—22.5(7A) Distribution to eligible applicants. For the year beginning October 1, 1981, the funds described in rule 22.3(7A) shall be distributed to eligible entities in a manner which shall place all recipients on the same program year. The director shall distribute funds to each eligible entity at the expiration of its funding for the 1981 program year from the community services administration, at a monthly funding level equivalent to the monthly funding level for that entity under their 1981 grant. If sufficient funds are available, the monthly funding level for each agency shall be extended past September 30, 1982, to such time as all available funds for 1982 are utilized. If the level of funding is insufficient to fund all eligible entities in this manner through September 30, 1982, the monthly funding level for all agencies shall be reduced by the percent (the percent being applied equally to all) necessary to remain within the funds available.

630—22.6(7A) Application submission. To minimize disruption, the community services block grant program shall utilize to the extent possible forms and format used in the application for community action grants from the community services administration. Modification or deletion of forms may occur during the program year to streamline the process. Applicants shall be provided with revised forms at the time they are invited to apply.

22.6(1) *Timing.* Eligible entities shall be informed in writing of the due date for application and the amount of their allocation in accordance with 22.6(7A) of these rules. The due date shall be no later than forty-five days before the expiration of the entity's funding for their previous grant from the community services administration, unless the entity is due for funding prior to December 1, 1981. Those entities whose previous grant funding from the community services administration expires prior to December 1, 1981, shall submit their applications as far in advance as feasible.

22.6(2) *Application.* Application instructions shall be provided to the applicant at the time of notification. The application package may also be obtained by writing the Office for Planning and Programming, Division of Municipal Affairs, 523 E. 12th Street, Des Moines, Iowa 50319, or by calling (515) 281-3951. For those entities due for funding prior to December 1, 1981, applications will be prepared in conformance with current instructions from the community services administration for applying for a community action grant (copies of these instructions are available at the Office for Planning and Programming), except the application must meet the tests described in rule 22.7(7A), and may be revised accordingly.

22.6(3) *Preliminary information.* Prior to formal application, the following forms shall be filed with the office for planning and programming:

a. Standard form 424, Application for Federal Assistance (SF 424);
b. CAA basic information (CSBG-1);
c. Community information (CSBG-2);
d. Grantee refunding certification (CSBG-3).

The following forms at the option of the office for planning and programming may be required:

e. Certification of applicant's attorney (CSBG-4);
f. Checkpoint procedure for co-ordination (CSBG-5).

22.6(4) *Application forms.* In making formal application, the following forms shall be included:

a. Program account budget (CSBG-6);
b. Program account budget support sheet (CSBG-7);
c. Participant characteristics plan (CSBG-8);
d. Summary of work programs and budget (CSBG-9).

If funds or programs are to be delegated to a separate agency, the following forms shall be included:

1. Administering agency funding estimate (CSBG-10);
2. Delegate agency basic information (CSBG-11);
3. Assurance of compliance with Civil Rights Act (CSBG-12).

22.6(5) *Nondiscrimination provisions.* Applicants must assure in their application that no person shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this program. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.

630—22.7(7A) Review and approval of applications.

22.7(1) *Compliance review.* All activities proposed for funding shall be reviewed by community services block grant program personnel for:

a. Compliance with the specific purposes outlined in rule 22.1(7A);

b. Inclusion of assurances that the applicant will conduct the program in compliance with all applicable laws;

c. Adherence to the requirements of OMB Circular A-95, "Evaluation, Review and Coordination of Federal and Federally Assisted Programs and Projects";

d. Inclusion and proper completion of all forms and instructions included in the application package; and

e. Compliance with subrule 22.4(2).

22.7(2) *Performance.* Approval of applications is dependent on the satisfactory performance of the applicant in the past funding year(s). Available records, audits and determinations from the community services administration, office of management and budget and the Department of Health and Human Services shall be utilized to the extent possible. Unresolved audit questions and past due audits shall be a basis for conditional approval or disapproval of an application.

630—22.8(7A) Payments.

22.8(1) *Method of payment.* Any entity receiving a grant under the community services block grant program shall submit a monthly requisition packet consisting of the following forms:

a. Monthly advance request and expenditure report containing a breakdown of the monthly expenditures of the entity in carrying out the activities funded through the grant;

b. State of Iowa claimant's certification for reimbursement of funds.

The office for planning and programming may refuse reimbursement of funds for good reason such as evidence of fraud, lack of management controls, or noncompliance with grant conditions. Such refusal shall be appropriately documented, and the grantee shall be informed of the reason for the refusal and remedial actions they may take.

22.8(2) *Receipt of federal funds.* All payments shall be subject to the receipt of federal grant funds by the office for planning and programming. The termination, reduction or delay of federal grant funds to the office for planning and programming shall, at the option of the office for planning and programming, be reflected in a corresponding modification to grants already made.

630—22.9(7A) Amendments. Following are requirements applying to amendments.

22.9(1) *Budget.* Any expenditure of funds on a line item which will exceed that line item budgeted amount by more than ten percent must be approved by an amendment to the grant. The total amount of the budget shall not be exceeded and any amounts above the budget total shall not be reimbursable by the office for planning and programming, unless an amendment has been granted to increase the total.

22.9(2) *Recapture of funds.* If at any time during the program year it becomes apparent that the amount allocated to any entity is not being utilized at a rate sufficient to expend their available program funds, the office for planning and programming may require that the entity amend their grant to release the excess funds. Such funds may then be distributed by the office for planning and programming to those entities demonstrating the need and ability to appropriately expend the funds, or may be set aside for reappropriation by the general assembly.

22.9(3) *Scope or emphasis.* Any change in scope or emphasis among projects funded in the grant must be reflected through an amendment. A reduction in scope shall be evaluated by the office for planning and programming to determine what reduction of funds, if any, will be required.

