

STATE OF IOWA

1975

IOWA DEPARTMENTAL RULES

JULY

1975

SUPPLEMENT

Containing

The permanent rules of general application promulgated by the state
departments from January 1, 1975 to June 30, 1975



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NOTICE

The statutes provide that the Code Editor may publish cumulative, semi-annual supplements to the Iowa Departmental Rules.

This is the last semiannual supplement which will be published under Chapter 17A, Code 1973. Effective July 1, 1975, the Iowa Administrative Code and biweekly supplements thereto will be published as provided in Chapter 17A, Code 1975.

PREFACE

This volume is published in compliance with section 14.6(5), Code 1973. The rules of the various boards and departments are arranged in alphabetical order, using the names of the departments in general use.

Not all of the rules promulgated by the state departments have been included. The Act specifies "permanent" rules of "general application." Where rules have been omitted by the editor there is a notation indicating where such rules may be obtained.

THE EDITORS

July 1975

PUBLICATION OF DEPARTMENTAL RULES

Section 14.6 of the Code, subsection 5 as amended by 65 G.A., chapter 122, §2, requires the Code editor to:

"Prepare the manuscript copy, and cause to be printed by the state superintendent of printing in each year in which a Code is published, a volume which shall contain the permanent rules and regulations of general application, promulgated by each state board, commission, bureau, division or department, other than a court, having statewide jurisdiction and authority to make such rules. The Code editor may omit from said volume all rules and regulations applying to professional and regulatory examining and licensing provisions and any rules and regulations of limited application and temporary rules. The Code editor may make reference in the volume as to where said omitted rules and regulations may be procured.

"This volume shall be known as the Iowa Departmental Rules and any rule printed therein may be cited as I.D.R. giving the year of publication and the page where the particular rule, by number, may be found.

"The volume of rules and regulations published by the Code editor shall be sold and distributed by the superintendent of printing in the same manner as Codes and session laws.

"The Code editor may provide cumulative, semiannual *supplements for insertion in the latest published volume."

* See NOTICE on preceding page

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IOWA

DEPARTMENTAL RULES

JULY 1975

AUDITOR OF STATE

Pursuant to the authority of section 534.3 of the Code, rules appearing in the 1973 IDR, chapter 2, pages 68 and 69, relating to the Savings and Loan Division, are amended as follows:

[Filed January 14, 1975]

ITEM 1.

2.2(1) and 2.2(4) are rescinded.

ITEM 2.

2.7(534) is rescinded and the following adopted in lieu of:

“2.7(534) Published notice of branch.

If the application is approved, the supervisor shall give the association written notification to publish the following notice:”

NOTICE OF FILING APPLICATION FOR THE PURPOSE OF ESTABLISHING A BRANCH OFFICE

Notice is hereby given that the Savings and Loan Association,, Iowa, has filed with the office of Auditor of State, Savings and Loan Division, located in the State Capitol Building, Des Moines, Iowa, an “Application for Permis-

sion to Establish a Branch Office”. Said application provides for the office to be located in the immediate vicinity of, Iowa. Any person may file communications in favor or in protest of said branch office at the office of auditor of state within twenty days after the date of this publication. The application, together with all communications received in favor or in protest thereof, are available for inspection by interested persons at the aforesaid office.

..... Savings and Loan Association
....., Iowa

The association shall publish the notice in a newspaper of general circulation in the community in which the branch office is to be located within fifteen days of the supervisor’s notification to do so. A copy of the notice accompanied by a publisher’s affidavit will be furnished the supervisor by the association immediately after publication.

[Effective January 14, 1975]

CAMPAIGN FINANCE DISCLOSURE COMMISSION

Pursuant to the authority of section 56.20 of the Code, Chapter 2 of rules appearing in July 1974 IDR Supplement, pages 8 and 9, entitled “Iowa Election Campaign Fund,” are amended by adding the following new rules.

[Filed June 2, 1975]

2.9(56) Change not permitted. A checkoff made on a return filed with the Iowa department of revenue cannot be changed or revoked.

2.10(56) Rescission not permitted. A checkoff once certified shall not be re-

scinded if the taxpayer later amends his or her return to reduce his or her tax liability to zero.

2.11(56) Time limit for filing. A tax return which contains a political checkoff must be filed within twelve months after the close of the taxpayer’s tax year for the checkoff to be counted.

These rules are intended to implement chapter 56 of the Code.

[Effective June 2, 1975]

CIVIL RIGHTS COMMISSION

Pursuant to the authority of section 601.9(14) of the Code, the rules of the Iowa civil rights commission which were filed on October 7, 1974, in the office of the secretary of state of Iowa relating to the rules of practice are hereby rescinded and the following adopted in lieu thereof:

[Filed March 14, 1975]

CHAPTER 3 RULES OF PRACTICE

3.1(601A) Definitions.

3.1(1) The term "Act" as used herein shall mean the Iowa civil rights Act of 1965, as amended (chapter 601A, 1973 Code).

3.1(2) Unless indicated otherwise, the terms "court", "person", "employment agency", "labor organization", "employer", "employee", "unfair practice" or "discriminatory practice", "commission", "commissioner", and "public accommodation" shall have the same meaning as set forth in chapter 601A of the Code.

3.1(3) The term "chairperson" shall mean the chairperson of the Iowa civil rights commission; and the term "commissioner" shall mean any member, including the chairperson, of the Iowa civil rights commission. The vicechairperson of the commission shall serve, in the absence of the chairperson, as acting chairperson; and, in the absence of the chairperson, the vicechairperson shall have all of the duties, powers, and authority conferred upon the chairperson by the Act and these rules. At all times it shall be necessary that a quorum be present before the commission can transact any official business.

3.1(4) The term "hearing examiner" shall mean any person duly appointed by the commission to conduct a public hearing upon a complaint brought to a public hearing upon the order of the Iowa civil rights commission.

3.1(5) The term "executive director" shall mean an employee of the commission, selected by, and serving at the will of, the commission as executive director, who shall have such duties, powers and authority as may be conferred upon him

or her by the commission, subject to the provisions of the Act.

3.1(6) The term "withdrawn" shall mean that a complainant has indicated in writing the desire that no further action be taken by the commission regarding his or her complaint.

3.1(7) The term "satisfactorily adjusted" shall mean that the complainant has indicated in writing that the complaint has been resolved to his or her satisfaction, and that no further action is desired from the commission.

3.1(8) The term "successfully conciliated" shall mean that a written agreement has been executed on behalf of the respondent, on behalf of the complainant, and on behalf of the commission, the contents of which are designed to remedy the alleged discriminatory act or practice and any other unlawful discrimination which may have been uncovered during the course of the investigation.

3.1(9) The term "no jurisdiction" shall mean that the alleged discriminatory act or practice is not one that is prohibited by the Iowa civil rights Act or where the complaint does not conform to the requirements of the Act.

3.1(10) The term "administratively closed" shall mean that, in the opinion of the investigating commissioner, no useful purpose would be served by further action by the commission respecting a complaint, such as where the commission staff has not been successful in locating a complainant after diligent efforts or where the respondent has gone out of business.

3.2(601A) The complaint.

3.2(1) *Amendment of complaint.* A complaint or any part thereof may be amended by the complainant or by the commission any time prior to the hearing thereon and, thereafter, at the discretion of the commissioners.

3.2(2) *Withdrawal of complaint.* A complaint or any part thereof may be withdrawn by the complainant at any time prior to the hearing thereon and, thereafter, at the discretion of the commissioners. However, nothing herein shall preclude the commission from continuing the

investigation and initiating a complaint on its own behalf against the original respondent, as provided for in the Act, whenever it deems it in the public interest.

3.3(3) *Timely filing of the complaint.*

a. One hundred twenty-day limitation. The complaint shall be filed within the one hundred twenty days after the occurrence of the alleged unlawful practice or act.

b. Continuing violation. If the alleged unlawful discriminatory practice or act is of a continuing nature, the date of the occurrence of said alleged unlawful practice shall be deemed to be any date subsequent to the commencement of the alleged unlawful practice up to and including the date upon which the unlawful practice has ceased.

3.3(601A) *Processing the complaint.*

3.3(1) Receipt and acknowledgment of complaint. Upon the receipt of a verified complaint, the executive director, or a member of the commission staff designated by the executive director, shall send a letter to the complainant acknowledging receipt of the complaint and recommending that the complainant take whatever additional legal or nonlegal action that may be necessary to protect his or her rights under other applicable provisions of city and municipal ordinances and state and federal law.

3.3(2) Withdrawal and no jurisdiction. Designated staff of the commission shall promptly close those cases which have been withdrawn by the complainant or in which the commission has no legal jurisdiction.

3.3(3) Anonymity of complaint. For purposes of public commission meetings the complaints shall be identified only by case number so that the anonymity of the complainants and respondents can be preserved. Nothing in this provision shall apply to executive sessions of the commission, or after the commission has made a decision to hold a public hearing.

3.4(601A) *Investigation and conciliation.*

3.4(1) *Investigating commissioner.*

a. Assignment of investigating commissioner. After a complaint has been filed, the executive director, or a designated

staff member shall designate one of the commissioners, with the assistance of the commission staff, to make a prompt investigation of the allegations of the complaint. The commissioner assigned to a specific case shall be known as the investigating commissioner. As part of the investigation the respondent shall be permitted to submit a statement of his position in respect to the allegations of the complaint.

b. Disqualification of investigating commissioner. A commissioner appointed to act as an investigating commissioner shall disqualify himself or herself should he or she have a personal interest in the case at issue or any personal acquaintanceship with the complaining or responding party. Where such a conflict exists, the commissioner shall notify the staff promptly.

c. The investigation shall then proceed to a determination of whether or not there exists probable cause to credit the allegations of the complaint. After the designated investigating staff member has completed his investigation of the facts alleged in the complaint he shall prepare a written report and submit it to the investigating commissioner for finding.

d. The investigating commissioner shall find that there is either probable cause or no probable cause to believe that discrimination exists regarding a complaint, or, under the appropriate circumstances, that the complaint has been satisfactorily adjusted, or successfully conciliated, or the complaint should be administratively closed. The investigating commissioner will promptly notify commission staff of the finding.

(1) When the staff person assigned a case file, is not in agreement with the investigating commissioner's finding of "probable cause" or "no probable cause" the procedure shall be as follows:

(2) The staff person involved, upon receipt of the investigating commissioner's decision, shall make immediate arrangements with said commissioner for an informal meeting, to discuss the case involved, to ascertain that there is no misunderstanding as to the facts. If no agreement is reached, the matter shall then proceed as follows:

(3) The staff person shall prepare a hypothetical case based on the actual case

involved but making the necessary changes in names, dates, places, etc., to protect the confidentiality. This case, along with any substantiating legal authorities and other citations, shall be submitted to the commission sitting in executive session. The commissioners, after discussion, may voice their opinions, without vote, for the benefit and guidance of the investigating commissioner, who shall render his or her finding in due course and following established procedure.

e. Both complainant and respondent will be notified in writing of the investigating commissioner's finding, said notification to be sent by certified mail from the commission's office within thirty days of the date that the finding has been received by staff.

f. As soon as the investigating commissioner finds that probable cause exists to credit the allegations outlined in the complaint the investigating commissioner or authorized staff member, or both, shall proceed immediately to attempt to eliminate such discriminatory or unfair practice by conference, conciliation, or persuasion or other remedial action. When a conference is held pursuant to this section, a synopsis of the facts which led to the finding of probable cause along with written recommendations for resolution will be presented to the respondent.

g. Both complainant and respondent shall be notified in writing of the time, date, and place of any conciliation meeting. The complainant may be present during attempts at conciliation if feasible.

h. Where the complaint has not been conciliated within forty-five days after the complainant and respondent have received notification of a probable cause finding, the conciliation may be deemed to have failed.

i. A conciliation agreement becomes effective after it has been signed by the respondent or the authorized representative of the respondent, by the complainant or his or her authorized representative, and by either the investigating commissioner, the chairperson, or the executive director on behalf of the commission.

j. Where a conciliation agreement has been agreed upon by the respondent, by the complainant, and by the commission, copies of the fully executed agreement

shall be sent to the complainant and respondent by certified mail with return receipt requested and a copy thereof shall be sent to the investigating commissioner by regular mail.

3.5(601A) Subpoenas.

3.5(1) The executive director shall issue subpoenas, either under authorization of the investigating commissioner or, where he or she is not available, under the authorization of the chairperson of the commission. The issuance of a subpoena on behalf of a party shall depend upon a showing of the relevancy thereof.

3.5(2) Prior to the issuance of a subpoena under these rules, the commission staff shall make a request in written form. The written request shall be either hand delivered by a member of the commission staff or sent by certified mail, return receipt requested. A subpoena may be issued not less than one day after the written request has been delivered to the person having possession of the requested materials. Irrespective of the above provisions, subpoenas may be issued without prior oral or written requests where the complaint has been scheduled for public hearing.

3.5(3) Every subpoena shall state the name of the commission, the purpose for which the subpoena is issued, and the name and address of the party on whose behalf it was issued.

3.5(4) The subpoena shall be directed to specific person and shall command that person to produce designated books or papers under his or her control at a specified time and place. Where a public hearing has been scheduled, the subpoena may command the person to whom it is directed to attend and give testimony.

3.5(5) The subpoena shall be served either by personal service by any official authorized by law to serve subpoenas or by any member of the commission staff by delivery of a copy thereof to the person named therein.

3.5(6) Where service is accomplished by personal service, proof of service will be by acknowledgment of receipt by the person served or by the affidavit of the person serving the subpoena.

3.5(7) Upon prompt motion by the person to whom the subpoena is addressed,

the executive director, the investigating commissioner or the chairperson of the commission may quash or modify a subpoena where its demands appear to be unreasonable or not relevant to the proceeding in question.

3.5(8) Where a party fails to respond to a subpoena, the commission may vote to file a petition with the district court as provided in the Act.

3.6(601A) Temporary injunctions. If the executive director or an appropriately designated staff person determined that a complainant may be irreparably injured before a public hearing can be called to determine the merits of the complaint, he will contact the investigating commissioner or, upon his or her unavailability, the chairperson of the commission who may authorize the executive director to instruct the attorney for the commission to seek such temporary injunctive relief as may be appropriate to preserve the rights of the complainant.

3.7(601A) Conducting the hearing.

3.7(1) After the commission has voted to hold a hearing on a complaint, the commission may delegate to staff matters relating to the scheduling of the hearing.

3.7(2) At least twenty days prior to the scheduled date of a public hearing, the commission staff shall cause to be served upon the respondent a notice that a public hearing will be held relative to the complaint and stating the time, date, and location of such hearing.

3.7(3) Hearing examiners. The chairperson of the commission shall designate three members of the commission, or a lawyer admitted to the Iowa bar, to conduct the hearing. The absence or disqualification of one or more members of a hearing panel appointed to hear a particular case shall not prevent the remaining panel members from hearing the case as independent hearing commissioners, unless other good cause can be shown that would prevent the individual commissioner(s) from acting as an independent hearing commissioner(s).

3.7(4) Any individual who has any interest in the case at issue, or personally knows the complainant or respondent shall disqualify himself or herself to serve as a hearing examiner. The investigating commissioner in the case at issue shall

not be appointed to serve as a hearing commissioner.

3.7(5) Power of the hearing examiners. The hearing examiner shall have full authority to make all decisions regarding the admission and exclusion of evidence, to control the procedures, and to rule upon all objections and motions. Except in extraordinary circumstances, evidence or testimony offered by any party shall be entered in the record subject to the objection of any party, in order that a complete record will be available in the event of appeal.

3.7(6) The hearing examiner may require that written briefs be submitted on behalf of the respondent and on behalf of the complainant.

3.7(7) Sworn testimony. All testimony given at a commission hearing shall be under oath administered by the court reporter present at the hearing.

3.7(8) Order of presentation. The case in support of the complaint shall be presented to the hearing examiner by one of the commission's attorneys, or by the attorney for the complainant, who shall present his evidence first. Where there is more than one complaining party the order of presentation shall be in the discretion of the hearing examiner. After all the evidence and testimony of the complaining parties has been received, all other parties shall be allowed to present their evidence or testimony. All parties shall be allowed to cross-examine any witness immediately after her or his testimony has been received.

3.7(9) Stipulations. The parties may, by stipulation in writing filed with the commission at any stage of the proceeding or orally made at the hearing, agree upon any pertinent facts in the proceeding.

3.7(10) Transcript and record. All testimony given at a hearing held pursuant to chapter 601A of the Code, shall be transcribed by a certified court reporter retained by the commission. The written transcript of the record upon the hearing before the hearing examiner shall consist of the notice of the hearing, the verified complaint, as the same may have been amended, the certified transcript of the testimony taken at the hearing, the exhibits and depositions in evidence, written applications and stipulations.

3.8(601A) Findings and orders.

3.8(1) Recommended decision and commission adoption. After a review of the transcript, the evidence, and the briefs, the hearing examiner shall state in writing his or her findings of fact, conclusions of law, and order, then recommend the same to the commission for its adoption, modification, or rejection.

3.8(2) Disqualifications of investigating commissioner. The investigating commissioner shall not take part in the consideration or adoption of the recommended decision.

3.9(601A) Reopening proceedings. Within thirty days after the parties have been notified of the order or finding, the commission may reopen any closed proceedings upon notice to all parties and take such action as it may deem necessary. The proceedings may be reopened upon the motion of the commission or any party in the interest of justice or for good cause shown.

3.10(601A) Reconsideration. Any party may file a motion for reconsideration within thirty days after the receipt of a final decision of the commission. Such

motion shall be submitted in writing to the commission, and in addition, shall include a statement of all matters alleged to have been erroneously decided, and if applicable, a statement as to any newly discovered matters or circumstances that have arisen subsequent to the final decision.

3.11(601A) Appeals to the district court(s). Appeals to the district court from the decision of the commission shall be perfected pursuant to the provisions of section 601A.10.

3.12(601A) Partial invalidity. If any provision of these rules shall be held invalid, the remainder of these rules shall not be affected thereby. The invalidity of any of these rules with respect to a particular person or under particular circumstances shall not affect their application to other persons or under different circumstances.

3.13(601A) Availability of rules. Copies of these rules of practice and procedure shall be available to the public on request, and shall be kept on file in the office of the Secretary of State, State Capitol Building, Des Moines, Iowa 50319.

[Effective April 13, 1975]

CIVIL RIGHTS COMMISSION

(continued)

Pursuant to the authority of section 601.9(14) of the Code, the rules of the Iowa civil rights commission which were filed on December 23, 1974, in the office of the secretary of state of Iowa relating to Disability Discrimination in Employment are hereby rescinded and the following adopted in lieu thereof:

[Filed February 14, 1975]

CHAPTER 7 DISABILITY DISCRIMINATION IN EMPLOYMENT

7.1(601A) General definitions.

7.1(1) The term "*physical and mental disability*" shall mean blindness, deafness or any physical or mental condition which constituted or constitutes a substantial handicap and which is unrelated to the person's ability to perform jobs or positions which are available to him or her. A substantial handicap shall be certified

by the commission through the use of standards and criteria which are established by the state education and services branch of the Iowa department of public instruction or a medical examination, or both, or through medical records and evidence which have been submitted by a physician, psychiatrist or psychologist.

7.1(2) The term "*substantial handicap*" is a physical or mental disability which can constitute one of the following: Material rather than slight, permanent, stable or slowly progressive and which is seldom fully corrected by medical treatment, therapy or surgical means.

7.1(3) The term "*blindness*" shall mean central visual acuity of 20/200 or less in the better eye with correcting glasses or a field of vision which at its widest diameter subtends an angular distance no greater than twenty degrees.

7.1(4) The term "*deafness*" shall mean that the average hearing level in the better

ear at 500, 1000 and 2000 Hertz is over seventy-five decibels or less in the better ear with a hearing aid.

7.1(5) "*Fringe benefits*", as used herein, include medical, hospital, accident insurance and retirement benefits, profit-sharing and bonus plans; leave, and other terms, privileges, and conditions of employment.

7.1(6) The term "*employer*", as used herein, shall include any employer, labor organization, or employment agency insofar as their action or inaction may adversely affect employment opportunities, as defined in section 601A.5* of the Code.

7.2(601A) Assessment and placement.

7.2(1) If examinations or other assessments are required, examinations or other assessments should be directed towards determining whether an applicant for a job:

a. Has the physical and mental ability to perform the duties of the position. An individual applicant would have to identify the position for which he or she has applied.

b. Is physically and mentally qualified to do the work without adverse consequences such as creating a danger to life or health of fellow employees.

c. Is professionally competent or has the necessary skills or ability to become professionally competent to perform the duties and responsibilities which are required by the job.

7.2(2) Said examinations or other assessments should consider the degree to which the person has compensated for his limitations and the rehabilitation service he has received.

7.2(3) Physical standards for employment should be fair, reasonable, and adapted to the actual requirements of such employment. They shall be based on complete factual information concerning working conditions, hazards, and essential physical requirements of each job. Physical standards will not be used to arbitrarily eliminate the disabled person from consideration.

7.2(4) Where pre-employment tests are used, the opportunity will be provided applicants with disabilities to demonstrate pertinent knowledge, skills and abilities

by testing methods adapted to their special circumstances.

7.2(5) Probationary trial periods in employment for entry-level positions which meet the criteria of business necessity may be instituted by the employer to prevent arbitrary elimination of the disabled.

7.2(6) An employer must attempt to make a reasonable accommodation to the physical and mental limitations of an employee or applicant unless the employer can demonstrate that such accommodation would impose an undue hardship on the conduct of the employer's business. In determining the extent of an employer's accommodation obligations, the following factors shall be included: (a) business necessity, and (b) financial cost and expenses.

7.2(7) Occupational training and re-training programs, including but not limited to guidance programs, apprentice training programs, on-the-job training programs and executive training programs, shall not be conducted in such a manner as to discriminate against persons with physical or mental disabilities.

7.3(601A) Disabilities arising during employment. When an individual becomes disabled, from whatever cause, during a term of employment, the employer shall make every reasonable effort to continue the individual in the same position or to retain and reassign the employee and to assist in his or her rehabilitation. No terms in this section shall be construed to mean that the employer must erect a training and skills center.

7.4(601A) Wages and benefits.

7.4(1) While employers may re-engineer the conditions of work for the disabled person, the salary paid to said person shall be no lower than the lowest listed on the applicable wage grade schedule.

7.4(2) The wage schedule must be unrelated to the existence of physical or mental disabilities.

7.4(3) It shall be an unfair employment practice for an employer to discriminate between persons who are disabled and those who are not, with regard to fringe benefits, unless there is bona fide underwriting criteria.

*§601A.7 probably intended

7.4(4) A condition of disability shall not constitute a bona fide underwriting criteria in and of itself.

7.5(601A) Job policies.

7.5(1) Written personnel policies relating to this subject area must expressly indicate that there shall be no discrimination against employees on account of disability.

7.5(2) If the employer deals with a bargaining representative for his employees and there is a written agreement on conditions of employment, such agreement shall not be inconsistent with these guidelines.

7.6(601A) Recruitment and advertisement.

7.6(1) It shall be an unfair employment practice for any employer to print or circulate or cause to be printed or circulated any statement, advertisement or publication or to use any form of application pre-employment inquiry regarding mental or physical disability for prospective employment which is not a bona fide occupational qualification for employment and which directly or indirectly expresses any negative limitations, specifications, or discrimination as to persons with physical or mental disabilities. The burden shall be on the employer to demonstrate that the statement, advertisement, publication or inquiry is based upon a bona fide occupational qualification. This is subject, however, to the provisions of section 601A.6(1) "c".

7.6(2) It shall be an unfair employment practice to ask any question on the employment application form regarding a physical or mental disability unless the question is based upon a bona fide occupational qualification. The burden will be on the employer to demonstrate that the question is based upon a bona fide occupational qualification.

7.6(3) An employment interviewer may inquire as to a physical or mental disability provided the inquiry is made in good faith for a nondiscriminatory purpose.

7.7(601A) Bona fide occupational qualifications.

7.7(1) It shall be lawful for an employer, employment agency, or labor organization to take any action otherwise prohibited under these rules where mental or physical ability is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business.

7.7(2) The concept of the bona fide occupational qualification is narrow in scope and will not be applied to include the mere preference or convenience of the employer.

7.7(3) Physical or mental disability requirements set by federal or state statute or regulatory agency shall be considered to be bona fide occupational qualifications where such requirements are necessarily related to the work which the employee must perform.

[Effective March 16, 1975]

CIVIL RIGHTS COMMISSION

(continued)

Pursuant to 601A.5(9) of the Code, the Iowa civil rights commission adopts the following rules:

[Filed February 14, 1975]

CHAPTER 8 DEFERRAL TO LOCAL HUMAN RIGHTS OR CIVIL RIGHTS ORGANIZATIONS

8.1(601A) Statement of purpose. It is the purpose of the Iowa civil rights commission, in adopting these rules, to promote the efficient enforcement of the

Iowa civil rights Act of 1965, as amended [chapter 601A of the Code]. To secure this end, the Iowa civil rights commission will use its deferral powers to encourage local human rights or civil rights organizations to:

a. Develop procedures and remedies necessary to insure the protection of rights secured by the Iowa civil rights Act,

b. Increase the efficiency of their operations,

c. Co-operate more fully with the com-

mission in the sharing of data and resources, and

d. Coordinate investigations and conciliations with the commission in order to eliminate needless duplication.

8.2(601A) Definitions.

8.2(1) "*Commission*" refers to the Iowa civil rights commission.

8.2(2) "*Executive director*" refers to an employee of the commission selected by the commission to serve as executive director.

8.2(3) "*Chairperson*" refers to the chairperson of the Iowa civil rights commission.

8.2(4) "*Agency*" refers to any agency of municipal government established by ordinance for the purpose of eliminating discrimination on any basis protected by the Iowa civil rights Act.

8.2(5) "*Deferral*" refers to the process whereby the commission notifies an agency that a complaint has been filed with the commission and that the commission is postponing its investigative activities for a period of sixty days while the agency investigates and attempts to resolve the matter. Extensions of this time period may be granted by the commission or its duly authorized representative to an agency when just cause is shown by the agency for the time extension.

8.2(6) "*Deferral agency*" refers to any agency to which the commission defers under a contract as provided by these rules.

8.3(601A) Procedure for obtaining status as deferral agency.

8.3(1) Any agency desiring to be designated as a deferral agency by the commission may send a letter of application to the executive director of the commission attached to which must be a copy of the agency's enabling ordinance, a list of its employees, their functions, and the average number of hours worked by each per week, and a report for the previous twelve-month period of the number of cases filed with the agency, the number of probable cause and no probable cause findings, the number successfully conciliated, and the number taken to public hearing.

8.3(2) The executive director will evaluate the applications of the agencies and may designate agencies as deferral agencies where they conform to the following guidelines:

a. The agency should have professional staff to enable it to comprehensively investigate complaints to insure due process within a reasonable period of time.

b. The ordinance under which the agency is established should provide sufficient powers to the agency to enable it to provide remedies to discrimination comparable to those obtainable under the Iowa civil rights Act.

c. The enabling ordinance of the agency shall provide, at a minimum, that the agency may hold public hearings, issue cease and desist orders, and award back pay damages.

d. The agency should be making a diligent effort to investigate and resolve the complaints filed with it.

8.3(3) Where the executive director determines that an agency does not qualify as a deferral agency, he shall so inform the agency in writing along with the reasons for the agency's rejection. If the reasons for the agency's rejection are corrected, the agency will then be designated as a deferral agency. The executive director's decision may be appealed to the commission at its subsequent regular meeting.

8.3(4) Where the executive director determines that an agency is qualified as a deferral agency, he will prepare contract between the commission and the agency containing the terms on which cases will be deferred. The contract will then be presented to the agency for a signature and, if the agency agrees to the contract, then to the commission for final approval. The commission chairperson or the executive director is authorized to sign the contract on behalf of the commission.

8.4(601A) Terms of the deferral contract.

8.4(1) The commission will agree to notify the deferral agency of all complaints filed with the commission which are within the deferral agency's jurisdiction, except where a complainant requests in written forms that the deferral agency not be notified.

8.4(2) The deferral agency will agree to aid all complainants whose complaints come within the commission's jurisdiction in completing the commission's complaint forms as well as notarizing them and forwarding the fully executed forms to the commission.

8.4(3) The commission will agree to postpone its investigation for at least sixty days of any complaint filed with a deferral agency unless otherwise agreed to by both parties. These waiver agreements will be made on an individual case basis.

8.4(4) The agency will agree not to disclose the filing of a complaint or confidential information pertaining to a complaint until such complaint has been officially set for public hearing.

8.4(5) The commission and the deferral agency shall share copies of all findings, case summaries, and conciliation agreements.

8.4(6) The period for which the contract will be in effect shall not be for more than two years.

8.4(7) The contract may contain such other terms as are agreed to by the parties.

8.5(601A) Access to information.

8.5(1) Where a complaint is on file with a deferral agency, the commission will

allow the deferral agency access to the contents of the complainant's file provided that the deferral agency allows the commission like privileges and has not previously disclosed confidential information prior to public hearing.

8.5(2) Photocopying of materials from commission files for use by a deferral agency is solely at the discretion of the commission staff, but such photocopying will not be unreasonably denied.

8.6(601A) Substantial weight.

8.6(1) The commission will give substantial weight to the findings of a deferral agency where pertinent and relevant factual evidence exists to support those findings.

8.6(2) The commission will not necessarily be bound by the agency's conclusions of law.

8.7(601A) Notice to nondeferral agencies. Nothing in these rules shall prevent the commission from notifying a nondeferral agency that a complaint has been filed which is within the nondeferral agency's jurisdiction, and the fact that notification is given shall not entitle the agency to any other privileges granted under these rules to deferral agencies.

[Effective March 16, 1975]

COMMERCE COMMISSION

Pursuant to the authority of section 490A.2 of the Code, rules 19.3(490A), 19.4(490A), 20.3(490A), 20.4(490A), 21.3(490A) and 21.4(490A) appearing in the 1973 IDR are amended in the following respects:

[Filed June 27, 1975]

ITEM 1. Subrule 19.3(5) relating to a "meter multiplier" for use in providing gas utility service is rescinded and the following adopted in lieu thereof.

19.3(5) *Meter register.* If it is necessary to apply a multiplier to the meter readings, the multiplier must be marked on the face of the meter register or stenciled in weather resistant paint upon the front cover of the meter. Where remote meter reading is used, whether outdoor on-premises or off-premises-automated, the cus-

tomers shall have a readable meter register at the meter as a means of verifying the accuracy of bills presented to them.

ITEM 2. Subrule 19.4(15) "h" relating to denial or discontinuance of gas utility service is rescinded and the following adopted in lieu thereof.

h. For non-payment of bill provided that the utility has made a reasonable attempt to effect collection and has given the customer written notice that he has at least five days, excluding Sundays and holidays, in which to make settlement of his account. In the event there is a dispute concerning a bill for natural gas service, the utility may require the customer to pay a sum of money equal to the amount of the undisputed portion of the bill pending settlement and thereby avoid discontinuance of service for non-payment

of such disputed bill for up to forty-five days after the rendering of the bill. The forty-five days shall be extended by up to sixty days if requested of the utility by the commission in the event customer files a written complaint with the commission.

ITEM 3. Subrule 20.3(5) relating to a "meter multiplier" for use in providing electric utility service is rescinded and the following adopted in lieu thereof.

20.3(5) Meter register. If it is necessary to apply a multiplier to the meter readings, the multiplier must be marked on the face of the meter register or stenciled in weather resistant paint upon the front cover of the meter. Where remote meter reading is used, whether outdoor on-premises or off-premises-automated, the customers shall have readable meter registers at the meters as a means of verifying the accuracy of bills presented to them.

ITEM 4. Subrule 20.4(17) "h" relating to denial or discontinuance of electric utility service is rescinded and the following adopted in lieu thereof.

h. For nonpayment of bill provided that the utility has made a reasonable attempt to effect collection and has given the customer written notice that he has at least five days excluding Sundays and holidays in which to make settlement on his account. In the event there is dispute concerning a bill for electric utility service, the utility may require the customer to pay a sum of money equal to the amount of the undisputed portion of the bill pending settlement and thereby avoid discontinuance of service for nonpayment of such disputed bill for up to forty-five days after the rendering of such disputed bill. The forty-five days shall be extended by up to sixty days if requested of the utility by the commission in the event the customer files a written complaint with the commission.

ITEM 5. Subrule 21.3(2) relating to a "register and multiplier" for use in providing water utility service is rescinded and the following adopted in lieu thereof.

21.3(2) Register. All meters used for metered sales shall have registration devices indicating the volume of water in either cubic feet or United States gallons. Where a constant or multiplier is necessary to determine the meter reading in cubic feet or gallons, the constant or multiplier shall be indicated on the face of the meter. Where remote meter reading is used, whether outdoor on-premises or off - premises - automated, the customers shall have readable meter registers at the meters as a means of verifying the accuracy of bills presented to them.

ITEM 6. Subrule 21.4(6) "h" relating to denial or discontinuance of water utility service is rescinded and the following adopted in lieu thereof.

h. For nonpayment of bill provided that the utility has made reasonable attempt to effect collection and has given the customer written notice that he has at least five days, excluding Sundays and legal holidays, in which to make a settlement on his account. In the event there is dispute concerning a bill for water service the utility may require the customer to pay a sum of money equal to the amount of the undisputed portion of the bill pending settlement and thereby avoid discontinuance of service for nonpayment of such disputed bill for up to forty-five days after the rendering of the bill. The forty-five days shall be extended by up to sixty days if requested of the utility by the commission in the event the customer files a written complaint with the commission.

[Effective June 27, 1975]

COMMERCE COMMISSION

(continued)

Pursuant to the authority of section 490A.2 of the Code rules 19.4(490A), 20.4(490A), 21.4(490A) and 22.4(490A) appearing in the 1973 IDR are amended in the following respects:

[Filed June 27, 1975]

ITEM 1. Subrule 19.4(3) relating to interest on utility customer deposits is rescinded and the following adopted in lieu thereof.

19.4(3) Interest on customer deposits. Interest of at least seven percent per annum, which is to be compounded on an

annual basis, shall be paid by the investor-owned utility to each customer required to make a deposit. Interest of at least six percent per annum, which is to be compounded on an annual basis, shall be paid by mutual and cooperative utilities to each customer required to make a deposit. Interest of at least five percent per annum, which is to be compounded on an annual basis, shall be paid by municipal utilities to each customer required to make a deposit. Interest shall be paid for the period beginning with the date of deposit to the date of refund or to the date that the deposit is applied to the customer's account, or to the date the customer's bill becomes permanently delinquent. The date of refund is that date on which the refund or the notice of deposit refund is forwarded to the customer's last known address. Delinquent date is the due date of any utility service bill rendered to a customer which is treated as an uncollectible item.

ITEM 2. Subrule 20.4(4) relating to interest on utility customer deposits is rescinded and the following adopted in lieu thereof.

20.4(4) Interest on customer deposits. Interest of at least seven percent per annum, which is to be compounded on an annual basis, shall be paid by the investor-owned utility to each customer required to make a deposit. Interest of at least six percent per annum, which is to be compounded on an annual basis, shall be paid by mutual and co-operative utilities to each customer required to make a deposit. Interest of at least five percent per annum, which is to be compounded on an annual basis, shall be paid by municipal utilities to each customer required to make a deposit. Interest shall be paid for the period beginning with the date of deposit to the date of refund or to the date that the deposit is applied to the customer's account, or to the date the customer's bill becomes permanently delinquent. The date of refund is that date on which the refund or the notice of deposit refund is forwarded to the customer's last known address. Delinquent date is the due date of any utility service bill rendered to a customer which is treated as an uncollectible item.

ITEM 3. Subrule 21.4(2) "b" relating to interest on utility customer deposits is rescinded and the following adopted in lieu thereof.

b. Interest on customer deposits. Interest of at least seven percent per annum, which is to be compounded on an annual basis, shall be paid by the investor-owned utility to each customer required to make a deposit. Interest of at least six percent per annum, which is to be compounded on an annual basis, shall be paid by mutual and cooperative utilities to each customer required to make a deposit. Interest of at least five percent per annum, which is to be compounded on an annual basis, shall be paid by municipal utilities to each customer required to make a deposit. Interest shall be paid for the period beginning with the date of deposit to the date of refund or to the date that the deposit is applied to the customer's account, or to the date the customer's bill becomes permanently delinquent. The date of refund is that date on which the refund or the notice of deposit refund is forwarded to the customer's last known address. Delinquent date is the due date of any utility service bill rendered to a customer which is treated as an uncollectible item.

ITEM 4. Subrule 22.4(2) "b" relating to interest on utility customer deposits is rescinded and the following adopted in lieu thereof.

b. Interest on customer deposits. Interest of at least seven percent per annum, which is to be compounded on an annual basis, shall be paid by the investor-owned utility to each customer required to make a deposit. Interest of at least six percent per annum, which is to be compounded on an annual basis, shall be paid by mutual and cooperative utilities to each customer required to make a deposit. Interest of at least five percent per annum, which is to be compounded on an annual basis, shall be paid by municipal utilities to each customer required to make a deposit. Interest shall be paid for the period beginning with the date of deposit to the date of refund or to the date that the deposit is applied to the customer's account, or to the date the customer's bill becomes permanently delinquent. The date of refund is that date on which the refund or the notice of deposit refund is forwarded to the customer's last known address. Delinquent date is the due date of any utility service bill rendered to a customer which is treated as an uncollectible item.

[Effective June 27, 1975]

STATE COMPTROLLER

Pursuant to the authority of section 8.6(16) of the Code, the following rules are adopted.

[Filed June 26, 1975]

CHAPTER 4 DEFERRED COMPENSATION PROGRAM

4.1(8) Administration. The state comptroller or the comptroller's designee, has been authorized by the executive council of Iowa to administer the deferred compensation program for employees of the state of Iowa, except for those employees of the board of regents institutions.

4.2(8) Definitions.

4.2(1) "Agreement" as used in these rules shall mean the deferred compensation agreement signed by the employer and the participating employee.

4.2(2) "Financial hardship and disability committee" as used in these rules shall mean the committee made up of the secretary of state, insurance commissioner, state comptroller, and the industrial commissioner that rules on the "disability" and "financial hardship" claims of participating employees.

4.2(3) "Company" as used in these rules shall mean any insurance company which issues a policy under the deferred compensation plan authorized under section 509A.12 of the Code.