22.9(4) *Other requests.* Requests for amendments other than those addressed in this rule, shall be considered on a case-by-case basis in conformance with applicable state and federal laws.

630—22.10(7A) Project periods. For an eligible entity defined in rule 22.2(7A), the project period shall commence at such time as the entity's funding for its last grant from the community services administration, (as transferred to the Department of Health and Human Services) under Title II of the Economic Opportunity Act of 1964, as amended (Public Law 95-568; 42 U.S.C. 2790, et seq.), is ended. In no instance shall the project period commence prior to October 1, 1981. Funding for the remainder of the project year 1982 after the end of the funding for said grant shall be made in accordance with the method of distribution set forth under rule 22.5(7A).

630—22.11(7A) Ineligible items. Ineligible activities or costs are as follows:

22.11(1) *Political activity.* Any political activity defined in chapter 15, title 5, United States Code, ("Political Activity by Certain State and Local Employees"). Any nonprofit private organization receiving assistance under this program which has responsibility for planning, developing, and co-ordinating community antipoverty programs shall be deemed to be a state or local agency. For purposes of clauses (1) and (2) of section 1502(a) of such title, any such organization receiving assistance under this program shall be deemed to be a state or local agency.

22.11(2) *Voter assistance.* Any activities to provide voters and prospective voters with transportation to the polls or provide similar assistance in connection with an election or any voter registration activity.

22.11(3) *Land and buildings.* The purchase or improvement of land, or the purchase, construction, or improvement (other than low-cost residential weatherization or other energy-related home repairs) of any building or other facility. Exceptions to this subrule shall only be provided through the waiver procedure described in section 680, subsection (b), Public Law 97-35.

630—22.12(7A) Audits and records. Each recipient shall be responsible for the maintenance of appropriate accounting records necessary for the protection of program funds and shall arrange and pay for an annual audit of each grant made under this program, to be submitted within ninety days of the end of the grant. In addition, the office for planning and programming may request more frequent audits or examinations of financial records of the recipient in order to ensure adequate financial controls are in place and operating.

These rules are intended to implement section 7A.3, The Code, and Public Law 97-35.

[Filed emergency 9/25/81—published 10/14/81, effective 9/25/81 to 10/31/82]
[Filed 4/23/82, Notice 10/14/81—published 5/12/82, effective 6/18/82]

CHAPTER 23*
COMMUNITY DEVELOPMENT BLOCK GRANT NONENTITLEMENT PROGRAM

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

23.1(1) *"Act"* shall mean Title I of the Housing and Community Development Act of 1974, as amended (PL 93-383 and PL97-35).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*Emergency, pursuant to §17A.5(2)"b"(2), The Code.

PROFESSIONAL AND OCCUPATIONAL REGULATION COMMISSION[637]

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CHAPTER 1
DEFINITIONS

637—1.1(2B) Applicability. The following definitions shall be applicable to the rules of the commission on professional and occupational regulation.

1.1(1) *Commission.* The term "*commission*" refers to the commission on professional and occupational regulation established by chapter 2B, The Code.

1.1(2) *Occupation.* The term "*occupation*" refers to an activity in which a person engages as a vocation, calling, trade, art, or source of employment.

1.1(3) *Profession.* The term "*profession*" refers to a vocation requiring specialized knowledge and preparation.

1.1(4) *Practitioner.* The term "*practitioner*" refers to a person engaged in a particular occupation or profession.

1.1(5) *Regulation.* The term "*regulation*" refers to a statutory law or administrative rule of the state of Iowa prescribing who shall engage in a particular occupation or profession, the conditions under which an occupation or profession shall be practiced or the procedures used in the practice of an occupation or profession.

This rule is intended to implement chapter 2B, The Code.

[Filed emergency 10/26/79—published 11/14/79, effective 11/14/79]
[Filed 4/11/80, Notice 11/14/79—published 4/30/80, effective 6/4/80]

CHAPTER 2
ORGANIZATION AND ADMINISTRATION

637—2.1(2B) Description.

2.1(1) *Purpose.* The purpose of the commission on professional and occupational regulation is to make recommendations to the general assembly on whether particular professions or occupations should become or continue to be regulated by the state of Iowa and the degree of regulations that should be imposed.

2.1(2) *Membership.* The commission shall be composed of: Two senators, not more than one from the same political party, appointed by the president of the senate; two representatives, not more than one from the same political party, appointed by the speaker of the house; and five persons, not more than three from the same political party, appointed by the governor and confirmed by two-thirds of the members of the senate. Upon receiving a resignation from a member of the commission, the chairperson shall notify the governor, the president of the senate, or the speaker of the house that a new appointment is required. Members shall notify the chairperson if they become ineligible for membership on the commission due to membership in a licensed profession.

2.1(3) *Officers.* The commission shall elect a chairperson and a vice chairperson, who shall be members of the commission, at the first meeting held in each state fiscal year. Officers shall be elected by a simple majority vote.

2.1(4) *Committees.* The commission may establish committees to conduct research, investigations and reviews for the commission. However, such committees shall act only within the mandate prescribed by the commission and shall report only to the commission. All committees shall expire at the end of each state fiscal year. Committee members need not be members of the commission.

2.1(5) *Office location.* Office space and staff assistance shall be provided by the office for planning and programming. Correspondence may be directed to Commission on Professional and Occupational Regulation, Office for Planning and Programming, 523 East Twelfth Street, Des Moines, Iowa 50319. Telephone calls may be directed to 515/281-3711.

This rule is intended to implement section 2B.2, The Code.

637—2.2(2B) Meetings.