4.2(4) "Employee" as used in these rules shall mean an employee of the state of Iowa, except employees of the board of regents institutions.

4.2(5) "Employer" as used in these rules shall mean the state of Iowa.

4.2(6) "New employer" as used in these rules shall mean any new employer to which a terminated participating employee proposes to transfer the policy held under the agreement.

4.2(7) "Participating employee" as used in these rules shall mean an employee participating in the plan.

4.2(8) "Plan" as used in these rules shall mean the deferred compensation plan authorized in section 509A.12.

4.2(9) "Policy" as used in these rules shall mean any retirement annuity, insurance policy or variable annuity or combination thereof provided for in the agreement.

4.3(8) Eligibility.

4.3(1) Initial eligibility. All permanent or probationary employees of the state of Iowa who regularly work thirty or more hours per week are eligible to defer compensation under the agreement. This includes full-time elective officials. Final determination on eligibility, if any questions should arise, will be made by the employer.

4.3(2) Eligibility after termination. Any participating employee who terminates the deferral of compensation is not eligible to participate in the plan for one calendar year after termination.

4.4(8) Enrollment and termination.

4.4(1) Open enrollment. An open enrollment period will be held each year for those employees who desire to participate in the plan and did not enroll at the time the plan was implemented. This open enrollment period will be from November 1 until November 30 of each year. All completed forms, including but not limited to the signed agreement and authorization to deduct from earnings, must be received by the employer on or before December 1, following the open enrollment period. Any forms not received by that date will not be processed and must be resubmitted during the next open enrollment period if the employee desires to participate in the plan. The policies will become effective February 1 of the following year and the premiums will be deducted from the paychecks received by the participating employees during the month of January.

4.4(2) Termination. A participating employee may terminate participation in the plan by giving not less than thirty days' prior written notice to the employer. If participation is terminated, the withdrawal of funds will be made only in accordance with the terms of the agreement, that is death, retirement or approval

of a disability or financial hardship claim. All requests will be made on forms provided by the employer.

4.4(3) Leave without pay. A participating employee on leave without pay is considered to be terminated in regard to participation in the deferred compensation program. There are no provisions for direct payment to the companies other than by the employer funded by reductions of current earnings of the employee. The employee must remain out of the plan for one calendar year before applying for re-enrollment. This applies to military leave.

4.4(4) Availability of forms. It is the responsibility of each employee interested in participating in the deferred compensation program to obtain the necessary forms from the employee's department. It is the responsibility of each department to inform its employees where and how they may obtain the necessary forms. The forms may be obtained by the departments from the comptroller's office - payroll division.

4.5(8) Tax status.

4.5(1) FICA and IPERS. The amount of compensation deferred under the agreement will be included in the gross wages subject to FICA and IPERS until the maximum taxable wages as established by law has been reached.

4.5(2) Federal and state income taxes. The amount of earned compensation deferred under the agreement is exempt from federal and state income taxes as provided in section 451 Internal Revenue Code of 1954 as amended. The six states adjoining Iowa have agreed to allow their residents who are employees of the state of Iowa to defer compensation for state income tax purposes.

4.6(8) Deduction from earnings.

4.6(1) When deducted. Each participating employee will have the option as to whether the entire amount of deferred compensation will be deducted from the first paycheck or second paycheck of the month, or whether it will be equally divided between the first and second paychecks received by the participating employee during the month. If the premium cannot be divided into two equal payments, the third option is not available.

4.6(2) Change in amount. A participating employee may increase or decrease this participation in the plan as of the first day of the next succeeding calendar year by giving not less than thirty days prior written notice thereof to the employer.

4.6(3) Amount allowed to be deferred. After making provisions for the amounts to be deducted for FICA, IPERS, voluntary deductions and the withholding tax on FICA, IPERS, and voluntary deductions, the balance of earned compensation may be deferred. The amount to be deferred must remain constant for one calendar year and may not in any case exceed the amount of net pay to be received by the participating employee.

4.6(4) Minimum amount to be deferred. The minimum amount of deferred compensation to be deducted from the earnings of a participating employee during any month will be \$25.00.

4.7(8) Insurance companies.

4.7(1) Identification number. Each participating company will be assigned an identification number by the employer that will be used by all agencies making remittances to companies. Once the plan is in effect, a list of companies and the numbers that have been assigned to them, will be distributed to the payroll section of each department.

4.7(2) Time of payment. Payments will be transmitted directly by the employer each month to each of the companies within ten days after the end of each month.

4.7(3) Annual status report. An annual status report of each participating employee's policy must be provided by each company to both the participating employee and the employer. This must be continued to be done after a participating employee terminates employment and there are no current payments being made.

4.7(4) Method of payment. The employer will pay each company with one check, regardless of the number of individual accounts with the company.

4.7(5) Solicitation. There will be no solicitation of employees by insurance companies during regular working hours.

4.7(6) Dividends. The only dividend options available on cash value policies are those where the dividends remain with the company.

4.8(8) Disposition of funds.

4.8(1) Death of employee. When a participating employee dies, the information provided to the employer should contain the following: participating employee's name, participating employee's social security number, and copy of death certificate. Upon receipt of the above-listed information, the employer will initiate the proper procedures so that the proceeds of the policy may be distributed as provided in the agreement.

4.8(2) Death of former employee. When a former participating employee dies, the following information should be provided by the employer: former employee's name, former employee's social security number, and copy of death certificate. Upon receipt of the above information, the employer will initiate the proper procedures so that the proceeds of the policy may be distributed as provided in the agreement.

4.8(3) Retirement. When a participating employee desires to retire, the employee will notify the employer in writing no less than thirty days prior to anticipated retirement date of his intention to retire on a form provided by the employer. If there is any question as to whether the participating employee is actually retiring, final determination will be made by the employer as provided in the agreement. Upon determination the participating employee is actually retiring, the employer will take the necessary steps to see that the proceeds of the policy will be disbursed by the company according to the agreement.

4.8(4) Disability and financial hardship. A committee, as defined in these rules, will have final determination as to whether a participating employee meets the definition of "total disabled" or "suffers a serious financial hardship" under the terms of the agreement.

a. Organization. The committee will elect a chairperson to serve until such time as the committee shall elect a replacement. The committee will appoint a recording secretary who will be required to keep a record of all activities and decisions of the committee. The recording sec-

retary need not be a member of the committee. The committee shall meet on call of the chairperson.

b. Duties of the committee. The committee shall rule, within thirty days of receipt, in writing, by the recording secretary, requests from a participating employee to cause the employer to surrender to the company the policy of the participating employee for a cash refund in the case the participating employee becomes total disabled or suffers a financial hardship, according to the terms of the agreement.

c. Definitions.

(1) "Serious financial hardship" as used in this rule will include the following: bankruptcy or impending bankruptcy, unexpected or unreimbursed major expenses resulting from illness to person or accident to person or property and other types of unexpected and unreimbursed expenses of a major nature that would not normally be budgetable. Serious financial hardship shall not include the need for foreseeable expenditures normally budgetable such as down payments on a home, purchase of vehicle or college expenses.

(2) "Total disabled" as used in this rule means the complete inability of the employee, due to accidental bodily injury or sickness, or both, to perform any and every duty pertaining to the employee's occupation and to engage in any work or occupation for which the employee is reasonably fitted by education, training, or experience.

4.8(5) Transfer to new employer. A request by a participating employee to transfer a policy to a new employer must be in writing. It is the responsibility of the participating employee and the new employer to provide the Internal Revenue Service with the necessary details of transfer and copies of all pertinent documents as provided in the agreement for determination as to the continued exemption from taxes. Upon receipt in writing of approval by the Internal Revenue Service of the proposed transfer, the employer will transfer the policy to the new employer.

4.9(8) Group insurance.

4.9(1) Availability. Chapter 509A provides that a governing body may approve group policies for its employees. The gov-

erning body for employees of the state of Iowa is the executive council of Iowa.

4.9(2) Approval of plans. All group plans must be approved by the executive council of Iowa before any group policies may be sold as required in chapter 509A.

4.9(3) Size of group. One or more employees will constitute a group under this program.

4.9(4) Transfer to new employer. When a participating employee terminates his employment, he is no longer covered under chapter 509A. At this point the statutory minimum for groups would come into effect requiring at least ten people per group.

4.10(8) General.

4.10(1) Orientation and information meetings. All agencies may hold orientation and informational meetings for the benefit of their employees but there will be no solicitation of employees by insurance companies allowed at these meetings. The presence of a representative of an insurance company will be interpreted as solicitation.

4.10(2) Location of policies. All original policies will be kept by the employer. Participating employees may request to review their policies during normal working hours but may under no circumstances remove the policy from the employer's possession. The companies shall furnish each participating employee with a copy of the employee's policy for informational purposes only. This must be clearly marked that it is not an original policy.

4.10(3) Number of companies. All life insurance companies licensed to do business in Iowa may sell policies under the plan. Each participating employee desires to change companies, the only way that this can be accomplished is to terminate his participation with the original company, effective after the payroll reductions have been made during December. The employee must also submit the proper forms so that participation with the new company will be effective with the payroll reductions to be effective in January of the next succeeding calendar year. This can be done only during an annual open enrollment period and all forms must be received prior to December 1. There can be no break in the reduction of compensation, and both sets of forms

must be submitted at the same time and properly filled out. The employer will hold the original policy until such time as the proceeds may be disbursed under the terms of the agreement, that is death, retirement or approval of a claim for disability or financial hardship.

4.10(4) Change of beneficiary. A participating employee may change the beneficiary shown in the supplement to compensation agreement by providing the employer with written notice of such change on forms provided by the employer. The beneficiary on the policy or policies must always be the state of Iowa.

4.10(5) Deferred compensation or Tax Sheltered Annuity. Employees, who under the laws of the state of Iowa, are eligible for both deferred compensation and tax sheltered annuities, will be limited to participation in one of the two programs, but not both.

4.11(8) Forms. The administration of the deferred compensation program will be accomplished by the use of forms hereafter described, when used in accordance to these rules.

4.11(1) Form DC-1 Authorization to Deduct. This form will authorize the state comptroller to make deductions, and will state the amount, from the participating employees compensation.

4.11(2) Form DC-2, Deferred Compensation Change Request. This form will authorize the state comptroller to change the amount deducted from the participating employees compensation.

4.11(3) Form DC-3, Request for Distribution of Funds. This form will be used when a participating employee desires to have the employer surrender their policy for a cash refund.

4.11(4) Form DC-4, Agreement with Insurance Companies. This form will be used by an employee desiring to participate in the program and will be signed by the participating employee and an authorized representative of the insurance company with whom the participating employee desires to defer compensation.

4.11(5) Form DC-5, Change of Beneficiary. This form will be used when a participating employee desires to change the beneficiary named in the agreement.

4.11(6) *Form DC-6, Supplement to Compensation Agreement.* This form is the agreement between the employer and the participating employee.

4.11(7) *Unnumbered form, Application for Policy.* This form will be supplied by the insurance company with whom the participating employee desires to defer compensation. The completed form must be approved by the state comptroller, or his designee, prior to completion of any other form described in these rules. The completed form will show that the owner

and beneficiary of the policy is the state of Iowa and that the relationship of the state of Iowa to the participating employee is employer. The completed form will be forwarded to the State Comptroller, Deferred Compensation Program, State Capitol Building, Des Moines, Iowa 50319 with a self-addressed, stamped envelope to be used in returning the approved completed form. All forms post-marked after November 30th will not be approved.

[Effective July 1, 1975]

CONSERVATION COMMISSION

Pursuant to the authority of section 107.24 of the Code, the rule appearing in 1973 IDR, page 211 relating to dog restrictions in state areas is amended as follows.

[Filed May 14, 1975]

DIVISION OF FISH AND GAME

4.1(109) is amended by striking from lines 5, 6, and 7 the words "field and retriever meets may be conducted at design-

ated sites after first securing a permit as provided in section 109.22" and inserting the words "training of dogs shall be permitted on designated training areas. Field and retriever meets shall be conducted at designated sites. A permit as provided in section 109.22 of the Code must be secured for field and retriever meets."

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

[Effective May 14, 1975]

CONSERVATION COMMISSION

(continued)

Pursuant to the authority of section 107.24 of the Code the following rules are hereby adopted.

[Filed June 10, 1975]

DIVISION OF FISH AND GAME

Chapter 14

WATERFOWL HUNTING ON FORNEY LAKE AND RIVERTON AREA

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

14.1(1) *Reservations.*

a. Blind reservations will be accepted by the conservation commission as soon as the migratory waterfowl seasons are announced. Reservation for Forney Lake must be made at Conservation Commis-

sion, Forney Lake, Thurman, Iowa. Reservations for the Riverton area must be made at Conservation Commission, Riverton area, Riverton, Iowa. Reservations will be issued on a first come, first served basis.

b. Requests for reservations must be accompanied by \$3.00 for each day requested. In addition, each hunter, including the reservation holder, will be charged \$1.00 when he registers to hunt.

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

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

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

14.1(2) *Controlled sites.*

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

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

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

14.1(3) Fee permit.

a. All hunters shall exchange their hunting licenses at the reservation station for a permit. Entire Forney Lake area north of the east-west county road and the north portion of the Riverton Area where so posted to be limited to fee hunting from blinds only with a valid permit.

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

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

14.1(109) Area restriction. It shall be unlawful to shoot or carry firearms between the dates of September 15 and December 15 of each year, both dates inclusive, around the perimeter of the entire Forney Lake refuge within the posted limits of a strip approximately one hundred yards wide, and a similar area where so posted on the Riverton area.

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

[Effective June 10, 1975]

CONSERVATION COMMISSION

(continued)

Pursuant to the authority of section 107.24 of the Code, the following rules are hereby adopted.

[Filed June 10, 1975]

DIVISION OF FISH AND GAME

Chapter 15

WATERFOWL HUNTING

ON LAKE ODESSA

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

15.1(10) Controlled area.

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

b. Controlled area "A". Permits for zone A will be issued at the Schafer's

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

decoys, at double stake sites, is restricted to one of the stake sites.

c. Controlled area "B". Permits for this area will be issued at both the Schafer's Point check station and the Sand Run check station. Permits will be issued on a first come first served basis beginning ninety minutes before legal shooting time each morning. Each boat will be issued, without charge, a permit showing the name of each member of the party. Hunting sites will not be designated.

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

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

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

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

[Effective June 10, 1975]

CONSERVATION COMMISSION

(continued)

Pursuant to the authority of section 107.24 of the Code, the following rule is hereby adopted.

[Filed June 10, 1975]

DIVISION OF FISH AND GAME

Chapter 16

GAME MANAGEMENT AREAS

16.1(109) General. It shall be unlawful to trespass in any manner on the following areas, where posted as such, between the dates of October 1, and December 15 of each year, both dates inclusive, except that conservation personnel may enter the area at any time in performance of their duties.

AREA	COUNTY
Rathbun Area	Appanoose
Sweet Marsh	Bremer
Storm Lake Islands	Buena Vista
Big Marsh	Butler

South Twin Lake
Round Lake
Allen Green Refuge
Kettleston Area
Ingham Lake
Forney Lake
Riverton Area
Dunbar Slough
McCord Pond
West Twin Lake
Hawkeye Wildlife Area
Muskrat Slough
Colyn Area
Red Rock Area
Louisville Bend
Five Island Lake
Prairie Rose Lake
Otter Creek Marsh
Green Valley Lake
Rice Lake Area
Elk Creek Marsh

Calhoun
Clay
Des Moines
Dickinson
Emmet
Fremont
Fremont
Greene
Guthrie
Hancock
Johnson
Jones
Lucas
Marion
Monona
Palo Alto
Shelby
Tama
Union
Winnebago
Worth

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

[Effective June 10, 1975]

CONSERVATION COMMISSION

(continued)

Pursuant to the authority of sections 107.24, 106.3 and 106.31 of the Code and chapter 1060, Acts of the Sixty-third General Assembly, Second Session, Chapter 26, "Special Water Activity Rules—Green Valley Lake, Union County", appearing in the 1973 IDR, page 213, are hereby amended as follows.

[Filed May 29, 1975]

DIVISION OF LANDS AND WATERS

26.1(106) is amended by striking all after the word "Assembly", in line three and inserting in lieu thereof, "these special rules shall apply to Green Valley Lake from June 1 to September 10 of each year."

26.4(106) is amended by striking all of that rule and inserting in lieu thereof the following, "For the purposes of these special rules, a wake means 'any movement of water created by a vessel which adversely affects the activities of another person who is involved in activities approved for that area or which may ad-

versely affect the natural features of the shore line.'"

This rule is intended to implement Chapter 1060, Acts of the Sixty-third General Assembly.

[Effective May 29, 1975]

CONSERVATION COMMISSION

(continued)

Pursuant to the authority of sections 106.3 and 107.24, the rules appearing as chapter 29 in 1973 IDR, 215 to 217, are amended as follows:

[Filed March 5, 1975]

LANDS AND WATERS DIVISION

On page 217, following the last chart in column one, strike the paragraph which reads as follows:

"Passenger capacities of canoes for hire shall be limited to two passengers per canoe."

The fourth paragraph following the last chart in the same column is amended to read as follows:

"Passenger capacities of paddle propelled canoes on all waters under the jurisdiction of the state conservation commission shall be as follows:"

These rules are intended to implement sections 106.5 and 106.24 of the Code.

[Effective March 5, 1975]

CONSERVATION COMMISSION

(continued)

Pursuant to the authority of sections 107.24 and 106.3 of the Code, chapter 30, Speed and Distance-Zoning in the 1973 IDR, page 217, is hereby amended as follows.

[Filed May 29, 1975]

DIVISION OF LANDS AND WATERS

ITEM 1. 30.26(1) line one, by striking the words "activities as" and inserting the word "restrictions". Line two by striking

the word "restricted". Line three by striking the word "approval" and inserting the word "approved".

ITEM 2. 30.26(5) is hereby rescinded.

ITEM 3. 30.31(11) is hereby rescinded.

ITEM 4. 30.37(12) is hereby rescinded.

This rule is intended to implement section 106.26 of the Code.

[Effective May 29, 1975]

ENVIRONMENTAL QUALITY

Pursuant to the authority of section 455B.78, of the Code, the rule appearing in the 1973 IDR pages 295 to 296 relating to sanitary disposal projects (Chapter 25) as amended in the July 1974 Supplement to the IDR page 38 is further amended as follows.

[Filed June 2, 1975]

SOLID WASTE DISPOSAL

COMMISSION

Rule 25.1(455B) is amended as follows.

ITEM 1. Insert after subrule 25.1(2) the following new subrules.

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.

ITEM 2. Insert after subrule 25.1(9) the following new subrule.

"Monitoring well" means any well installed solely for sampling of ground water quality at a given location and depth and constructed in a manner approved by the department.

ITEM 3. Insert after subrule 25.1(13) the following new subrule.

"Public Water Supply" means any water supply serving a municipality or water district, either publicly or privately owned.

ITEM 4. Insert after subrule 25.1(19) the following new subrule.

"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 as approved by the permit operator of the site of the landfill.

ITEM 5. Subrule 25.1(21) is amended by striking from line two the code refer-

ence "406.2 (Code 1971)" and inserting "455B.75 of the Code" in lieu thereof.

ITEM 6. Subrule 25.1(22) is rescinded and the following adopted in lieu thereof.

"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 volume and to cover it with a layer of earth so that no nuisance or hazard to the public health is created.

ITEM 7. Insert after the new subrule "Sanitary landfill" the following new subrule.

"Scavenging" means the uncontrolled removal of materials from the unloading or working area of a sanitary disposal project.

ITEM 8. Subrule 25.1(25) is amended by striking from line two the Code reference "406.2 (Code 1971)" and inserting "455B.75 of the Code" in lieu thereof.

Renumber all of the subrules in rule 25.1(455B) to conform with the alphabetical sequence.

This rule is intended to implement section 455B.78 and section 455B.84 of the Code.

[Effective June 2, 1975]

ENVIRONMENTAL QUALITY

(continued)

Pursuant to the authority of section 455B.78 of the Code, the rules appearing in the 1973 IDR page 296 relating to sanitary disposal projects (Chapter 26) as amended in the July 1974 IDR Supplement, page 38, are further amended as follows.

[Filed June 2, 1975]

SOLID WASTE DISPOSAL COMMISSION

ITEM 1. Rule 26.1(455B) is rescinded and the following rule adopted in lieu thereof.

26.1(455B) Permit required. A new sanitary disposal project shall not be established after October 1, 1971 unless a permit is issued by the executive director. Every sanitary disposal project operating

after July 1, 1975 must have a permit issued by the executive director.

26.1(1) Such permit shall be issued for three years and shall be renewed upon application for renewal and departmental findings of conformity with the statute and the rules. Each permit to be renewed shall be subject to the provisions of all rules of the department in effect at the time of the renewal. Except as otherwise required in these rules the initial plan along with any changes in the plan or method of operation which may be required shall be prepared by or under the direct supervision of an engineer in conformity with chapter 114 of the Code.

26.1(2) The department shall conduct the annual inspection of the sanitary disposal project required by Chapter 455B prior to application for renewal. This in-

spection may include sampling of surface water and monitoring wells. Following the inspection and prior to application for renewal the responsible official shall be notified of all measures needed to bring the project into conformance with the statute and the rules.

26.1(3) The application for renewal shall be filed after receipt of the departmental inspection report and at least thirty days prior to the date the existing permit expires.

ITEM 2. Subrule 26.3(1) is amended by striking from lines six and seven the words "or nuisance." and inserting the words "nuisance or degradation of surface water or aquifers that are in actual or deemed to be of potential use as a water resource." in lieu thereof.

ITEM 3. Insert after subrule 26.3(1) the following new subrule.

26.3(2) A copy of the original plans and specifications, along with pertinent operational data, for any completed sanitary disposal project used for the final disposal of solid waste shall be filed with the county recorder and the location of the filled area shall be recorded for abstract of title purposes.

ITEM 4. Insert after subrule 26.3(3) the following new subrule.

Every public agency shall properly close or enforce the proper closing of all solid waste dumping grounds not permitted by this department, which are within the agency's jurisdiction. Every private agency shall properly close all solid waste dumping grounds under their control which are not permitted by this department.

a. Such sites shall be closed by July 1, 1975.

b. Proper closing shall include the following:

(1) The site shall be fenced to control access as necessary to prevent further use as a dumping ground. Any gates shall be kept locked.

(2) A permanent sign shall be posted at the site entrance indicating that the site is closed, specifying the penalty for unauthorized dumping, identifying the location of a permitted site and providing other pertinent information.

(3) Effective state-approved means shall be taken to eliminate flies and other insects, rodents or vermin.

(4) All fires shall be totally extinguished.

(5) Extruding refuse shall be removed and the surface shall be permanently covered with earth.

(6) Each site shall be graded to promote runoff without erosion. Diversion drainage shall be provided as necessary to prevent surface water from entering the fill.

(7) The finished surface of the filled area shall be seeded with grasses or other suitable vegetation immediately upon completion or promptly in the spring on areas terminated during winter conditions.

(8) The site shall be periodically cleaned up as needed to prevent the site from reverting to a dumping ground.

(9) Other corrective actions shall be taken as required by the executive director.

Renumber all of the subrules in rule 26.3(455B) to conform with numerical order.

ITEM 5. Insert after subrule 26.4(2) the following new subrule.

26.4(3) Scavenging shall be prohibited. Any salvaging to be conducted must be described in the permit application and all salvaged materials must be stored and removed from the sanitary disposal project site in conformance with the permit conditions.

ITEM 6. Omitted. Deleted by the IDR Committee.

Renumber the subrules in rule 26.4(455B) to conform with numerical order.

ITEM 7. Rule 26.5(455B) is rescinded and the following adopted in lieu thereof.

26.5(455B) Storage, collection and transportation of solid waste.

26.5(1) *Public agency responsibility.* Every city, town and county of this state shall be responsible for the storage, collection and transportation of solid waste within their jurisdiction. Any powers, privileges or authority exercised in fulfilling this responsibility may be exercised

and enjoyed jointly with any other public agency. The responsible public agency shall:

a. Provide for an adequate, efficient, and sanitary system for the collection and transportation of all solid wastes originating from households, service premises, business establishments and industries within their jurisdiction which are not exempted by law.

b. Issue and enforce regulations, subject to review by the department, pertaining to the storage, collection and transportation of all solid waste within their jurisdiction. Such regulations shall, as a minimum, include specifications for:

- (1) Storage containers
- (2) Storage duration
- (3) Storage locations
- (4) Collection frequency
- (5) Labeling of toxic and hazardous wastes
- (6) Vehicle design and operation

26.5(2) Container and vehicle standards:

a. Vehicles or containers used for the collection and transportation of any solid

waste shall be loaded and moved in such a manner that the contents will not fall, leak or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

b. Vehicles or containers used for the collection and transportation of garbage and similar putrescible wastes or refuse containing such materials shall be leak-proof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution or insect breeding and shall be maintained in good repair.

c. Vehicles and containers used for the collection and transportation of toxic and hazardous wastes shall be so constructed that they can be loaded, moved and unloaded in a manner that does not create a danger to public health or safety and in compliance with the rules and federal and state laws and local ordinances and regulations.

These rules are intended to implement sections 455B.78 and 455B.84 of the Code.

[Effective June 2, 1975]

ENVIRONMENTAL QUALITY

(continued)

Pursuant to the authority of section 455B.78, of the Code, the rule appearing in the 1973 IDR pages 297 to 298 relating to sanitary disposal projects (Chapter 27) as amended in the July 1974 Supplement to the IDR page 38 is further amended as follows.

[Filed June 2, 1975]

SOLID WASTE DISPOSAL COMMISSION

Rule 27.1(455B) is amended as follows.

ITEM 1. Rule 27.1(455B) is amended by striking the words "proposing the use of" from line two and inserting the word "for" in lieu thereof.

ITEM 2. Rule 27.1(455B) is further amended by striking from lines four and five "(Code, 1971)" and inserting the words "of the Code" in lieu thereof.

ITEM 3. Omitted. Deleted by IDR Committee.

ITEM 4. Subrule 27.1(1) is further amended by striking from line three the word "or" and inserting the word "and" in lieu thereof.

ITEM 5. Subrule 27.1(1) is further amended by striking from line 10 the word "should" and inserting the word "shall" in lieu thereof.

ITEM 6. Insert after subrule 27.1(2) the following new subrule and renumber all subsequent subrules in rule 27.1(455B) to conform with numerical order.

27.1(3) Evidence that the proposed plan has been reviewed by the local soil conservation district commissioner and that the technical assistance of the soil conservation district will be utilized to facilitate compliance with wind and water soil loss

limit regulations provided for in sections 467A.42 to 467A.51 (Code 1973).

ITEM 7. Subrule 27.1(4) is amended by inserting after paragraph "b" the following new paragraph and relettering all subsequent paragraphs in subrule 27.1(4) to conform with alphabetical order.

c. The direction of ground water flow and the number, location and depth of monitoring well(s) needed to monitor ground water quality.

ITEM 8. Subrule 27.1(4), paragraph "f" is amended by striking from lines one and two the words "proposed landfill" and inserting the words "portion of the landfill site to be filled" in lieu thereof.

ITEM 9. Subrule 27.1(4), paragraph "f" is further amended by striking from subparagraph (1), line five, the word "local".

ITEM 10. Subrule 27.1(4), paragraph "f" is further amended by rescinding subparagraph (2) and adopting the following subparagraph in lieu thereof.

(2) So situated that the base of the proposed landfill is at least five feet above the high water table unless a lesser separation is unlikely to have a significant effect on ground and surface waters.

ITEM 11. Subrule 27.1(4), paragraph "f", is further amended by striking from subparagraph (4), line two, the number "0.04" and inserting the number "0.004" in lieu thereof.

ITEM 12. Subrule 27.1(4), paragraph "f", is further amended by rescinding subparagraph (6) and adopting the following subparagraph in lieu thereof.

(6) At least one thousand feet from any well in existence at the time of application for the original permit, which draws for human or livestock consumption from an aquifer that underlies the landfill, unless hydrologic conditions are such that a greater distance is required to ensure that there is no adverse effect on the water supply or a lesser distance can be permitted without adverse effect on the water supply.

ITEM 13. Subrule 27.1(4), paragraph "f", is further amended by rescinding subparagraph (7) and adopting the following in lieu thereof.

(7) At least one mile from a public water supply or well or a public water supply water intake from a body of static water or one mile upstream or one thousand feet downstream from a riverine intake at the time of application for the original permit, unless hydrologic conditions are such that a greater distance is required to ensure that there is no adverse effect on the water supply or a lesser distance can be permitted without an adverse effect on the water supply.

ITEM 14. Subrule 27.1(4), paragraph "f", is further amended by rescinding subparagraph (8) and adopting the following in lieu thereof.

(8) At least one thousand from the nearest edge of the right of way of any state, interstate or federal highway at the time of commencement of construction of a sanitary landfill, unless the site is screened by natural objects, plantings, fences or other appropriate means so as not to be visible from the highway.

ITEM 15. Subrule 27.1(4), paragraph "f", is further amended by rescinding subparagraph (9) and adopting the following subparagraph in lieu thereof.

(9) Beyond five hundred feet from an existing habitable residence unless there is written agreement with the owner of the residence and the site is screened by natural objects, planting, fences or by other appropriate means. The residence must be in existence on the date of application for the original permit from the department. The written agreement shall be filed with the county recorder and shall be recorded on the property deed for the existing residence.

ITEM 16. Subrule 27.1(4) paragraph "f" is further amended by inserting after subparagraph (9) the following new subparagraph.

(10) At least twenty feet from the adjacent property line unless there is a written agreement with the owner of the abutting property. The written agreement shall be filed with the county recorder and shall become a part of the permanent record of the property.

ITEM 17. Subrule 27.1(4), paragraph "g", is rescinded and the following adopted in lieu thereof.

Should conditions in violation of 27.1(4) "f" (1), (2), (3), (4), (5), (6), or (7) exist, the original plan must be engineered to provide equal protection to the water resources.

ITEM 18. Subrule 27.1(4), paragraph "h", is amended by striking from line two the number "2" and inserting the number "26" in lieu thereof.

ITEM 19. Subrule 27.1(4), paragraph "i", is amended by striking from line 1 the word "intended", and by striking from line 2 the words "at least the following conditions:" and inserting the words "the following" in lieu thereof.

ITEM 20. Subrule 27.1(4), paragraph "i", is further amended by rescinding subparagraph (3) and adopting the following in lieu thereof.

(3) The operating area for solid waste shall be as small as practicable and shall be surrounded with appropriate barriers to confine possible windblown materials to the area.

ITEM 21. Subrule 27.1(4), paragraph "i", is further amended by inserting after subparagraph (3) the following new subparagraph.

(4) At the conclusion of each day of operation any windblown material strewn beyond the confines of the operating area shall be collected and returned to the area.

ITEM 22. Subrule 27.1(4), paragraph "i", is further amended by rescinding subparagraph (4) and adopting the following in lieu thereof.

The deposited solid waste shall be uniformly distributed and compacted as densely as practicable in two foot layers with a height and operating face slope which will permit through compaction into cells.

ITEM 23. Subrule 27.1(4), paragraph "i", is further amended in subparagraph (5) by striking from line one the word "Refuse" and inserting the words "Solid waste at a sanitary landfill site" in lieu thereof.

ITEM 24. Subrule 27.1(4), paragraph "i", subparagraph (5) is further amended by striking in lines one and two the words "compacted as densely as practicable and".

ITEM 25. Subrule 27.1(4), paragraph "i", is further amended by inserting after subparagraph (5) the following new subparagraph.

Construction and demolition waste disposal sites shall be constructed with earthen dikes to create cells for fire control and the waste shall be covered at least once per week with no less than one foot of earth.

ITEM 26. Subrule 27.1(4), paragraph "i", is further amended by inserting in subparagraph (6) line two between the words "winter" and "operations" the words "and wet weather".

ITEM 27. Subrule 27.1(4), paragraph "i", is further amended by rescinding subparagraph (8) and adopting the following new subparagraph in lieu thereof.

Equipment adequate to move earth, grade, compact, and apply cover in conformance with the rules and as detailed in the plans shall be used to operate the site at all times.

ITEM 28. Subrule 27.1(4), paragraph "i", is further amended by inserting in subparagraph (10) line one between the words "to" and "the" the words "and major internal roads on".

ITEM 29. Subrule 27.1(4), paragraph "i", is further amended by rescinding subparagraph (11) and adopting the following subparagraph in lieu thereof.

Fire fighting equipment, including fire extinguishers, shall be available on the site, and arrangements shall be made with the local fire protection agency to control accidental fires in the sanitary landfill.

ITEM 30. Subrule 27.1(4), paragraph "i", is further amended by striking from subparagraph (12) line two the words "for emergency purposes" and inserting the words "at the sanitary disposal project" in lieu thereof.

ITEM 31. Subrule 27.1(4), paragraph "i", is further amended by rescinding subparagraph (13) and adopting the following subparagraph in lieu thereof.

Sanitary and personal washing facilities within a shelter shall be available on the site.

ITEM 32. Subrule 27.1(4), paragraph "i", is further amended by rescinding sub-

paragraph (14) and adopting the following subparagraph in lieu thereof.

A copy of the permit, engineering plans and specifications shall be kept at the site at all times.

ITEM 33. Subrule 27.1(4), paragraph "i", is further amended by rescinding subparagraph (15) and adopting the following subparagraph in lieu thereof.

An operator shall be on duty at the site whenever it is open for use. An attendant should also be on duty whenever the site is open for use.

ITEM 34. Subrule 27.1(4), paragraph "i", is further amended by adopting after subparagraph (15) the following new subparagraph.

Solid waste shall be deposited at the site only when there is an operator on duty.

ITEM 35. Subrule 27.1(4), paragraph "i", is further amended by rescinding subparagraph (17) and adopting the following subparagraph in lieu thereof.

A permanent sign shall be posted at the site entrance identifying the operation, showing the site permit number, indicating the hours and days the site is open, specifying the penalty for unauthorized dumping, identifying the categories of wastes which will be accepted for disposal or as an alternative identifying the categories of waste which are prohibited, and providing other pertinent information.

ITEM 36. Subrule 27.1(4), paragraph "i", is further amended by inserting after subparagraph (17) the following new subparagraph.

At least one foot of intermediate cover of compacted earth shall be applied to any area of the sanitary landfill which will not be utilized for further disposal of solid waste for more than one week.

ITEM 37. Subrule 27.1(4), paragraph "i", is further amended by rescinding sub-

paragraph (8) and adopting the following subparagraph in lieu thereof.

At least a two-foot cover of compacted earth shall be applied to any area of the sanitary landfill which will not be utilized for further disposal of solid waste for more than two months. The cover shall be graded to allow surface water runoff.

ITEM 38. Subrule 27.1(4), paragraph "i", is further amended by inserting after subparagraph (19) the following new subparagraph.

As required by the executive director monitoring wells shall be drilled and samples from these analyzed by a laboratory which is acceptable to the department and the results forwarded to the department on a stipulated schedule.

ITEM 39. Subrule 27.1(4), paragraph "i", is further amended by rescinding subparagraph (20) and adopting the following subparagraph in lieu thereof.

Prior to completion of a sanitary landfill site, the executive director shall be notified in writing so that an inspection may be made before earth-moving equipment is removed from the property.

ITEM 40. Subrule 27.1(4), paragraph "i", is further amended by inserting after subparagraph (20) the following new subparagraph.

For five years following completion of the site, repairs shall be made as necessary to assure integrity of the final cover and to maintain the desired finished slopes. An annual report specifying the repairs made shall be submitted to the executive director.

Renumber all of the subparagraphs in subrule 27.1(4), paragraph "i", to conform with numerical order.

This rule is intended to implement sections 455B.78 and 455B.84 of the Code.

[Effective June 2, 1975]

ENVIRONMENTAL QUALITY

(continued)

Pursuant to the authority of section 455B.78, of the Code the rules appearing in the 1973 IDR pages 299 to 300 relating to sanitary disposal projects (Chapter 29) as amended in the July 1974 Supple-

ment to the IDR page 39 are further amended as follows.

[Filed June 2, 1975]

**SOLID WASTE DISPOSAL
COMMISSION**

Rule 29.2(455B) is amended as follows.

ITEM 1. Subrule 29.2(8) is amended by striking from line two the number "2" and inserting the number "26" in lieu thereof.

ITEM 2. Rule 29.4(455B) is amended by striking from lines three and four the words "shall not reheat upon standing."

These rules are intended to implement sections 455B.78 and 455B.84 of the Code.

[Effective June 2, 1975]

EXECUTIVE COUNCIL

Pursuant to the authority of section 509A.8 of the Code the following rules are adopted.

[Filed June 27, 1975]

CHAPTER 5

**DEFERRED COMPENSATION
PROGRAM**

5.1(509A) The administrative policies and procedures for the deferred compensation program for the employees of the State of Iowa are as filed with the Secretary of State on June 26, 1975, by the State Comptroller.

[Effective July 1, 1975]

HEALTH DEPARTMENT

Pursuant to the authority of sections 147.36 and 147.81 of the Code, the rules appearing in 1973 IDR, page 466, relating to the Board of Physical Therapy Examiners are amended as follows:

[Filed March 14, 1975]

ITEM 1. Subrule 137.2(4) is rescinded and the following adopted in lieu thereof:

137.2(4) An examinee failing one part of the examination shall be required to repeat only the part failed. The second examination must be taken within a period of fourteen months after the first examination and is without further fee. An applicant failing the repeat examination shall be required to pay the examination fee and take the entire examination.

ITEM 2. Subrule 137.2(5) is rescinded and the following adopted in lieu thereof:

137.2(5) An examinee failing two or more parts of the examination shall be required to repeat the entire examination. The second examination must be taken within a period of fourteen months after the first examination and is without further fee. An applicant failing the repeat examination shall be required to pay the examination fee and take the entire examination.

These subrules are intended to implement section 147.36 of the Code.

[Effective March 14, 1975]

HEALTH DEPARTMENT

(continued)

Pursuant to the authority of section 147.36 of the Code, the rules appearing in 1973 IDR, page 466, relating to the Board of Physical Therapy Examiners are amended as follows.

[Filed June 10, 1975]

ITEM 1. Paragraph "c" of subrule 137.3(1) is rescinded.

ITEM 2. Paragraph "f" of subrule 137.3(1) is rescinded and the following adopted in lieu thereof:

f. Required fee in the form of a check or money order made payable to the

Iowa State Department of Health.