2.2(1) Meetings of the commission shall be called by the chairperson or by a majority of the commission's members. The commission shall give advance public notice of the time and place of each commission meeting in accordance with the Iowa open meetings law, chapter 28A, The Code.

2.2(2) Conduct of meetings. Meetings of the commission shall be conducted in accordance with Robert's Rules of Order insofar as not incompatible with the laws of the state of Iowa or the administrative rules of the commission. A quorum shall consist of five members of the commission. A majority of those present and voting shall be required to adopt a motion. On all main motions, the vote of each member shall be recorded indicating if the vote was yes, no, or abstention.

2.2(3) Minutes. The office for planning and programming shall provide staff to the commission to take minutes of the proceedings of each meeting. The minutes shall become the official record of all actions of the commission upon approval by the subsequent meeting of the commission. The staff shall have the minutes duplicated and distributed to commission members and persons on the approved mailing list.

This rule is intended to implement section 2B.3, The Code.

5.2(3) In the fiscal year beginning July 1, 1982 and ending June 30, 1983:
Audiologists
Chiropractors
Dental hygienists
Dentists
Nurses
Optometrists
Osteopathic physicians and surgeons
Physical therapists
Physicians and surgeons
Podiatrists
Speech pathologists

This rule is intended to implement chapter 2B, The Code.

637—5.3(2B) Standards. In evaluating professions and occupations which are regulated, the commission shall apply the criteria set forth in section 2B.3, The Code.

This rule is intended to implement chapter 2B, The Code.

637—5.4(2B) Procedures. In the year in which a profession or occupation is scheduled for determination of the possibility of sufficient cause or upon accepting a petition from a group requesting evaluation of a regulated profession or occupation, the commission shall appoint a subcommittee to advise the commission regarding whether sufficient cause exists to evaluate the profession or occupation. Using the criteria referred in 5.3(2B), the subcommittee may recommend (1) no change in current statutes or administrative rules, (2) modification of current statutes or administrative rules, or (3) a complete evaluation by the commission. If the commission finds sufficient cause to conduct a complete evaluation of a profession or occupation which is regulated, the commission shall notify regulatory agencies, professional or occupational associations, a cross-section of practitioners in the profession or occupation, associations for related professions and occupations, and consumer groups of its intent to evaluate the regulated profession or occupation. Notification shall be given to the regulatory agency at least sixty days prior to formal evaluation by the commission, so that the regulatory agency has time to prepare information relevant to the evaluation.

5.4(1) If the commission, in its final recommendation, suggests a modification which would significantly increase the regulation of the profession or occupation, then a public hearing shall be scheduled within sixty days to permit public comment on the increase in regulation.

5.4(2) The commission shall schedule a public hearing or provide some other opportunity for interested parties to submit written materials or to make oral presentations related to the complete evaluation.

5.4(3) Once the commission has finished its complete evaluation and decided on its recommendation to the general assembly, the regulatory agency for the profession or occupation which has been the subject of that evaluation shall be notified of the content of the recommendation without undue delay.

This rule is intended to implement chapter 2B, The Code.

[Filed 4/11/80, Notice 12/26/79—published 4/30/80, effective 6/4/80]
[Filed emergency 5/1/80—published 5/28/80, effective 6/4/80]
[Filed 11/6/81, Notice 9/16/81—published 11/25/81, effective 12/30/81]
[Filed 4/23/82, Notice 1/6/82—published 5/12/82, effective 6/21/82]

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the availability of facilities or any other relevant criterion to determine the priority of employees for assignment of parking privileges or any optional plan or facility.

4.6(3) *Visitors.* Visitors may be granted parking privileges in parking facilities designated for visitor parking. Optional plans and facilities may be offered as determined by the director. Reasonable classifications may be established on the basis of the time, duration or purpose of the visit, physical disability, the availability of facilities, or any other relevant criterion to determine the eligibility of visitors for parking privileges or any optional plan or facility.

4.6(4) *Procedure.* Applications for parking privileges shall be submitted to the director in the manner he prescribes. No student shall apply for parking privileges for any vehicle owned or actually maintained by another student. The director shall determine the eligibility and priority of each applicant for parking privileges within the classifications established in 4.6(1), 4.6(2) and 4.6(3) and shall make all parking assignments. A parking decal or other means of identification may be issued to each applicant who is granted parking privileges, and such decal or other identification must be displayed on the vehicle in the manner prescribed by the director. Parking privileges shall not be granted to a student and to an employee for the same vehicle, and a student parking decal and an employee parking decal shall not be displayed on the same vehicle.

4.6(5) *Parking fees.* The university may assess and collect from students, employees and visitors reasonable fees or charges for parking privileges and the use of parking facilities. The amount of such fees and charges shall be established by the university and approved by the state board of regents, and a schedule of all parking fees and charges shall be published and available for inspection during normal business hours in the office of the director and in the office of the state board of regents. Parking fees and charges may be assessed and collected on an annual, semester, monthly or hourly basis. Parking fees and charges may be added to student tuition bills and may by agreement be withheld from the salaries or wages of employees by payroll deduction. Parking fees and charges may be collected by means of parking meters or toll houses. Use of any parking facility constitutes an implied agreement to pay the prescribed fee or charge therefor.

4.6(6) *University business.* Special parking privileges may be granted for vehicles being used on official university business on the conditions and in the manner prescribed by the director.

4.6(7) *Responsibility.* Any person who owns or operates a vehicle which is parked on the campus or in whose name the vehicle is registered or parking privileges have been granted is responsible for the proper parking of the vehicle at all times when it is on the campus and for all parking violations involving the vehicle.