ITEM 3. Subrule 137.4(7) is rescinded and the following adopted in lieu thereof:

137.4(7) Required fee in the form of a check or money order made payable to

the Iowa State Department of Health.

These amendments are intended to implement section 147.36 of the Code.

[Effective June 10, 1975]

HEALTH DEPARTMENT

(continued)

Pursuant to the authority of sections 135.11(15), 147.80, 154A.17, and 156.8 of the Code, the rules appearing in 1973 IDR pages 462 through 485, Title XXVI, relating to the licensing boards are amended by adding the following:

[Filed April 17, 1975]

CHAPTER 160

LICENSE FEES

160.1(147) Board of chiropractic examiners.

160.1(1) License to practice chiropractic issued upon the basis of an examination is forty dollars.

160.1(2) License to practice chiropractic issued by endorsement or under a reciprocal agreement is one hundred dollars.

160.1(3) Renewal of a license to practice chiropractic is twenty dollars.

160.1(4) Fee for a certified statement that a licensee is licensed in this state is five dollars.

160.1(5) Fee for a duplicate license is five dollars.

160.2(147) Board of podiatry examiners.

160.2(1) License to practice podiatry issued upon the basis of an examination is fifty dollars.

160.2(2) License to practice podiatry issued under a reciprocal agreement is one hundred dollars.

160.2(3) Renewal of a license to practice podiatry is twenty-five dollars.

160.2(4) Fee for a certified statement that a licensee is licensed in this state is five dollars.

160.2(5) Fee for a duplicate license is five dollars.

160.3(147) Board of physical therapy examiners.

160.3(1) License to practice physical therapy issued upon the basis of an examination is sixty dollars.

160.3(2) License to practice physical therapy issued under a reciprocal agreement is sixty dollars.

160.3(3) Renewal of a license to practice physical therapy is ten dollars.

160.3(4) Fee for a certified statement that a licensee is licensed in this state is five dollars.

160.3(5) Fee for a duplicate license is five dollars.

160.4(147) Board of optometry examiners.

160.4(1) License to practice optometry issued upon the basis of an examination is fifty dollars.

160.4(2) License to practice optometry issued under a reciprocal agreement is one hundred dollars.

160.4(3) Renewal of a license to practice optometry is forty dollars.

160.4(4) Fee for a certified statement that a licensee is licensed in this state is five dollars.

160.4(5) Fee for a duplicate license is five dollars.

160.5(147) Board of funeral directing and embalming examiners.

160.5(1) License to practice funeral directing issued upon the basis of an examination is ten dollars.

160.5(2) License to practice embalming issued upon the basis of an examination is ten dollars.

160.5(3) License to practice embalming issued under a reciprocal agreement is twenty dollars.

160.5(4) Renewal of a license to practice funeral directing is five dollars.

160.5(5) Renewal of a license to practice embalming is five dollars.

160.5(6) Fee for a certified statement that a licensee is licensed in this state is five dollars.

160.5(7) Fee for a duplicate license is five dollars.

160.5(8) Fee for student registration is five dollars.

160.6 and 160.7 Reserved.

160.8(154A) Board of examiners for licensing and regulation of hearing aid dealers.

160.8(1) License to practice as a hearing aid dealer issued upon the basis of an examination is fifty dollars.

160.8(2) License to practice as a hearing aid dealer issued under a reciprocal agreement is fifty dollars.

160.8(3) Renewal of a license to practice as a hearing aid dealer is twenty-five dollars.

160.8(4) Fee for a temporary permit is twenty-five dollars.

160.8(5) Fee for a certified statement that a licensee is licensed in this state is five dollars.

160.8(6) Fee for a duplicate license is five dollars.

These rules are intended to implement sections 135.11(15), 147.80, 154A.17, and 156.8 of the Code.

[Effective July 1, 1975]

HIGHWAY COMMISSION

Pursuant to the authority of section 321E.15 of the Code, rules appearing in 1973 IDR [amended in the July 1974 Supplement], Highway Commission, Chapter 2, page 499, relating to special permits, operation and movement of vehicles and loads of excess size and weight, are amended as follows:

[Filed May 14, 1975]

ITEM 1. 2.3(1)“a”(4) is amended by adding “(Construction machinery may have a gross weight of 36,000 pounds on any single axle equipped with a minimum size 26.5-inch by 25-inch flotation pneumatic tires and a maximum gross weight of 20,000 pounds on any single axle equipped with minimum size 18-inch by 25-inch flotation pneumatic tires, provided that the total gross weight of the vehicle or a combination of vehicles does not exceed a maximum of 73,280 pounds.)” immediately following the first paragraph.

ITEM 2. 2.3(1)“b”(4) is amended by adding “(Construction machinery may have a gross weight of 36,000 pounds on any single axle equipped with a minimum size 26.5-inch by 25-inch flotation pneumatic tires and a maximum gross weight

of 20,000 pounds on any single axle equipped with minimum size 18-inch by 25-inch flotation pneumatic tires, provided that the total gross weight of the vehicle or a combination of vehicles does not exceed a maximum of 73,280 pounds.)” immediately following the first paragraph.

ITEM 3. 2.3(1)“c”(4) is amended by adding “(Construction machinery may have a gross weight of 36,000 pounds on any single axle equipped with a minimum size 26.5-inch by 25-inch flotation pneumatic tires and a maximum gross weight of 20,000 pounds on any single axle equipped with minimum size 18-inch by 25-inch flotation pneumatic tires, provided that the total gross weight of the vehicle or a combination of vehicles does not exceed a maximum of 73,280 pounds.)” immediately following the first paragraph.

These rules are intended to implement chapter 321E of the Code.

[Effective May 14, 1975]

LABOR BUREAU

Pursuant to the authority of section 88.6(3) of the Code, 4.12(1) appearing in 1973 IDR, page 596, relating to Recording and Reporting Occupational Injuries and Illnesses, is amended to read as follows:

[Filed February 28, 1975]

4.12(1) Submission of petition. Any employer who wishes to maintain records in

a manner different from that required by this chapter may submit a petition containing the information specified in 4.12(3) to the Regional Director of the Bureau of Labor Statistics, BLS Regional Office, Kansas City, Missouri. State and local governmental units in Iowa shall submit their petitions to the labor commissioner of the Iowa bureau of labor.

[Effective March 30, 1975]

LABOR BUREAU

(continued)

Pursuant to the authority of section 88.5 of the Code, rules appearing in the January 1974 IDR Supplement, page 64, relating to Occupational Safety and Health Standards (chapter 10) are amended as follows.

[Filed March 13, 1975]

CHAPTER 10

Amend rule 10.21(88) by inserting at the end thereof the words

“39 Fed. Reg. 41846 (December 3, 1974)
39 Fed. Reg. 41848 (December 3, 1974)
40 Fed. Reg. 3982 (January 27, 1975)”.

[Effective March 13, 1975]

LABOR BUREAU

(continued)

Pursuant to the authority of section 88A.3 of the Code, rules appearing in July 1973 IDR Supplement, pages 24 to 38, relating to Safety Inspection and Regulation of Amusement Parks and Rides are amended.

[Filed April 8, 1975]

Subrule 61.19(6), is amended by striking and substituting the following in lieu thereof:

“61.19(6) Portable power, terminal box, supply cords, and cables.

a. Portable power outlet and terminal box. Boxes are to be rain tight and kept locked during the time when the general public is in the area. Wood boxes may be used if insulated on all sides with fire resistant material or painted with insulating varnish. The service power shall be connected to the box by receptacles mounted on the exterior walls which includes the safety grounding. The distribution within the box shall be accomplished by neutral terminal bar(s) and circuit breakers or fuses. The branch circuits which include the equipment safety grounding shall obtain their power through receptacles

mounted on the exterior of the box. The exterior openings of the receptacles must be at least six inches above ground level and provided with a protective cover, draining eve or canvas, that will avoid the possibility of rain on the receptacle. If it is required to run conductors directly through an opening on the wall of the box for additional service or to obtain required ampacity, the opening(s) shall be color coded and shall be sized to prevent public accessibility to the interior of the box. The fuses or breakers, in the boxes, shall be secured permanently in place, and all connections to the bus bars within the boxes to be made with threaded screws and lugs of the proper size to fasten wiring in place.

b. Supply cords and cables. Portable or permanent cord or cable assemblies supplying power to the current limiting disconnect of a ride, concession booth, or device shall contain within the assembly a conductor of equal size for equipment grounding. All conductors within the assembly shall not be smaller than #12 awg (American Wire Gage) wire and cords or cable assemblies purchased for this purpose after May 1, 1975, shall not be smaller than #10 awg (American Wire Gage)

wire. Current-carrying conductors within the assembly shall be protected with current limiting devices rated at or below the

current-carrying capacity of the conductors.

[Effective April 8, 1975]

LABOR BUREAU

(continued)

Pursuant to the authority of section 88A.3 of the Code, rules appearing in July 1973 IDR, Supplement, 24 to 38, and July 1974 IDR Supplement, 65 to 66, rules filed with the Secretary of State on April 8, 1975, relating to safety inspection and regulation of amusement parks and rides are restructured and revised so that Chapter 61 is divided into two chapters as follows; Chapter 61, *Administration—Amusement Park and Ride Division*, and Chapter 62, *Safety Rules for Amusement Parks and Rides*, and renumbered accordingly as follows:

[Filed June 19, 1975]

CHAPTER 61

ADMINISTRATION—AMUSEMENT PARK AND RIDE DIVISION

Rule 61.1(88A) is revised as follows:

61.1(88A) Purpose, scope and definitions. These rules institute administrative and operational procedures for implementation of the Act.

Subrules 61.1(9), 61.1(10), 61.1(12), 61.1(13), and 61.1(15) are renumbered as 61.1(4), 61.1(5), 61.1(6), 61.1(7), and 61.1(8) respectively.

Rule 61.20(88A) and all of its subrules are renumbered as rule 61.2(88A).

Rule 61.21(88A) is renumbered as rule 61.3(88A).

CHAPTER 62

SAFETY RULES FOR AMUSEMENT PARKS AND RIDES

Rule 61.1(88A) is restated and revised as follows:

62.1(88A) Purpose, scope and definitions. These rules establish minimum safety standards for the installation, repair, maintenance, use, operation and inspection of amusement parks, amusement rides and concession booths.

Subrules 61.1(1), 61.1(2) and 61.1(3) are repeated as subrules 62.1(1), 62.1(2) and 62.1(3), respectively.

Subrules 61.1(4), 61.1(5), 61.1(6), 61.1(8), 61.1(11), 61.1(14), 61.1(16), 61.1(17), 61.1(18), and 61.1(19) are transferred to be subrules 62.1(4), 62.1(5), 62.1(6), 62.1(7), 62.1(9), 62.1(12), 62.1(14), 62.1(15), 62.1(16), and 62.1(17), respectively.

Subrules 61.1(10), 61.1(12), 61.1(13) and 61.1(15) are repeated to be subrules 62.1(8), 62.1(10), 62.1(11) and 62.1(13), respectively.

Rules 61.2(88A), 61.3(88A), 61.4(88A), 61.5(88A), 61.6(88A), 61.7(88A), 61.8(88A), 61.9(88A), 61.10(88A), 61.11(88A), 61.12(88A), 61.13(88A), 61.14(88A), 61.15(88A), 61.16(88A), 61.17(88A), 61.18(88A) and 61.19(88A) are transferred to be rules 62.2(88A), 62.3(88A), 62.4(88A), 62.5(88A), 62.6(88A), 62.7(88A), 62.8(88A), 62.9(88A), 62.10(88A), 62.11(88A), 62.12(88A), 62.13(88A), 62.14(88A), 62.15(88A), 62.16(88A), 62.17(88A), 62.18(88A) and 62.19(88A).

[Effective June 19, 1975]

MERIT EMPLOYMENT DEPARTMENT

Pursuant to the authority of section 19A.9 of the Code, the rules appearing in the 1973 IDR, 628 to 629, relating to definitions, [chapter 1 of the merit employ-

ment department rules] are amended as follows:

[Filed January 15, 1975]

ITEM 1. On line 1, under subrule 1.1(13), by striking the entire section and inserting the following:

"Demotion" means a change of a classified employee from a position in a given classification to a position in a lower classification with a lower maximum rate of pay. Demotion may be voluntary, involuntary or result from a reallocation of a position.

ITEM 2. On line 1, under subrule 1.1(31), by striking the entire section and inserting the following:

"Promotion" means a change in status of a classified employee from a position in

a lower classification to a position in a higher classification having a higher maximum rate of pay.

ITEM 3. On line 1, under subrule 1.1(35), by striking the entire section and inserting the following:

"Transfer" means a change of a permanent classified employee from a position in one class to a different position in the same class in another agency or to a position in a different class with the same maximum rate of pay in the same or another agency from one geographical location to another geographical location.

[Effective January 15, 1975]

MERIT EMPLOYMENT DEPARTMENT

(continued)

Pursuant to the authority of section 19A.9 of the Code, the rules appearing in the 1973 IDR, 633 to 636, relating to administration of the pay plan, [chapter 4 of the merit employment department rules as amended August 16, 1973] are amended as follows:

[Filed January 15, 1975]

ITEM 1. On line 3, under paragraph 4.5(1)"c", by adding the words "or her" after the word "his".

On line 11, under paragraph 4.5(1)"c", by adding the sentence "A new merit review date shall be established upon reinstatement." after the word "employees."

On line 6, under paragraph 4.5(1)"d", after the word "leave." by adding "The merit review date shall be adjusted upon return from military or educational leave crediting the period of service on step before the leave, except when educational leave was required by the appointing authority. In such cases, time spent on required educational leave shall be fully credited toward the merit review date."

ITEM 2. On line 1, under paragraph 4.5(2)"c", by striking "Anniversary date" and inserting "Merit review date".

On line 3, under paragraph 4.5(2)"c", by adding the word "salary" after the word "the".

On line 4, under paragraph 4.5(2)"c", by adding the words "or she" after the word "he".

On line 6, under paragraph 4.5(2)"c", by adding ", pay differential" after the word "assignment".

On line 7, under paragraph 4.5(2)"c", by deleting the word "anniversary" and adding "merit review".

On line 10, under paragraph 4.5(2)"c", by adding the words "or her" after the word "his" and striking the word "anniversary" and adding the words "merit review".

On line 11, under paragraph 4.5(2)"c", by adding the words "or her" after the word "his".

On line 18, under paragraph 4.5(2)"c", by striking the word "increase" and adding the word "review".

ITEM 3. On line 4, under subrule 4.5(4), by striking the words "minimum step (A)" and inserting "maximum rate of pay."

ITEM 4. On line 2, under subrule 4.5(7), by adding the words "or her" after the word "his".

On line 4, under subrule 4.5(7), by adding "or she" after the word "he".

On line 5, under subrule 4.5(7), by inserting the words "or her" after the word "his".

On line 7, under subrule 4.5(7), by adding "The merit review date shall not change upon demotion." after the word "demoted."

ITEM 5. On line 3, under subrule 4.5(10), by adding "in the same agency" and deleting "or to a position in a different class in the same pay grade".

On line 5, under subrule 4.5(10), by adding "merit" after the word "a" and adding "because of the reassignment" after the word "increase".

On line 6, under subrule 4.5(10), by inserting "or her" after the word "his".

On line 7, under subrule 4.5(10), by striking the words "increase eligibility." and inserting "review date."

ITEM 6. On line 2, under paragraph 4.5(11) "a", by deleting the word "an" and adding "a permanent classified" before the word "employee".

On line 4, under paragraph 4.5(11) "a", by inserting "in another agency" after the word "class"; by inserting the word "to" after the word "or"; by inserting "having the same maximum rate of pay" after the word "class" and striking "in the same pay grade".

On line 5, under paragraph 4.5(11) "a", by inserting "or the same" before the word "agency"; by inserting "or her" after the word "his".

On line 6, under paragraph 4.5 (11) "a", by inserting the words "or she".

On line 7, under paragraph 4.5(11) "a", by adding "or her" after the word "his" and striking "eligibility for"; by striking "pay increases" and adding "review date".

On line 8, under paragraph 4.5(11) "a", by adding "Transfer from Schedule I classes to Schedule II classes, or the converse, shall be governed by the rules pertaining thereto." after the word "affected."

On line 2, under paragraph 4.5(11) "b", by inserting "class of" after the word "a"; by striking "in" after "position" and adding the word "having" before the word "a".

On line 3, under paragraph 4.5(11) "b", by striking "pay grade" and adding "maximum rate of pay"; by striking the word "his" and adding "the".

ITEM 7. On line 4, under subrule 4.5(12), by striking the word "promotion".

On line 5, under subrule 4.5(12), by striking "and subject to the certification of the state comptroller of the availability of funds." and by adding "A promotional pay increase given an employee as a result of a reallocation shall not change the merit review date except in instances where a shorter number of months would be required for merit pay increase eligibility in the new range and subject to the certification of the state comptroller of the availability of funds."

ITEM 8. On line 8, under subrule 4.5(16), by striking "III" and inserting "T".

ITEM 9. Following rule 4.8 by inserting the following under rule 4.9:

4.9(19A) Transfers from Pay Schedule I classes to Pay Schedule II classes or from Pay Schedule II classes to Pay Schedule I classes.

4.9(1) When an employee is transferred from a class in Schedule I to a class in Schedule II having the same maximum rate of pay:

a. If the employee's rate of pay is below the entrance step for the Schedule II class, the employee's pay shall be adjusted to the entrance rate and a new merit review date shall be established.

b. If the employee's rate of pay is equal to the entrance rate for the Schedule II class, the rate of pay shall not be adjusted and a new review date shall be established if the employee has served eighteen months or less on step in the Schedule I class; otherwise the merit review date shall remain unchanged.

c. If the employee's rate of pay is above the entrance rate for the Schedule II class, the rate of pay shall not be adjusted and a new review date shall be established if the employee has served six months or less on step in the Schedule I class; otherwise the merit review date shall remain unchanged.

4.9(2) When an employee is transferred from a Schedule II class to a Schedule I class having the same maximum rate of pay, the rate of pay shall not be adjusted and a new merit review date shall be established. And, the time spent on step in Schedule II shall be credited for the time interval required in the Schedule I class.

4.9(3) If an employee is demoted from a Schedule I class to a Schedule II class and his or her rate of pay is below the entrance step of the Schedule II class, the rate of pay shall be adjusted to the entrance step of the Schedule II class and a new review date shall be established.

4.10(19A) Pay upon re-employment from a reduction in force layoff. Any person who has been laid off because of a reduction in force and then is re-employed under the provisions of these rules shall have his or her salary set at the step in the

current salary range for the class from which laid off that corresponds to the step on which she was paid upon layoff because of a reduction in force. In addition, accrued sick leave earned prior to the layoff shall be reinstated and eligibility for vacation entitlement and seniority shall date from the original date of entry into continuous state classified, less the period of the layoff. The merit review date shall be unchanged, but less the period of layoff.

[Effective January 15, 1975]

MERIT EMPLOYMENT DEPARTMENT

(continued)

Pursuant to the authority of section 19A.9 of the Code, the rules appearing in the 1973 IDR, page 645, relating to appointments, (chapter 8 of the merit employment department rules) are amended as follows:

[Filed May 13, 1975]

ITEM 1. On line 9, under subrule 8.13, by striking "May 1 to September 30" and inserting "May 15 to September 15".

ITEM 2. On line 19, under subrule 8.13, by adding after the word "rules." the following sentence: "This section applies to grant-in-aid agencies only."

[Effective May 13, 1975]

MERIT EMPLOYMENT DEPARTMENT

(continued)

Pursuant to the authority of section 19A.9 of the Code, the rules appearing in the 1973 IDR, page 652, and the January 1974 supplement, page 67, relating to vacation and leave, (chapter 14 of the merit employment department rules) are amended as follows:

[Filed May 19, 1975]

ITEM 1. Paragraph 14.2"b", strike the entire paragraph and add the following:

b. Two weeks vacation during the first and through the fourth year of employment (3.0769 hours per biweekly pay period).

[Effective May 19, 1975]

MERIT EMPLOYMENT DEPARTMENT

(continued)

Pursuant to the authority of section 19A.9 of the Code, the rules appearing in the 1973 IDR, page 652, relating to vacation and leave (chapter 14 of the merit employment department rules) are amended as follows:

[Filed May 19, 1975]

ITEM 1. Paragraph 14.2"e", line 1, strike the entire paragraph and insert the following:

c. Three weeks vacation during the fifth and through the eleventh year of

employment (4.6151 hours per biweekly pay period).

ITEM 2. Paragraph 14.2"d", line 1, strike the entire paragraph and insert the following:

d. Four weeks of vacation during the twelfth and all subsequent years of employment (6.1538 hours per biweekly pay period).

[Effective May 19, 1975]

MERIT EMPLOYMENT DEPARTMENT

(continued)

Pursuant to the authority of section 19A.9 of the Code, on page 657 of the 1973 IDR, by adding a new chapter (chapter 19) following chapter 18, as follows:

[Filed May 13, 1975]

CHAPTER 19 GENERAL

19.1(19A) Personnel administration. The Iowa state merit system of personnel administration is established and governed by the provisions of chapter 19A of the Code. The operational unit under such authority is the merit employment department through the executive responsibility of the director of merit employment. Within the merit employment department a merit employment commission of five members is appointed by the Governor subject to the approval of two-thirds of the Senate. The commission is nonpartisan and no more than three members of the commission may be of the same political party. The merit employment department is the central personnel agency responsible for all aspects of the state's personnel program governing appointments, promotion, layoff, transfers, welfare, discipline, appeal, grievance, salary, classification, selection and leave based on merit principles, equal opportunity and fitness. The agency's operational structure is composed of two groups, clerical administration and technical services. Information, submissions or requests concerning any operation of the merit employment department should be addressed to Grimes State Office Building, State Capitol, Des Moines, Iowa 50319. Telephone contact may be made through the listings provided in the Des Moines telephone directory.

19.2(19A) Application forms. The merit employment department does not require special forms for any appeal or request to the merit employment commission or to the merit employment department as provided in these rules. All appeals and requests must, however, be in writing. Official application forms are provided by merit employment department and are available from merit employment depart-

ment and state agencies and employment security commission employment offices.

19.3(19A) Declaratory rulings by the merit employment department.

19.3(1) Any person may make a written request for a declaratory judgment as to statutory provisions of the merit act, rule, or other written statement of law or policy, decision or order of the merit employment commission, the merit employment department, the director or other authorized person.

19.3(2) No special form or procedure shall be required for a request for a declaratory judgment. The request must state specifically the statutory provision, rule, written statement of law, policy, decision or order concerned and enough information must be presented in the posed question so it may be answered completely and accurately.

19.3(3) Answers to requests for declaratory judgments will be made within seven working days of the receipt of the request, unless the request must be answered by the merit employment commission. In the latter instance the request will be presented to the merit employment commission at their next regularly scheduled meeting and answer will be made within five working days following that merit employment commission meeting. If it is necessary the request be presented to the merit employment commission, petitioner will be notified of such action.

19.3(4) Declaratory rulings made by the merit employment department, the merit employment commission, the director or other authorized person shall have the same status as a decision or order in a contested case.

19.4(19A) Petition for promulgation, amendment, revision or repeal of a merit rule.

19.4(1) Any person may petition the merit employment commission or the director requesting the promulgation, amendment, revision or repeal of a merit rule.

19.4(2) No special form shall be re-

quired for such petition, but the following shall be required for consideration:

a. The petition shall be in writing.

b. A proposed promulgation, amendment, revision or repeal petition shall be specific and detailed sufficiently so the proposal can be accurately understood. A promulgation, amendment or revision petition shall be submitted in rule form as with other merit rules. General statements will not be entertained.

c. An explanatory statement for the proposed promulgation, amendment, revision or repeal shall accompany each petition.

d. More than one petition may be submitted at any given time, but each must comply with subsection b and c.

19.4(3) Within sixty days after the receipt of a petition, the merit employment commission or the director shall:

a. Deny the petition in writing on the merits stating reasons for the denial, or;

b. Initiate rule making proceedings in accordance with section 17.4 of the Code.

[Effective July 1, 1975]

PHARMACY

Pursuant to the authority of sections 147.90, 147.96 and 155.19 of the Code, rules appearing in 1973 IDR, page 676 relating to fees for duplicate licenses and certification of grades are rescinded and the following adopted in lieu thereof:

[Filed April 8, 1975]

CHAPTER 4

LICENSE FEES, RENEWAL DATES, FEES FOR DUPLICATE LICENSES AND CERTIFICATION OF GRADES

4.1(147) **Renewal date and fee.** License to practice pharmacy shall expire on the thirtieth day of June following the date of issuance of the license. The license renewal form shall be issued upon payment of a twenty dollar fee.

Failure to renew the license within thirty days after expiration, shall pay a renewal fee of twenty-five dollars.

4.2(147) **Fees.** Duplicate certificates for registered pharmacists may be issued for a fee of five dollars each.

4.3(147) **Fee—certification of grades.** Certification of grades shall be made upon payment of a ten dollar fee.

4.4(155) **Pharmacy license—fees.** Pharmacy license, new or renewal, shall be thirty-five dollars.

Failure to renew the license within thirty days after expiration, shall pay a renewal fee of forty dollars.

4.5(155) **Wholesale license—fees.** Wholesale license, new or renewal, shall be fifty dollars.

Failure to renew the license within thirty days after expiration, shall pay a renewal fee of fifty-five dollars.

These rules are intended to implement chapters 147 and 155 of the Code.

[Effective July 1, 1975]

PHARMACY

(continued)

Pursuant to the authority of section 204.301 of the Code, rules appearing in the 1973 IDR, page 678 relating to registration and annual registration fees are amended as follows:

[Filed April 8, 1975]

ITEM 1. Rule 8.3(204) is amended by striking from line 6 the word "five" and inserting in lieu thereof the word "ten".

Subrule 8.3(2) is rescinded and the following inserted [in lieu] thereof:

8.3(2) **Late application.** Persons required to register or annually register under the provisions of chapter 204, division III, who file late application, shall pay a fee of fifteen dollars.

[Effective July 1, 1975]

PUBLIC EMPLOYMENT RELATIONS BOARD

Pursuant to the authority of chapter 1095, section 6, subsection 5, of the Acts of the Sixty-fifth General Assembly, second session [chapter 20 of the Code], the following rules are adopted:

[Filed March 4, 1975]

CHAPTER 1

GENERAL PROVISIONS

1.1(20) Construction and severability.

These rules shall be liberally construed to effectuate the purposes and provisions of the public employment relations Act. If any provisions of these rules are held to be invalid, it shall not be construed to invalidate any of the other provisions of these rules.

1.2(20) General agency description.

The public employment relations board is a three member board consisting of a chairman and two board members. The duties of the board are to administer the provisions of the public employment relations Act, including determination of appropriate bargaining units, the conduct of bargaining representative elections, and adjudication of prohibited practice complaints. The board also collects and disseminates data relating to terms and conditions of public employment; and maintains a list of mediators, fact-finders and arbitrators, and establishes their rate of compensation. The staff of the board includes an executive director and labor relations examiners, who may act as hearing officers, conduct investigations of prohibited practices, act as election agents, and conduct research projects for the board. The executive director is responsible to the board, and is responsible for administrative matters and general supervision of board staff.

1.3(20) General course and method of operation. Upon receipt of a petition or complaint, the board may assign an investigator to the case to prepare a preliminary report. In the case of a complaint, the board may determine that the charge is without basis and dismiss the complaint without further proceedings. Complaints not dismissed and petitions are assigned for a hearing before either a hearing officer or the board, unless the procedures for informal settlement described in these rules are followed. The

hearing officer or the board will conduct a hearing on the complaint or petition and issue an order. The decisions of hearing officers are appealable to the board, and final orders and decisions of the board are appealable to the district court.

1.4(20) Method of obtaining information and making submissions or requests. Any person may obtain information from, make submission to, or make a request of the board by writing to Executive Director, Iowa Public Employment Relations Board, 507 10th Street, Des Moines, Iowa 50309.

1.5(20) Petition for adoption of rules. Any person may petition the board for the adoption of a rule. Such petition shall be in writing and shall include:

1.5(1) The name and address of the person requesting the adoption of the rule;

1.5(2) A statement of the proposed rule;

1.5(3) A statement of why the rule is being proposed for adoption. Within sixty days of the board's receipt of the proposed rule, the board shall either deny the petition in writing, stating its reasons for the denial or shall initiate rule-making proceedings in accordance with chapter 17A of the Code.

1.6(20) Definitions.

1.6(1) "*Act*" as used in these rules shall mean the public employment relations Act, chapter 20.

1.6(2) "*Board*" as used in these rules shall mean the public employment relations board.

1.6(3) *Petitioner* — complainant — respondent — intervenor.

a. "*Petitioner*" means the party filing a petition under sections 20.13 or 20.14 [of the Code].

b. "*Complainant*" means the party filing a complaint under section 20.11, alleging the commission of a prohibited practice.

c. "*Respondent*" means the party accused of committing a prohibited practice.

d. "*Intervenor*" means a party who voluntarily interposes in a proceeding with

the approval of the board or hearing officer.

1.6(4) "*Party*" as used in these rules shall mean any person, employee organization or public employer who has filed a petition or complaint under the Act or these rules; who has been named as a party in a complaint, petition or other matter under these rules; or whose motion to intervene has been granted by the board.

1.6(5) "*Impasse item*" means any term which was a subject of negotiations and proposed to be included in a collective bargaining agreement upon which the parties have failed to reach agreement in the course of negotiations, except as provided for in 6.1(20). Failure of the parties to agree upon impasse procedures shall not constitute an impasse item or compel implementation of impasse procedures.

1.6(6) "*Impasse procedures*" means either the procedures set forth in sections 20.20, 20.21 and 20.22; or any procedures agreed upon by the parties which commence no later than one hundred twenty days prior to the certified budget submission date of the public employer, and which result in a binding collective bargaining agreement.

1.7(20) **Computation of time.** Time periods established by these rules shall be computed pursuant to section 4.1(22) of the Code.

These rules are intended to implement chapter 1095, Acts of the Sixty-fifth General Assembly, second session [chapter 20 of the Code].

[Effective March 4, 1975]

PUBLIC EMPLOYMENT RELATIONS BOARD

(continued)

Pursuant to the authority of chapter 1095, section 6, subsection 5, of the Acts of the Sixty-fifth General Assembly, second session [chapter 20 of the Code], the following rules are adopted:

[Filed March 4, 1975]

CHAPTER 2 GENERAL PRACTICE AND HEARING PROCEDURES

2.1(20) **Hearing — time and place — hearing officer.** The board shall fix the time and place for all hearings. Hearings may be conducted by the board, or by one or more members thereof, or by a hearing officer designated by the board.

2.2(20) **Notice of hearing — contents.** Written notice of the hearing shall be delivered by the board to all parties by personal service as in civil actions or by certified mail, return receipt requested. Such notice shall include:

2.2(1) A statement of the time, place and nature of hearing.

2.2(2) A statement of the legal authority and jurisdiction under which the hearing is to be held.

2.2(3) A reference to the particular sections of the statutes and rules involved.

2.2(4) A short and plain statement of the matters asserted.

2.3(20) **Failure to appear.** If a party fails to appear after proper service of notice, the hearing officer may, if no continuance is granted, proceed with the hearing and render a decision in the absence of the party.

2.4(20) **Additional parties.** Where necessary to achieve a more proper decision, the board or hearing officer may, on its own motion or the motion of any party, order the bringing in of additional parties. When so ordered, the board shall serve upon such additional parties all relevant pleadings, and allow such parties a reasonable period of time to respond thereto where appropriate.

2.5(20) **Continuance.** Hearings or proceedings on any matter may be continued by order of the board, by the director thereof, or by a hearing officer, with the reasons therefor set out in said order, and notice thereof to all parties. Parties may, upon written application to the board or its director prior to commencement of the hearing or other proceeding, or oral application to the hearing officer during

said hearing, but not ex parte, request a continuance. A continuance may be allowed for any cause not growing out of the fault or negligence of the applicant, which satisfies the board, its director or hearing officer that a proper decision or result will be more nearly obtained by granting such continuance. Such continuance may also be granted if agreed to by all parties and approved by the board, or its director, or hearing officer.

2.6(20) Appearances and conduct of parties. Any party may appear and be heard on its own behalf, or by its designated representative. All persons appearing in proceedings before the board shall conform to the standard of ethical conduct required of attorneys before the courts of the state of Iowa. If any person refuses to conform to such standards, the board may decline to permit such person to appear in any proceeding.

2.7(20) Evidence — objections. Rules of evidence shall be those set forth in the administrative procedures Act. Any objection with respect to the conduct of the hearing, including an objection to the introduction of evidence, may be stated orally or in writing, accompanied by a short statement of the grounds of such objection, and included in the record. No such objection shall be deemed waived by further participation in the hearing.

2.8(20) Order of procedure. The employer shall present its evidence first in unit determination hearings. The complainant shall present its evidence first and shall have the burden of proof in prohibited practice hearings. Intervenors shall follow the parties in whose behalf the intervention is made; if not made in support of a principal party, the hearing officer shall designate at what stage such intervenors shall be heard. The order of other parties shall be determined by the hearing officer. All parties shall be allowed cross-examination and an opportunity for rebuttal. At any stage of the hearing or after the close of the hearing but prior to decision, the board or hearing officer may call for further evidence to be presented by the party or parties concerned.

2.9(20) Amendments. A petition, complaint or answer may be amended for good cause shown, but not ex parte, upon motion at any time prior to the decision. Allowance of such amendments, including

those to conform to the proof, shall be within the discretion of the board or hearing officer. The board or hearing officer may impose terms, or grant a continuance with or without terms, as a condition of such allowance. Such motions prior to hearing shall be in writing filed with the executive director, and the moving party shall serve a copy thereof upon all parties by ordinary mail.

2.10(20) Briefs and arguments. At the discretion of the board or hearing officer, oral arguments may be presented by the parties with such time limits as determined by the board or hearing officer. Briefs may be filed in such order and within such time limits as set by the board or hearing officer.

2.11(20) Sequestration of witnesses. Upon its own motion, or the motion of any party, the board or hearing officer may order the sequestration of witnesses to be called in any prohibited practice proceeding.

2.12(20) Subpoenas. The board or hearing officer shall issue subpoenas to compel the attendance of witnesses and the production of relevant records upon written application of any party filed with the executive director prior to the hearing or oral motion before the hearing officer. Such application may be ex parte, and shall state the name and address of the person to be subpoenaed and in whose behalf the witness is to be called. Applications for production of records shall list with specificity the items sought for production and the name and address of the person or party having possession or control thereof. A motion to quash subpoenas issued by the board may be filed with the board prior to hearing or with the hearing officer at the time of hearing. Such motion filed prior to hearing shall be in writing, and the moving party shall provide copies thereof to all parties of record.

2.13(20) Form of documents. All documents, other than forms provided by the board, which relate to any proceeding before the board should be typewritten on legal size paper and bear the docket number of the proceeding to which it relates. Such documents may be single or double-spaced at the option of the submitting party.

2.14(20) Captions. The following captions for documents other than forms provided by the board are suggested for use in practice before the board:

2.14(1) In prohibited practice proceedings:

Before the Public Employment
Relations Board

XYZ,
Complainant

[name of document]

and

Case No. 1234

John Doe,
Respondent

2.14(2) In proceedings pursuant to a petition:

Before the Public Employment
Relations Board

In the matter of

[name of document]

XYZ Public Employer,

and

Case No. 1234

John Doe, Petitioner

2.15(20) Service of pleadings and other papers.

2.15(1) Service — upon whom made. Whenever under these rules service is required to be made upon a party, such service shall be as follows:

a. Upon any city, or board, commission, council or agency thereof, by serving the mayor or city clerk.

b. Upon any county, or office, board, commission or agency thereof, by serving the county auditor or the chairman of the county board of supervisors.

c. Upon any school district, school township, or school corporation by serving the presiding officer or secretary of its governing body.

d. Upon the state of Iowa, or board, commission, council, office or agency thereof, by serving the governor or the individual designated by the governor to receive such service, the name and address of the latter to be registered with the board.

e. Upon any other governing body by serving its presiding officer, clerk or secretary.

f. Upon an employee organization by serving the person designated by the em-

ployee organization to receive service pursuant to 8.2(2), or, in absence of such designation, by service upon the president of the employee organization.

g. Upon any other person by serving that person or his or her attorney of record.

2.15(2) Proof of service. Where service is by restricted certified mail or personal service, the serving party shall forward the return receipt or return of service to the executive director for filing. Where service by ordinary mail is permitted under these rules, the serving party shall include the following certificate on the original document filed with the board:

"I hereby certify that on
(date)

I sent a copy of the above and foregoing matter to the following parties of record or their representatives at the addresses indicated, by depositing same in a United States mail receptacle with sufficient postage affixed thereto.

(Signed)

....."
(party or representative)

2.16(20) Consolidation. Upon application of any party or upon its own motion, the board may consolidate for hearing any cases which factually arise out of the same transaction or occurrence.

2.17(20) Prohibition against testimony of mediators, fact-finders, arbitrators and board employees. No mediator, fact-finder, arbitrator, executive director, labor relations examiner, hearing officer, member of the board or other officer or employee of the board shall testify in behalf of any party to a prohibited practice, representation, or impasse resolution proceeding pending in any court or before the board, with respect to any information, facts or other matter coming to his knowledge through a party or parties in his official capacity as a resolver of disputes.

These rules are intended to implement chapter 1095, Acts of the Sixty-fifth General Assembly, second session [chapter 20 of the Code].

[Effective March 4, 1975]

PUBLIC EMPLOYMENT RELATIONS BOARD

(continued)

Pursuant to the authority of chapter 1095, section 6, subsection 5, of the Acts of the Sixty-fifth General Assembly, second session, [chapter 20 of the Code], the following rules are adopted:

[Filed March 4, 1975]

CHAPTER 3 PROHIBITED PRACTICE COMPLAINTS

3.1(20) Filing of complaint. A complaint that any person, organization or public employer has engaged in or is engaging in a prohibited practice under the Act may be filed by any person, employee organization or public employer. A complaint shall be in writing and signed and certified according to these rules, and may be on a form provided by the board. The original and two copies of the complaint shall be filed with the director. A complaint shall be deemed untimely and shall be dismissed if filed with the director more than ninety days following the alleged violation.

3.2(20) Contents of complaint. The complaint shall include the following:

3.2(1) The name and address and organizational affiliation, if any, of the complainant, and the title of any representative filing the complaint.

3.2(2) The name and address of the respondent or respondents and any other party named therein.