4.6(8) *Liability.* Parking privileges granted hereunder constitute a license to use university parking facilities and do not constitute a lease of such facilities or a bailment of the vehicle by the university. Use of university parking facilities is at the owner's or applicant's risk, and the university shall not be liable or responsible for loss of or damage to any vehicle parked on the campus.

4.6(9) *Revocation.* Parking privileges on the campus may be revoked by the university for good cause at any time upon five days' written notice and refund of any advance payment of parking fees or charges on a pro rata basis for the revoked period.

720—4.7(262) Violations. Sanctions may be imposed for violation of registration and parking rules as follows:

4.7(1) *Notice of violations.* The university shall give written notice of all parking violations. Such notice may be given by means of a notice of parking violation placed conspicuously on the offending vehicle, and such notice shall constitute constructive notice of the violation to the owner and operator of the vehicle and to any person in whose name the vehicle is registered or parking privileges have been granted.

4.7(2) *Sanction.* Reasonable monetary sanctions may be imposed upon students and employees for violation of vehicle registration or parking rules. The amount of such

sanctions, not to exceed ten dollars for each offense, shall be established by the university and approved by the state board of regents. A schedule of all sanctions for improper registration and parking shall be published and available for public inspection during normal business hours in the office of the director and in the office of the state board of regents. Registration and parking sanctions may be assessed against the owner or operator of the vehicle involved in each violation or against any person in whose name the vehicle is registered or parking privileges have been granted and charged to their university account. Registration and parking sanctions may be added to student tuition bills or may be deducted from student deposits or from the salaries or wages of employees or from other funds in the possession of the university.

4.7(3) *Impoundment.* Any vehicle parked on the campus in violation of parking rules may be impounded and removed. The university shall give written notice of impoundment to the owner of the vehicle or to the person in whose name the vehicle is registered or parking privileges have been granted. A reasonable fee may be charged for the cost of impoundment and storage, which fee must be paid prior to the release of the vehicle. Impounded vehicles which are not claimed within sixty days will be deemed abandoned property and may be sold under procedures set forth in chapter 579 and the proceeds of the sale will be applied to the payment of the costs of impoundment, storage and sale. The balance, if any, shall be sent to the owner.

4.7(4) *Administrative hearing.* Students and faculty may request a hearing and administrative ruling concerning a controversy, based on the imposition of a sanction for a registration or parking violation, or an impoundment procedure, by the appropriate hearing body as set forth in the motor vehicle and bicycle regulations published by the university. Visitors may request the director to conduct a hearing and issue an administrative ruling in such cases.

720—4.8(262) Administration of rules. The president of the university shall be responsible for the proper administration of these rules. He is authorized to establish procedures not inconsistent with these rules as may be reasonably necessary and convenient for the effective administration of his duties hereunder, and any procedure so established shall be published and available for public inspection during normal business hours in the office of the director and in the office of the state board of regents. The president may delegate his authority under these rules to the director or to any other person designated by the president to perform any function or duty hereunder.

[Filed September 22, 1971; amended December 22, 1972, October 10, 1973]

4.9 to 4.24 Reserved.

IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY

720—4.25(262) Purpose. The purpose of these rules is to provide for the policing, control and regulation of traffic and of parking vehicles on the campus of Iowa State University.

720—4.26(262) Definitions. For the purpose of these rules, the following definitions shall apply unless the context clearly requires otherwise, and all other words shall have meaning according to their common usage.

4.26(1) *University.* "*University*" means Iowa State University of Science and Technology.

4.26(2) *Campus.* "*Campus*" means all property under control of the university.

4.26(3) *Student.* "*Student*" means any person registered with the university for academic credit who is not employed by the university on a full-time salaried or equivalent basis.

4.26(4) *Employee.* "*Employee*" means any person regularly employed by the university who is not a student.

4.26(5) *Visitor.* "*Visitor*" means any person who owns, operates or parks a vehicle on the university campus who is neither a student nor an employee.

4.26(6) *Vehicle.* "*Vehicle*" means any wheeled or treaded device used or designed for use as a transportation or conveyance of persons or property.

4.26(7) *Motor vehicle.* "*Motor vehicle*" means any vehicle which is self-propelled and has four or more wheels in contact with the ground.

4.26(8) *Motorcycle.* "*Motorcycle*" means any vehicle which is self-propelled and has less than four wheels in contact with the ground.

4.26(9) *Bicycle.* "*Bicycle*" means any vehicle which is not self-propelled and which is designed to be pedaled by the rider.

4.26(10) *Manager.* "*Manager*" means person(s) designated by the president of the university to perform any function or duty of the manager hereunder.

720—4.27(262) General traffic.

4.27(1) These rules shall not apply to moving traffic violations on institutional roads and property of the university. Such violations will be charged and prosecuted as violations of chapter 262 and 321, The Code.

4.27(2) The manager shall erect speed limit signs in conformity with maps of the institutional roads and property of the university designating such speed limits as adopted by the state board of regents. The maps will be available for inspection during business hours at the office of the manager and the state board of regents.

4.27(3) The manager is delegated authority to make temporary changes in traffic patterns, including establishment of one-way roads and road closures, where necessary because of construction or special events being held on campus.

4.27(4) The manager is delegated authority to erect traffic control signs and devices, and to designate pedestrian crosswalks and bicycle lanes.

4.27(5) Pedestrians shall be given the right of way at all crosswalks or when in compliance with existing traffic controls.

4.27(6) Driving of vehicles, motor vehicles, and motorcycles on university property other than roads is prohibited, unless specific areas have been designated for this use by the manager or special permission has been granted by the manager for emergency conditions.

4.27(7) Driving of vehicles, motor vehicles, and motorcycles in parts of institutional roads marked as bicycle lanes is prohibited.