3.2(3) A clear and concise statement of the facts constituting the alleged prohibited practice, including the names of the individuals involved in the alleged act, the dates and places of the alleged occurrence, and the specific section or sections of the Act alleged to have been violated.

3.3(20) Clarification of complaint. The board may, on its own motion or motion of the respondent, require the complainant to make the complaint more specific in certain particulars.

3.4(20) Service of complaint. The complainant shall serve the respondent(s) with a copy of the complaint in the manner of an original notice or by restricted

certified mail, return receipt requested, addressed to the last known address of the respondent(s). Such service shall be made within five days of the filing of the complaint with the director, and the complainant shall file the return of service with the director.

3.5(20) Answer to complaint.

3.5(1) Filing and service. Within ten days of service of a complaint, the respondent(s) shall file with the director the original and two copies of a written answer to the complaint, and cause a copy thereof to be delivered to the complainant by ordinary mail to the address set forth in the complaint. The answer shall be signed by the respondent(s) or the designated representative of the respondent(s).

3.5(2) Extension of time to answer. Upon application and good cause shown, the director may extend the time to answer to a time and date certain.

3.5(3) Contents of answer. The answer shall include a specific admission or denial of each allegation of the complaint or, if the respondent is without knowledge thereof, he shall so state and such statement shall operate as a denial. Admissions or denials may be made to all or part of an allegation, but shall fairly meet the circumstances of the allegations. Where matters are denied with knowledge, the respondent shall set forth the specific facts as known to him with regard to such matters. The answer shall include a specific detailed statement of any affirmative defense. Matters contained in the answer shall be deemed to have been denied by the complainant, and no responsive pleading is required.

3.5(4) Admission by failure to answer. If the respondent fails to file a timely answer, such failure may be deemed by the board to constitute an admission of the material facts alleged in the complaint and a waiver by the respondent of a hearing.

3.6(20) Withdrawal of complaint. A complaint or any part thereof may be withdrawn with the consent of the director or the board, and upon such conditions as the director or board may deem

proper. Such withdrawal shall constitute a bar to refileing the same complaint or part thereof by the complainant.

3.7(20) Amendment of complaint or answer. See 2.9(20).

3.8(20) Investigation of complaint. Subsequent to the filing of a complaint with the director, the board or its designee may, in its discretion, conduct a preliminary investigation of the allegations of the complaint. In conducting such investigation, the board may require the complainant and respondent to furnish evidence, including affidavits and other documents if appropriate. If a review of the evidence shows that the complaint has no basis in fact, same shall be dismissed with prejudice by order of the board and the parties notified. If the evidence shows reasonable cause to believe that a prohibited practice has occurred, the director shall so notify the parties. If the parties are unable to agree on an informal settlement within fifteen days of notification of reasonable cause, the director shall schedule the complaint for hearing. Board employees involved in investigations under this section shall not act as hearing officers in any proceeding related to such investigation.

3.9(20) Statements and affidavits—confidentiality. Statements and affidavits required by or furnished to the board or director for purposes of conducting a preliminary investigation of an alleged prohibited practice shall be confidential records of the board. However, where the person submitting such statement or affidavit testifies at hearing on the alleged prohibited practice, such statements shall be made available to opposing parties prior to cross-examination.

3.10(20) Informal disposition. Any prohibited practice case commenced with the board may be informally settled by stipulation, agreed settlement, consent order, default, or by any other method agreed upon by the parties in writing, subject, however, to approval by the board.

3.11(20) Evidence of settlement negotiations. Evidence of proposed offers of settlement of a prohibited practice complaint shall be inadmissible at the hearing thereon.

These rules are intended to implement chapter 1095, Acts of the Sixty-fifth General Assembly, second session [chapter 20 of the Code].

[Effective March 4, 1975]

PUBLIC EMPLOYMENT RELATIONS BOARD

(continued)

Pursuant to the authority of chapter 1095, section 6, subsection 5, of the Acts of the Sixty-fifth General Assembly, second session [chapter 20 of the Code], the following rules are adopted:

[Filed March 4, 1975]

CHAPTER 4

BARGAINING UNIT AND BARGAINING REPRESENTATIVE DETERMINATION

4.1(20) General procedures.

4.1(1) Separate or combined petitions. Request for bargaining unit determination and bargaining representative determination shall be by petitions which shall be filed separately. However, where a request has been made to a public employer to bargain collectively with a designated group of public employees and the board

has not previously determined the bargaining unit, such petitions shall be filed jointly or on a combined form provided by the board.

4.1(2) Application for intervention. Any interested party may request intervention in the proceedings pursuant to a petition for bargaining unit determination, bargaining representative determination, or a combined petition. Application for intervention shall be in writing, except that applications made during a hearing may be made orally to the hearing officer, and shall contain a statement of the reason for such intervention. In applications for intervention in an election proceeding, the rules set forth in 4.3(2), 4.4(4) and 5.1(4) shall apply.

4.1(3) Withdrawal of petitions. Petitions may be withdrawn only with the consent of the board or its director. Petitions withdrawn after the commencement of a

hearing on such petitions, or withdrawn after direction of an election where no hearing was conducted, may not be refiled by the withdrawing party for a period of six months following the board order permitting such withdrawal.

4.2(20) Unit determination.

4.2(1) *Content of petition.* A petition for bargaining unit determination shall be on a form provided by the board and shall be filed by delivery of an original and two copies thereof to the board.

4.2(2) *Notice to parties.* Upon receipt of a proper petition, the director shall serve copies thereof upon other interested parties by restricted certified mail, return receipt requested.

4.2(3) *Notice of hearing.* The director shall issue a notice of hearing by restricted certified mail, return receipt requested, to all interested parties setting forth the time, date and place of the hearing and any other relevant information. The director shall provide additional copies of the notice of hearing to the public employer, which notices shall be posted by the public employer, in conspicuous places customarily used for the posting of information to employees.

4.2(4) *Intervention.* See 4.1(2).

4.2(5) *Professional and nonprofessional elections.* If, in any case, the board should determine that professional employees and nonprofessional employees could be represented in a single bargaining unit, the board shall direct and supervise an election among such employees to determine whether they wish to be represented in a single or in separate bargaining units. Such election shall be by secret ballot under such conditions as the board or its director may prescribe. Absentee ballots shall be as provided for in 5.2(5). Such elections may, in the discretion of the board, be conducted in whole or in part by mail ballots, as provided for in 5.1(3). A majority affirmative vote of those voting in each category shall be necessary to include professional and nonprofessional employees within the same bargaining unit. The rules concerning voting lists, as set forth in 5.1(2), shall apply.

4.2(6) *Informal settlement of bargaining unit determination.* Cases on bar-

gaining unit determination may be informally settled in the following manner:

a. The petitioning party shall prepare a proposed decision setting forth in detail the composition of the bargaining unit as agreed upon by all parties. The proposed decision shall be signed by the authorized representative(s) of the parties involved and the original and two copies thereof shall be forwarded to the director for informal review and tentative approval by the board. If the board fails to tentatively approve the proposed decision, the director shall so notify the parties and, unless the parties amend the proposed decision in such a manner as to gain tentative approval of the board, the matter shall proceed to hearing. If the board tentatively approves the proposed decision, same shall be endorsed thereon and copies delivered to the parties. The public employer shall then give notice of the proposed decision by posting a notice of the proposed decision, for a period of not less than one calendar week, in a prominent place in the main office of the public employer accessible to the general public and in conspicuous places customarily used for the posting of information to employees. The public employer shall also have copies of the proposed decision available for distribution to the public upon request.

b. Notice of the proposed decision shall be on a form provided by the board which shall identify the parties; specify the terms of the proposed decision; list the names, addresses and telephone numbers of the parties or their authorized representatives to whom inquiries by the public should be directed; and, further, state the date by which written objection to the proposed decision must be filed with the board and the address to which such objections should be sent.

c. Objections to the proposed decision must be filed with the board by the date posted in the notice of proposed decision. Objections shall be in writing, addressed to the director and shall set out the specific grounds of objection. The objecting party must identify itself and provide a mailing address and telephone number. The director shall promptly advise the parties of such objections and make such investigation as deemed appropriate. If the director deems the objections to be of substance, the parties may, with board approval, amend their proposed decision

to conform therewith, and the objecting party shall be notified by the director of such amendment. If such objections cannot be informally resolved, same shall be resolved at hearing.

d. Final board decision on the informal settlement shall be reserved until expiration of the time for filing of objections. If no objections have been filed; or if filed objections have been resolved through amendment of the proposed decision; or if filed objections, after inquiry by the director, were found to be frivolous, the board shall endorse the proposed decision as final.

4.3(20) Bargaining representative determination (election petitions).

4.3(1) Form of petition. A petition for bargaining representative determination (election petition) shall be on a form provided by the board and shall be filed by delivery of an original and two copies thereof to the board. Such petitions shall be of three types:

a. A certification petition, filed by an employee organization requesting that through an election it be certified as the exclusive bargaining representative in an appropriate unit of public employees,

b. A decertification petition, filed by an employee requesting an election to determine whether a certified bargaining representative does, in fact, represent a majority of the employees in the bargaining unit, and

c. A representation petition, filed by a public employer requesting an election to determine the bargaining representative, if any, of the employees in the bargaining unit.

4.3(2) Showing of interest—certification—decertification—intervention. Whenever a petition for certification or decertification is filed, or whenever intervention is requested for the purpose of being placed on an election ballot, the petitioner or intervenor shall submit therewith evidence that the petition or application for intervention is supported by employees in the unit in the following percentages: Thirty per cent for certification or decertification and ten per cent for intervention in election proceedings. In petitions for certification or applications for intervention, such interest showing shall be dated and signed not more than one year prior

to its submission; shall contain the job classification of the signator; and shall contain a statement that the signator is a member of the employee organization or has authorized it to bargain collectively on his behalf. In appropriate cases, an authenticated dues checkoff list may be used for this purpose. In petitions for decertification, evidence of interest shall be as provided above and shall further contain a statement that the signator no longer wishes to be represented by the certified employee organization.

4.3(3) Determination of showing of interest. The public employer shall, upon request, submit to the board a list of the names and job classifications of the employees in the unit requested by the petitioner. The board shall administratively determine the sufficiency of the showing of interest upon receipt of such list. Such determination shall be confidential and not subject to review, and parties other than the party submitting the interest showing shall not be entitled to a copy, or examination of, the showing of interest; if the employer fails to furnish the list of employees, the board shall determine the sufficiency of the interest showing by whatever means it deems appropriate.

4.3(4) Notice. Upon the filing of a petition for certification, decertification or representation, the board shall furnish to the employer a notice to employees, giving notice to employees that an election petition has been filed and setting forth the rights of employees under the Act. Such notices shall be posted by the public employer in conspicuous places customarily used for the posting of information to employees.

4.3(5) Direction of election. Whenever an election petition is filed which conforms to these rules and the Act and the appropriate bargaining unit has been previously determined, an election shall be directed and conducted.

4.3(6) Intervention. See 4.1(2).

4.4(20) Concurrent (combined) petitions.

4.4(1) When to file. A combined petition for both bargaining unit determination and bargaining representative determination shall be filed whenever a question of representation exists and the bargaining unit has not been previously determined by the board.

4.4(2) Content of petition. A combined petition for unit determination and representative determination (election) shall be on a form provided by the board and shall be filed by delivery of an original and two copies thereof to the board.

4.4(3) Notice of petition, hearing, and notice to employees. Upon receipt of a combined petition, notice shall be as provided in 4.2(2), 4.2(3) and 4.3(4).

4.4(4) Showing of interest. Showing of interest shall be as provided in 4.3(2) and 4.3(3). Should the board determine an appropriate unit different than that requested, any employee organization affected thereby may request a reasonable period of time to submit additional evidence of interest sufficient to satisfy the requirements of the Act.

4.4(5) Scope of hearing. Hearings on combined petitions shall resolve all issues with regard to both bargaining unit determination and bargaining representative determination.

4.4(6) Intervention. See 4.1(2).

4.4(7) Professional and nonprofessional elections. See 4.2(5).

4.5(20) Unit reconsideration. A petition for reconsideration of a board-established bargaining unit may be filed by an employee organization or an employee of the public employer, where the initial unit determination was made in the absence of a question of representation. Such petition may be filed only in combination with an election petition. The rules set forth in 4.1(20), 4.2(20), 4.3(20) and 4.4(20) shall apply, except that the board may investigate such petition and, if it determines that the petitioner has not established grounds that the previous board determination of the bargaining unit is inappropriate, the board may dismiss such petition forthwith. A petition for recon-

sideration of a board-established bargaining unit covering state employees may not be filed until after one year of the initial unit determination.

4.6(20) Amendment of unit.

4.6(1) Petition. A petition for amendment of a board determined bargaining unit may be filed by a public employer or a certified employee organization. Such petition must be in the absence of a question of representation and shall contain:

a. The name and address of the public employer and employee organization.

b. An identification of the existing unit and a description of the proposed amended unit.

c. The names and addresses of any other employee organizations which claim to represent any employees affected by the proposed amendment or a statement that the petitioner has no knowledge of any other such organization.

d. The job classifications of the employees as to whom the issue is raised and the number of employees in each classification.

e. A specific statement of the petitioner's reasons for seeking amendment of the unit and any other relevant facts.

4.6(2) Procedure—decision. Insofar as applicable, the rules set forth in 4.2(20) shall apply, except that the board may conduct an investigation and issue a decision and order without hearing. Where appropriate, such order may amend the certification of the affected employee organization(s) consistent with the decision.

These rules are intended to implement chapter 1095, Acts of the Sixty-fifth General Assembly, second session [chapter 20 of the Code].

[Effective March 4, 1975]

PUBLIC EMPLOYMENT RELATIONS BOARD

(continued)

Pursuant to the authority of chapter 1095, section 6, subsection 5, of the Acts of the Sixty-fifth General Assembly, second session [chapter 20 of the Code], the following rules are adopted:

[Filed March 4, 1975]

CHAPTER 5 ELECTIONS

5.1(20) General procedures.

5.1(1) Notice of election. Upon direction of an election, notices of election, in a

form provided by the board, shall be posted by the public employer in conspicuous places customarily used for the posting of information to employees. Such notices shall contain a sample ballot and shall set forth the date, time, place and purpose of the election, and such additional information as the board may deem appropriate.

5.1(2) Eligibility—eligibility list. Eligible voters are those employees who

(a) Were employed in the bargaining unit during the payroll period immediately preceding the final determination of the appropriate unit or the filing of the election petition, whichever occurs later, and

(b) Are employed in the bargaining unit on the date of the election. Where the board issues an order defining the appropriate bargaining unit and an election petition is pending, or in the case of a combined petition, the board shall further order the public employer to submit to the board within seven days an alphabetical list of the names, addresses and job classifications of the employees in the appropriate unit. Where such a list has previously been submitted to the board, it may be utilized under this rule; provided that additions or deletions of employees, changes in address or job classifications, or other changes shall be submitted to the board to reflect the current status of employees in the bargaining unit. The list required by this rule shall be provided by the board to all parties at least ten days prior to the date of the election and shall become the official voting list for any election conducted, which list may further be amended by agreement of the parties immediately prior to the election.

5.1(3) Mail ballots. The board may, in its discretion, conduct an election in whole or in part by mail ballot. In such cases, the board shall send by ordinary mail an official ballot and a postpaid return-addressed secret envelope to each eligible voter and direct a date by which voted ballots must be received by the board to be counted. The board shall also set a time and place for the counting of such ballots, at which time the parties to the election shall be entitled to be present and challenge for good cause the eligibility of any voter.

Mail ballots sent to eligible voters shall consist of a ballot, a secret envelope in

which said ballot is to be inserted, and an outer envelope for mailing said ballot and identification of voter for purposes of proposing challenges to his or her eligibility. In the event of a challenge, both envelopes shall remain sealed until such time as the challenge is resolved. In the event of no challenge, the mailing envelope shall be opened and the envelope containing the secret ballot shall be deposited in the ballot box.

5.1(4) Time for intervention. No employee organization may be placed on any ballot unless application for intervention, as provided in 4.1(2), is received by the board prior to the direction of the election.

5.1(5) Withdrawal from ballot—disclaimer. An employee organization may, upon its request, be removed from any ballot with the approval of the board or its director, provided, however, that whenever such request is made pending an election pursuant to a decertification petition, the employee organization shall also submit therewith a disclaimer of representation of the employees in the bargaining unit and the board shall thereupon serve notice upon the public employer and employee organization that the employee organization is no longer the certified representative of said employees.

5.2(20) Conduct of election.

5.2(1) General procedure—ballots. The director or director's designee shall consult with the parties to an election with regard to the date, place and other procedural aspects of conducting an election. Elections shall be conducted under the direction and supervision of the board or its election agent and shall be by secret ballot. Ballots shall be provided by the board and shall be separated into two questions pursuant to section 20.15 of the Code. The first question shall ask, "Do you desire exclusive bargaining representation?", followed by the choices "yes" or "no". The ballot will then instruct the voter that he may also answer the second question on the ballot irrespective of his choice above. The second question in an election where only one employee organization appears on the ballot shall ask, "Do you wish to be represented for purposes of collective bargaining by [name of employee organization]?", followed by the choices "yes" or "no"; the second question in an election where more than one

employee organization appears on the ballot shall state, "I wish to be represented for purposes of collective bargaining by:" and shall then list horizontally or vertically thereafter the choices available, including the name of each employee organization and a choice of "neither" or "no representative", as is applicable.

5.2(2) Observers. The parties to an election may each designate an equal number of representatives to act as its observers during the election and tally of ballots, the number of such observers subject to such reasonable limitations as the election agent may prescribe. Observers shall be nonsupervisory employees of the public employer or those observers agreed to by the parties.

5.2(3) Ballot box. Upon examination by the observers and prior to the opening of the polls, the election agent shall seal the ballot box so that entry thereto is limited to one slot. In the event that the election is continued for more than one polling period or at more than one polling place, the ballot box shall be sealed in its entirety and shall remain in the custody of the election agent until immediately prior to the next polling period or the counting of the ballots.

5.2(4) Voting procedure—challenges. An eligible voter shall cast his ballot by marking his choice(s) on the ballot and depositing it in the ballot box. If a voter inadvertently spoils a ballot, he may return it to the agent, who shall forthwith void and retain it and deliver to the voter another ballot. When a voter is unable, by physical disability or inability to read or write, to mark his ballot, the agent may privately assist him.

An authorized observer or the board's election agent may challenge for good cause the eligibility of any voter, provided such challenge is made prior to the time the voter casts his ballot. The challenged voter may mark his ballot in secret and the election agent shall segregate the ballot by causing it to be placed in the envelope with appropriate markings and deposited in the ballot box.

5.2(5) Absentee ballot. An absentee ballot shall be delivered to an eligible voter only upon his written notice to the board of his inability to be present at the election for good cause, including, but not limited to, physical disability or absence on

business of the public employer. Such written notice must be received by the board not later than ten days prior to the date of the election. The voted ballot must be in the possession of the election agent prior to the close of the manual election in order to be counted and shall be in the official envelope provided for this purpose. Challenges to the eligibility of absentee voters may be made at the time the ballots are commingled.

5.3(20) Election results—tally of ballots. At the close of the polls, or at such time and place as the board may prescribe, the election agent shall open the ballot box and tabulate the results of the election. Void ballots shall be those which do not indicate the clear intent of the voter or which appear to identify the voter. Where the intent of the voter is not clear on one of the questions on the ballot, only that portion of the ballot shall be deemed void and the other portion of the ballot shall be counted.

The choices on the first question of the ballot shall be tabulated first, and if a majority of the voters on the official voting list have not cast their ballots in the affirmative, the board shall serve notice of noncertification without regard to the second question on the ballot; if a majority of the voters on the official voting list have cast their ballots in the affirmative, all ballots shall be commingled and the choices on the second question on the ballot shall then be tabulated.

The election agent shall furnish to the parties a tally of ballots.

5.4(20) Postelection procedures.

5.4(1) Certification of results.

a. Upon completion of a valid election in which an employee organization received the votes of a majority of those employees who could be represented by an employee organization, the board shall certify that employee organization as the exclusive bargaining representative of the employees in the bargaining unit.

b. Upon completion of a valid election in which more than one employee organization appeared on the ballot and no choice on the second question received the votes of a majority of those employees who could be represented by an employee organization, the board shall conduct a runoff election between the two choices

receiving the greatest number of votes. If the runoff election is held less than thirty days after the original election, those eligible to vote shall be those who were eligible to vote in the original election and are still employed in the bargaining unit on the day of the runoff election. If the runoff election is held more than thirty days after the original election, the board may direct the employer to submit a new eligibility list based upon a revised voter eligibility date.

c. Upon completion of a valid election, as provided for in paragraph "b" above, the board shall certify as the exclusive bargaining representative the employee organization receiving the votes of a majority of those employees who could be represented by an employee organization; if no employee organization on the runoff ballot receives a majority of the votes of those employees who could be represented by an employee organization, the board shall serve notice of noncertification.

5.4(2) Challenged ballots—objections. Whenever challenged ballots are determinative of the outcome of an election or proper objections are filed, the board may investigate such challenges or objections and issue its finding. Where the board does not conduct an investigation or where substantial and material issues are unresolved by an investigation, a hearing shall be scheduled. Objections to an election must contain a statement of facts upon which the objections are based. An original and two copies of the objections shall be filed with the board and a copy thereof shall, at the same time, be served upon each of the other parties to the election, with affidavit of service endorsed upon the original filed with the board.

5.4(3) Objectionable conduct during election campaigns. The following types of activity, if conducted during the period beginning with the filing of an election petition with the board and ending at the conclusion of the election, and if determined by the board to have affected the results of the election, shall be considered to be objectionable conduct sufficient to invalidate the results of an election:

a. Electioneering within 300 feet or within sound of the polling place established by the board during the conduct of the election;

b. Misstatements of material facts by any party to the election or their representative without sufficient time for the adversely affected party to adequately respond;

c. Any misuse of board documents, including an indication that the board endorses any particular choice appearing on the ballot;

d. Campaign speeches to assembled groups of employees during working hours within the twenty-four-hour period before the election;

e. Any polling of employees by a public employer which relates to the employees' preference for or against a bargaining representative;

f. Commission of a prohibited practice;

g. Any other misconduct or other circumstance which prevents employees from freely expressing their preferences in the election.

5.5(20) Bars to an election. Notwithstanding the filing or pendency of an election petition, the board shall conduct no representation election when one or more of the following conditions exist:

5.5(1) During the one-year period following the date of certification or noncertification subsequent to a valid representation election.

5.5(2) In any case where the board determines that substantial changes in the employer's operations are occurring which will imminently and substantially alter the structure or scope of the bargaining unit.

5.5(3) Whenever a collective bargaining agreement exists, provided such agreement is written and executed by the parties to it; that such agreement is between a public employer and a certified employee organization; that such agreement does not discriminate among groups of employees on the basis of age, race, sex, religion, national origin or physical disability, as provided by law; and provided further, that any such agreement which exists for a duration in excess of two years shall be deemed for the purposes of this section to be for a duration of two years only.

5.6(20) Decertification elections. Petitions for decertification which are filed

with the board not less than one hundred eighty nor more than two hundred forty days prior to the expiration of an otherwise valid collective bargaining agreement shall be processed by the board notwithstanding the provisions of 5.5(3), and the board shall, pursuant to section 20.15, conduct an election not more than one hundred eighty nor less than one hundred

fifty days prior to the expiration of the collective bargaining agreement.

These rules are intended to implement chapter 1095, Acts of the Sixty-fifth General Assembly, second session [chapter 20 of the Code].

[Effective March 4, 1975]

PUBLIC EMPLOYMENT RELATIONS BOARD

(continued)

Pursuant to the authority of chapter 1095, section 6, subsection 5, of the Acts of the Sixty-fifth General Assembly, second session [chapter 20 of the Code], the following rules are adopted:

[Filed March 4, 1975]

CHAPTER 6 NEGOTIATIONS AND NEGOTIABILITY DISPUTES

6.1(20) Scope of negotiations. The scope of negotiations shall be as provided in section nine of the Act. Either party may introduce other matters for negotiation, and negotiation on such other matters may continue until resolved by mutual agreement of the parties or until negotiations reach the fact-finding or arbitration stage of impasse. Unresolved other matters shall be excluded from the fact-finding or arbitration processes unless submission has been mutually agreed upon by the parties. Such agreement shall be in writing, dated, signed by the parties or their bargaining representatives, and shall list with specificity the other matters subject to the fact-finding or arbitration process. Such agreement is applicable only to negotiations toward the collective bargaining agreement then sought and is not binding upon the parties for future negotiations.

6.2(20) Consolidated negotiations. Nothing in these rules shall prohibit, by agreement of the parties, more than one certified bargaining representative from bargaining jointly with a common public employer, or more than one public employer from bargaining jointly with a common certified bargaining representative, or any other combination thereof.

6.3(20) Negotiability disputes.

6.3(1) Defined. "Negotiability dispute" is a dispute arising in good faith during the course of collective bargaining as to whether a matter or issue is subject to collective bargaining under the Act and these rules.

6.3(2) Discretionary expedited resolution. In the event that a negotiability dispute arises between an employer and a certified employee organization, the parties may, by stipulation, petition the board for expedited resolution of the dispute. Such stipulation shall set forth the material facts of the dispute and the precise question of negotiability submitted for resolution, and shall further contain a statement that the parties will be bound by the board's determination of the question for purposes of the negotiations out of which the dispute arose. Acceptance of the petition shall be discretionary with the board, and the board shall give notice of acceptance or rejection to the parties within forty-eight hours of filing of the petition with the director. If accepted, the petition shall be given priority by the board and representatives of the parties shall meet with or submit position statements to the board as soon as practicable. If deemed necessary by the board, the petition may be set for hearing or argument.

6.4(20) Acceptance of proposed agreement. Where the parties have in good faith reached agreement on a proposed collective bargaining agreement, the employee organization shall give reasonable notice of the date, time and place of a ratification election on the proposed agreement to the public employees, provided, however, that such notice shall be at least twenty-four hours prior to said election. In no event shall the ratification election be held later than ten days after the reaching of agreement. The vote shall

be by secret ballot and only members of the employee organization shall be entitled to vote. If a majority of those voting ratify the proposed agreement, the employee organization shall notify the public employer. The public employer shall then, and not prior, make public the terms of the collective bargaining agreement at least twenty-four hours prior to acceptance or rejection of the proposed agreement, by the governing body.

6.5(20) Negotiations report—filing of agreement. Not later than sixty days after

conclusion of an agreement, the public employer shall submit to the director a report of negotiations procedures on a form provided by the board and shall attach thereto a copy of said agreement.

These rules are intended to implement chapter 1095, Acts of the Sixty-fifth General Assembly, second session [chapter 20 of the Code].

[Effective June 30, 1975]

PUBLIC EMPLOYMENT RELATIONS BOARD

(continued)

Pursuant to the authority of chapter 1095, section 6, subsection 5, of the Acts of the Sixty-fifth General Assembly, second session [chapter 20 of the Code], the following rules are adopted:

[Filed March 4, 1975]

CHAPTER 7

IMPASSE PROCEDURES

7.1(20) General. Rules set forth in this chapter are applicable only in the absence of an impasse agreement between the parties or the failure of either to utilize its procedures. Nothing in these rules shall be deemed to prohibit the parties, by mutual agreement, from proceeding directly to binding arbitration at any time after impasse.

7.2(20) Fees of neutrals. Qualified mediators, fact-finders and arbitrators maintained on a list by the board may be compensated by a sum not to exceed two hundred dollars per day of service, plus their necessary expenses incurred.

7.3(20) Mediation.

7.3(1) Request for mediation. Either party in an impasse may request the board in writing to appoint a mediator to an impasse.

An original and four copies of the request for mediation shall be filed with the board and shall, in addition to the request for mediation, contain:

a. The name, address, business and resident telephone numbers of the requesting party, and its bargaining representative

or chairperson of the bargaining team of the requesting party.

b. The name, address, business and resident telephone numbers of the opposing party to the impasse, and its bargaining representative or chairperson of the bargaining team.

c. A description of the collective bargaining unit or units involved and the approximate number of employees in each unit.

d. A specific listing of the negotiated items upon which the parties have reached impasse.

7.3(2) Date, signature and notice. The request for mediation shall be dated and signed by the requesting party. The requesting party shall also serve a copy of the request upon other parties to the negotiations either by personal delivery or by restricted certified mail.

7.3(3) Appointment of mediator. Upon receipt by the board of a request for mediation, the board may appoint an impartial and disinterested person as mediator of the the dispute and notify all parties of the appointment of the mediator.

7.3(4) Confidential nature of mediation. Any information, either written or oral, disclosed by the parties to the mediator in the performance of his duties shall not be discussed by the mediator voluntarily or by compulsion unless approved by the parties involved.

The mediator shall not disclose any information with regard to any mediation conducted by him on behalf of any party

to any cause pending in any proceeding before any court, board, investigatory body, arbitrator or fact-finder without the written consent of the public employment relations board. Without such written consent, the mediator shall respectfully decline, by reason of this rule, to divulge any information disclosed by a party in the performance of the mediator's duties.

7.3(5) Mediation proceedings. The mediator may hold separate or joint meetings with the parties or their representatives, and such meetings shall not be public. Mediation meetings shall be conducted at such time and place as designated by the mediator. If an impasse exists one hundred ten days prior to the certified budget submission date of the public employer or ten days after appointment of the mediator, whichever occurs later, the mediator shall immediately notify the director and forward to the director a report of the resolved impasse items and the terms of their resolution, and a listing of the unresolved impasse items which shall be subject to factfinding.

7.3(6) Reserved.

7.3(7) Costs of mediation. The mediator shall submit in writing to the parties a list of his fee and expenses with a copy thereof to the director. The parties to the dispute shall pay the costs of mediation in equal shares.

7.4(20) Fact finding.

7.4(1) Appointment of fact-finder. Upon notification by the mediator that the dispute remains unresolved, the director shall appoint a fact-finder. Where the parties and the mediator agree, the director shall appoint the mediator to serve as fact-finder.

7.4(2) Powers of the fact-finder. The fact-finder shall have the power to conduct a hearing, administer oaths and request the board to issue subpoenas. The subject of fact-finding shall be the impasse items unresolved by mediation. By mutual agreement, the fact-finder may also assist the parties in negotiating a settlement.

7.4(3) Notice of hearing. The fact-finder shall establish the time, place and date for a fact-finding hearing on the dispute and shall notify the parties of the same.

7.4(4) Briefs and statements. The fact-finder may require the parties to submit

a brief or a statement on the unresolved impasse items.

7.4(5) Hearing. A fact-finding hearing shall be closed to the public and limited to matters which will enable the fact-finder to make recommendations for settlement of the dispute.

7.4(6) Report of the fact-finder. Within fifteen days of appointment, the fact-finder shall issue to the parties a "Report of Fact-Finder" consisting of specific findings of fact concerning each impasse item, and separate therefrom, specific recommendations for resolution of each impasse item. In addition, the report shall recite the impasse items resolved by the parties during fact-finding and withdrawn from further impasse procedures. The report shall also identify the parties and their representatives and recite the time, date, place and duration of hearing sessions. The fact-finder shall sign and date the report and attach thereto the original or copies of all documents submitted as evidence. The fact-finder shall serve a copy of the report to the parties and file the original with the director.

7.4(7) Action on fact-finder's report. Upon receipt of the fact-finder's report, the public employer and the certified employee organization shall immediately accept the fact-finder's recommendations or shall within five days submit the fact-finder's recommendations to the governing body and members of the certified employee organization for acceptance or rejection. "Immediately" shall mean a period of not longer than seventy-two hours from said receipt. Notice to members of the employee organization shall be as provided in 6.4(20).

7.4(8) Publication of report by board. If the public employer and the employee organization have failed to conclude a collective bargaining agreement ten days after their receipt of the fact-finder's report and recommendations, the board shall make public the fact-finder's report and recommendations.

7.4(9) Cost of fact-finding. The fact-finder shall submit to the parties a written statement of his fee and expenses with a copy thereof to the director. The parties shall share the costs of fact-finding equally.

7.5(20) Binding arbitration.

7.5(1) Request for arbitration. At any time following the making public by the board of the fact-finder's report and recommendations, either party to an impasse may request the board to initiate binding arbitration.

7.5(2) Form and contents of request. The request for arbitration shall be in writing and shall include the name, address and signature of the requesting party and the capacity in which acting.

7.5(3) Service of request. The requesting party shall serve a copy of the request for arbitration upon the opposing party by ordinary mail.

7.5(4) Preliminary information. Within four days of the filing of the request with the board for arbitration, each party shall submit to the board the following information:

a. The final offer of the party on each impasse item.

b. A copy of the agreed upon provisions of the proposed collective bargaining agreement.

c. The name of the parties' selected arbitrator, or name of a single arbitrator where the parties agree to submit the dispute to a single arbitrator.

d. Certificate of service upon the opposing party of item "a" above.

7.5(5) Selection of chairperson. Within eight days of the filing of the request for arbitration, the arbitrators selected by each party shall attempt to agree upon the selection of a third person to act as chairperson of the arbitration panel. If the parties to the impasse fail to agree upon an arbitration chairperson within the time allotted under this rule, the director shall

submit a list of three persons who have agreed to act as arbitration chairperson to the parties. The parties shall then select the arbitration chairperson from the list as provided by the Act.

7.5(6) Conduct of hearings. Arbitration hearings shall be open to the public. The arbitration hearing shall be limited to those factors listed in section 20.22(9) of the Code and such other relevant factors as may enable the arbitration panel to select the fact-finder's recommendation or the final offer of either party for each impasse item.

7.5(7) Continued bargaining. The parties may continue to bargain on the impasse items before the arbitration panel until such time as the arbitration panel announces its decision. Should the parties reach agreement on an impasse item, they shall immediately report their agreement to the arbitration panel. The arbitration panel shall add the agreed upon term to the collective bargaining contract and shall no longer consider the final offers of the parties or the fact-finder's recommendation on that impasse item.

7.5(8) Report of the arbitration panel. Within fifteen days after its first meeting, the arbitration panel shall announce its decision pursuant to the Act. The panel shall serve each party and the director with a copy of its decision.

7.5(9) Statement of services. Persons serving as arbitrators shall furnish the director with an information copy of their statements for services and expenses.

These rules are intended to implement chapter 1095, Acts of the Sixty-fifth General Assembly, second session [chapter 20 of the Code].

[Effective June 30, 1975]

PUBLIC EMPLOYMENT RELATIONS BOARD

(continued)

Pursuant to the authority of chapter 1095, section 6, subsection 5, of the Acts of the Sixty-fifth General Assembly, second session [chapter 20 of the Code], the following rules are adopted:

[Filed March 4, 1975]

CHAPTER 8

INTERNAL CONDUCT OF EMPLOYEE ORGANIZATIONS

8.1(20) Registration report.

8.1(1) When filed. Before an employee organization may be certified as the exclusive representative of a bargaining unit,

the employee organization shall have filed a registration report with the board.

8.1(2) Form and content. The registration report shall be in a form prescribed by the board. The registration report shall be accompanied by two copies of the employee organization's constitution and bylaws. A filing by a national or international of its constitution and bylaws shall be accepted in lieu of a filing of such documents by each subordinate organization, provided that such national or international constitution and bylaws conform to the requirements of the Act.

8.2(20) Annual report.

8.2(1) When filed. Before an employee organization may be certified as the exclusive representative of a bargaining unit, the employee organization shall have filed an annual report with the board. Such reports shall be filed within ninety days of the conclusion of each fiscal year of the employee organization. The first annual report filed by an employee organization may be filed concurrently with an election petition and shall reflect the last completed fiscal year of the organization or, in the case of a new organization, the last completed quarter or quarters of the current fiscal year.

8.2(2) Form and content. The annual report shall be in a form prescribed by the board and shall contain:

a. The names and addresses of the organization, any parent organization or organizations with which it is affiliated, the principal officers and all representatives.

b. The name and address of its local agent for service of process.

c. A general description of the public employees the organization represents or seeks to represent.

d. The amounts of the initiation fee and monthly dues members must pay.

e. A pledge, in a form prescribed by the board, that the organization will comply with the laws of the state and that it will accept members without regard to age, race, sex, religion, national origin or physical disability, as provided by law.

f. A financial report and audit.

8.3(20) Bonding requirements. Every person required by section 20.25(3) "c" of the Code to be bonded shall be bonded

for the faithful discharge of his duties. The bond of each such person shall be fixed at the beginning of the employee organization's fiscal year and shall be in an amount of not less than ten per cent of the funds handled by such person or their predecessor or predecessors, if any, during the preceding fiscal year, but in no case less than two thousand dollars nor more than five hundred thousand dollars. If the employee organization or the trust in which an employee organization is interested does not have a preceding fiscal year, the amount of the bond shall not be less than two thousand dollars. Such bonds shall have a corporate surety company as surety thereon. Any person who is not covered by such bonds shall not be permitted to receive, handle, disburse or otherwise exercise control of the funds or other property of an employee organization or of a trust in which an employee organization is interested. No such bond shall be placed through an agent or broker or with a surety company in which any employee organization or any officer, agent, shop steward or other representative of an employee organization has any direct or indirect interest.

8.4(20) Trusteeships.

8.4(1) Establishment. Trusteeships shall be established or administered by an organization over a subordinate employee organization only in accordance with the constitution and bylaws of the organization which has assumed trusteeship over the subordinate body and for the purpose of correcting corruption or financial malpractice, assuring the performance of collective bargaining agreements or other duties of a bargaining representative, restoring democratic procedures or otherwise carrying out the legitimate objectives of the employee organization.

8.4(2) Reports. Every organization which assumes trusteeship over any subordinate employee organization shall file with the board within thirty days after the imposition of any such trusteeship, and semiannually thereafter, a report, signed by its president and treasurer or corresponding principal officers, as well as by the trustees of such subordinate employee organization, containing the following information:

a. The name and address of the subordinate employee organization;

b. The date of the establishment of the trusteeship;

c. A detailed statement of the reason for the establishment or the continuation of the trusteeship; and,

d. The nature and extent of participation by the membership of the subordinate employee organization in the selection of delegates to represent such employee organization in regular or special conventions or other policy-determining bodies and in the election of officers of the organization which has assumed trusteeship over the employee organization.

The initial report of the establishment of the trusteeship shall include a full and complete account of the financial condition of the subordinate employee organization as of the time trusteeship was assumed over it.