720—4.28(262) Registration. Vehicles shall be registered as follows:

4.28(1) *Students.* Any student who operates, maintains or owns a vehicle on university property is responsible for the proper registration of the vehicle and the display of the registration identification thereon in the manner prescribed by the manager.

4.28(2) *Employees.* Vehicles owned or operated by employees may be registered with the university if the employee so desires, but registration of these vehicles is not required unless the employee desires parking privileges on the campus. A registration identification shall be displayed on vehicles registered by employees in the manner prescribed by the manager.

4.28(3) *Procedure.* Applications for registration shall be submitted in the manner prescribed by the manager. No student shall register any vehicle owned or actually maintained by another student.

720—4.29(262) Parking facilities. The manager may set aside and designate certain areas of the campus as parking facilities for vehicles and the use of any part of the parking facilities so established may be restricted to students, employees or visitors. The manager shall cause signs to be erected and maintained clearly identifying those areas of the campus designated for vehicle parking, and any restrictions applicable thereto shall be conspicuously posted.

4.29(1) *Parking control devices.* Gates and other devices may be installed and maintained to control access to any parking facility.

4.29(2) *Parking meters.* Parking meters, toll houses and other devices may be installed and maintained to regulate the use of any parking facility.

4.29(3) *Hours of operation.* Reasonable hours shall be established for the normal operation of the parking facilities and a schedule of hours of operation shall be published and available for public inspection in the office of the manager.

4.29(4) *Closing.* The manager may temporarily close any parking facility for cleaning, maintenance or other university purpose, or may temporarily restrict or reassign the use of any facility as may be necessary or convenient. The manager shall give advance notice of such temporary closing, restriction or reassignment by posting or otherwise when practical.

4.29(5) *Restricted zones.* The manager may designate areas of the campus as restricted zones, such as loading zones or service vehicle zones, and the restricted zones shall be conspicuously posted. No parking shall be permitted in restricted zones except as authorized.

4.29(6) *No parking.* Vehicle parking on the campus shall be restricted to designated parking facilities, and no parking shall be permitted at any other place on the campus. Vehicles shall not be parked in such a manner as to block or obstruct sidewalks, crosswalks, driveways, roadways or designated parking stalls. No parking is permitted in prohibited zones, such as in the vicinity of fire lanes, and these zones shall be conspicuously posted or marked by painted curbs or other standard means.

4.29(7) *Motorcycle parking.* The manager may designate areas of the parking facilities for motorcycle parking, and these areas shall be conspicuously posted. Motorcycles shall be parked only in areas designated for motorcycle parking, and no other vehicles shall be parked in these areas.

4.29(8) *Bicycle parking.* The manager may install and maintain bicycle parking racks or designate other facilities for bicycle parking. Bicycles shall be parked only in bicycle racks or other facilities designated for bicycle parking.

720—4.30(262) Parking privileges. Students and employees may be granted parking privileges on the campus in accordance with these rules and upon reasonable terms and conditions as may be established by the manager.

4.30(1) *Students.* Students will be granted parking privileges in parking facilities designated for student use. Optional plans and facilities may be offered as established by the manager. Reasonable classifications may be established on the basis of a student's age, class, college or department, course load, proximity of residence to the campus, physical disability, employment, the availability of facilities or any other relevant criterion to determine the eligibility of students for parking privileges or any optional plan or facility.

4.30(2) *Employees.* Employees will be granted parking privileges in parking facilities designated for employee use. Optional plans and facilities may be offered as established by the manager. Reasonable classifications may be established on the basis of an employee's job classification, length of service, place of work or the nature thereof, physical disability, the availability of facilities or any other relevant criterion to determine the priority of employees for assignment of parking privileges or any optional plan or facility.

4.30(3) *Visitors.* Visitors may be granted parking privileges in parking facilities designated for visitor parking. Optional plans and facilities may be offered as established by the manager. Reasonable classifications may be established on the basis of the time, duration or purpose of visit, physical disability, the availability of facilities, or any other relevant criterion to determine the eligibility of visitors for parking privileges or any optional plan or facility.

4.30(4) *Procedure.* Applications for parking privileges shall be submitted in the manner prescribed by the manager. No student shall apply for parking privileges for any vehicle owned or actually maintained by another student. The manager shall determine the eligibility and priority of each applicant for parking privileges within the classifications established in 4.30(1), 4.30(2) and 4.30(3) and shall make all parking assignments. A parking permit will be issued to each applicant who is granted parking privileges, and the permit shall be displayed on the vehicle in the manner prescribed by the manager. Parking privileges will not be granted to a student and to an employee or visitor for the same vehicle, and a student parking permit and an employee or visitor parking permit shall not be displayed on the same vehicle.

4.30(5) *Parking fees.* The university may assess and collect from students, employees and visitors reasonable fees or charges for parking privileges and the use of parking facilities. The

amount of these fees and charges shall be approved by the state board of regents. A schedule of all parking fees and charges shall be published and available for inspection during normal business hours in the office of the manager and in the office of the state board of regents. Parking fees and charges may be assessed and collected on an annual, semester, monthly, daily or hourly basis. Parking fees and charges may be added to student tuition bills and may by agreement be withheld from the salaries or wages of employees by payroll deduction. Parking fees and charges may be collected by means of parking meters or toll houses. Use of any parking facility constitutes an implied agreement to pay the prescribed fee or charge therefor.

4.30(6) *University business.* Special parking privileges may be granted for vehicles being used on official university business on the conditions and in the manner prescribed by the manager.

4.30(7) *Responsibility.* Any person who maintains, operates or owns a vehicle which is on the campus or in whose name the vehicle is registered or parking privileges have been granted is responsible for the proper parking of the vehicle at all times and for all parking violations involving the vehicle.