8.4(3) *Continuing duty to report.* During the continuance of a trusteeship, the organization which has assumed trusteeship over a subordinate employee organization shall file on behalf of the subor-

dinate employee organization all reports required by this chapter. Such reports shall be signed by the president and treasurer or corresponding principal officers of the organization which has assumed such trusteeship and the trustees of the subordinate employee organization.

8.5(20) Reports as public information.

8.5(1) *Use by the board.* The contents of the reports required by this chapter shall be public information, and the board may publish any information and data which it obtains from such reports.

8.5(2) *Available to the public.* The board shall make reasonable provisions for inspection and examination, at the request of any person, of any report required to be filed with the board by this chapter.

These rules are intended to implement chapter 1095, Acts of the Sixty-fifth General Assembly, second session [chapter 20 of the Code].

[Effective March 4, 1975]

PUBLIC EMPLOYMENT RELATIONS BOARD

(continued)

Pursuant to the authority of chapter 1095, section 6, subsection 5, of the Acts of the Sixty-fifth General Assembly, second session [chapter 20 of the Code], the following rules are adopted:

[Filed March 4, 1975]

CHAPTER 9

ADMINISTRATIVE REMEDIES

9.1(20) *Final decisions.* When a quorum of the members of the board presides at initial hearing on any matter, the decision entered thereon is a final decision of the agency. When the hearing is presided over by other than a quorum of the members of the board, the hearing officer shall render a proposed decision, which shall become the final decision of the agency unless within ten days of the filing of such decision:

9.1(1) Any party aggrieved by such decision files a written notice of appeal with the director, or

9.1(2) The board, on its own motion, determines to review the decision.

9.2(20) Appeals to board.

9.2(1) *Grounds for appeal.* Any proposed decision of a hearing officer may be modified, reversed or set aside by the board on one or more of the following grounds:

a. That the hearing officer acted without or in excess of his powers;

b. That the proposed decision was procured by fraud or is contrary to law;

c. That the facts found by the hearing officer do not support the proposed decision;

d. That the proposed decision is not supported by a preponderance of the competent evidence on the record considered as a whole;

e. That the conduct of the hearing or any ruling made therein has resulted in prejudicial error;

f. That a substantial question of law or policy is raised because of the absence of or departure from officially reported board precedent;

g. That there are compelling reasons for reconsideration of an important board rule or policy.

9.2(2) Notice of appeal. The notice of appeal shall be in writing, addressed to the director, and shall set forth the specific grounds for appeal. The appealing party shall deliver a copy thereof to opposing parties by ordinary mail.

9.2(3) Hearing. The board may hear the case de novo or upon the record as submitted before the hearing officer. Any person, employee organization or public employer who has a significant interest in the outcome of the appeal may petition the board for intervention in the appeal proceedings. Where intervention is granted by the board, the intervening parties may submit briefs and arguments and participate in the same manner as an original party to the proceeding. The director shall set a time and place of hearing or argument and give notice thereof to the parties. The decision rendered by the board shall be a final decision of the agency.

9.2(4) Transcripts of record. Testimony in all hearings before the board shall be

taken by a shorthand reporter appointed by the board. Shorthand notes shall be transcribed only on direction of the board, and the board does not furnish copies of the transcriptions. Any party desiring copies, however, may request same from the reporter at a rate not exceeding the legal rate. A party appealing a decision of a hearing officer to the board shall be responsible for filing a transcript of the proceedings with the board and arranging payment therefor. The costs of such transcription shall be certified to the board, which shall tax such costs to the case on appeal. In rendering its decision on the appeal, the board shall assess the costs against the parties as it deems appropriate.

9.3(20) Appeals to district court. Appeals to district court from a final decision or order of the board shall be as set forth in section 20.11 of the Code.

These rules are intended to implement chapter 1095, Acts of the Sixty-fifth General Assembly, second session [chapter 20 of the Code].

[Effective March 4, 1975]

PUBLIC INSTRUCTION DEPARTMENT

Pursuant to the authority of section 257.10(11) of the Code, and for the purpose of implementing same, chapter 14, Division II, rules of the Department of Public Instruction, which appears on page 731, 1973 IDR, is amended as follows:

[Filed June 10, 1975]

14.9(5) c. is amended to read as follows: Pre-kindergarten-kindergarten teacher. For authorization by endorsement to serve as a teacher in pre-kindergarten and kindergarten, the applicant shall possess a bachelor's degree and have completed an approved program of study for the preparation of pre-kindergarten-kindergarten teachers, which program may be either included in, or in addition to, the work leading to said degree.

[Effective July 10, 1975]

PUBLIC INSTRUCTION DEPARTMENT

(continued)

Pursuant to the authority of section 257.10(11) of the Code, and for the purpose of implementing same, chapter 14, Division II, rules of the Department of Public Instruction, which appears on page 733, 1973 IDR, is amended as follows:

[Filed June 10, 1975]

ITEM 1. 14.14(1) is amended to read as follows:

4.14(1) Type of service authorized. Authorization to serve as superintendent, principal, supervisor or teacher in any elementary or secondary school through grade 14.

ITEM 2. 14.14(257) is amended by adding the following new subrule:

4.14(4) Area education agency administrator. To qualify for authorization to serve as administrator of an area education agency, an applicant shall submit

evidence of preparation and experience as required by section 260.9(1) of the Code relating to area education agency administrator.

[Effective July 10, 1975]

PUBLIC INSTRUCTION DEPARTMENT

(continued)

Pursuant to authority of section 285.8, Code of Iowa, rules appearing in 1973 IDR, pages 753 to 760, and in IDR January 1974 Supplement, pages 71 to 80, relating to school transportation, are amended as follows:

[Filed June 24, 1975]

ITEM 1. Rule 22.4(285) is amended by adding a new subrule as follows:

22.4(6) Each bus route shall be reviewed annually for safety hazards.

ITEM 2. Rule 22.38(285) is amended by striking all of subrule 22.38(2) and inserting in lieu thereof the following:

22.38(2) Duration of test results. An applicant who has had a negative intradermal tuberculin skin test or a negative chest X ray within the three year period preceding the date of the applicant's physical examination as shown on the application for a school bus driver's permit is not required to be retested.

ITEM 3. Rule 22.42(285) is amended by striking the entire rule and inserting in lieu thereof the following:

22.42(285) Hearing requirements. Any applicant experiencing difficulty in hearing or understanding conversational speech, or if the applicant has a known hearing loss, shall submit an annual audiometric hearing evaluation administered by an audiologist (Hearing Clinician), speech pathologist (Speech Clinician) or physician. If the audiogram shows the applicant's hearing level exceeds an unaided 40 DB hearing level (ISOANSI) in the better ear when averaging 500, 1000 and 2000 Hz, the applicant will be deemed disqualified to drive a school bus. (The applicant must meet the above requirements without the use of a hearing aid.)

ITEM 4. Rule 22.57(285) is amended as follows:

Subrule 22.57(2) is amended by striking the words, "county board of education" and inserting in lieu thereof the words, "area education agency".

Subrule 22.57(4) is amended by striking the entire subrule and inserting in lieu thereof the following:

22.57(4) That the employee shall be entitled to benefits as outlined in the school board policy for the school district.

Subrule 22.57(6) is amended by striking the entire subrule and inserting in lieu thereof the following:

22.57(6) That the employer can terminate the contract and dismiss the employee for failure to conform to all laws of the state of Iowa and rules promulgated by the Iowa department of public instruction applicable to drivers of school buses.

ITEM 5. Rule 22(285) is amended by adding new rules as follows:

22.62(285) Pupil instruction. At least twice during each school year, each pupil who is transported in a school vehicle shall be instructed in safe riding practices and participate in emergency evacuation drills.

22.63(285) Pretrip inspections. All school bus drivers shall perform daily pretrip inspections of their vehicles and report promptly and in writing any defects or deficiencies discovered that may affect the safety of the vehicle's operation or result in its mechanical breakdown.

22.64(285) Loading and unloading areas. Restricted loading and unloading areas shall be established for school buses at, or near schools.

ITEM 6. Rule 23.2(285) is amended as follows:

Subrule 23.2(1), paragraph "c", line 4, is amended by inserting after "amperes" the words, "on chassis of 24 capacity and greater."

Further amend paragraph "c" by adding a new sentence at the end as follows:

"On chassis of 17 through 23 capacity, the minimum ampere-hour rating of the battery shall be 80 amperes."

ITEM 7. Rule 23.2(285) is amended as follows:

Subrule 23.2(8), line 1, is amended by striking the figure "17" and inserting in lieu thereof the figure "24".

Further amend 23.2(8) by adding a new sentence at the end as follows:

"Chassis of less than 24 capacity shall be equipped with an alternator having a rating of at least 80 amperes."

ITEM 8. Rules 23.3(285) is amended as

follows:

Subrule 23.3(14) is amended by adding a new paragraph as follows:

"n. White flashing strobe lights may be installed on the roof of school buses one to ten feet from the rear center of the bus. The lamp shall have a glass lens and the lighting system must be controlled by a separate switch. The light may be used only in fog, rain, or at such time when visibility is restricted. Each model strobe must be approved by the motor vehicle division, Iowa department of transportation."

ITEM 9 and 10 deleted at the suggestion of the IDR Committee.

ITEM 11. Rule 23.4(285) is amended as follows:

Subrule 23.4(1), paragraph "a", line 2, is amended by striking the figure "85" and inserting in lieu thereof the figure "80".

[Effective June 24, 1975]

PUBLIC SAFETY DEPARTMENT

(The 680 preceding each rule number in Public Safety rules (Chapters 1 to 10) is the agency number assigned for use after July 1, 1975)

The following was added by the Departmental Rules Review Committee to the rules of the Public Safety Department originally submitted.

Pursuant to the authority of Chapters 80, 321, 321B, 749, 749A, and 749B of the Code, the following chapters are rescinded

effective June 30, 1975, if none of the rules promulgated in lieu thereof are, or are found to be, invalid: Chapter 5, July, 1974 IDR Supplement, pages 101 to 103; Chapter 12, 1973 IDR, page 788; Chapter 61, 1973 IDR; Chapter 62, 1973 IDR; Chapter 70, July, 1974 IDR Supplement, pages 108 to 109.

[Filed June 30, 1975]

PUBLIC SAFETY DEPARTMENT

(continued)

Pursuant to the authority of Chapters 17A, 80 and 321 of the Code, the following rules are adopted.

[Filed June 30, 1975]

CHAPTER 1

THE DEPARTMENT

680—1.1(17A) Establishment of the department of public safety. The state department of public safety was created by an Act of the general assembly (chapter 120, Acts of the forty-eighth general assembly, 1939) through the consolidation of several departments and divisions to

assist co-ordination among the law enforcement agencies at all levels of government within Iowa.

The department of public safety is primarily a law enforcement agency with the responsibility to enforce state laws and also has other administrative duties.

680—1.2(17A) Organization of the department.

1.2(1) *Commissioner*. The administrator of the department of public safety is entitled "commissioner" and is appointed by and serves at the pleasure of the governor. As the department's administrator, the commissioner implements, adminis-

ters and enforces state laws and policies of the state and the governor, establishes departmental policy, administrative rules, the administrative structure of the department, personnel rules and selects the supervisory employees of the department.

1.2(2) Deputy Commissioner. The deputy commissioner is appointed by the commissioner and assists the commissioner with the administration of the department. The deputy commissioner assumes the administration of the department in the absence of the commissioner.

1.2(3) Employees. There are three categories of employees in the department of public safety:

a. Peace officers. The employees of the department with peace officer powers are referred to as members, state agents, special state agents, special agents, and often are referred to as agents of the specific division they are assigned to. The Code provides that the title special state agent means members or peace officer employees of the department.

b. Clerical. The nonpeace officer employees of the department are generally referred to as clerical workers even though their work might not be similar to that usually performed by a clerk.

c. Technicians. Some positions in the department are referred to by sections of the Code as being other than members or clerical and are generally considered to be technicians.

d. Retirement system. Not all members of the department participate in the public safety peace officer retirement system created by chapter 97A of the Code.

1.2(4) Personnel rules. All rules regarding the enlistment, appointment and employment affecting the peace officer personnel of the department are established by the commissioner with the approval of the governor. The nonpeace officer personnel rules are established by the Iowa state merit employment department.

1.2(5) Employment. Persons interested in peace officer employment with the department may contact any departmental office as listed in 1.4(1) through 1.4(4) of these rules. Persons interested in nonpeace officer positions may also contact any of these offices or the Iowa merit employment department.

680—1.3(17A) Administrative structure. For more efficient administration, the commissioner has organized the department into divisions, some of which are further divided into sections and subsections or units. The divisions are set forth in succeeding chapters of these rules. Each division is assigned specific administrative and law enforcement duties by statute or by the commissioner.

1.3(1) The administrator of a division is considered a division director, although the title of the position might be different. Each director has at least one assistant to which is assigned, by the director, administrative duties and authority to act in the director's absence.

1.3(2) Organizational charts. Presented at the end of this chapter are charts that graphically illustrate the tables of organization of the department and the divisions.

680—1.4(17A) Offices.

1.4(1) Principal office. The principal office for the department is that of the commissioner in the Lucas Building in the capitol complex in Des Moines. Its mailing address is the Department of Public Safety, Lucas Building, Des Moines, Iowa 50319.

1.4(2) The principal offices of the divisions of the department are as follows:

a. The offices of the administration division, bureau of criminal investigation division, patrol division and patrol communications division are the same as the commissioner's office.

b. The offices of the fire marshal division, vice division and narcotics division are in the capitol annex building in the capitol complex with a mailing address of 523 East 12th Street, Des Moines, Iowa 50319.

c. The office of the TRACIS division is located in the GMC Building in the capitol complex and its mailing address is 301 East 7th Street, Des Moines, Iowa 50319.

d. The laboratory of the bureau of criminal investigation division is located in the Agricultural Laboratory Building in the capitol complex and its mailing address is East 7th and Court, Des Moines, Iowa 50319.

1.4(3) *District headquarters.* Chapter 80 provides the commissioner may establish district headquarters at various places in the state. The fourteen district headquarters now established, also known as divisional headquarters and posts, maintain offices for personnel of the patrol and other divisions. The following lists these district headquarters and the divisions that have offices therein:

CITY	ADDRESS	DIVISIONS
Atlantic	Post #3 Box 70 Atlantic/50022	Highway Patrol
Cedar Falls	Post #9 Box 249 Cedar Falls/50613	Highway Patrol
Cedar Rapids	Post #11 2604-16th Avenue, S.W. Cedar Rapids/52404	Highway Patrol
Cherokee	Post #5 Box 9, R.R.4 Cherokee/51012	Highway Patrol
Davenport	Post #12 3112 E. Kimberly Rd. Davenport/52807	Highway Patrol BCI Narcotics Vice
Denison	Post #4 Box 378 Denison/51442	Highway Patrol BCI
Des Moines	Post #1 260 N.W. 48th Place Des Moines/50313	Highway Patrol
Fort Dodge	Post #7 Box 1034 Fort Dodge/50501	Highway Patrol BCI
Mason City	Post #8 Eisenhower Avenue, RR #1 Mason City/50401	Highway Patrol BCI Narcotics
Mount Pleasant	Post #13 City Hall Mount Pleasant/52641	Highway Patrol
Oelwein	Post #10 Box 192 Oelwein/50662	Highway Patrol BCI
Osceola	Post #2 Route #3 Osceola/50213	Highway Patrol BCI
Ottumwa	Post #14 Box 522 Ottumwa/52501	Highway Patrol BCI Fire Marshal
Spencer	Post #6 Box 88 Spencer/51301	Highway Patrol BCI

1.4(4) The department also maintains offices outside the district headquarters for various division personnel. These are as follows:

CITY	ADDRESS	DIVISION
Burlington	3rd & Jefferson F&M Bank Building Suite 709-710 Burlington/52601	BCI Narcotics Vice
Cedar Rapids	1500-2nd Avenue, S.E. Suite 101 Cedar Rapids/52403	BCI Narcotics Vice Fire Marshal
Council Bluffs	427 E. Washington Ave. Suite 402 Council Bluffs /51501	BCI Narcotics Vice
Sioux City	Badgerow Building Room 1023 Sioux City/51102	BCI Narcotics Vice
Waterloo	Granger Executive Bldg. 3641 Kimball Avenue Waterloo/50702	BCI Narcotics Vice

1.4(5) Some members of the department maintain their offices in their homes. These are as follows:

CITY	ADDRESS	DIVISION
Atlantic	14½ East 6th Atlantic/50022	Fire Marshal
Decorah	702 Winneshiek Avenue Decorah/52101	Fire Marshal
Denison	830 North 20th Denison/51442	Fire Marshal
	439 Charles Denison/51442	Fire Marshal
Hazelton	Box 182 Hazelton/50641	Fire Marshal
Mason City	2514 South Federal Ave. Mason City/50401	Fire Marshal
Mount Pleasant	900 North Main Mount Pleasant/52641	Fire Marshal
Pleasantville	307 South Jefferson Box 127 Pleasantville/50225	Fire Marshal
Storm Lake	210 West 7th Street Storm Lake/50588	Fire Marshal

1.4(6) Radio stations. The patrol communications division operates radio stations at the following locations:

CITY	ADDRESS
Atlantic	RFD Lewis/51544
Belmond	RFD 2 Belmond/50421
Cedar Falls	Box 216 Cedar Falls/50613
Cedar Rapids	5400-16th Avenue S.W. Cedar Rapids/52404
Denison	Box 378 Denison/51442
Fairfield	R.R. 4, Box 237 Fairfield/52556
Maquoketa	RFD 1 Maquoketa/52060
Storm Lake	East Lakeshore Drive & Highway Street Storm Lake/50588

680—1.5(17A) Methods by which and location where the public may obtain information or make submissions or requests.

1.5(1) Persons wishing to obtain information from or report information to the department may contact any of the offices listed in rule 1.4.

1.5(2) Those wishing to make submissions to the department may do so by delivering or forwarding to the administration division of the department, the principal offices of the affected division or if the subject matter is relevant to a specific geographical location, the nearest office as listed in rule 1.4.

1.5(3) Those making requests of the department may submit such request to the administration division or the principal office of the division that would provide the information or as may otherwise be provided in these rules.

1.5(4) Communication of information regarding conflicts with the department, declaratory rulings or rules or initiation of rulemaking by the department should be directed to the administration division as provided in chapter 10 of these rules.

680—1.6(17A) Examination of department records. Chapter 17A and 68A of the Code provide all records, including information submitted to the department by any person, are open to the public for examination and copying. The procedure for examining these records are set forth in chapter 10. Some records or information contained in some records are not available to the public and these exceptions are provided in chapters 17A, 68A and 749B of the Code.

680—1.7(17A) Legal advice. The attorney general of the state provides legal advice to the commissioner and employees of the department.

680—1.8(17A) Surety companies. When the Code requires the commissioner to approve a corporate surety company, approval by the Iowa insurance department shall be required, and if such approval has been acquired and is continuing, the commissioner's approval will be extended.

680—1.9(17A) Construction of rules. All of the rules of the commissioner and the department are promulgated to describe the department and its procedure, to elaborate on or define some statutory language and to regulate some activities. Each of the sections of chapter 4 of the Code are hereby adopted by reference so as to apply when construing these rules. When the words "statutes" or "general assembly" appear in chapter 4, it is intended the words "rules" and "commissioner" are to be inserted in lieu thereof. Each of the sections of chapter 4 are adopted by reference at least so far as is applicable and not inconsistent with the intent of these rules or repugnant to the context of these rules.

[Effective June 30, 1975]

PUBLIC SAFETY DEPARTMENT

(continued)

Pursuant to the authority of Chapters 17A, 80, 80A, 321, 337A and 601E of the Code, the following rules are adopted.

[Filed June 30, 1975]

CHAPTER 2 ADMINISTRATION DIVISION

680—2.1(17A) Description and organization.

2.1(1) Description. The administration division is an extension of the commissioner's office and provides those services to the operating divisions that are common to all and administers certain statutory duties.

2.1(2) Personnel. The personnel office in the administration division provides information to persons interested in applying for positions within the department, processes applicants, maintains employees' records and participates in employee relations decision making with the commissioner's office or division directors.

2.1(3) Accounting. The accounting section processes financial data for the department and each of its divisions. It processes financial claims for and by the department. It also processes employee payroll data and employee claims for expenses.

2.1(4) Statistics. The statistics section compiles and analyzes data encountered or produced by the department and regularly issues reports about such data.

2.1(5) Purchasing. The purchasing section supervises all purchasing of supplies, equipment, printing and services for the department. It receives requests from the department divisions for purchasing and completes the required forms and forwards them to the general services department that purchases. It also maintains records of all purchases.

2.1(6) Transportation. The transportation section processes vehicle purchase requests and maintains vehicles, operates the department's vehicle garage and co-ordinates other aspects of transportation.

2.1(7) Inventory. The inventory section maintains inventory records for the department and records all additions and deletions of inventory in public safety administration.

680—2.2(17A) Information, reports and forms. Information about the department and its divisions, reports compiled by it and forms utilized in its administrative and enforcement functions may be obtained from the administration division.

680—2.3(17A, 601E) Distress flags for the handicapped. A handicapped or paraplegic person whose motor vehicle is disabled may use or display a distress flag.

This flag and a permit (form 680—2.3-A) to use it may be obtained from the administration division by submitting form 680—2.3-B. A fee of \$4.25 is charged.

2.4 to 2.99 Reserved.

PRIVATE DETECTIVE BUSINESS OR PROFESSION

680—2.100(17A, 80A) Licensing private detectives. The administration division administers the private detective licensing statute and all questions, comments, information, requests for information or applications for a license shall be directed to the administration division.

680—2.101(17A, 80A) Definitions.

2.101(1) Private detective business or profession shall include:

a. The operation of a polygraph, stress evaluator machine or any other machine designed to evaluate the veracity of the person being examined or tested.

b. The transportation of money or securities for hire.

c. Security guards, building guards and persons providing security for buildings, structures or persons for hire.

2.101(2) Denial of a license shall mean and include the denial of an application for a license or renewal of a license or the suspension, withdrawal, cancellation or revocation of a license.

680—2.102(17A, 80A) Applicant information. One who wishes to be licensed as a private detective or detective agency may contact the administration division and request applicant information. The information that will be provided will contain a copy of the relevant sections of the Code, rules and forms.

680—2.103(17A, 80A) Application for licensing. An applicant will not be considered for licensing until the applicant's application is submitted. An application will consist of:

a. A completed applicant information form 680—2.103-A.

b. A completed personal information form 680—2.103-B.

c. Completed fingerprint cards, form 680—2.103-C.

d. A report from the bureau of criminal investigation and identification division about the applicant.

e. A completed reference form from at least four of the five references submitted, form 680—2.103-D.

f. A completed surety bond, form 680—2.103-E.

g. A completed corporate information, form 680—2.103-F.

h. A written examination report showing successful completion.

i. A check for the amount of the license fee.

j. Two photographs of the applicant or each person completing form 680—2.103-B, 2" by 3" in dimension.

680—2.104(17A, 80A) Examination. The prospective applicant will be provided the necessary forms to complete and return. Upon their return, with a check for the required fee for the license, an examination of the applicant will be scheduled.

2.104(1) A written examination is required to be taken by each applicant to determine the applicant's qualifications, fitness and competency. If an applicant fails this examination, the application, although not completed, will be denied and the fee deposited will not be returned. No applicant will be allowed to take such examination if the applicant has failed the examination within 90 days or three times within a two-year period.

2.104(2) Should the applicant successfully complete the examination, forms 680—2.103-A and 680—2.103-C will be submitted to the criminal identification section and form 680—2.103-D will be sent to the references and peace officers listed in the applicant's information form.

680—2.105(17A, 80A) Application submitted. Upon receipt of the completed form 680—2.103-A and form 680—2.103-C completed by four references, the application will then be considered submitted.

680—2.106(17A, 80A) License issuance or denial. A submitted application or renewal application will be considered and, if accepted, a private detective license form 680—2.106-A or a private detective agency license form 680—2.106-B will be issued. If the license is denied, the appli-

cant will be notified, such notice containing the reasons for such denial.

680—2.107(17A, 80A) Good moral character. The license will be denied if the applicant does not meet the requirements of the Code. A license will not be issued if the applicant is not considered of good moral character. The following shall be considered evidence of the lack of good moral character:

a. If any of the applicant's references do not indicate the applicant is of good moral character.

b. If the sheriff of the county of residence or business or the chief of police of the city of residence or business so indicate in writing.

c. If the applicant has failed to discharge just obligations.

d. If the applicant has caused a creditor to obtain a judgment against the applicant.

e. If the applicant has written a check on an account without having sufficient funds in the account.

f. If the applicant has failed to pay an employee wages legally due the employee.

g. If written information is available that the applicant is a person dependent upon or addicted to the use of controlled substances or alcoholic beverages.

680—2.108(17A, 80A) Reapplying. An applicant whose license is denied before the application is submitted may again submit an application as provided in rules 2.103 through 2.108.

2.108(1) An applicant who tenders a check for a license fee will have 90 days thereafter in which to complete the submission of the application. After said 90 days, the license will be denied and the applicant may reapply, if these rules otherwise allow.

2.108(2) An applicant whose license is denied after an application has been submitted cannot reapply for a license for two years after the denial.

680—2.109(17A, 80A) Renewal. A license issued hereunder must be renewed each year.

2.109(1) During October of each year, the department will send application re-

newal form 680—2.109-A to each private detective or detective agency licensee. This form must be completed and returned, with a check for the required fee, on or before December 1. The department will examine this form and may issue the license if the check for the fee is in the proper amount and the application for renewal is satisfactory. The license will be denied if the check is in the improper amount or for the reasons indicated in the Code or in rule 2.107 above. If the renewal application is not submitted by December 15, an application as provided in rules 2.103 through 2.108 shall be submitted.

2.109(2) The department may require current licensees to comply with the requirements set forth in these rules for one first applying for a license if the licensee has not previously completed such forms or followed the procedure described in these rules for one first applying for a license or if the department determines such reapplication is appropriate.

680—2.110(17A, 80A) Appeal. The denial of a license may be appealed by proceeding under chapter 10 of these rules.

680—2.111(17A, 80A) Identification card. Every private detective or private detective agency shall issue to each of its officers and detective agents an identification card substantially similar to form 680—2.111-A.

2.112 to 2.199 Reserved.

SHERIFF'S UNIFORMS

680—2.200(17A, 337A) General provisions. These rules are adopted to designate the color and design of the standard uniform that each Iowa sheriff and deputy sheriff shall wear when in uniform and accessories.

2.200(1) The specifications of the uniforms and accessories, such as fabric and style, are made available to the department of general services. These details are not reproduced in these rules because some minor details may change due to unavailability of certain materials, but a copy of these specifications are available at the commissioner's office.

2.200(2) Persons wanting to enter bids on the sheriff's uniforms and accessories

should contact the department of general services. The department of general services will provide the specifications for the uniforms and accessories.

680—2.201(17A, 337A) Trousers. The trousers shall be sage green in color, have a one-inch strip of material the same color as the shirts down the outside seam of each pant leg, have seven one-inch belt loops with no cuffs, no watch pocket or billy pockets or no flaps on the rear pockets.

680—2.202(17A, 337A) Shirts. The shirts shall be of two styles, long and short sleeved with two breasted pockets pleated with three-pointed flags and corners that snap. The shoulder ornaments shall be of the same material and color of the trousers.

The short-sleeved shirt shall have a sport collar and no V notch or hemmed cuffs.

680—2.203(17A, 337A) Hats. There shall be four types of hats:

Winter hat. The winter hat shall be sage green in color with a swival strap, three-inch brim and will be worn with a gold metallic acorn cord.

Summer hat. The summer hat shall be sage green in color with a swival strap, three-inch brim, and metal eyelet for a badge.

Winter fur hat. The winter fur hat shall be sage green in color with sage green fur trim and have waterproofed quilted lining.

Cap. The cap shall be green in color and of ridgeway style.

680—2.204(17A, 337A) Ties. The ties shall be sage green in color and be 3½ inches at the widest point. The ties shall be of the clip-on style with extra long plastic wings to go under the collar.

680—2.205(17A, 337A) Raingear. Raingear shall consist of a raincoat, rainhats, and rubber footwear.

Raincoat. The raincoat shall be forest green in color and be reversible to international orange and have two zipped vents on each side for a weapon.

Rainhat. The rainhats shall fit both the summer and winter hat and be made of vinylfilm.

Rubber footwear. The rubber footwear shall be black in color and be either zipper overshoes or lowcut rubbers.

680—2.206(17A, 337A) Shoes and boots. The shoes and boots shall be black in color, and be plain, round toed style.

680—2.207(17A, 337A) Gloves. The gloves shall be black capeskin and for winter, lined.

680—2.208(17A, 337A) Jackets. There shall be three types of jackets.

Light duty jacket. The color shall be sage green and the jacket shall be waist length with elastic in the waistband. It shall zip up the front and the coat style sleeves shall have no buttons on the cuffs. The shoulder straps shall be of the same material as the jacket and be sewed down.

Ike type dress jacket. The color shall be pink tan to match the shirt and the jacket shall have plain coat sleeves, zip up

the front and have zip side vents for a weapon.

Reefer type car jacket. The color shall be sage green and the jacket shall have a permanent liner with inside pockets, be single breasted of mid-length, have a two-way zipper down the front, two breast flap pockets, two lower slash pockets, and two zippered side vents, one on each side.

The uniform shall also include socks, blazers with slacks to match and a jumpsuit.

680—2.209(17A, 337A) Accessories. Accessories shall consist of shoulder and blazer emblems, safety helmets, badges, whistle and chain, name bar, I.D. badge case, handcuffs and case, firearms and holsters, tie accessories, chemical mace and holder, nightsticks, rank insignia, equipment belt, reversible style inner belt, baton holder, key strap, cartridge case and clip holder.

[Effective June 30, 1975]

PUBLIC SAFETY DEPARTMENT

(continued)

Pursuant to the authority of Chapters 17A, 80, 321, 321B and 753 of the Code, the following rules are adopted.

[Filed June 30, 1975]

CHAPTER 3

STATE PATROL DIVISION

680—3.1(17A, 80, 321) Description. This division, also known as the Iowa state highway safety patrol or highway patrol, is a law enforcement agency that primarily regulates the orderly flow of vehicle traffic and responds to local law enforcement agencies requests for emergency assistance. Peace officer members of this division have a duty to arrest anyone committing, in their presence, a violation of any criminal law. Section 321.2 of the Code imposes motor vehicle law enforcement duties upon this division and the commissioner may and does assign to this division other law enforcement responsibilities.

680—3.2(17A, 80) Administration of division. This division is administered by a division director designated as chief. The rank of peace officers in this division are designated as follows: trooper, ser-

gant, lieutenant, captain, major, lieutenant colonel, and the chief's rank is colonel.

680—3.3(17A, 80, 321) Motor vehicle crashes. The patrol division will investigate motor vehicle crashes if officers are available. Every motor vehicle crash resulting in a fatality will be investigated by the patrol either at the scene or later. Reports of such investigations will be forwarded to the department of transportation.

680—3.4(17A, 80, 321) Accident procedures.

3.4(1) When a patrol officer arrives at the scene of a crash, the officer immediately parks the patrol vehicle in a safe location and first takes steps necessary to make the scene safe from more crashes.

3.4(2) If an ambulance or wrecker is needed, the officer notifies the patrol communications and the closest available ambulance and wrecker service is called to assist. Every patrol communications center has and uses the Iowa Emergency Ambulance Services Directory, prepared by the Iowa department of health, to

determine which ambulance and wrecker service to call.

3.4(3) The injured are taken to the hospital they prefer or to the nearest hospital as determined by the ambulance service.

3.4(4) In case of death in an accident, the highway patrol officer calls the county medical examiner and the medical examiner or hospital notifies the next of kin. If neither of these can make this contact, the local law enforcement agency does so.

3.4(5) Form 680—3.4-A is completed by the patrol officer and the information is communicated by radio to the nearest patrol communications center. If members of the public or the press wish information about the crash, they can contact patrol communications or the patrol officer investigating the accident and the patrol officer may refer persons to the department's district headquarters in the area where the crash occurred.

680—3.5(17A, 80, 321) Safety education. The safety education officers (one in each of the district headquarters) promote motor vehicle and other safety education for the public and will respond to requests for safety education information. The officer assumes the duties and responsibilities of other patrol officers while not engaged in safety instruction. These officers are available for public safety presentations to civic groups, churches, businesses, schools, conventions and fairs. A person who wishes to have a safety education officer speak to a group or would like information about highway safety education may contact the nearest district headquarters.

3.5(1) The safety education officer uses many types of communication methods including: projectors, recording systems, films, color slides and printed materials for display or distribution.

3.5(2) An 8-hour defensive driving course is conducted by the above officers for public employees. Further information may be obtained by writing a district headquarters.

3.5(3) Safety education officers provide broadcast and print media with safety related public service information and provides safety displays at fairs, confer-

ences, conventions, and other public gatherings.

680—3.6(17A, 321, 753) Tickets. Patrol officers issue four types of tickets.

3.6(1) Faulty equipment ticket (Form 680—3.6-A). This ticket is issued when motor vehicles have faulty equipment. The driver is issued a postcard stating the defect and is allowed 72 hours to have the defect corrected and to return by mail the postcard stating the defect has been repaired and signed by a garage operator or station mechanic. The original of this ticket is kept in the district headquarters where the violation occurred and matched to the postcard when it arrives. If the postcard is not returned, the driver or owner may be prosecuted for the unlawful equipment.

3.6(2) Traffic violation memorandum (Form 680—3.6-B). This ticket is issued as a warning to the driver that the driver is driving improperly. This ticket does not require a court appearance. Issued in triplicate, the officer's copy is maintained at district headquarters, the file copy is sent to drivers license division of the department of transportation to be filed with the motorist's driving record, and the driver's copy is issued to the driver at the time the violation occurred.

3.6(3) Uniform traffic citation and complaint (Form 680—3.6-C). This ticket is issued to a driver violating a traffic law. The ticket is issued in four parts: (1) indicated complaint (goes to the court after it has been subscribed and sworn to by the arresting officer), (2) indicated disposition report (sent to the drivers license division of the department of transportation to be filed with the motorist's driving record), (3) officer's copy (kept at district headquarters where the officer is assigned), and (4) the driver's copy is given to the driver.

3.6(4) The police citation (Form 680—3.6-D). This ticket is issued to a person for other violations when not taken into custody. The original goes to the court, a copy to the district headquarters where the officer is assigned and a copy is given to the defendant.

680—3.7(17A, 321) Abandoned motor vehicles. If a motor vehicle is an abandoned vehicle as defined in section 321.89 of the Code, the patrol division officer investigating the vehicle determines the

owner through department of transportation records and requests that patrol communications advise the owner by phone. If the owner is contacted, patrol communications personnel advises the owner that the motor vehicle should be moved in reasonable time or it will be impounded. If the owner cannot be contacted or the owner does not remove the vehicle, the following procedure will be used:

3.7(1) The patrol officer advises patrol communications to contact the nearest available towing service that will accept abandoned motor vehicles.

3.7(2) The patrol officer makes an inventory of the vehicle immediately. If the vehicle is unlocked, everything of value found in the driver's compartment is listed. If the vehicle is locked, an inventory is made of all visible objects of value.

3.7(3) The towing service then takes the vehicle to their storage area and accepts responsibility for it.

3.7(4) The patrol officer then obtains the last registered owner's name and address and a list of any lienholders.

3.7(5) The form required by the department of transportation is then mailed by the officer by registered mail to the registered owner and lienholders, if any.

3.7(6) The registered owner and lienholders have 14 days in which to reclaim the vehicle after receipt of form 680—3.7-A by the method indicated on the form.

3.7(7) An additional 14 days to reclaim may be obtained by the registered owner and lienholders upon written request.

3.7(8) When the motor vehicle is claimed by the registered owner and lienholders, they must pay all towing, storage, and preservation costs. Also, if the registered owner and lienholders do not claim the vehicle, the registered owner and lienholders lose all rights to the vehicle.

3.7(9) If there is no response within the 14-day period from the registered owner and lienholders, the patrol officer determines if the vehicle is valuable enough to be sold for safe use on the highway. If so, the vehicle will be inspected and all defects corrected before

sale. If not, the vehicle is sold to a dealer.

3.7(10) If the vehicle requires too costly repair or is unsafe, it shall be sold to a demolisher for junk and cannot be again licensed. If this is done, the following procedure is used.

a. At the time of the sale, the vehicle is entered.

b. Upon completion of the sale, the required department of transportation form is completed by the officer and given to the purchaser. Also, other forms required by the department of transportation are completed by the officer and mailed to the abandoned vehicle section of the motor vehicle division of the department of transportation. The motor vehicle division then takes action regarding the funds collected or expended.

680—3.8(17A) Governor's lifesaving awards. The patrol division investigates reports of a person saving another's life by a courageous act involving personal risk. The patrol participates in the presentation of the lifesaving awards by the governor at the time of the state fair. A person who wishes to nominate another for such award should send a letter of nomination to the governor's office, state capitol building, Des Moines, Iowa 50319. Guidelines for qualifying for these awards may be obtained by writing the patrol division headquarters. The patrol will, upon receipt of the nomination from the governor's office, conduct an investigation.

680—3.9(17A) Runaways. If a juvenile is observed who appears to have left home without parental consent, the patrol officer will visit with the juvenile and try to determine the juvenile's status. The officer may bring the juvenile to the nearest district headquarters or to the local police department or sheriff's office. Identification is requested and, when possible, parents are contacted immediately. If the person is found to be wanted for a crime and is a juvenile, the person will be taken to a juvenile home or, in counties where no juvenile home is located, to the county or city jail. The person will then be referred to the court.

680—3.10(17A, 80) Relays. Upon request by a hospital, doctor or veterinarian, the patrol division may, in an emergency, provide transportation, in relays, for substances such as, but not limited to, blood, serum or specimens such as of an

animal that has bitten someone (form 680—3.10-A).

680—3.11(17A, 80) Special events. The patrol division may provide support security for special events. Requests should originate with law enforcement officers or public officials and may be directed to district headquarters.

680—3.12(17A, 80) HELP line. The highway emergency long distance phone (HELP) is available to any person from any location in Iowa. A person may call 1-800-362-2200 when an emergency exists. The phone is located at district headquarters in Des Moines and will be answered by a patrol division officer 24 hours a day. The officer, when receiving a call, will notify appropriate local authorities or other service personnel for immediate assistance.

680—3.13(321B) Collecting breath or urine for testing alcohol or drug content.