4.30(8) *Liability.* Parking privileges granted hereunder constitute a license to use university parking facilities and do not constitute a lease of the facilities or a bailment of the vehicle by the university. Use of university parking facilities is at the owner's or applicant's risk, and the university shall not be liable or responsible for loss of or damage to any vehicle parked on the campus.

4.30(9) *Revocation.* Parking privileges on the campus may be revoked by the manager for good cause at any time upon five days' written notice and refund of any advance payment of parking fees or charges on a pro rata basis for the revoked period.

720—4.31(262) Violations. Sanctions may be imposed for violation of these parking rules as follows:

4.31(1) *Notice of violations.* The university shall give written notice of all parking violations. Such notice may be given by means of a notice of parking violation placed conspicuously on the offending vehicle, and the notice shall constitute constructive notice of the violation to the owner and operator of the vehicle and to any person in whose name the vehicle is registered or parking privileges have been granted.

4.31(2) *Sanction.* Reasonable monetary sanctions may be imposed for violation of these rules. The amount of the sanctions, not to exceed fifty dollars for each offense, shall be approved by the state board of regents. A schedule of all sanctions shall be published and available for public inspection during normal business hours in the office of the manager and in the office of the state board of regents. Sanctions may be assessed against the owner or operator of the vehicle involved in each violation or against any person in whose name the vehicle is registered or parking privileges have been granted and charged to their university account. Sanctions may be added to student tuition bills or may be deducted from student deposits or from the salaries or wages of employees or from other funds in the possession of the university.

4.31(3) *Impoundment.* Any vehicle parked on the campus in violation of these rules may be either impounded or removed, or both. A reasonable fee may be charged for the cost of impoundment and storage, which fee must be paid prior to the release of the vehicle by the university or by contract with private operators. Impounded vehicles which are not claimed within sixty days will be deemed abandoned property and may be sold under procedures set forth in chapter 579, The Code, and the proceeds of the sale will be applied to the payment of the costs of impoundment, storage, sale and amounts due the university. The balance, if any, shall be sent to the owner.

4.31(4) *Administrative hearing.* A person may request a hearing and administrative ruling concerning a controversy, based on the imposition of a sanction for a registration or parking violation, or an impoundment procedure, by the appropriate hearing body as set forth in the published traffic and parking procedures.

720—4.32(262) Administration of rules. The president of the university shall be responsible for the proper administration of these rules. The president is authorized to establish traffic and parking procedures not inconsistent with these rules as may be reasonably necessary and convenient for the effective administration of the duties hereunder, and any procedure so established shall be published and available for public inspection during the normal business hours in the office of the manager and the office of the state board of regents. The president may delegate the authority under these rules to the manager to perform any function or duty hereunder.

Rules 4.25(262) to 4.32(262) are intended to implement section 262.69, The Code.

4.33 to **4.65** Reserved.

[Filed 8/31/71; amended 7/24/72, 8/2/73, 6/28/74, 2/12/75, 6/10/75]
[Filed 5/10/76, Notice 4/5/76—published 5/31/76, effective 7/5/76]
[Filed without Notice 7/23/76—published 8/9/76, effective 9/13/76]
[Filed 6/7/78, Notice 5/3/78—published 6/28/78, effective 8/2/78]
[Filed 9/14/79, Notice 5/16/79—published 10/3/79, effective 11/7/79]
[Filed 6/4/80, Notice 3/19/80—published 6/25/80, effective 8/1/80]
[Filed 5/6/81, Notice 3/18/81—published 5/27/81, effective 7/1/81]
[Filed 4/28/82, Notice 3/3/82—published 5/12/82, effective 6/16/82]

UNIVERSITY OF NORTHERN IOWA

720—4.66(262) Purpose. The purpose of these rules is to provide for the policing, control and regulation of parking of vehicles on the campus of the University of Northern Iowa.

720—4.67(262) Definitions. For the purpose of these rules, the following definitions shall apply unless the context clearly requires otherwise, and all other words shall have meaning according to their common usage.

4.67(1) *University.* "University" refers to the University of Northern Iowa, located in Cedar Falls, Iowa.

4.67(2) *Student.* A "student" is any person registered with the university for academic credit or for short courses or workshops for more than a one week period.

4.67(3) *Employee.* An "employee" is any person regularly employed by the university who is not a student.

4.67(4) *Visitor.* A "visitor" is any person who owns, operates, or parks a vehicle on the university campus who is not a student or an employee.

4.67(5) *Vehicle.* A "vehicle" is any wheeled device used or designed for use as a means of transportation or conveyance of persons or property.

4.67(6) *Motor vehicle.* A "motor vehicle" is any vehicle which is self-propelled and has four or more wheels in contact with the ground.

4.67(7) *Motorcycle.* A "motorcycle" is any vehicle which is self-propelled and has less than four wheels in contact with the ground.

4.67(8) *Bicycle.* A "bicycle" is any two-wheeled vehicle which is not self-propelled and which is designed to be pedaled by the rider.

4.67(9) *Supervisor.* "Supervisor" refers to the supervisor of security at the university or to any other person or persons designated by the president of the university to perform any function or duty of the supervisor hereunder.

4.67(10) *Committee.* "Committee" refers to the traffic and safety committee at the university.

720—4.68(262) Registration. Vehicles shall be registered as follows.

4.68(1) *Students.* Every motor vehicle and motorcycle which is operated or maintained by a student within Black Hawk County, Iowa, which may, at any time, use university parking facilities, must be registered with the university and a registration permit be displayed on the vehicle in the manner prescribed by the supervisor. Any student who operates or maintains a motor vehicle or motorcycle in Black Hawk county or who owns a vehicle which is so operated or maintained and which may, at any time, use university parking facilities, is responsible for the proper registration of such vehicle and the display of the registration permit thereon.

4.68(2) *Employees.* Motor vehicles and motorcycles owned or operated by employees may be registered with the university if the employee so desires, but registration of such vehicles is not required unless the employee desires parking privileges on the campus. A registration permit may be issued for display on vehicles registered by employees.

4.68(3) *Procedure.* Applications for registration shall be submitted to the supervisor in the manner he prescribes. No student shall register any vehicle owned or actually maintained by another student.

720—4.69(262) Parking facilities. The university may set aside and designate certain areas of the campus for the parking of motor vehicles, motorcycles and bicycles, and the use of any lot, ramp, or part of the parking facilities so established may be restricted to students, employees or visitors. The supervisor shall cause signs to be erected and maintained clearly identifying those areas of the university campus designated for vehicle parking, and any restrictions applicable thereto shall be conspicuously posted.

4.69(1) *Parking control devices.* Gates and other devices may be installed and maintained to control access to any parking facility.

4.69(2) *Parking meters.* Parking meters, toll houses and other devices may be installed and maintained to regulate the use of any parking facility.

4.69(3) *Hours of operation.* Reasonable hours shall be established for the normal operation of the parking facilities and a schedule of hours of operation shall be published and available for public inspection in the office of the supervisor.

4.69(4) *Closing.* The supervisor may temporarily close any parking facility for cleaning, maintenance, or other university purpose, or may temporarily restrict or reassign the use of any facility as may be necessary or convenient. The supervisor shall give advance notice of such temporary closing, restriction, or reassignment by posting or otherwise when practical.

4.69(5) *Restricted zones.* The supervisor and committee may designate areas of the campus as restricted zones, such as loading zones or service vehicle zones, and such restricted zones shall be conspicuously posted. No parking shall be permitted in such restricted zones except as authorized.

4.69(6) *No parking.* Vehicle parking on the campus shall be restricted to designated parking facilities, and no parking shall be permitted at any other place on the campus. Vehicles shall not be parked in such a manner as to block or obstruct sidewalks, crosswalks, driveways, roadways or designated parking stalls. No parking is permitted in prohibited zones, such as in the vicinity of fire hydrants or fire lanes, and such zones shall be conspicuously posted or marked by painted curbs or other standard means.

4.69(7) *Motorcycle parking.* The supervisor and committee may designate areas of the

parking facilities for motorcycle parking, and such areas shall be conspicuously posted. Motorcycles shall be parked only in areas designated for motorcycle parking, and no other vehicles shall be parked in such areas.

4.69(8) *Bicycle parking.* The supervisor and committee may install and maintain bicycle parking racks or designate other facilities for bicycle parking. Bicycles shall be parked only in bicycle racks or other facilities designated for bicycle parking.

720—4.70(262) Parking privileges. Students and employees may be granted parking privileges on the campus in accordance with these rules and upon such reasonable terms and conditions as may be established by the university.

4.70(1) *Students.* Students may be granted parking privileges in parking facilities designated for student use. Optional plans and facilities may be offered as determined by the supervisor and committee. Reasonable classifications may be established on the basis of a student's age, class, college or department, course load, proximity of his residence to the campus, physical disability, employment, the availability of facilities, or any other relevant criterion to determine the eligibility of students for parking privileges or any optional plan or facility.

4.70(2) *Employees.* Employees may be granted parking privileges in parking facilities designated for employee use. Optional plans and facilities may be offered as determined by the supervisor and committee. Reasonable classifications may be established on the basis of an employee's job classification, length of service, place of work or the nature thereof, physical disability, the availability of facilities, or any other relevant criterion to determine the priority of employees for assignment of parking privileges or any optional plan or facility.

4.70(3) *Visitors.* Visitors may be granted parking privileges in parking facilities designated for visitor parking. Optional plans and facilities may be offered as determined by the supervisor and committee. Reasonable classifications may be established on the basis of the time, duration or purpose of the visit, physical disability, the availability of facilities, or any other relevant criterion to determine the eligibility of visitors for parking privileges or any optional plan or facility.

4.70(4) *Procedure.* Applications for parking privileges shall be submitted to the supervisor in the manner he prescribes. No student shall apply for parking privileges for any vehicle owned or actually maintained by another student. The supervisor shall determine the eligibility and priority of each applicant for parking privileges and shall make all parking assignments. A parking permit or other means of identification may be issued to each applicant who is granted parking privileges, and such permit or other identification must be displayed on the vehicle in the manner prescribed by the supervisor.

4.70(5) *Parking fees.* The university may assess and collect from students, employees, and visitors reasonable fees or charges for parking privileges and the use of parking facilities in an amount not to exceed one hundred dollars per calendar year. The amount of such fees and charges shall be established by the university and approved by the state board of regents, and a schedule of all parking fees and charges shall be published and available for inspection during normal business hours in the office of the supervisor and in the office of the state board of regents. Parking fees and charges may be assessed and collected on an annual, semester, monthly, or hourly basis. Parking fees and charges may be added to student tuition bills and may by agreement be withheld from the salaries or wages of employees by payroll deduction. Parking fees and charges may be collected by means of parking meters or toll houses. Use of any parking facility constitutes an implied agreement to pay the prescribed fee or charge therefor.

4.70(6) *University business.* Special parking privileges may be granted for vehicles being used on official university business on the conditions and in the manner prescribed by the supervisor and committee.

4.70(7) *Responsibility.* Any person who owns or operates a vehicle which is parked on the campus or in whose name the vehicle is registered or parking privileges have been

granted is responsible for the proper parking of the vehicle at all times when it is on the campus and for all parking violations involving the vehicle.