3.13(1) Breath collection.

a. A peace officer desiring to collect a sample of a subject's breath for the purpose of determining the alcohol content of the person's blood shall use an indium encapsulation breath crimper, in the manner provided below, or shall use a breath testing device meeting the minimum performance requirements established by the Standard For Devices To Measure Breath Alcohol (38 Federal Register 30459) as revised periodically by the National Highway Traffic Safety Administration. When using a breath testing device, a peace officer shall proceed in accordance with the instructions contained in the operator's manual for such device.

b. An indium encapsulation breath crimper is a device that is so designed as to weld by crimping an indium tube so as to collect and preserve samples of a subject's breath.

c. When using an indium encapsulation breath crimper to collect a breath sample, a peace officer shall proceed as follows:

(1) Assemble the device in accordance with any instructions provided with or for the unit.

(2) Plug the device into an applicable electrical power source and wait for unit to become properly heated (approximately 15 minutes or until signal light indicates unit is ready, whichever occurs later).

(3) Observe subject for a minimum of 15 minutes to establish no alcohol, tobacco smoke or other foreign substances have entered subject's mouth. This may be done concurrently with the assembly and heating of the device.

(4) If subject objects to the taking of a sample while the unit is connected to the applicable electrical power source, the unit may be unplugged immediately prior to the taking of the sample.

(5) Have subject blow into the mouth-piece for as long as possible using only one breath.

(6) After the waste bag has filled but before subject has ceased to exhale, collect samples of breath by squeezing handle of the device.

(7) Remove indium tube and filter from device and check for proper seal. If necessary, repeat the above procedures.

(8) Repack indium tube, filter, forms and partitions in mailing box. Materials included should identify the arresting officer, the officer taking the sample, the subject and the date and time the sample was collected. Forward the mailing box to the appropriate laboratory. Such transfer may be accomplished by regular delivery by the United States postal service.

3.13(2) Urine collection. A peace officer desiring to collect a sample of a subject's urine for the purpose of determining the alcohol or drug content of the person's blood shall proceed as follows:

a. As soon as practicable after arrest, the subject should be required to empty his or her bladder.

b. When a sample is to be taken, the subject shall urinate into a glass bottle, unused styrofoam cup, cardboard urine container or other suitable container which is clean, dry and free from any visible contamination.

c. The amount of urine to be collected for a sample should be at least 10 milliliters (approximately $\frac{1}{3}$ fluid ounce) if use of alcohol is suspected, and at least 20 milliliters (approximately $\frac{2}{3}$ fluid ounce) if use of another substance is suspected.

d. The collection shall be made in the presence of a peace officer or other reli-

able person of the same sex as the subject.

e. Upon collection, a peace officer shall cause the sample to be sealed within a clean, dry container, free of visible contamination so as to avoid dilution, concentration, or contamination of the sample, and shall cause a tag or other device to be attached to the container showing the date and time the sample was collected and identifying the arresting officer, the subject, the collecting officer, and the person present during the collection of the sample, if other than the collecting officer.

f. If further samples are taken, this should be done at intervals of approximately forty (40) minutes, following the procedure set forth above.

g. If a sample is taken at the time the subject is initially required to empty his or her bladder, a second sample should, but need not be taken.

h. The sample or samples should then be forwarded to the appropriate laboratory. Such transfer may be accomplished by regular delivery by the United States postal service.

680—3.14(17A) Motor vehicle impoundment. If a driver must be removed from a vehicle and taken from the scene where said vehicle is parked upon the highway or elsewhere, or if a motor vehicle is an abandoned vehicle, the patrol division may impound the vehicle.

3.14(1) Vehicle tow reports may be used to record the circumstances which justify the towing of motor vehicles by the state patrol. They are made in duplicate, one to district headquarters and one for the officer; when the tow is of a prisoner's vehicle, three copies are prepared and the third copy is given to the prisoner.

3.14(2) Some types of immediate impoundment.

a. Vehicles held for investigation or seizure.

b. Vehicles that have been used in the commission of a crime or that are needed as evidence in court.

c. Any vehicles involved in a death when the vehicle is requested by the medical examiner's office.

d. Any vehicles which remain upon any highway in such a manner as to constitute an immediate hazard or obstruction to the normal flow of traffic.

e. All recovered stolen vehicles when the owner is not at the scene or the vehicle is needed for further investigation.

3.14(3) Prisoner's property. Vehicles which are under the control of a person that has been arrested are towed:

a. When the prisoner requests it.

b. When the vehicle cannot be parked legally, safely or continuously at the scene of the arrest. If necessary, with the consent of the person in control of the vehicle, an officer may park and secure the vehicle temporarily.

c. When the vehicle cannot be turned over to another person authorized in writing or by oral consent of the driver or owner.

d. When the person who is in control of the vehicle will not agree to the provisions of subparagraphs "b" or "c" and cannot legally or safely drive to the place of detention.

e. When the vehicle is required for evidence or further investigation.

3.14(4) A vehicle under the control of a person arrested does not have to be towed unless the foregoing conditions involving prisoner's property make towing necessary.

3.14(5) Processing immediate tows. If necessary, an officer:

a. Requests patrol communications to dispatch a tow truck. He indicates the license number, condition and description of vehicle, and if the vehicle is in a dangerous position.

b. Checks ownership, unless already established.

c. Prepares a vehicle tow report. Particular attention is given to any parts obviously missing and details of any damage, and other relevant information.

d. Inventories personal property in the vehicle.

e. Obtains proper authority to enter and inventory contents at a later time and place if the vehicle is locked and owner is not available.

680—3.15(17A, 321) Unattended vehicles. If a motor vehicle is unattended, an officer may tag the unattended vehicle with form 680—3.15-A. A record is kept by the officer at the post to which the of-

ficer is assigned. After a certain period of time, the unattended vehicle may be declared an abandoned vehicle.

[Effective June 30, 1975]

PUBLIC SAFETY DEPARTMENT

(continued)

Pursuant to the authority of chapters 17A, 80, 321, 749, 749A and 749B of the Code, the following rules are adopted.

[Filed June 30, 1975]

CHAPTER 4

BUREAU OF CRIMINAL INVESTIGATION DIVISION

680—4.1(17A) Description. This division is a law enforcement unit that conducts criminal investigations, maintains records and documents related to criminal activity and operates a criminalistics laboratory. It is administered by a division director, a deputy and assistants. Its employees include peace officers designated as special agents and technical and clerical personnel.

680—4.2(17A) Criminal investigation section. The peace officer members of the criminal investigation section conduct criminal investigations only upon the request of law enforcement or governmental officials. The director or officer assigned to administer the investigation section determines what investigations can be conducted after considering priorities, time and availability of agents. It serves law enforcement officers of counties and municipalities as a central agency on difficult criminal investigations. It also assists in maintaining the internal security of the state. The governor, attorney general, state treasurer, auditor and other state and local government officials obtain the assistance of this section.

4.2(1) Complaints, comments, questions or information from the public may be directed to the division headquarters, and if the citizen wishes an investigation to be conducted, such request should be directed to a local law enforcement or governmental official.

4.2(2) The reports of investigations conducted are made available to the official requesting the investigation, the appropriate county attorney or grand jury. Distri-

bution of investigation report information occurs only if found to be in compliance with chapter 749B. All investigative reports are the property of this division and are made available to public agencies for official use only.

680—4.3(17A, 749, 749B) Identification section. The identification section maintains information necessary to identify persons with criminal histories.

4.3(1) This section collects, classifies and disseminates criminal history data to criminal justice agencies upon request and compiles and updates criminal history records as a continual process.

4.3(2) Information contained in the identification section of the bureau is not a public record and is released only to criminal justice agencies or public agencies authorized and approved by the confidential records council.

4.3(3) Right of notice, access and challenge. Any individual, or that person's attorney with written authorization and fingerprint identification, who has a criminal history record on file with this division has the right to review said record. This right may be exercised only at division headquarters where the individual's identity can be positively established through fingerprint identification.

4.3(4) Persons wishing to review their record may do so during normal business hours by completing form 680—4.3-B provided for that purpose. The individual may make notes concerning the record on file, but cannot obtain a copy.

4.3(5) If the individual believes inaccuracies exist in his or her criminal history, notice may be filed with the division outlining the alleged inaccuracies accompanied by any available supporting data. In all instances where a notice is so filed, the division contacts the arresting agencies, court of record and institutions to verify record accuracy. Any necessary changes shall be made to the individual's

record. Any agency previously receiving a copy of the inaccurate record shall be so notified with a corrected copy. A final report shall be made to the individual who has so filed a notice of correction within twenty days of said filing. If, after notice is filed and the division makes its final report, the individual is still of the opinion that inaccuracies exist within the records, an appeal of the final decision of the division to the Polk county district court may be made.

4.3(6) This section also maintains all uniform crime reports and fingerprint files. It also has personnel for the entry of crime reports to the criminal system.

680—4.4(17A, 749) Special investigation section. This peace officer unit looks for and works against organized criminal activity and criminal fraud in the state and conducts certain investigations for some public agencies.

4.4(1) Information from private sources. The unit may accept information from private sources voluntarily made which relates to organized crime such as those investigations involving conspiracies in supplying illegal goods and services, including but not limited to gambling, prostitution, loan sharking, narcotics, labor racketeering, antitrust and other activities for unlawful monetary gain.

4.4(2) Investigations. Investigations shall only be initiated by directive of the governor, attorney general, as provided by statute, or commissioner of the department of public safety, or at the request of a county attorney, a sheriff or mayor of a municipality. Investigations shall not be instituted at the request of a private citizen or private organization. Investigations are also done by members of this section to verify background information of job applicants.

4.4(3) Confidential nature of files. The files, reports, notes and correspondence collected and compiled by the unit shall be confidential in nature and shall be so preserved in a confidential manner.

4.4(4) Use of unit facilities. The resources of the unit, personnel, facilities and equipment shall be used to gather information that is directly related to criminal activity. The unit may also render aid and assistance to the general criminal investigation section of the bureau of

criminal investigation as such needs may arise.

The resources of the unit, personnel, facilities and equipment shall not be used to gather and maintain information that is fundamentally the personal or political beliefs or concerns of any individual or group, where such beliefs or concerns are not directly related to criminal activity.

4.4(5) Written record. A written record shall be kept by the unit of each authorized person receiving information from the criminal conspiracy files after such authorized person has requested information from the unit.

4.4(6) Reliability of information. All information maintained within the files of the unit shall reflect the degree of reliability and the assessment of the reliability shall be attached to and made a part of the file. The assessment of the reliability shall be signed by the individual making the assessment.

4.4(7) Prohibited techniques. All use of statutorily illegal investigative techniques shall be prohibited and any use of such techniques shall result in discharge or disciplinary action.

4.4(8) Personnel of this section conduct polygraph examinations.

680—4.5(17A, 749A) Criminalistics laboratory. The laboratory, also referred to as the BCI lab, examines substances submitted by law enforcement and other government officials only when there is reason to suspect criminal activity. Such examination is to determine if a crime has been committed, if the substance can help identify the offender or establish a suspect was not the offender. The laboratory's mobile units can provide crime scene analysis and evidence collection capability.

4.5(1) Laboratory capabilities. The laboratory shall be capable of and equipped to perform analysis in the following fields:

- a. Physiological fluids.
- b. Hairs and fibers and other trace evidence.
- c. Comparative microscopy.
- d. Wet chemistry.
- e. Instrumental analysis.

f. Document examination,, writings, typewriting.

g. Photography.

h. Latent prints.

i. Crime scene services.

j. Any other capabilities and analysis necessary to completely fulfill the responsibilities of a full-service forensic laboratory.

4.5(2) Evidence packaging. Evidence may be packaged, labeled, sealed and dated in any manner which is acceptable to the personnel of the laboratory. Such acceptance to be subject, on an individual basis, to examination of each piece of submitted evidence. In the event that the standards of the laboratory are not met, with regard to the integrity of the chain of custody of a piece of evidence, the laboratory will maintain material for use in packaging on the spot.

4.5(3) Evidence submission to the laboratory. Evidence may be submitted to the laboratory via: Hand carry, certified mail, or registered mail. Evidence submitted to the laboratory by the above noted methods should be labeled as to the laboratory section or type of examination required, e.g. Attention: Firearms section; Attention: Chemistry section; Attention: Document section; Attention: Microanalysis; Attention: Photography section; Attention: Identification section; Attention: Toxicology section; Attention: Toolmarks section; Attention: Drug section.

4.5(4) Investigational information on submitted evidence. The laboratory requires, to make its files complete, a copy of the investigational report or a synopsis of the investigation. This document should include all names of suspects and victims, dates and times involved in the evidentiary chain of this piece of evidence. It is also important to have all pertinent information regarding the submitting authority including names, case number and locations in the event further information or communication is necessary.

4.5(5) Handling, storage and return of evidence. Acceptance of evidence subject to correct packaging, will be handled on an individual basis by the members of the staff. A piece of evidence will be received, generally by the person who will examine it, marked and taken into his

custody. It will be the policy of the laboratory to return all evidence to the submitting authority for his storage and custody. Evidence will be returned to the submitting authority unless the examiner deems it necessary and reasonable for him to maintain custody.

4.5(6) Distribution of reports. Reports will be made out in quadruplicate. One copy will remain with the laboratory file, one copy will be mailed to the submitting authority and two copies will be mailed to the county attorney of the respective county. Results of laboratory analysis cannot be made available to any person or organization other than the submitting agency and county attorney without a written court order.

4.5(7) Evidence submission to experts for the defense. Evidence will not leave the hand of the laboratory except to be entered in court or to be returned to the submitting authority without a proper court order. Evidence which will be presented to experts examining them for the defense will be packaged and transferred in a manner prescribed by the laboratory and such transfer will always take place at the laboratory. It will be the responsibility of the defense witness to maintain his own security, instrumentation, examination facilities and custodial chain. In the event that a sample of evidence is so small that it is consumed on analysis, the court will be so notified in writing. In the event that a sample of evidence is so small that giving the defense a sample would leave the laboratory with no sample, the court will be informed of this fact in writing.

4.5(8) Report form. Reports issued by the laboratory will be prepared on a specially designed form. The front of this form gives all information regarding the case including: Names, dates, submitting agency, all case numbers and type of crime. The front of this report form also includes section 749A.2. The front of this report form also includes the findings of the examining person and the signature of said person. The back of this report includes a receipt form itemizing all the evidence and all the pertinent data involving the laboratory portion of the custodial chain including: Names, times, dates, submitting and handling persons. The front and back of this report form

may be supplemented with extra sheets for lengthy report bodies or receipt lists.

4.5(9) Receipt forms. A receipt of evidence form will be filled out upon receiving materials for examination. This receipt form will include spaces for all the pertinent data of the case and should be made out in duplicate. One copy of the receipt form will be returned to the submitting authority. The second copy will remain with the laboratory file documenting the laboratory's activities.

4.5(10) Statistics and records. The laboratory will compile and maintain records involving its case work. These statistics will run on a fiscal year basis and will provide data for monthly and year end reports.

4.5(11) Destruction of evidence. It shall be the policy of the laboratory to destroy evidence whenever such destruction is authorized by the submitting agency. This destruction may be pursued by any method acceptable to the laboratory and such destruction may include preservation by the laboratory for use as standard materials or for use as training materials.

680—4.6(17A, 80) Appointment of railway special agents. This division processes applications for appointment as railway special agents from persons who are regularly employed by a railroad so that person may protect railroad property.

4.6(1) All applicants shall meet minimum standards to qualify as law enforcement officers as established in the Iowa law enforcement academy rules.

4.6(2) All applicants shall meet all training requirements of the Iowa law enforcement academy.

4.6(3) The chief special agent of the railroad company shall submit a letter of request for the appointment of a railroad employee as railway special agent. This letter and all other correspondence is to be sent to this division, Attention: Railway special agent license. The letter shall state the applicant's full name (first, middle and last) and address and should state to whom the application should be mailed.

4.6(4) Each railway special agent applicant shall complete an application form that is not reproduced in these rules but

is available and may be obtained from this division. This form should be typewritten or clearly printed in ink and all questions must be answered, if applicable.

4.6(5) Each application shall have the required 3" by 3" photograph, as required, and two additional photographs measuring 1½" by 1½" suitable for the identification card.

4.6(6) Each applicant's vision classification for each eye with and without glasses shall be indicated.

4.6(7) It is required that the requesting railroad company submit a surety bond in the amount of five thousand dollars (\$5,000) for the person to be appointed.

4.6(8) Such surety bond in the amount stated shall be issued by a bonding or surety company licensed through the Iowa insurance commission to do business in the state of Iowa.

4.6(9) The surety bond shall name the railway special agent and the bond shall state that the bonded person is a duly appointed railway special agent.

4.6(10) Surety bonds shall be issued for each person and shall remain in effect until thirty days after the company providing the bond gives notice to the department that the bond will be terminated.

4.6(11) All railroad employers who are seeking to have an applicant appointed as a railway special agent shall conduct a complete background investigation of each applicant. The results of this background investigation shall be submitted with the application in typewritten report form. This background investigation shall contain the following items, but not limited to:

a. Written comments from former employers in reference to honesty, integrity, character, personality and working performance of the applicant.

b. Written comments by personnel with any state, municipal or county law enforcement agency about the applicant and the applicant's prior employment and residences.

c. A check with all creditors for payment record and obligations.

d. A check with the clerk of court in the applicant's county of residence for any court action, civil or criminal.

e. A check with the county recorder's office where applicant resides to determine any property is listed in the applicant's name and liens which may be on file.

f. A check with the credit bureau where the applicant resides or has been employed for the applicant's credit rating.

g. Certified copies of any educational records that are available (high school and college transcripts) and DD201 military form, if any.

4.6(12) If the applicant needs a concealed weapons permit, the application shall have enclosed form 680-4.7-A showing the applicant has qualified with a firearm and has attained the accepted score of 60 out of a possible 100 as provided in departmental rule 680-4.7.

4.6(13) Each railroad employer of a railway special agent will, on or before December 15 of each year, file with this division form 680-4.7-A to renew the firearms permit.

4.6(14) It is required that each railway special agent receive continuous firearm training and demonstrate necessary proficiency in the use of a firearm and fire at least 300 rounds per year.

4.6(15) Upon receipt of all material necessary for the appointment of a railway special agent, the division will process the application. All material will be reviewed and maintained in division headquarters files. The division will conduct further investigation of the applicant which may include a check of drivers license and motor vehicle files, criminal history data records and verification of the fact that income tax returns have been filed with the Iowa department of revenue.

4.6(16) After the application is approved, the railroad company will be issued an identification card (form 680-4.6-A) for the applicant. This card should have affixed one fingerprint and the signature of the applicant. It shall then be returned to this division for authentication signatures.

4.6(17) The railroad company shall notify the division, within five working days, when any of the following take place:

a. The railway special agent appointed by the department is terminated from employment.

b. The railway special agent has been hospitalized for a long term illness or is undergoing psychiatric evaluation or treatment.

c. The discharge of any firearm by any railway special agent other than during target practice or hunting. This report shall include the circumstances, the number of shots fired, the type of weapon, the reason for firing and all information concerning any injury to a person or property.

4.6(18) A notice of termination of employment shall include the railway special agent's identification card and weapon permit.

680-4.7(695) Concealed weapons permit (form 680-4.7-B). This division regulates and issues concealed weapons permits to state departments for specific employees whose duties require such a permit and to railroad companies for railway special agents. Application form 680-4.7-A is used to apply.

4.7(1) Each applicant shall show that a concealed weapons permit is required to discharge the employment duties assigned the applicant by the state of Iowa.

4.7(2) Each applicant for concealed weapons permits shall qualify by shooting a minimum score of 60 on a B-3 target by firing 10 consecutive shots in five minutes or less with the handgun they use in their employment.

4.7(3) Each permit holder shall qualify annually to renew this permit.

4.7(4) Concealed weapons permits shall be returned to the division by the department or company it is issued to if the employee's employment is terminated.

[Effective June 30, 1975]

PUBLIC SAFETY DEPARTMENT

(continued)

Pursuant to the authority of Chapters 17A, 80, 100, 101, 101A and 103 of the Code, the following rules are adopted.

[Filed June 30, 1975]

CHAPTER 5

FIRE MARSHAL DIVISION

GENERAL PROVISIONS

680—5.1(17A, 80) Description. This division's charter is to prevent fires. Fire causes are determined and communicated to the public by various means including the division's annual report. The division requires building standards necessary for fire safety and apprehends those who violate such standards or fire related criminal statutes.

5.1(1) The division's administrator is entitled the state fire marshal. The fire marshal has one assistant. The non-clerical employees of this division are peace officers designated as special agents, fire prevention inspectors, fire prevention specialists, and designated subordinates.

5.1(2) Special agents examine a fire or a fire scene to determine its cause, and arrest any who unlawfully cause fires or violate fire-related laws.

5.1(3) Inspectors examine buildings to determine the compliance of its system with applicable laws or rules.

5.1(4) A fire prevention specialist examines blueprints and specifications of proposed buildings.

680—5.2(17A, 80, 100, 101, 101A, 103) Definitions.

5.2(1) "Fire marshal" means the fire marshal, the assistant fire marshal, fire prevention inspectors, special agents, fire prevention specialists and designated subordinates.

5.2(2) "Fire marshal's office". The headquarters of the fire marshal.

5.2(3) "Fire" includes explosions in which fire, combustion or rapid oxidation is an element but does not include explosions caused by non-flammable gases, liquids or other materials.

5.2(4) "Owner". (For service of notice, criminal sanctions and penalties.) If a building is owned by a corporation, the chairman or president of the board of directors is considered the owner. If a building is owned by an organization governed by a board of trustees, the president or chairman of the board is considered the owner. If a partnership is shown to be the owner of a building, any partner is considered the owner. If an individual is shown to be the owner, the individual, or the guardian or conservator of such individual is considered to be the owner. If the building is shown to be owned by a tradename, the person who registered the tradename is considered the owner.

5.2(5) "Buildings" means building and structures. Building also includes any property capable of being damaged by fire.

680—5.3(17A) Building plan approval. The proposed construction of some buildings or additions, alterations or changes to existing buildings need the approval of the fire marshal and the fire marshal's approval may be obtained, if requested, on nonsingle family dwelling buildings. The procedure of this rule will apply unless inconsistent with a procedure in any of the rules which follow.

5.3(1) An initial evaluation or review by the fire marshal may be obtained on preliminary plans by submitting the plan that shows the building outline with rooms, corridors and exits indicated. The fire marshal informally responds to such preliminary plan.

5.3(2) To obtain the approval necessary or requested, drawings or blueprints of the building and the working plans and specifications are mailed or delivered to the fire marshal's office. A specialist examines the blueprints and specifications and completes a check list while doing so. If the blueprints and specifications are acceptable, they are stamped as approved and returned. A letter to the submitter accompanies the approved blueprints and specifications. The stamped, approved blueprints and specifications shall be kept until after the completed building has been inspected and approved by the fire marshal.

5.3(3) If the blueprints and specifications are not acceptable, the fire marshal's office specialist notifies the submitter of the deficiencies and requests that the submitter either forward changes or request a review of the blueprints and specifications with the specialist.

5.3(4) If, after such review, the submitter disputes the specialist's findings, the submitter may request that the disputed questions be referred to the National Fire Protection Association or other similar generally recognized authority, at the submitter's expense, and the specialist submits the blueprints and specifications to the National Fire Protection Association or other similar generally recognized authority for their analysis.

5.3(5) If the submitter disputes the findings of the National Fire Protection Association, he may appeal to the fire marshal under the procedures of chapter 10 of these rules.

680—5.4(17A, 100, 101, 101A) Inspections. Certain buildings as designated in the Code shall comply with the Code and fire safety rules. The fire marshal determines and enforces such compliance. To do so, the fire marshal may enter such building or premises at any time without notice to inspect it.

5.4(1) Such inspection may be of a particular system in the building. For example, the electrical, heating, exit, valve, piping and venting systems may be inspected. The inspection may include the entire building. For example, the building may be so dilapidated as to be especially liable to fire.

5.4(2) Such inspection is conducted by the fire marshal or by a consultant as requested by the fire marshal. A consultant would be a person with the necessary degree of training, education or experience to examine a system within a building required to be in compliance with the law or rules and determines if such system or systems is in compliance with such requirements.

5.4(3) Inspections are conducted without announcement and occur on a random basis, upon anyone's request, upon any complaint or when fire appears to be possible. For example, the presence of flammable liquids or gases or the odor thereof outside a building storing such gases or liquids may cause an inspection.

5.4(4) When the member or consultant arrives at the building that is to be inspected, the member or consultant usually advises the owner. If a person in such a position cannot be contacted, the inspection commences anyway. If the owner or representative wishes to accompany the member or consultant, they may do so, but the inspection is not delayed.

5.4(5) The member or consultant, while conducting the inspection, completes inspection form 680—5.4-A. The member or consultant examines the system or systems being inspected to determine compliance with the laws or rules. To guide the inspection, the member or consultant uses state rules or a manual recommended by the National Fire Protection Association or a similar acceptable fire protection agency.

5.4(6) Upon completion of an inspection, if the building complies with applicable laws or rules, the member or consultant completes form 680—5.4-A. The original is filed in the fire marshal's office by county; a copy is filed in the member's office in a geographical area file; and a copy is left with the fire department having jurisdiction.

5.4(7) Upon completion of the inspection, if the building does not comply with applicable laws or rules, the member or consultant identifies specifically such noncompliance and notifies the owner. A member may order the owner to correct or repair the deficiency or may order the building removed or demolished.

a. The form of the order is contained on form 680—5.4-B and copies of the notice of deficiencies or order are distributed as in rule 5.4(6).

b. The time to comply with the order is determined by the member considering the likelihood of fires, the possibility of personal injury or property loss, the cost, availability of materials and labor to correct, repair, remove or demolish and other reasonable, relevant information.

c. If the owner of the building does not agree with the deficiency findings and order, the owner asks the fire marshal to review the order. The provisions of chapter 10 are then used.

d. Failure to comply with such an order may incur penalties. Form 680—5.4-C is used to notify the owner of the amount of penalty.

680—5.5(17A) Certificates for license. Several Iowa statutes provide that a license to conduct certain functions cannot be issued until the fire marshal has approved the building to be used for such function. The procedure to obtain the fire marshal's approval is to submit form 680—5.5-A. Upon receipt, the fire marshal conducts or has conducted an inspection using the procedures and forms contained in the building inspection rules (5.4). Upon the completion of form 680—5.4-A showing the building to be in compliance, the fire marshal issues certificate form 680—5.5-B. If the building is found to be in noncompliance, the certificate applicant may file a petition requesting a review of form 680—5.4-A showing non-compliance and the same procedure is used as if an order were being requested to be reviewed. Upon completion of the review process, if the building is found to be in compliance, certificate form 680—5.5-B is then issued.

680—5.6(17A, 80, 100) Fire investigations.

5.6(1) The fire marshal has the authority to investigate any fire in the state of Iowa.

5.6(2) City and township officers, as described in section 100.2, have the primary responsibility to and shall investigate fires. This officer reports a fire to the fire marshal and uses form 680—5.6-A for such report. This report is filed by the city and township officers within a week of the fire even if the fire marshal's division participated, assisted, directed or supervised the fire investigation. Upon written request, the fire marshal grants an extension of the time for filing this report for a period not to exceed fourteen days. The request sets forth compelling reasons for such extension by the officer required to file the report.

5.6(3) The city or township officer shall immediately report a fire that involves death or suspected arson and does so by contacting the member assigned to that area or, if not available, the fire marshal's office or the fire marshal or assistant or, if no such contact can be made, the officer asks the county sheriff to relay the information to the Iowa police radio or teletype system (patrol communications division). The officer's report will be recorded or logged.

5.6(4) The notice of a fire involving death or arson contains the following information, if known:

a. If death has occurred or is suspected, the name, age and address of person or persons deceased or missing; the date, time and address of the fire; and the suspected cause of fire.

b. If arson is suspected, the date, time, address of the fire; the reasons for suspecting arson; whether there is obvious evidence of arson and if there is an arson suspect.

c. Whether an explosion occurred.

5.6(5) If Iowa police radio has been so notified, it immediately notifies the fire marshal or the nearest available member of the fire marshal's division.

5.6(6) The fire marshal, may, while investigating the cause of a fire, compel witnesses and others to testify under oath and to submit books, records and other documents.

a. This is in the discretion of the fire marshal and may be exercised anytime, including fires that involve an extensive loss, a death, arson or explosion, or suspected arson.

b. Sometimes the fire marshal will allow a person to submit to a polygraph examination. Form 680—5.6-D is used when necessary.

5.6(7) The fire marshal sends to the person compelled to give testimony or information form 680—5.6-B.

5.6(8) The fire marshal may assist a local officer in the investigation of any fire. The fire marshal may superintend, direct or conduct the investigation of a fire and may request the participation of a consultant when:

a. Requested by state or local authority to do so.

b. A death has occurred, an extensive amount of property has been destroyed, arson is suspected or an explosion has occurred.

c. A person is identified as an arson suspect.

d. There is obvious physical evidence of arson.

e. Or, if the fire marshal deems it necessary.

5.6(9) The fire marshal, when participating in the investigation of a fire, may request the person in control of the premises to execute form 680—5.6-C.

680—5.7(17A, 101A) Explosive materials. Those wishing to receive an explosive materials commercial license may obtain a copy of the required application form 680—5.7-A by contacting the fire marshal's office, sheriff's office or the office of the chief of police in cities of over 10,000 people.

5.7(1) Such application form is submitted to the sheriff's office or chief's of police office. That agency reviews the application, investigates the individual, inspects the building, if necessary (using form 680—5.7-B), and completes the application form, then forwards it to the fire marshal.

a. If the application is approved, the fire marshal enters his approval thereon, notifies the local agency, and issues the license, form 680—5.7-C.

b. Such license expires on December 31 and is renewed by use of form 680—5.7-D.

c. If the application is denied, the applicant may appeal under chapter 10 of these rules.

5.7(2) A person wishing to purchase, possess, transport, store or detonate explosive materials shall obtain a permit to do so from the county sheriff or the chief of police. Form 680—5.7-E is used to apply for permit form 680—5.7-F.

5.7(3) When a sheriff confiscates explosive materials, notice is given the state fire marshal's office as soon as reasonably possible. Form 680—5.7-G is used by a sheriff requesting the disposal of confiscated explosive materials.

680—5.8(100, 101, 101A) Fire drills. All public and private school officials and teachers conduct fire drills in all school buildings at least once each month when school is in session. All doors and exits of their respective rooms and buildings are unlocked during school hours or when such areas are being used by the public at other times.

680—5.9(17A, 103) Fire escapes. Upon receipt of a written communication from an owner appealing the action or requirement of any fire escape inspector that sets forth such action or requirement and the objections the owner has to the action or requirement of such inspector, the provisions of chapter 10 of these rules will apply.

680—5.10(17A, 68A, 100, 749B) Public inspection of fire marshal files and fire records. The fire marshal's office keeps a record on file of every reported fire in Iowa. All other important written information gathered by the fire marshal also is filed. Most of the contents of these documents are available to the public. Some information contained in these files, such as intelligence data or criminal history data, as defined in section 749B, is not a public record. Therefore, a decision is made on a case-by-case basis as to what can be distributed to the public and what is prohibited from such distribution.

5.10(1) A person may obtain a copy of a public record by either visiting the fire marshal's office or submitting a request in writing. Before visiting this office to examine these records, one should contact the office first to determine if personnel will be available to assist them. Such examination may take place during reasonable business hours and public records may be copied.

5.10(2) If a person wishes a copy of the record of a particular fire, it may be copied in the fire marshal's office or that person may so request by writing to the fire marshal's office setting forth the date, time and address, including county, of the fire. The fire marshal will forward a copy of the public record and may request reimbursement for the actual cost of copying and mailing the information.

[Effective June 30, 1975]

PUBLIC SAFETY DEPARTMENT

(continued)

Pursuant to the authority of Chapter 17A of the Code, the following rules are adopted.

[Filed June 30, 1975]

CHAPTER 6

VICE ENFORCEMENT DIVISION

680—6.1(17A, 80, 123) Description. This division, a criminal investigation and enforcement division, has the primary responsibility to enforce Iowa's beer and liquor laws under chapter 123, also enforces the laws related to gambling and prostitution and conducts other criminal investigations when necessary.

680—6.2(17A, 80, 123) Information, reports or complaints. Investigations of reports, information or complaints received

of alleged violations of alcoholic beverage, gambling and prostitution laws are conducted by this division or referred to a local law enforcement agency. Reports, complaints or questions may be directed to the district field offices of the agents of this division or to the division's headquarters office. No identification of a complainant or informant is necessary.

680—6.3(17A, 80, 123) Agents. Each agent in this division is assigned to a multi-county area and functions as a primary coordinator of law enforcement actions against significant violators of the vice laws. Agents also assist local law enforcement agencies in dealing with problems related to the vice laws.

[Effective June 30, 1975]

PUBLIC SAFETY DEPARTMENT

(continued)

Pursuant to the authority of Chapter 17A of the Code, the following rules are adopted.

[Filed June 30, 1975]

CHAPTER 7

NARCOTIC AND DRUG ENFORCEMENT DIVISION

680—7.1(17A, 80, 204) Organization. The division of narcotic and drug enforcement is administered by a director and an assistant director with special agents located throughout the state.

680—7.2(17A, 80, 204) Information, reports or complaints. Investigations of reports, information or complaints of alleged drug law violations are conducted by this division or referred to the local law enforcement unit. Reports, complaints or questions may be directed to the offices of the resident special agents or the division's office. No identification of the complainant or informant is necessary.

680—7.3(17A, 80, 204) Annual report. The division submits an annual report to the crime commission and this report may be obtained by contacting the crime commission.

680—7.4(17A, 80, 204) Duties. This division conducts criminal investigations and law enforcement activities related to controlled substances as provided by statute and administrative assignment by the commissioner. Each agent is assigned to a multi-county area and functions as a primary coordinator of law enforcement actions against significant violators of the controlled substance laws. The agent also cooperates with local law enforcement agencies in the identification and investigation of controlled substance problems.

[Effective June 30, 1975]

PUBLIC SAFETY DEPARTMENT

(continued)

Pursuant to the authority of Chapters 17A and 749B of the Code, the following rules are adopted.

[Filed June 30, 1975]

CHAPTER 8 TRACIS DIVISION

680—8.1(17A) Description. The TRACIS (traffic records and criminal justice information system) division provides data processing support for the department and other traffic record and criminal justice agencies in the state. It provides and operates a telecommunications system between criminal justice agencies for the distribution of traffic record and criminal justice information. TRACIS, created by governor's executive orders 6 and 18, is administered by a director and has the following positions: data processing supervisor, clerical, programmers, computer operators and system analysts.

8.2 to 8.99 Reserved.

680—8.100(749B) Communications terminal security. Installation of TRACIS terminal access shall be available to criminal justice agencies as defined by section 749B.1, paragraph 10.

Before a criminal justice agency will be permitted direct on-line access to criminal history data, said agency shall meet the following criteria:

8.100(1) All direct access terminals shall be located only within the official offices of authorized criminal justice agencies where appropriate physical security can be maintained.

8.100(2) The immediate terminal area shall be restricted to prevent access by unauthorized individuals.

8.100(3) No person shall operate a terminal who has not received the required training and been authorized to so operate the terminal by the criminal justice agency head and approved by the department of public safety.

8.100(4) Terminals with access to criminal history data shall be manned by authorized personnel.

8.100(5) Where TRACIS terminals are not operated on a 24-hour per day basis, said terminals shall be located in a locked physically secure room when unattended.

8.100(6) The criminal justice department or agency head shall be directly responsible for assuring that personnel receiving data adhere to strict "right to know and need to know principles".

8.100(7) Any agency which may be authorized direct access to criminal history files shall make application to the director of the bureau of criminal investigation (identification). Before authorization is granted, the administrator of the criminal justice agency making the application to operate a terminal shall enter into a written agreement with the department of public safety agreeing to abide by all rules, policies and procedures necessary for system security and discipline. The agreement shall reserve to the department of public safety the right to terminate furnishing criminal history information to the applicant agency if abuses are discovered concerning either the security or dissemination requirements of criminal history data.

8.100(8) Any agency which has had its authorization to direct access to criminal history files terminated by the department may appeal such termination to the confidential records council. Appeals shall be heard by a committee of the council comprised of the following members:

The district court judge;

The local law enforcement representative;

One citizen member designated by a majority vote of the council.

For the purposes of this committee the citizen member shall be authorized access to necessary criminal history and intelligence data.

The committee shall either uphold the termination by the department or direct that service be reinstated.

[Effective June 30, 1975]

PUBLIC SAFETY DEPARTMENT

(continued)

Pursuant to the authority of Chapters 17A and 750 of the Code, the following rules are adopted.

[Filed June 30, 1975]

CHAPTER 9

PATROL COMMUNICATIONS DIVISION

680—9.1(17A) Description. The Iowa state patrol communications division, also referred to as patrol communications and Iowa police radio, operates an immediate and continuing law enforcement communications system. This system includes a two-way radio broadcasting network, a teletype network and telephones. This system provides support for law enforcement to the department and local law enforcement agencies. Information to be disseminated through the system shall originate from a peace officer, the governor, or civil defense. A citizen request to use the system shall be directed to a peace officer, such as a sheriff, state trooper or city police department. This division is administered by a director with the title chief communications officer.

9.2 to 9.99 Reserved.

LAW ENFORCEMENT ADMINISTRATOR'S TELECOMMUNICATIONS ADVISORY COMMITTEE (LEATAC)

680—9.100(750) Establishment of committee. There is hereby established a law enforcement administrator's telecommunications advisory committee known as LEATAC.

680—9.101(750) Membership of committee. The membership of the LEATAC committee shall be comprised of the following members:

9.101(1) A member of the department of general services communications division appointed by the director of the department of general services.

9.101(2) Two members of the Iowa Association of Public Safety Communications Officers (APCO) appointed by the president of APCO.

9.101(3) Two members of the Iowa state patrol communications appointed by the commissioner of public safety.

9.101(4) One member of the Iowa crime commission appointed by the director of the Iowa crime commission.

9.101(5) One member of the Iowa State Policemen's Association appointed by the president of the association.

9.101(6) One member of the Iowa Chiefs' of Police and Peace Officers' Association appointed by the president.

9.101(7) One member of the Iowa civil defense division of the department of public defense appointed by the director of civil defense.