4.70(8) *Liability.* Parking privileges granted hereunder constitute a license to use university parking facilities and do not constitute a lease of such facilities or a bailment of the vehicle by the university. Use of the university parking facilities is at the owner's or applicant's risk, and the university shall not be liable or responsible for loss of or damage to any vehicle parked on the campus.

4.70(9) *Revocation.* Parking privileges on the campus may be revoked by the university for good cause at any time upon five days' written notice and refund of any advance payment of parking fees or charges on a pro rata basis for the revoked period.

720—4.71(262) Violations. Sanctions may be imposed for violation of registration and parking rules as follows:

4.71(1) *Notice of violations.* The university shall give written notice of all parking or registration violations. Such notice may be given by means of a notice of parking violation placed conspicuously on the offending vehicle, and such notice shall constitute constructive notice of the violation to the owner and operator of the vehicle and to any person in whose name the vehicle is registered or parking privileges have been granted.

4.71(2) *Fines.* Reasonable monetary fines may be imposed upon students and employees for violation of vehicle registration or parking rules. The amount of such fines, not to exceed twenty dollars for each offense, shall be established by the university and approved by the state board of regents. A schedule of all fines for improper registration and parking shall be published and available for public inspection during normal business hours in the office of the supervisor and in the office of the state board of regents. Registration and parking fines may be assessed against the owner or operator of the vehicle involved in each violation or against any person in whose name the vehicle is registered or parking privileges have been granted and charged to their university account. Registration and parking fines may be added to student tuition bills or may be deducted from student deposits or from the salaries or wages of employees or from other funds in the possession of the university.

4.71(3) *Impoundment.* Any vehicle parked on the campus in violation of parking or registration rules may be impounded and removed. The university shall give written notice of impoundment to the owner of the vehicle or to the person in whose name the vehicle is registered or parking privileges have been granted. A reasonable fee may be charged for the cost of impoundment and storage, which fee must be paid prior to the release of the vehicle. Impounded vehicles which are not claimed within sixty days will be deemed abandoned property and may be sold, under procedures set forth in chapter 579 of the Code, and the proceeds of the sale will be applied to the payment of the costs of impoundment, storage and sale. The balance, if any, shall be sent to the owner.

4.71(4) *Hearing.* Students and employees may have a hearing on any registration or parking violation. A hearing request shall be submitted to the supervisor in writing within seven days after notice of the violation was given and shall state the grounds of the hearing request. The supervisor may allow additional time within which to request a hearing for good cause shown. Hearings shall be conducted by an impartial committee to be chosen in a manner approved by the president of the university. The person requesting said hearing shall be afforded the opportunity for an administrative hearing by the hearing committee and shall be given reasonable notice of the time and place of the hearing. The decision of the hearing committee shall be final and may be reviewed *de novo* by the district court as provided by law.

720—4.72(262) Effect of rules. These rules constitute a condition of registration as a student at the university and a condition of employment as an employee of the university. Registration as a student or acceptance of employment constitutes an acceptance of these rules and an agreement to pay all prescribed fees and monetary fines imposed in accordance with these rules.

720—4.73(262) Administration of rules. The president of the university shall be responsible for the proper administration of these rules. He is authorized to establish procedures not inconsistent with these rules as may be reasonably necessary and convenient for the effective administration of his duties hereunder, and any procedure so established shall be published and available for public inspection during normal business hours in the office of the supervisor and in the office of the state board of regents. The president may delegate his authority under these rules to the supervisor or to any other person designated by the president to perform any function or duty hereunder.

These rules are intended to implement chapter 262 of the Code.

[Filed August 31, 1971]

For history of traffic and parking for each university, see history at end of each division of this chapter.

CHAPTER 5
STATE HYGIENIC LABORATORY
GENERAL REGULATIONS

720—5.1(263) Scope of services.

5.1(1) *Scientific.* The laboratory provides analytical services primarily in the areas of communicable disease control and in the assessment of environmental quality.

5.1(2) *Consultative.* The professional staff of the laboratory is available for consultative assistance to persons with interest or involvement in public health.

5.1(3) *Training.* Facilities and staff of the laboratory are available for the training of laboratorians, environmentalists and public health specialists as the need arises through workshops, seminars and individualized instruction.

720—5.2(263) Specimens examined.

5.2(1) *Classification.* This being the state public health and environmental laboratory, specimens submitted to it should have a direct or probable significance to public health, medical management, or the quality and preservation of the environment.

5.2(2) *Who may submit specimens*

a. Licensed physicians, osteopathic physicians and other licensed practitioners may submit specimens for the diagnosis and control of communicable or other diseases in which such tests are required by the state department of health.

b. Veterinarians may submit specimens involving diseases of animals which are communicable to humans.

c. State department of health may submit specimens necessary in the conduct of its fundamental responsibilities. Other programs, services and studies may be negotiated on a contractual basis.

d. State department of environmental quality may submit specimens necessary in the conduct of its fundamental responsibilities relative to municipal water supplies. Other programs, services and studies may be negotiated on a contractual basis.

e. Other state agencies, institutions and municipalities may submit specimens, generally under a contractual arrangement if the submission is to be of a regular and routine nature.

f. Local departments of health may submit specimens when performing official functions of state regulatory agencies. The examination of other specimens necessary in the support of locally directed programs are provided only with prior clearance and cost negotiations.

g. Private individuals may submit specimens to determine the suitability and safety of private water supplies only when collected and received according to conditions prescribed by the laboratory and accompanied by the appropriate fee.

h. Privately owned industries and businesses may submit specimens for environmental studies by prior arrangement with the laboratory on a fee basis.

i. Public schools may submit specimens at the discretion of the school nurse, consulting physician, principal or upon recommendations of the local department of health.