9.101(8) Two members of the Iowa State Sheriffs' and Deputies' Association appointed by the president.

9.101(9) One member representing the emergency medical services appointed by the commissioner of public health.

680—9.102(750) Terms of appointment. All members of the committee shall serve until successors are appointed.

Whenever a vacancy occurs the commissioner of public safety shall notify, in writing, the appointing authority and request that another member be appointed.

680—9.103(750) Officers. The committee shall elect from its own membership a chairman and a vice chairman.

680—9.104(750) Bylaws. The committee shall adopt its own bylaws for the efficient operation of its business.

9.104(1) Meetings. Meetings of the committee shall be as called by the commissioner of public safety or the committee chairman.

a. Written notice of all meetings shall be mailed so as to be received by members at least one week prior to the meeting date.

b. Special meetings may be called by the commissioner of public safety or committee chairman or upon the written request of three members of the committee. Notice of special meetings is to be by telephone and personally acknowledged,

provided notice is given 72 hours prior to the meeting date.

9.104(2) Duties of chairman. It shall be the responsibility of the chairman to call all meetings; set the agenda for meetings; preside at meetings; appoint subcommittees, when and as required; and carry out general chairmanship responsibilities.

9.104(3) Quorum. A quorum shall consist of not less than six members of the committee. A quorum of eight members of the committee will be necessary at any meeting where the agenda includes:

a. Establishment of or changes in by-laws.

b. Election of officers.

c. Enforcement action against any participating department.

680—9.105(750) Duties. This committee shall be an advisory committee and shall make recommendations to the commissioner of public safety, the legislative police communications review committee

and the Iowa crime commission concerning the following:

9.105(1) Changes and revisions to the statewide public safety law enforcement telecommunications plan.

9.105(2) Minimum standards and guidelines for training communications operators.

9.105(3) Courses of action to the commissioner of public safety with regard to communications complaints of law enforcement agencies.

9.105(4) Procedures for the administration of the state mutual aid frequencies.

9.105(5) Legislation, if necessary, to carry out the implementation of the statewide public safety law enforcement telecommunications plan.

9.105(6) Make such other recommendations to the commissioner of public safety as the committee deems necessary in relation to public safety law enforcement communications.

[Effective June 30, 1975]

PUBLIC SAFETY DEPARTMENT

(continued)

Pursuant to the authority of section 17A.22 of the 1975 Code, the following rules are hereby adopted.

[Filed June 30, 1975]

CHAPTER 10

PRACTICE AND PROCEDURE BEFORE THE DEPARTMENT OF PUBLIC SAFETY

(GENERAL PROVISIONS)

680—10.1(17A) Definitions. As used in the rules contained herein the following definitions apply, unless the context otherwise requires:

a. "Department" means the Iowa department of public safety.

b. "Commissioner" means the commissioner of the department or authorized representative.

c. "Act" means the Iowa Administrative Procedures Act.

d. "Hearing officer" means the person assigned to preside over a proceeding

whether that be the commissioner or an administrative hearing officer appointed according to chapter 17A of the Code.

e. "Division" means each division of the department.

f. "Administrative division" means that division referred to in chapter 2 of these rules.

g. "Division director" means the administrator of a division or authorized representative.

h. "Party" means each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party, including intervenors.

i. "License" means the whole or part of any permit, certificate, approval, registration, charter, or similar form of permission required by statute.

j. "Licensing" means the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license.

k. "Contested case" means a proceeding, including licensing, in which the legal rights, duties or privileges of a party are required by constitution or statute to be determined by the commissioner or department after an opportunity for an evidentiary hearing.

l. "Person" means any individual, estate, trust, fiduciary, partnership, corporation, association, governmental subdivision, or public or private organization of any character or any other person covered by the Act other than an agency.

m. "Pleadings" means protest, motion, answer, reply or other document filed in a contested case proceeding.

n. "Petition" means application for declaratory ruling, initiation of rule-making proceedings or document filed in licensing.

o. "Proceeding" means licensing, rule-making, declaratory rulings, contested cases, informal procedures.

p. "Protestor" means any person entitled to file a protest which can culminate in a contested case proceeding.

Unless otherwise specifically stated, the terms used in these rules promulgated by the department shall have the meaning defined by the Act.

680—10.2(17A) Scope of rules. The rules contained in this chapter pertaining to practice and procedure are designed to implement the requirements of the Act and aid in the effective and efficient administration of the department and enforcement of the laws of this state. These rules shall govern the practice, procedure and conduct of informal proceedings, contested case proceedings, licensing, rule-making, and declaratory rulings.

As the design of these rules is to facilitate business and advance justice, any rule contained herein, unless otherwise provided by law, may be suspended or waived by the department to prevent undue hardship in any particular instance or to prevent surprise or injustice.

680—10.3(17A) Business hours. The principal office of the department in the Lucas State Office Building in Des Moines, Iowa shall be open between the hours of 8:00 AM to 4:30 PM each weekday except Saturdays, Sundays and legal holidays as prescribed in the Code, for the

purpose of receiving protests, pleadings, petitions, motions, requests for public information, copies of official documents, or for the opportunity to inspect public records.

All documents or papers required to be filed with the department by these rules shall be filed with the administration division in the principal office of the department at the Lucas State Office Building, Des Moines, Iowa 50319. Requests for public information or copies of official documents or the opportunity to inspect public records shall be made in the administration division's office at the department's principal office.

680—10.4(17A) Computation of time, filing of documents. In computing any period of time prescribed or allowed by these rules or by an applicable statute, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday. Legal holidays are prescribed in the Code.

10.4(1) All documents or papers required to be filed with the department shall be delivered to the department's principal office within such time limits as prescribed by law or by rules or orders of the department. No papers shall be considered filed until actually received by the department.

10.4(2) In all cases where the time for the filing of a protest or an appeal or the performance of any other act shall be fixed by law, the time so fixed by law shall prevail over the time fixed in these rules.

680—10.5(17A) Form and style of papers. All pleadings, petitions, briefs and motions or other documents filed with the department shall be typewritten, shall have a proper caption, and a signature and copies as herein provided or as specified in some other rule.

10.5(1) Papers shall be typed on only one side of plain white paper. Pleadings, petitions, motions, orders and other similar papers shall be on paper 8½" wide x 11" long and briefs may be on paper

8½" wide x 11" long. Citations shall be underscored.

10.5(2) The proper caption shall be placed in full upon the first paper filed.

10.5(3) The signature of the petitioner, party, or authorized representative, shall be subscribed in writing to the original of all pleadings, petitions, briefs or motions and shall be an individual and not a firm name except that the signature of a corporation shall be the name of the corporation by one of its active officers. The name and mailing address of the party or representative actually signing shall be typed or printed immediately beneath the written signature. The signature shall constitute a certification that the signer has read the document; that to the best of the signer's knowledge, information and belief every statement contained in the document is true and no such statement is misleading; and that it is not interposed for delay.

10.5(4) Every pleading, brief or motion shall bear proof of service upon the opposing party as provided by the Iowa rules of civil procedure.

10.5(5) Except as otherwise provided in these rules or ordering by the department, an original and three copies of every pleading, brief, motion or petition shall be filed. This shall not be construed to apply to exhibits, documents or papers offered as evidence.

10.5(6) All copies shall be clear and legible but may be on any weight paper.

10.5(7) Upon motion of an opposing party or on its own, the department may, in its discretion, if a person or party has failed to comply with this rule, require such person or party to follow the provisions of this rule pointing out the defects and details needed to comply with the rule prior to filing.

680—10.6(17A) Persons authorized to practice before the department. Due to the legal questions involved and the technical aspects of fire safety regulations and other departmental activities, persons are encouraged to seek the aid, advice, assistance and counsel of practicing attorneys.

The right to practice before the department in connection with any proceeding shall be limited to the following classes of persons:

10.6(1) Persons representing themselves.

10.6(2) Attorneys duly qualified and entitled to practice in the courts of the state of Iowa.

10.6(3) Attorneys entitled to practice before the highest court of record of any other state.

10.6(4) Duly authorized directors or officers of corporations representing the corporation of which they are respectively a director or officer.

10.6(5) Partners representing their partnership.

10.6(6) Fiduciaries.

10.6(7) Government officials authorized by law.

10.7 to 10.99 Reserved.

CONFLICT RESOLUTIONS

680—10.100(17A) Resolution discussion. Unless an appeal has been filed as provided hereinafter, persons interested in any dispute, claim, licensing matter or any other matters may discuss the resolution of such matters with personnel in the appropriate division or the appropriate officer.

680—10.101(17A) Protests. Any person wishing to contest a claim or any other department action, except licensing, which may culminate in a contested case proceeding shall file a protest with the administration division within the time prescribed by the applicable statute or rule for filing notice of application to the department or commissioner for a hearing. Failure to timely file a written protest will be construed as a waiver of opposition to the matter involved unless the commissioner on the commissioner's own motion pursuant to statutory authority exercises the commissioner's power of abatement. Upon failure of a person to submit a proper protest, the department may, in its discretion, either require such person to follow the provisions of this rule pointing out the defects and details needed to comply with the rule before accepting for filing or dismiss the protest for failure to comply with this rule.

10.101(1) All protests to be filed with the department shall be filed either by certified mail return receipt requested or

by personal delivery in the administration division's office, during business hours.

10.101(2) The protest shall be brought by and in the name of the interested or affected person or by and in the full descriptive name of the fiduciary legally entitled to institute a proceeding on behalf of such person or by an intervenor in contested case proceedings. In the event of a variance in the name set forth in the protest and the correct name, a statement of the reason for such discrepancy shall be set forth in the protest.

10.101(3) A protest which is filed shall contain:

a. A caption in the following form:

BEFORE THE IOWA STATE DEPARTMENT OF PUBLIC SAFETY
LUCAS STATE OFFICE BUILDING
DES MOINES, IOWA

IN THE MATTER OF _____
(state protestor's name, address and designate type of proceeding, e.g. building plan approval)

PROTEST
DOCKET NO. _____

(filled in by department)

b. Substantially state in separate numbered paragraphs the following:

(1) Proper allegations showing jurisdiction of the department;

(2) A statement of the claim or department action;

(3) Clear and concise statements of each and every error which the protestor alleges to have been committed by the department. Each assignment of error shall be separately numbered;

(4) Clear and concise statements of all relevant facts upon which the protestor relies;

(5) Refer to any particular statute or statutes and any rule or rules involved;

(6) A prayer setting forth the relief sought by the protestor;

(7) The signature of the protestor or that of representative;

(8) A copy of any written information from the department with accompanying statements, if any, so far as material to the issues set forth in the assignments of error shall be appended to the protest;

(9) Description of records or documents which were not available or were not presented to department personnel prior to the filing of the protest;

(10) Any other matters deemed relevant and not covered in the above paragraphs;

(11) The wish of protestor to waive informal or contested case proceedings if so wished; unless the protestor so indicates a waiver, informal procedures will be initiated.

10.101(4) The protestor may amend the protest at any time prior to the filing of an answer by the department. After an answer is filed, a protest may be amended only by consent of the department.

10.101(5) Upon receipt of the protest, the administration division shall docket the protest in the docket kept for that purpose and shall assign a number to the case which number shall be placed on all subsequent pleadings filed in the case. An original and six copies of the protest shall be filed, one copy of which shall be promptly served by the administration division upon the commissioner.

680—10.102(17A) Docket. The administration division shall maintain a docket of all proceedings and each of the proceedings shall be assigned a number. Every matter coming within the purview of these rules shall be assigned a docket number which shall be the official number for the purposes of identification. Upon receipt of a protest, petition for declaratory ruling or petition to initiate rule-making proceedings, the proceeding will be docketed and assigned a number, and the parties notified thereof. This number shall be placed by the parties on all papers thereafter filed in the proceeding.

680—10.103(17A) Informal procedures. Persons are encouraged to utilize the informal procedure provided herein so that a settlement may be reached between the parties without the necessity of initiating contested case proceedings. Therefore, unless the protestor indicates a desire to waive the informal procedures in the protest or the department waives informal

procedures upon notification to the protestor, such informal procedures will be initiated as herein provided upon the filing of a proper protest.

10.103(1) *Protested matters involving administrative actions of the department.* Administrative actions protested shall be informally reviewed by the appropriate division director or delegate. Such review shall include holding of informal conferences with the protestor or representative, correspondence, or such other procedures as may be agreed upon between the protestor and the department. The provisions of subrule 10.103(2) shall not apply to matters covered in this subrule.

10.103(2) *Review.* Whether or not protestor waives informal procedures, a review by the appropriate division director or other departmental employees designated by the commissioner will review the protest. The reviewer may refer the matter to the appropriate division for possible resolution or further information. The reviewer shall have the right to request that members of the attorney general's staff provide advice.

10.103(3) After review of the protest, the reviewer may delete any items contained in the protest which it determines should not be controverted by the department and, if a protestor has not waived informal procedures, the reviewer may request the protestor and representative to attend an informal conference with the reviewer to explore the possibility of reaching a settlement without the necessity of initiating contested case proceedings or of narrowing the issues presented in the protest if no settlement can be made. The reviewer's proposed findings may be subject to review by the commissioner. The reviewer shall notify the protestor of the reviewer's ultimate findings.

10.103(4) *Settlements and stipulations.* Whether or not informal procedures have been waived, if a settlement is reached during informal procedures on all issues, the administration division shall be notified of the settlement reached and an order to that effect shall be drawn up at the request of any party or in the discretion of the administration division, served on the parties, and the case terminated. If informal procedures have not been waived and a settlement is reached during the informal procedures on some but not all issues, the administration divi-

sion shall be notified of the issues settled and an order to that effect shall be drawn up, served on the parties and the order shall govern the issues in protest in any further proceedings.

10.103(5) If informal procedures are not utilized or if no settlement can be reached mutually agreeable to the protestor and the department during informal procedures when same are not waived, the protestor and the department are encouraged to stipulate as to all facts on which the parties can agree prior to initiation of contested case proceedings to expedite and facilitate contested case proceedings. The desirability of waiving any provisions of the Act relating to contested case proceedings should also be considered.

680—10.104(17A) *Answer.* On matters covered by subrule 10.103(1), the department shall file an answer to the protest within thirty days of notification to the protestor of the appropriate division director or delegate's written findings and the protestor's written statement to the department that the protestor does not agree with such findings. On matters covered by subrule 10.103(2), the department shall file an answer within thirty days of the notification to the protestor of the reviewer's written findings and the protestor's written statement to the department that the protestor does not agree with the reviewer's findings, except that the department need not file an answer in matters involving application of statutes.

10.104(1) The answer shall be drawn fully and completely so as to advise the protestor and the administration division of any facts which are admitted or denied or of any defenses to be asserted by the department. It shall contain a specific admission or denial of each material allegation of fact contained in the protest, a statement of any facts or law upon which the department relies for a defense, and shall contain any affirmative allegations to be relied upon by the department.

10.104(2) Each paragraph contained in the answer shall be numbered to correspond with the paragraphs of the protest, unless certain issues presented in the protest have been resolved. An original and three copies of the answer shall be filed with the administration division and shall be signed by the commissioner or counsel.

10.104(3) The department shall forthwith serve a copy of the answer upon the representative of record, or if there is no representative of record then upon the protestor, and shall file proof of service with the administration division at the time of filing of the answer.

680—10.105(17A) Subpoenas. Prior to the commencement of a contested case, the department may exercise the authority to subpoena books, papers, records and shall have all other subpoena powers conferred upon it by law.

10.106 to 10.199 Reserved.

PRE-HEARING PROCEDURE

680—10.200(17A) Commencement of contested case proceedings. After the filing of the answer and the administration division notifying the hearing officer or obtaining or designating a hearing officer, the case proceedings will be commenced by the hearing officer through delivery of notice by certified mail return receipt requested to the parties. The notice shall include:

a. A statement of the time (which shall allow for a reasonable time to conduct discovery), place and nature of the hearing;

b. A statement of the legal authority and jurisdiction under which the hearing is held;

c. A reference to the particular sections of the statutes and rules involved;

d. A short and plain statement of the matters asserted.

10.200(1) After the delivery of the notice commencing the contested case proceedings, the hearing officer may allow such further responsive pleadings by the parties as in the officer's discretion is deemed necessary or appropriate.

10.200(2) Potential parties to a contested case proceeding may jointly submit to the hearing officer a request to issue the notice as prescribed herein.

680—10.201(17A) Discovery. The rules of the Supreme Court of the state of Iowa, as amended, applicable in civil proceedings with respect to depositions upon oral examination or written questions; written interrogatories; production of documents or things or permission to enter upon

land or other property, for inspection and other purposes; physical and mental examinations; and requests for admission shall apply to discovery procedures in contested case proceedings.

10.201(1) All applications for the taking of discovery shall be submitted to the hearing officer who shall determine the frequency of use of these discovery methods as in the officer's discretion is deemed necessary or appropriate to aid the parties in preparation of the contested case proceeding, narrowing issues or other valid reasons.

10.201(2) When the department relies on a witness in a contested case, whether or not a departmental employee, who has made prior statements or reports with respect to the subject matter of the witness' testimony, it shall, on request, make such statements or reports available to a party for use on cross-examination, unless those statements or reports are otherwise expressly exempt from disclosure by constitution or statute. Identifiable departmental records that are relevant to disputed material facts involved in a contested case, shall, upon request, promptly be made available to the party unless the requested records are expressly exempt from disclosure by constitution or statute.

10.201(3) Evidence obtained in such discovery may be used in contested case proceedings if that evidence would otherwise be admissible in the contested case proceedings.

680—10.202(17A) Pre-hearing conference. The hearing officer, upon the officer's own motion or upon the written request of one of the parties, may, in the officer's discretion and upon written notice, direct the parties to appear at a specified time and place before the hearing officer for a pre-hearing conference to consider:

a. The possibility or desirability of waiving any provisions of the Act relating to contested case proceedings by written stipulation representing an informed mutual consent.

b. The necessity or desirability of setting a new date for hearing.

c. The simplification of issues.

d. The necessity or desirability of amending the pleadings either for pur-

pose of clarification, amplification or limitation.

e. The possibility of agreeing to the admission of facts, documents or records not substantially controverted, to avoid unnecessary introduction of proof.

f. The procedure at the hearing.

g. Limiting the number of witnesses.

h. The names and identification of witnesses and the facts each party will attempt to prove at the hearing.

i. Such other matters as may aid in, expedite or simplify the disposition of the proceeding.

10.202(1) Since stipulations are encouraged, it is expected and anticipated that the parties proceeding to a hearing will stipulate to evidence to the fullest extent to which complete or qualified agreement can be reached including all material facts that are not or should not fairly be in dispute.

10.202(2) Any action taken at the pre-hearing conference shall be recorded in an appropriate manner, unless the parties enter upon a written stipulation as to such matters or agree to a statement thereof made on the record by the hearing officer.

10.202(3) When an order is issued at the termination of the pre-hearing conference, a reasonable time shall be allowed to the parties to present objections on the ground that it does not fully or correctly embody the agreements at such conference. Thereafter, the terms of the order or modification thereof, shall determine the subsequent course of the proceedings relative to matters it includes, unless modified to prevent manifest injustice.

10.202(4) Without the necessity of proceeding to an evidentiary hearing on a contested case, the parties may agree in writing to informally dispose of the case by stipulation, agreed settlement, consent order or default or by another method agreed upon. If such informal disposition is utilized, the parties shall so indicate to the hearing officer that the case has been settled.

10.203 to 10.299 Reserved.

HEARING PROCEDURES

680—10.300(17A) Contested case proceedings. Unless the parties to a contested case proceeding have, by written stipulation representing an informed mutual consent, waived the provisions of the Act relating to such proceedings, contested case proceedings shall be initiated and culminate in an evidentiary hearing open to the public. Evidentiary hearings shall be held at the department's principal office, Lucas State Office Building, Des Moines, Iowa 50319, except that a case may be assigned for hearing elsewhere when deemed necessary to afford a party an opportunity to appear at the hearing with as little inconvenience and expense as practicable. Parties shall have been notified of the date and place of the hearing at least thirty days prior thereto.

680—10.301(17A) Conduct of proceedings. A proceeding shall be conducted by a hearing officer who, among other things, shall:

a. Open the record and receive appearances;

b. Administer oaths, and issue subpoenas;

c. Enter the notice of hearing into the record;

d. Receive testimony and exhibits presented by the parties;

e. In the officer's discretion, interrogate witnesses;

f. Rule on objections and motions;

g. Close the hearing;

h. Issue an order containing findings of fact and conclusions of law.

10.301(1) Evidentiary proceedings shall be oral and open to the public and shall be recorded either by mechanical means or by certified shorthand reporters. Parties requesting that the hearing be recorded by certified shorthand reporters shall bear the appropriate costs. The record of the oral proceedings or the transcription thereof shall be filed with and maintained by the department for at least five years from the date of the decision.

10.301(2) An opportunity shall be afforded to the parties to respond and argue on all issues involved and to be represented by counsel at their own expense.

Unless otherwise directed by the hearing officer, evidence will be received in the following order:

- a. Protestor or appellant
- b. Intervenor (if applicable)
- c. Department
- d. Rebuttal by protestor or appellant
- e. Oral argument by parties (if necessary).

10.301(3) If the protestor or appellant is not represented by anyone qualified by these rules to make an appearance, the hearing officer shall explain to the protestor or appellant the rules of practice and procedure and generally conduct a hearing in a less formal manner than that used when a protestor or appellant has a representative qualified to appear. It should be the purpose of the hearing officer to assist any protestor or appellant who appears without such a representative to the extent necessary to allow a fair presentation of evidence, testimony and arguments on the issues.

10.301(4) If the parties have mutually agreed to waive the provisions of the Act in regard to contested case proceedings, the hearing will be conducted in a less formal manner or in accordance with the terms of waiver agreement.

10.301(5) If a party fails to appear in a contested case proceeding after proper service of notice, the hearing officer may, upon the officer's own motion or upon the motion of the party who has appeared, adjourn the hearing or proceed with the hearing and make a decision in the absence of the party.

10.301(6) Contemptuous conduct by any person appearing at a hearing shall be grounds for that person's exclusion from the hearing by the hearing officer.

680—10.302(17A) Rules of evidence. In evaluating evidence, the department's experience, technical competence, and specialized knowledge may be utilized.

680—10.303(17A) Oath. All testimony presented before the hearing officer shall be given under oath which the hearing officer has authority to administer.

680—10.304(17A) Production of evidence and testimony. The hearing officer may issue subpoenas to a party on re-

quest, as permitted by law, compelling the attendance of witnesses and the production of books, papers, records or other real evidence.

680—10.305(17A) Subpoena. When a subpoena is wished after the commencement of a contested case proceeding, the proper party shall indicate to the hearing officer the name of the case, the docket number and the last known addresses of the witnesses to be called. If evidence other than oral testimony is required, each item to be produced must be adequately described. When properly prepared by the hearing officer, the subpoena will be returned to the requesting party for service. Service may be made personally or by certified mail return receipt requested before the hearing date of the cause which the witness is required to attend. No costs for serving a subpoena will be allowed.

680—10.306(17A) Evidence having probative value. Although the hearing officer is not bound to follow the technical common law rules of evidence, a finding shall be based upon the kind of evidence on which reasonably prudent persons are accustomed to rely for the conduct of their serious affairs, and may be based upon such evidence even if it would be inadmissible in a jury trial. Therefore, the hearing officer may admit and give probative effect to evidence on which reasonably prudent persons are accustomed to rely for the conduct of their serious affairs.

10.306(1) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The hearing officer shall give effect to the rules of privilege recognized by law.

10.306(2) Evidence not provided to a requesting party by subpoena, through discovery or during any informal procedures shall not be admissible at the hearing.

10.306(3) Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be required to be submitted in verified written form by the hearing officer.

10.306(4) Objections to evidentiary offers may be made at the hearing and the

hearing officer's ruling thereon shall be noted in the record.

680—10.307(17A) Evidence of a federal determination. Evidence of a federal determination whether it be a department ruling or regulation or determination letter, a federal court decision or a public law relating to issues raised in the proceeding shall be admissible, and the protestor or appellant shall be presumed to have conceded the accuracy of it unless the protestor or appellant specifically states wherein it is erroneous.

680—10.308(17A) Copies of evidence. A copy of any book, record, paper or document may be offered directly in evidence in lieu of the original, if the original is not readily available or if there is no objection. Upon request, the parties shall be given an opportunity to compare the copy with the original, if available. When an original is admitted in evidence, a copy may be substituted later for the original or such part thereof as may be material or relevant upon leave granted in the discretion of the hearing officer.

680—10.309(17A) Exhibits.

10.309(1) Identification of exhibits. Exhibits attached to a stipulation or entered in evidence which are offered by protestors or appellants shall be numbered serially, i.e., 1, 2, 3, etc.; whereas, those offered by the department shall be lettered serially, i.e., A, B, C, etc.; and those offered jointly shall be numbered and lettered, i.e., 1-A, 2-B, 3-C, etc.

10.309(2) Disposition of exhibits. After an order has become final, either party desiring the return, at that party's own expense, of any exhibit belonging to that party shall make application in writing to the hearing officer within thirty days suggesting a practical manner of delivery; otherwise, exhibits may be disposed of as the hearing officer deems advisable.

680—10.310(17A) Official notice. The hearing officer may take official notice of all facts of which judicial notice may be taken and of other facts within the specialized knowledge of the department. Parties shall be notified at the earliest practicable time, either before or during the hearing, or by reference in preliminary reports, preliminary decisions or otherwise, of the facts proposed to be noticed and their source, including any staff memoranda or data. The parties shall be

afforded an opportunity to contest such facts prior to the issuance of the decision in the contested case proceeding unless the hearing officer determines as a part of the record or decision that fairness to the parties does not require an opportunity to contest such facts.

680—10.311(17A) Evidence outside the record. Except as provided by these rules, the hearing officer shall not consider factual information or evidence in the determination of any proceeding unless the same shall have been offered and made a part of the record in the proceeding.

680—10.312(17A) Presentation of evidence and testimony. In any hearing, each party thereto shall have the right to present evidence and testimony of witnesses and to cross-examine any witness who testified on behalf of an adverse party. A person whose testimony has been submitted in written form, if available, shall also be subject to cross-examination by an adverse party. Opportunity shall be afforded each party for redirect examination and recross examination and to present evidence and testimony as rebuttal to evidence presented by another party, except that unduly repetitious evidence shall be excluded.

680—10.313(17A) Offer of proof. An offer of proof may be made through the witness or by statement of counsel. The party objecting may cross-examine the witness without waiving any objection.

680—10.314(17A) Motions. After commencement of contested case proceedings, appropriate motions may be filed by any party with the hearing officer when facts requiring such motion come to the knowledge of the party. All motions shall state the relief sought and the grounds upon which the same are based.

10.314(1) Motions made prior to a hearing shall be in writing and a copy thereof served on all parties and attorneys of record. Such motions shall be ruled on by the hearing officer. The hearing officer shall rule on the motion by issuing an order. A copy of the motion with the ruling noted thereon shall be mailed to the parties and attorneys of record. Motions may be made orally during the course of a hearing; however, the hearing officer may request that it be reduced to writing and filed.

10.314(2) To avoid a hearing on a motion, it is advisable to secure the consent of the opposite party prior to filing the motion. If consent of the opposite party to the motion is not obtained, a hearing on the motion may be scheduled and the parties notified. The burden will be on the party filing the motion to show good cause why the motion should be granted.

10.314(3) The party making the motion may annex thereto such affidavits as are deemed essential to the disposition of the motion, which shall be served with the motion and to which the opposite party may reply with counter affidavits. Types of motions include but are not limited to:

a. Motion for continuance.

b. Motion for dismissal.

c. Motion for default judgment.

d. Motion to delete confidential matter in the decision.

680—10.315 (17A) Briefs. At any time, whether upon the request of any party or not, the hearing officer may require the filing of briefs on any of the issues before the officer prior to or at the time of hearing or at a subsequent time. If briefs have been filed prior to a hearing, the parties should be prepared to make oral arguments as to the law set forth in the briefs at the conclusion of a hearing if the hearing officer so directs.

10.315(1) An original and two copies of all briefs shall be filed. Filed briefs shall conform to the requirements of rule 10.5.

680—10.316(17A) Orders. At the conclusion of the hearing, the hearing officer, in the officer's discretion, may request or allow the parties to submit proposed findings of fact or conclusions of law, or both.

10.316(1) The decision in a contested case is an order which shall be in writing or stated in the record. The order shall include findings of fact prepared by the person presiding at the hearing unless unavailable and based solely on the evidence in the record and on matters officially noticed and shall include conclusions of law. The findings of fact and conclusions of law shall be separately stated. Findings of fact shall be prefaced by a concise and explicit statement of underlying facts supporting the findings. If a party has submitted proposed findings of

fact, the order shall include a ruling upon each proposed finding. Each conclusion of law shall be supported by cited authority or by a reasoned opinion.

10.316(2) When a motion has been made to delete identifying details in an order on the basis of personal privacy or trade secrets, the justification for such deletion or refusal to delete shall be made by the moving party and shall appear in the order.

10.316(3) When the commissioner initially presides at a hearing or considers an appeal from, or review of the administrative hearing officer's decision, the order becomes the final order of the department for purposes of judicial review or rehearing unless there is an appeal to, or review on motion of a second agency within the time provided by statute or rule. When an administrative hearing officer presides at the hearing, the order becomes the final order of the department for purposes of rehearing unless there is an appeal to, or review on motion of, the commissioner within thirty days of the date of the order. On an appeal from or review of the administrative hearing officer's order, the commissioner has all the power which the commissioner would initially have had in making the decision, however, the commissioner will only consider those issues or selected issues presented at the hearing before the administrative hearing officer. The parties will be notified of those issues which will be considered by the commissioner.

10.316(4) Orders will be issued within thirty days of the termination of the hearing unless good cause exists for a further period of time not to exceed a reasonable period. Parties shall be promptly notified of each order by delivery to them of a copy of such order by personal service or certified mail return receipt requested.

680—10.317(17A) Record. The record in a contested case shall include:

- a. All pleadings, motions and rulings;
- b. All evidence received or considered and all other submissions;
- c. A statement of all matters officially noticed;
- d. All questions and offers of proof, objections, and rulings thereon;
- e. All proposed findings and exceptions;

f. The order of the hearing officer.

680—10.318(17A) Rehearing. Any party may file an application with the hearing officer for a rehearing in the contested case, stating the specific grounds therefor and the relief sought. The application must be filed within twenty days after the department has issued a final order. A copy of such application shall be timely mailed by the applicant to all parties. The hearing officer shall have twenty days from the filing of the application to grant or deny the rehearing. If the application is granted, a notice will be served on the parties stating the time and place of such rehearing. An application for rehearing shall be deemed denied if not granted by the hearing officer within twenty days after filing.

10.318(1) The application for rehearing which is filed shall contain:

a. A caption in the following form:

BEFORE THE IOWA STATE DEPARTMENT
OF PUBLIC SAFETY

LUCAS STATE OFFICE BUILDING
DES MOINES, IOWA

IN THE MATTER OF _____

(state the appellant's name, address and designate type of proceeding, e.g. license application)

APPLICATION
FOR
REHEARING

DOCKET NO. _____

b. Substantially state in separate numbered paragraphs the following:

(1) Clear and concise statements of the reasons for requesting a rehearing and each and every error which the party alleges to have been committed during the contested case proceedings;

(2) Clear and concise statements of all relevant facts upon which the party relies;

(3) Refer to any particular statute or statutes and any rule or rules involved;

(4) The signature of the party or that of representative.

10.318(2) A party's administrative remedies will not be considered exhausted

unless an appeal has been made to the commissioner, when applicable, or unless an application for rehearing has been filed.

10.319 to 10.399 Reserved.

HEARING RULES

680—10.400(17A) Service. All papers or documents required by law or these rules to be filed with the department, hearing officer, with the opposing party or other person shall be served by personal service or by certified mail return receipt requested unless another rule specifically refers to another method. All notices required by law or these rules to be served on parties or persons by the department or hearing officer shall be served by personal service or certified mail return receipt requested.

680—10.401(17A) Standards of conduct. All persons appearing in any proceeding before the department in a representative capacity shall conform to the standards of ethical conduct required of attorneys before the courts of Iowa. If any such person does not conform to such standards, the department may decline to permit such a person to appear in a representative capacity in any future proceeding before the department.

680—10.402(17A) Ex parte communications.

10.402(1) Hearing officers. If the hearing officer wishes to communicate with any party or person with a personal interest in or engaged in prosecuting or advocating in either the case under consideration or a pending factually related case involving the same parties, the hearing officer shall notify such persons or parties indicating the time and place at which all affected persons or parties may meet to discuss the matters or shall, if the parties agree, exchange written communications provided each party and representative receives a copy of each written communication and has an opportunity to respond.

10.402(2) Parties or their representatives. If any party or representative wishes to discuss certain matters with the hearing officer, the hearing officer and the opposing party shall be so notified and the hearing officer upon notification of such wish shall advise the parties or their representatives of the time and place at

which the affected persons or parties may meet to discuss any matters or exchange written communications as provided in 10.402(1).

680—10.403(17A) Sanctions. Any party to a contested case proceeding may file a timely and sufficient affidavit asserting personal bias of an individual participating in the making of any proposed or final decision in that case. The department shall determine the matter as part of the record in the case. When the department in these circumstances makes such a determination with respect to a department member, that determination shall be subject to de novo judicial review in any subsequent review proceeding of the case.

10.403(1) The recipient of a prohibited communication as provided in section 17A.17 of the Code may be required to submit the communication, if written, or a summary of the communication, if oral, for inclusion in the record of the proceeding. As sanctions for violations of any prohibited communication provided in section 17A.17 of the Code, a decision may be rendered against a party who violates these rules, or for reasonable cause shown the commissioner may censor, suspend, or revoke a privilege to practice before the department, or for reasonable cause shown after notice and opportunity to be heard, the commissioner may censor, suspend, or dismiss any departmental personnel.

10.403(2) A hearing officer receiving any prohibited communication without immediately notifying all parties shall be subject to censure, suspension or dismissal or recommendation of dismissal.

10.404 to 10.499 Reserved.

LICENSES

680—10.500(17A) Denial of license, refusal to renew license. When the department is required by constitution or statute to provide notice and an opportunity for an evidentiary hearing prior to the refusal or denial of a license, a notice, as prescribed in rule 10.200, shall be served by the department upon the licensee or applicant. Prior to the refusal or denial of a license, the department shall give thirty days written notice to the applicant or licensee in which to appear at a hearing to show cause why a li-

cence should not be refused or denied. In addition to the requirements of rule 10.200, the notice shall contain a statement of facts or conduct and the provisions of law which warrant the denial of the license or the refusal to renew a license. If the licensee wishes, a petition may be filed as provided in rule 10.502 with the hearing officer within the thirty days prior to the hearing. The department may, in its discretion, file an answer to a petition filed by the licensee prior to the hearing. Thereafter, the rules contained in this chapter governing contested case proceedings shall apply.

When a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license does not expire until the application has been finally determined by the department, and, in case the application is denied or the terms of the new license limited, until the last date for seeking judicial review of the department's order or a latter date fixed by order of the department or the reviewing court.

680—10.501(17A) Revocation of license. The department shall not revoke, suspend, annul or withdraw any license until written notice is served pursuant to rule 10.200 within the time prescribed by the applicable statute and the licensee whose license is to be revoked, suspended, annulled or withdrawn is given an opportunity to show at an evidentiary hearing conducted pursuant to the rules governing contested case proceedings in this chapter compliance with all lawful requirements for the retention of the license. In addition to the requirements of rule 10.200, the notice shall contain a statement of facts or conduct and the provisions of law which warrant the revocation, suspension, annulment, or withdrawal of the license. A licensee whose license may be revoked, suspended, annulled, or withdrawn may file a petition as provided in 10.502 with the hearing officer prior to the hearing. The department may, in its discretion, file an answer to a petition filed by the licensee prior to the hearing. Thereafter, the rules contained in this chapter governing contested case proceedings shall apply. The notice referred to herein shall be served by personal service or by restricted certified mail.

Notwithstanding the above, if the department finds that public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in an order to the licensee, summary suspension of a license shall be ordered pending proceedings as provided herein. These proceedings shall be promptly instituted and determined. When a summary suspension as provided herein is ordered, a notice of the time, place and nature of the evidentiary hearing shall be attached to the order.

680—10.502(17A) Petition. When a person desires to file a petition as provided in rule 10.501 and 10.502, the petition to be filed shall contain:

a. A caption in the following form:

BEFORE THE IOWA STATE DEPARTMENT OF PUBLIC SAFETY
LUCAS STATE OFFICE BUILDING
DES MOINES, IOWA

IN THE MATTER OF _____

(state petitioner's name, address and type of license)

PETITION

DOCKET NO. _____

(filled in by department)

b. Substantially state in separate numbered paragraphs the following:

(1) The full name of the petitioner and address;

(2) Refer to the type of license and the relevant statutory authority;

(3) Clear, concise and complete statements of all relevant facts showing why petitioner's license should not be acted against;

(4) Whether a similar license has previously been issued or held by petitioner and if previously acted against the reasons therefor;

(5) The signature of the petitioner.

10.503 to 10.599 Reserved.

DECLARATORY RULINGS

680—10.600(17A) Request and issuance procedure. Any oral or written advice or opinion rendered to members of the pub-

lic by department personnel not pursuant to a petition for a declaratory ruling is not binding upon the department. However, departmental personnel, including field personnel, ordinarily discuss substantive issues with a member of the public or representative prior to the receipt of a petition for a declaratory ruling, but such oral or written opinions or advice are not binding on the department. This should not be construed as preventing members of the public or their representatives from inquiring whether the department will issue a declaratory ruling on a particular question. In such cases, however, the name of the inquirer shall be disclosed. The department will also discuss questions relating to certain procedural matters as, for example, submitting a request for a declaratory ruling or submitting a petition to initiate rule-making procedures. Members of the public, may, of course, seek oral technical assistance from a departmental employee in regard to the proper preparation of an application or method of administratively interacting with or filing required information or reports with the department. Such oral advice is advisory only and the department is not bound to recognize it. If a declaratory ruling is requested by a petitioner with a matter currently pending before the department, such ruling will not be issued until after the termination of the matter unless the commissioner wishes to issue one.

10.600(1) Declaratory rulings will not be issued by the department on matters in litigation. Declaratory rulings petitioned by one not a party to a contested case will not be issued in the event that the matter is involved in a contested case. The commissioner may issue a declaratory ruling to a protestor who petitioned for one, provided the commissioner determines that the matter can be more expeditiously resolved by a declaratory ruling than by the initiating or completing of contested case proceedings.

10.600(2) Upon the filing of an original and four copies of a proper petition of an interested person with the administration division, the department may issue a declaratory ruling as to the applicability of any rule or order of the department or the applicability of any statutory provision.

10.600(3) A petition for a declaratory ruling which is filed shall contain:

a. A caption in the following form:

THE IOWA STATE DEPARTMENT OF
PUBLIC SAFETY
LUCAS STATE OFFICE BUILDING
DES MOINES, IOWA

IN RE: THE PETITION OF _____
(state petitioner's name) FOR A DE-
CLARATORY RULING ON _____
(state rule number, statute for which in-
terpretation sought, etc.)

PETITION FOR
DECLARATORY RULING
DOCKET NO. _____

(filled in by department)

b. Substantially state in separate num-
bered paragraphs the following:

(1) The full name of the petitioner,
and address;

(2) Clear and concise statements of the
controversy or the uncertainty;

(3) Refer to the statutory authority in-
volved and the rules involved;

(4) Clear, concise and complete state-
ments of all relevant facts;

(5) The reasons for prompting the
petition together with a full disclosure
of petitioner's interest therein;

(6) Whether petitioner presently is in-
volved in a matter pending before the
department;

(7) The signature of the petitioner.

10.600(4) Upon filing, such petition for
declaratory ruling shall be given a docket
number and shall become a matter of
public record. The administration divi-
sion may require the petitioner to file ad-
ditional data or memoranda in support
of a position taken by the petitioner.

10.600(5) Although no hearing need be
granted to the petitioner or to any inter-
ested person in the usual course of dis-
position of a petition for a declaratory
ruling, the administration division may,
in its discretion, order a hearing on the
disposition of the petition if either peti-

tioner submits a written request there-
for with the filing of the petition stat-
ing in detail why a hearing is necessary
for a fair consideration of the need for
a declaratory ruling on the matter stated
in the petition or if the department
wishes a hearing.

10.600(6) All declaratory rulings shall be
signed by the commissioner and issued
within thirty days of filing unless good
cause exists for a further period of time
not to exceed a reasonable period. A de-
claratory ruling which is issued shall have
the same status as an order rendered in a
contested case and shall be final for pur-
poses of appeal or judicial review.

10.601 to 10.699 Reserved

RULE MAKING

**680—10.700(17A) Rule-making proceed-
ings.** Prior to the initiation of rule-mak-
ing proceedings as set forth herein, rules
which are proposed for adoption are ap-
proved by the commissioner. The chan-
neling of rules varies with the circum-
stances. When a division determines that
a rule or rules should be adopted on a
particular subject, it prepares a rough
draft of the rule or rules which is re-
viewed by the legal division, administra-
tion division and commissioner. After ap-
proval by the commissioner, the rule-
making proceedings are initiated.

**680—10.701(17A) Initiation of rule-
making proceedings.**

10.701(1) Prior to the adoption, amend-
ment or repeal of any rule the depart-
ment shall:

a. Give notice of its intended action by
causing a notice to be published in the
"Iowa Administrative Code". Any notice
of intended action shall be published at
least thirty-five days in advance of the
action. The notice shall include a state-
ment of either the terms or substance of
the intended action or a description of
the subjects and issues involved, and the
time when, the place where, and the man-
ner in which the interested persons may
present their views thereon.

b. Afford all interested persons reason-
able opportunity to submit data, views,
or arguments in writing pursuant to rule
10.704. If timely requested in writing by
twenty-five interested persons, by a gov-
ernmental subdivision, by the adminis-

trative rules review committee, by another agency, or by an association having not less than twenty-five members, or in its discretion, the department shall give interested persons an opportunity to make oral presentations pursuant to rule 10.703. The department shall consider fully all written and oral submissions respecting the proposed rule. Within one hundred eighty days following either the notice published according to the provisions set forth herein or the last day of the oral presentations on the proposed rule, whichever is later, the department shall adopt, amend or repeal a rule or shall terminate the proceeding. If requested to do so by an interested person, either prior to adoption or within thirty days thereafter, the department shall issue a concise statement of the principal reasons for and against the rule it adopted, amended or repealed, incorporating therein the reasons for overruling considerations urged against the rule.

10.701(2) When the department for good cause finds that notice and public participation would be impracticable, unnecessary, or contrary to the public interest, the provisions of rule 10.701 above shall be inapplicable. The department shall incorporate in each rule issued in reliance upon this subrule either the finding in a brief statement of the reasons therefor, or a statement that the rule is within a very narrow category of rules whose issuance has previously been exempted from rule 10.701 above relying on this subrule and including such a finding and statement of reasons for the entire category.

680—10.702(17A) Petitions for adoption, amendment or repeal of a rule. Any interested person may petition the department for the issuance, amendment, or repeal of any rule.

When a petition for the promulgation, amendment or repeal of a rule is received from an interested person, a copy of the petition is given to the appropriate division, commissioner, and legal division for their views and comments as to the propriety of the petition. If it is determined the petition disclosed sufficient justification, rule-making proceeding will be initiated.

10.702(1) A petition for rule-making which is filed shall contain:

a. A caption in the following form:

THE IOWA STATE DEPARTMENT OF
PUBLIC SAFETY
LUCAS STATE OFFICE BUILDING
DES MOINES, IOWA

IN RE: _____
(interested person's name) REQUEST
FOR _____ (adoption,
amendment or repeal) OF RULE NUM-
BER _____ (if applicable)

PETITION FOR
RULEMAKING

DOCKET NO. _____
(filled in by department)

b. Substantially state in separate numbered paragraphs the following:

- (1) Petitioner's name and address;
- (2) The text of any proposed rule or amendment identifying the section or sections of law involved or rule involved, or the rule sought to be repealed;
- (3) The reasons for seeking the requested action in detail, including any facts, views, data or arguments deemed relevant;
- (4) The nature of petitioner's interest in the subject matter;
- (5) The signature of the petitioner or representative.

10.702(2) A petition for rule-making shall be filed with the administration division. The administration division may request the petitioner to submit additional facts, views or data and may require the petitioner to serve a copy of the petition upon persons or agencies known to be interested in the proposed rule-making.

10.702(3) Upon filing, such petition for rule-making shall be given a docket number and shall become a matter of public record. The department shall, within sixty days following the filing of the petition, either deny the petition in writing on the merits or initiate public rule-making procedures as set forth in rule 10.701. After careful consideration, if it is determined that the petition does not disclose sufficient reasons to justify the commencement of public rule-making proceedings or if the petition materially fails

to comply with the requirements of these rules, or if it is determined that petitioner is not an interested person, the petition shall be denied and the petitioner so notified together with any other relevant reasons for such denial; provided, however, that the provisions of this sub-rule shall not prevent the department, in its discretion, from acting on any matter disclosed in any petition.

10.703(17A) Conduct of public hearing. When required to do so, or in its discretion, the department shall conduct a public hearing. Each hearing shall be presided over by the commissioner or designee. The hearing shall be conducted in such a way that interested persons will have a reasonable opportunity to present their views or submit their arguments on matters relevant to the issues involved. The commissioner or designee shall have authority to take any action necessary for the orderly conduct of the hearing.

10.703(1) Each hearing shall be held at the time and place set in the notice of hearing, but at such time and place the hearing may be continued by the commissioner or designee to a later time or date and will be set for hearing at a different time and place without notice other than by announcement at the hearing.

10.703(2) A person who wishes to be assured of being heard shall submit, at least fifteen days prior to the date of the hearing, an outline of the topics the person wishes to discuss, the time to be devoted to each topic and any written comments. An agenda will then be prepared containing the order of presentation of oral comments and the time allotted to such presentation. Ordinarily, a period of ten minutes will be the time allotted to each person for making oral comments. At the conclusion of the presentations of comments of persons listed in the agenda, to the extent time permits, other comments will be received.

10.703(3) In lieu of the reading of a prepared statement at the hearing, a person's oral comments shall ordinarily be limited to a discussion of matters relating to any written comments submitted and to questions and answers in connection therewith. Oral comments shall not be merely a restatement of matters the person may have submitted in writing. Persons making oral comments should be prepared to answer questions not only on topics listed

in the outline but also in connection with other matters relating to the submitted written comments. In order to be assured of the availability of copies of such written comments or outlines on or before the hearing, any person who wishes such copies should make such a request within fifteen days of the hearing and shall agree to pay a reasonable cost for copying. Persons who make such a request will be furnished copies as soon as they are available, but it may not be possible to furnish the copies before the beginning of the hearing. Except as provided in the preceding sentences, copies of written comments regarding the rules proposed shall not be made available at the hearing.

10.703(4) At the commencement of the hearing, the commissioner or designee shall read the notice of hearing and then shall outline briefly the procedure to be followed.

10.703(5) Every person shall, before proceeding to testify at the hearing, state their name, address, and whom they represent at the hearing and shall give such other information respecting their appearance as the commissioner or designee may request.

10.703(6) In the case of unusual circumstances or for good cause shown, the application of rules contained in this rule may be waived. To the extent resources permit, the public hearings to which this rule applies may be transcribed by the department and may be transcribed by anyone at their expense.

10.703(7) All outlines and written comments to be submitted prior to the hearing shall be addressed to the administration division.

680—10.704(17A) Submission of written data, views or arguments. All interested persons shall be afforded an opportunity to submit data, views, or arguments in writing within the time provided by the notice of proposed rule-making.

10.704(1) Designations of material as confidential will not be accepted. Thus, a person submitting written comments in response to a notice of proposed rule-making should not include therein material considered to be confidential or inappropriate for disclosure to the public. It will be presumed by the department that every written comment submitted to

it in response to a notice of proposed rule-making is intended by the person submitting it to be subject in its entirety to public inspection and copying.

10.704(2) Written comments in response to a notice of proposed rule-making shall

conform to rule 10.5 and shall be submitted to the administration division.

These rules are intended to implement chapter 17A of the 1975 Code.

[Effective June 30, 1975]

PUBLIC SAFETY PEACE OFFICERS' RETIREMENT, ACCIDENT AND DISABILITY SYSTEM TRUSTEES

[The 690 preceding each rule number in Public Safety Peace Officers' Retirement, Accident and Disability System rules (Chapter 1) is the agency number assigned for use after July 1, 1975]

Pursuant to the authority of Chapters 17A and 97A of the Code, the following rules are hereby adopted.

[Filed June 27, 1975]

CHAPTER 1 ORGANIZATION AND PROCEDURE

690—1.1(17A, 97A) **Meeting of board of trustees.** The board of trustees meets regularly on a quarterly basis, or upon the call of the chairman.

690—1.2(17A, 97A) **Election of system member.** The method of choosing that member of the system who serves on the board of trustees is as follows: Upon time for the election of the system member to the board of trustees, members of the system indicate by write-in ballot that member of the system they wish to have serve on the board. From among all the write-in ballots received, the names of those three members receiving the highest number of write-in votes are placed on a new ballot. This new ballot is then submitted to the members of the system, and that member whose name appears on the new ballot receiving the highest number of votes shall serve as the member of the system on the board of trustees.

690—1.3(17A) **Forms and information.** Persons wishing to obtain forms or information about the Peace Officers' Retirement, Accident and Disability System or its trustees should address their requests to

Secretary, Peace Officers' Retirement System

Iowa State Patrol
Lucas Building
Des Moines, Iowa 50319

690—1.4 to 1.99 Reserved.

RETIREMENT AND BENEFIT PROCEDURE

(APPEARED AS CH. 1, 1973 IDR)

690—1.100(97A) **Computation of average final compensation.** Computation of the average final compensation shall be made using the salary stated for the rank held by the member for the five years immediately preceding retirement or death. Overtime compensation if any and authorized periods without pay shall not be considered in this computation.

690—1.101(97A) **Age of retirement and of qualification.** Age at retirement for computation of annuity shall mean age at the nearest birthday, however, the age of qualification for benefits under chapter 97A shall mean the age on last birthday.

690—1.102(97A) **Advancement of age.** In the event of retirement on accidental disability before age 55, the age shall be advanced three years for computation of the annuity. For accidental disability age 55 and later and for ordinary disability the age shall not be so advanced.

690—1.103(97A) **Accidental disability under age 55.** Accidental disability may be granted by the board on the basis of under age 55 provided that:

1.103(1) Application was on file before the applicant attained age 55.

1.103(2) Applicant has not been refused disability on the application. If so, a new application must be filed.

1.103(3) The fact that processing of an application causes such a lapse of time that the applicant passes age 55 shall not be an impediment of qualifying for accidental disability two-thirds.

690—1.104(97A) **Spouse's benefit upon remarriage.** If an active member's spouse should remarry, the spouse's benefit will continue to be paid to the guardian of

any child for his benefit so long as said child remains under age 18. If the amount to be received for the child or children will exceed \$1,000.00 a conservator must be named by the court. This is in addition to the child's regular benefit. (Note: The word "spouse" replaces the use of the word "widow" in the 1973 IDR)

690—1.105(97A) Computation of escalation of benefits. The escalation of benefits authorized in section 97A.6(15) "a" be computed using two different methods. (Forms R1 through R10)

690—1.106(97A) Date of retirement. Date of retirement shall mean the first day on retirement and not the last day on duty.

690—1.107(97A) Workmen's compensation—effect on benefit payment. In the event of payment of workmen's compensation benefits on account of disability or death for which benefits are payable under chapter 97A, the retirement or other benefit shall be adjusted by the actuarial equivalent of the total workmen's compensation. This is in lieu of causing the beneficiary to repay the workmen's compensation directly.

690—1.108(97A) Errors in payments. Errors in payments to beneficiaries when discovered shall be adjusted in accordance with section 97A.13. This shall be construed to mean that the total under or over payments shall be commuted to monthly income using the current annuity table and at the beneficiary's age at the nearest birthday at the time of correction. In the event that the error involves a child or children, the monthly benefit shall be adjusted over the balance of the child or children's eligibility, however, if the child or children are no longer on the rolls due to having attained age 18, a lump sum settlement shall be made. Errors referred to in this rule shall be adjusted only after presentation to and approval by the board.

690—1.109(97A) Annual statement of account. As soon as possible after the close of each calendar year, a statement of account shall be furnished to each active member which must include the following information:

Balance in the annuity savings fund at the beginning of the year.

Contribution for the year.

Interest additions for the year.

Balance in the annuity savings fund at the year end.

At the same time as above a form 1099 shall be prepared for each person who received benefits and any other person who has ceased to be a member during the year. The forms 1099 must detail the following information:

Total pension paid during the year.

Total refund of contribution during the year.

Total interest paid during the year.

The current pamphlets dealing with retirement and sick pay benefits should be obtained from internal revenue service and mailed with all forms 1099.

690—1.110(97A) Accrued vacation time—effect on benefit payment. When a member retires, if the retirement date requested, and approved by the board is before the expiration of accrued vacation time, the member shall receive vacation pay in addition to the retirement benefit for the vacation period.

690—1.111(97A) Initial benefit for child. Initial benefit for a child specified in section 97A.6(8) "f", (13) "a", "b", is ruled by this board to be six percent of the monthly salary of a senior patrolman.

690—1.112(97A) Entrance into armed services. If a member enters the armed services of the United States or its allies under section 97A.9 and fails to return as provided in said section the following shall govern.

1.112(1) When a request is received for payment of contributions and interest from the annuity savings fund, payment of the contributions with interest computed to the date of payment shall be made unless the period of absence exceeds four years.

1.112(2) If the period of absence exceeds four years, section 97A.3(2) shall apply and interest shall be computed for a four-year period only.

690—1.113(97A) Recomputation under 97A.6(15). The minimum payment of \$50.00 per month authorized in section 97A.6(8) "b" is a minimum only and the recomputation authorized in section

97A.6(15) "a" shall be made using correct original benefit and not the \$50.00 minimum. The benefit payable shall be the \$50.00 minimum until the recomputed benefit exceeds \$50.00 at which time the recomputed benefit shall be paid.

690—1.114(97A) Application for retirement and election of refund. Applications for retirement shall be made not more than ninety not less than thirty days in advance of the date of retirement, with election for one hundred percent refund, fifty percent refund or no refund of member's contribution. Such election when received by the board shall be final and irrevocable.

690—1.115(97A) Books of account. The following books of account shall be maintained by the secretary.

1.115(1) Self-balancing combination journal recording all receipts, disbursements and necessary adjustments.

1.115(2) Self-balancing ledger of control accounts.

1.115(3) Subsidiary ledger of the annuity savings fund.

1.115(4) Schedules at the close of the year which shall detail all control accounts except:

- a. Pension reserve account.
- b. Pension accumulation account.
- c. Annuity reserve account.

690—1.116(97A) Computation for partial month. Computation of retirement benefits for a partial month shall be on the actual number of days in the month, i.e., monthly benefits divided by the number of days in the month multiplied by the number of days due.

690—1.117(97A) Application of 97A.6 (13). Section 97A.6(13) applies to the spouse and children only if the spouse was married to the deceased pensioner at or before the time of his retirement and the children are the natural children of the deceased pensioner or were legally adopted at or before the time of his retirement. (Note: The word "spouse" replaces the use of the word "widow" in the 1973 IDR)

690—1.118(97A) One year of service. It is hereby ruled by the board of trustees that under section 97A.4, eleven

months of service in any year shall be equivalent to one year of service, however, in no case should a member receive more than one year of service credit for each twelve-month period.

690—1.119(97A) Official annuity table. The official annuity table to be used in computation of annuities due under the provisions of chapter 97A shall be the 1951 Group Annuity Table with four percent interest and ages retrogressed one year effective January 1, 1970.

690—1.120(97A) Average final compensation—less than five years service. In the event a member is retired before attaining five years of service, his average final compensation shall be the total of his earnable compensation from the date he was sworn into service divided by the number of months of service.

690—1.121(97A) Abstracts of benefits—report. The secretary shall present to the board at each regular meeting the last two abstracts of benefits with a detailed reconciliation between the two totals.

690—1.122(97A) Investment balance—report. The secretary shall reconcile the cash account as soon as possible after the close of the month, and after deducting \$5,000.00 report the book balance to the investment counsellor in the office of the treasurer of state as available to be invested.

690—1.123(97A) Application for benefits. Application for benefits under chapter 97A shall be made on forms R15 and R16 as the circumstances require. No benefit will be granted if this requirement is not met except for the return of contribution in the case of resignation, the request may be submitted in letter form which must include written approval of the proper division chief showing the date of termination.

690—1.124(97A) Receipt of application for benefits. Upon a receipt by the secretary of an application for benefits other than resignation of member form R11 through R14 as needed will be delivered to the accounting section of the department of public safety. The accounting section will complete the certification of salary stated on the department payroll. Upon receipt of the certification, the secretary will proceed to compute the retirement allowance.

690—1.125(97A) Date of death. In the event of the death of a member, the date of death will be considered to be the last day on the payroll for earned compensation or on pension and the next day following will be the first day for the spouse's and children's benefit. Accrued vacation pay will be paid in addition to the spouse's and children's benefits. (Note: The word "spouse" replaces the use of the word "widow" in the 1973 IDR)

690—1.126(97A) Age of spouse. When the spouse of a deceased active member is to receive an annuity payment from the member's contributions, the age of the spouse at her nearest birthday shall govern. The computation shall be the

spouse's birth date subtracted from the first date that spouse's benefits begin to accrue. (Note: The word "spouse" replaces the use of the word "widow" in the 1973 IDR)

690—1.127(97A) Age under 97A.8(1) "a". Age referred to in section 97A.8(1) "a" shall mean the age at the nearest birthday on the date when the individual becomes a member of Peace Officers' Retirement, Accident and Disability System. The secretary to the board shall furnish the birth date and age to be used by the payroll department of the department of public safety in the case of any additions to the membership.

[Effective June 27, 1975]

REAL ESTATE COMMISSION

Pursuant to the authority of sections 117.9 and 117.18 of the Code, the rules appearing in 1973 IDR, pages 852 and 853, relating to the real estate commission, are amended as follows:

[Filed May 13, 1975]

Rule 1.4(117) is rescinded and the following adopted in lieu thereof:

1.4(117) Reapplying after failure. An applicant who takes an examination and fails same shall be eligible to take the next

regularly scheduled examination, providing the applicant remits the examination fee to the commission at least five days prior thereto. An applicant who has failed to pass two written examinations shall not be entitled to apply for another examination until the expiration of six months from the date of the second examination failure.

This rule is intended to implement section 117.20 of the Code.

[Effective July 1, 1975]

REAL ESTATE COMMISSION

(continued)

Pursuant to the authority of sections 117.9 and 117.18 of the Code, the rules appearing in 1973 IDR, pages 852 and 853, relating to the real estate commission, are amended as follows:

[Filed May 13, 1975]

Rule 1.7(117) is rescinded and the following adopted in lieu thereof:

1.7(117) Renewal procedure following expiration. All licenses shall expire on December 31 of their effective year. Failure to apply for renewal of a license before expiration shall terminate licensee's authority thereunder but such license may nevertheless be renewed if application for renewal is filed on or before the January 30 following the effective year with a penalty of twenty dollars for each broker's

license renewal and a penalty of ten dollars for each salesman's license renewal. If the former licensee does not file for renewal by January 30 following the effective year of his license, he shall be required to file an original application and be examined before a license shall be issued. A renewal application shall be made on forms furnished by the Commission and shall include the appropriate renewal fee plus any penalty as required above.

This rule is intended to implement section 117.28 of the Code.

[Effective July 1, 1975]

REAL ESTATE COMMISSION

(continued)

Pursuant to the authority of sections 117.9 and 117.18 of the Code, the rules appearing in 1973 IDR, pages 852 and 853, relating to the real estate commission, are amended as follows:

[Filed May 13, 1975]

Rule 1.13(117) is rescinded and the following adopted in lieu thereof:

1.13(117) Fees. The following is a list of fees to be paid by applicants and licensees:

Fee for examination as broker or salesman	\$10.00
Fee for original license or renewal as salesman	\$10.00
Fee for original license or renewal as broker or broker-salesman	\$20.00
Fee for license as corporation, partnership, co-partnership, association, trade name or renewal	\$20.00

Fee for branch office or duplicate license \$10.00

Fee for license or renewal under reciprocity for broker, partnership, co-partnership, corporation, association or trade name \$30.00

Fee for licensure or renewal as salesman upon a reciprocity basis \$15.00

Fee for change of employment of broker or salesman \$5.00

Fee for change of business address \$1.00

Reissuance of any license held by commission at request of licensee \$5.00

No examination fees shall be refunded.

This rule is intended to implement section 117.27 of the Code.

[Effective July 1, 1975]

REAL ESTATE COMMISSION

(continued)

Pursuant to the authority of sections 117.9 and 117.18 of the Code, the rules appearing in 1973 IDR, pages 852 and 853, relating to the real estate commission, are amended as follows:

[Filed May 13, 1975]

Rule 1.17(117) is rescinded and the following adopted in lieu thereof:

1.17(117) Meetings of the commission. Meetings of the commission shall be held

at the times scheduled by the commission in the offices of the commission in the state capitol or at such other place as may be designated by the commission. Special meetings may be called by the chairman or director of the commission, who shall set the time and place of such meeting.

This rule is intended to implement section 117.11 of the Code.

[Effective July 1, 1975]

REAL ESTATE COMMISSION

(continued)

Pursuant to the authority of sections 117.9 and 117.18 of the Code, the rules appearing in 1973 IDR, pages 852 and 853, relating to the real estate commission, are amended as follows:

[Filed May 14, 1975]

Rule 1.23(117) is rescinded and the following adopted in lieu thereof:

1.23(117) Listings. All listing agreements shall be in writing, properly identifying the property and containing all of the terms and conditions under which the property is to be sold, including the

price, the commission to be paid, the signatures of all parties concerned and a definite expiration date. It shall contain no provision requiring a party signing the listing to notify the broker of his intention to cancel the listing after such definite expiration date.

This rule is intended to implement section 117.18 of the Code.

[Effective July 1, 1975]

REAL ESTATE COMMISSION

(continued)

Pursuant to the authority of sections 117.9 and 117.18 of the Code, the rules appearing in 1973 IDR, pages 852 and 853, relating to the real estate commission, are amended as follows:

[Filed May 13, 1975]

Rule 1.24(117) Advertising, is amended by inserting at the end thereof the words:

"Each broker when operating under a franchise or trade name other than his own name, shall clearly reveal in all advertising that he is the licensed individual who owns the entity using such franchise or trade name."

[Effective July 1, 1975]

REGENTS BOARD

Pursuant to the authority of section 262.12 of the Code, the rule appearing in 1973 IDR, at page 857, relating to residency classification of students is hereby amended.

[Filed June 10, 1975]

ITEM 1. Amend 1.4(262) by adding after 1.4(5) the following and renumbering the subsequent subrule: "1.4(6) Guidelines. The following guidelines are used in determining the residence classification of a student for tuition purposes."

a. An unmarried minor student claiming emancipation may be required to file any or all of the following:

(1) A statement from the student describing employment and expected sources of support as a student,

(2) A statement from the student's employer,

(3) A statement from the student's parents verifying nonsupport and the fact that the student was not listed as a dependent on tax returns for the past year, and will not be so listed in future years,

(4) Supporting statements from persons who might be familiar with the family situation.

A student who is deemed to be emancipated will be expected to meet the same

tests as an adult in determining residence classification.

b. A minor student whose parents move from Iowa after the student is enrolled remains a resident provided the student maintains continuous enrollment until reaching the age of majority. Minor students whose parents move from Iowa during their senior year of high school will be considered residents provided that they have not established residence in another state.

c. An adult student who was a former resident of Iowa may continue to be considered a resident provided absence from the state was for a period of less than twelve months and provided residence is re-established. If the absence from the state is for a period exceeding twelve months, resident status would need to be re-established in the same manner as for an initial move to the state, unless evidence can be presented showing that Iowa residence has been maintained according to the established criteria. However, a long-term former resident who returns after an absence of more than one year but less than two years is allowed to regain residency after one year even though a full-time student.

d. The spouse of a person who moved to Iowa for the express purpose of accepting full-time employment is considered a resident effective at the beginning of

the next semester or session following their move to the state.

e. An unmarried adult whose parents move to Iowa and who has been a continuous student or a member of the military service since graduating from high school may become a resident at the beginning of the semester provided the student is dependent upon the parents for major financial assistance.

f. An adult who moves to Iowa may be eligible for resident classification at the next registration following twelve consecutive months in the state provided he or she is not enrolled for more than eight credits (four credits during the summer session) in any semester or quarter during that twelve month period.

g. A nonresident student who marries an Iowa resident may be eligible for resident classification at the next registration following the first anniversary of the marriage provided the couple maintains their residence in Iowa during that period.

A nonresident student who married or is married to a nonresident who is not a student may become eligible for resident classification twelve months after the nonstudent spouse would normally become eligible for resident classification usually after twelve consecutive months as a nonstudent.

h. An Iowa resident who reaches majority while in the military service will retain resident classification until the conclusion of the regular service tour, assuming that he or she returns to Iowa within one year following discharge. Peace corps and conscientious objector alternate service are treated similarly.

i. The spouse of a person in military service who establishes and maintains Iowa residency according to these regulations during the tour of duty of the person in military service, may also earn residency for the person in military service provided the person in military service returns to Iowa immediately following his or her tour, and provided that the person in military service has listed Iowa as his or her home of record for at least a twelve-month period immediately preceding release from the service.

j. A career military service person who entered service from Iowa and who may

retire to Iowa to go to college, or the minor children of a career military service person who is still on active duty, may be granted resident classification if he or she has maintained a valid Iowa residence as evidenced by an Iowa address as the official address of record.

k. If a person who is engaged in a religious vocation is a native Iowan, the time of service in the church is considered the same as required military service or peace corps enlistment and resident classification is granted if he or she immediately returns to the state following the church assignment. A missionary who entered such service from the state and who is on furlough may be considered a resident if he or she is returning to the mission field. If service has been terminated prior to returning to Iowa, the person would be a nonresident if the return to the state was more than twelve months from the termination of the service.

The minor children of an active missionary who was an Iowa resident prior to assignment to the foreign field will be granted resident classification.

l. The following facts and circumstances, although not necessarily conclusive, have probative value in support of a claim for residence classification:

- (1) Reliance upon Iowa sources for financial support.
- (2) Domicile in Iowa of family, guardian or other relatives or persons legally responsible for the student.
- (3) Former domicile in the state and maintenance of significant connections therein while absent.
- (4) Ownership of a home in Iowa.
- (5) Admission to a licensed practicing profession in Iowa.
- (6) Acceptance of an offer of permanent employment in Iowa.

Other factors indicating an intent to make Iowa the student's domicile will be considered by the university in classifying a student.

m. The following circumstances, standing alone, do not constitute sufficient evidence of domicile to effect classification of a student as a resident under these rules:

- | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>(1) Voting or registration for voting.</p> <p>(2) Employment in any position normally filled by a student.</p> <p>(3) The lease of living quarters.</p> <p>(4) A statement of intention to acquire a domicile in Iowa.</p> | <p>(5) Continuous presence in Iowa during periods when not enrolled as a student.</p> <p>(6) Automobile registration.</p> <p>(7) Other public records, e.g., birth and marriage records.</p> <p style="text-align: right;">[Effective June 10, 1975]</p> |
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REGENTS BOARD

(continued)

Pursuant to the authority of section 262.9 of the Code, the following rule is adopted:

[Filed January 16, 1975]

CHAPTER 1

ADMISSION RULES COMMON TO THE THREE STATE UNIVERSITIES

1.5(262) Registration and transcripts—general. A person may not be permitted to register for a course or courses at a state board of regents institution until any delinquent accounts owed by the person

to an institution or any affiliated organization for which an institution acts as fiscal agent has been paid.

A state board of regents institution may withhold official transcripts of the academic record of a person until any delinquent accounts owed by the person to an institution or any affiliated organization for which an institution acts as fiscal agent has been paid.

This rule is intended to implement section 262.9 of the Code.

[Effective January 16, 1975]

REGENTS BOARD

(continued)

Pursuant to the authority of section 262.12 of the Code, rules of the Board of Regents filed August 15, 1974, relating to the merit system, are amended as follows:

[Filed March 11, 1975]

Subrule 3.39(15) is amended by adding at the end thereof two new paragraphs as follows:

“All employees who have received a promotion on or after July 1, 1973, and who

would have been eligible for decompression increases on October 1, 1974, or after had they not been promoted, shall have their salary reviewed to assure that their promotion has not resulted in the loss of a wage increase.

Employees who have been promoted should currently be receiving a salary equal to or greater than their salary might have been had they not received the promotion.”

[Effective April 10, 1975]

REGENTS BOARD

(continued)

Pursuant to the authority of section 262.69 of the Code, rules of the Board of Regents appearing in July 1974 IDR Supplement, page 109, relating to traffic and parking at Iowa State University of Science and Technology are hereby amended.

[Filed February 12, 1975]

Amend rule 4.25(262) by adding a new subrule as follows.

4.25(11) The president of the university or the president's authorized representative shall place and maintain such traffic-control devices as are deemed necessary

upon or about drives, roads and streets under the president's jurisdiction.

This rule is intended to implement section 262.69 of the Code.

[Effective February 12, 1975]

REGENTS BOARD

(continued)

Pursuant to the authority of section 262.69 of the Code, rules appearing in July 1974 IDR Supplement, pages 109 to 119, relating to traffic and parking at Iowa State University of Science and Technology are amended as follows:

[Filed June 10, 1975]

ITEM 1. Subrule 4.28(6), line 4, is amended by striking after the word "or" the word "his" and inserting in lieu thereof the words "the president's".

ITEM 2. Subrule 4.29(2), paragraph "a", line 2, is amended by inserting after the word "meters" the words "and loading zones".

ITEM 3. Subrule 4.29(4) is rescinded and the following adopted in lieu thereof:

4.29(4) *Illegal parking.* Illegal parking is defined as parking any place on campus other than those areas which have been designated for parking and identified by signs controlling their use.

a. Parking is prohibited at crosswalks, building entrances, fire hydrants, fire lanes, marked bicycle lanes, and other areas posted "No parking at any time" or marked by a yellow line. Vehicles in violation may be towed away.

b. Taking a motor vehicle into any university building is prohibited except where a shop or garage is especially designated for the purpose of vehicle repair or storage.

c. Vehicles parked in designated parking space on a roadway where there are adjacent curbs are prohibited from parking in any manner other than with the right-hand wheels parallel to and within eighteen inches of the right-hand curb. Parking of vehicles with the left-hand wheels parallel to and within eighteen inches of the left-hand curb on a one-way roadway is permitted in specifically posted areas. Vehicles in violation may be towed away.

ITEM 4. Subrule 4.29(5), line one, is amended by inserting after the words "Improper Parking" the words "Improper parking is defined as parking incorrectly in those areas which have been designated for parking and identified by signs controlling their use."

ITEM 5. Subrule 4.30(1) is amended by striking all of said subrule and inserting in lieu thereof the following:

4.30(1) Every student enrolled at Iowa State University who owns or possesses a motor vehicle during all or part of the academic year must, within forty-eight hours of the initial operation of the vehicle(s) in the Ames area (not including Saturdays, Sundays and university holidays), register the vehicle(s) and display upon it (them) a current identification sticker which is issued without charge upon registration.

ITEM 6. Subrule 4.30(2) is amended by striking all of said subrule and inserting in lieu thereof the following:

4.30(2) Any resident of university married student housing, whether currently enrolled or not, who owns or possesses a motor vehicle during all or part of the academic year must, within forty-eight hours of the initial operation of the vehicle(s) in the Ames area (not including Saturdays, Sundays, and university holidays), register the vehicle(s) and display upon it (them) a current identification sticker which is issued without charge upon registration.

ITEM 7. Subrule 4.30(3) is amended by striking all of said subrule and inserting in lieu thereof the following:

4.30(3) Any faculty or staff member who applies for a motor vehicle parking permit must register said motor vehicle and display upon it a current identification sticker which is issued without charge upon registration.

ITEM 8. Subrule 4.30(4) is amended by striking all of said subrule and inserting in lieu thereof the following:

4.30(4) Any student, or any resident of University married housing, or any faculty or staff member, so identified in subrules 4.30(1), 4.30(2), or 4.30(3), failing to register such vehicle(s) or to display an identification sticker thereon is subject to a penalty.

ITEM 9. Subrule 4.30(6) is amended by striking all of said subrule and inserting in lieu thereof the following:

4.30(6) Identification stickers are non-expiring until canceled by the university.

ITEM 10. Subrule 4.31(1), line 5, is amended by inserting after the word "registration" the words "by the parking system office or their designated representative."

ITEM 11. Subrule 4.32(7), line one, is amended by striking the word "student". Further amend said subrule by inserting at the end thereof the words "and during Christmas recess."

ITEM 12. Subrule 4.33(1) is amended by striking all of said subrule and inserting in lieu thereof the following:

4.33(1) Faculty and staff members employed by the university on a permanent budgeted appointment on an A, B, E, or H base are eligible for staff parking permits. Faculty and staff employed on a temporary or non-budgeted appointment may apply for a temporary general parking permit. Student employees are not eligible for this permit (student employees see 4.32).

ITEM 13. Subrule 4.33(3), lines 4 and 5, are amended by striking the words "an annual visitor's" and inserting in lieu thereof the words "a general".

ITEM 14. Subrule 4.33(11) is amended by inserting at the end thereof the sentence, "The fee for a temporary general parking permit is one dollar per week."

ITEM 15. Subrule 4.34(4) is amended by striking all of said subrule and inserting in lieu thereof the following:

4.34(4) A vehicle bearing a reserved parking permit may park in the reserved area to which it is assigned or in any staff parking lot or in any metered area upon payment of the appropriate meter fee.

ITEM 16. Subrule 4.37(1), paragraph "a", line 3, is amended by inserting after

the word "campus" the words "except one-half hour meters (orange banded)".

ITEM 17. Subrule 4.37(1), paragraph "b", is amended by striking said paragraph and inserting in lieu thereof the following:

b. Visitors who have frequent occasion to visit the campus on business may apply for a general staff parking permit. See 4.33(14).

ITEM 18. Rule 4.38(262) is amended by striking all of subrule 4.38(3).

ITEM 19. Subrule 4.38(5) is amended by striking all of said subrule and inserting in lieu thereof the following:

4.38(5) A limited number of meter parking permits which authorize all-day parking at any parking meter on the campus except one-half hour meters (orange banded) is available from the parking system office for a fee of one dollar per day. Such permit is not valid in the lot immediately east of the Memorial Union nor in the ramp.

ITEM 20. Subrule 4.39(4) is amended by inserting at the end thereof the sentence, "Two- or three-wheeled motor vehicles may not be parked in the same stall with a four-wheeled motor vehicle."

ITEM 21. Subrule 4.40(2), line 3, is amended by striking the words "a car pool" and inserting in lieu thereof the word "an".

ITEM 22. Subrule 4.41(1), line one, is amended by striking the word "student". Further amend said subrule, line 2, by striking the words "car pool identification stickers,".

ITEM 23. Subrule 4.41(3) is amended by inserting at the end thereof the sentence, "Expired parking permits shall be completely removed before affixing the current permit."

ITEM 24. Subrule 4.41(4) is amended by inserting at the end thereof the sentence, "Expired parking permits shall be completely removed before affixing the current permit."

ITEM 25. Rule 4.41(262) is amended by striking all of subrule 4.41(7).

ITEM 26. Subrule 4.42(2), line one, is amended by inserting after the word "evidence" the words, "including the filing of

a written report at the parking system office.” Further amend said subrule, paragraph *g*, by striking the word “student”, and paragraph “*h*” by inserting after the word “hall” the word “student”.

ITEM 27. Rule 4.45(262) is amended by striking all of subrules 4.45(1) and 4.45(2) and inserting in lieu thereof the following:

4.45(1) It shall be the policy of Iowa State University to co-operate with the city of Ames on the identification of bicycles. The following section of the Ames Municipal Code is cited for your information: “Section 7-2001. License required. No person shall ride or propel a bicycle on any street, sidewalk, or upon any public path set apart for the use of bicycles unless such bicycle is licensed by the city of Ames and there is affixed to said bicycle such tag, sticker, plate, or other device as may be issued by the city of Ames as evidence of such license.” City of Ames licenses may be obtained at campus locations designated by the parking system office or at the city fire stations.

4.45(2) The rules set forth herein are applicable only on university lands.

4.45(3) Every person operating a bicycle, whether as owner or not, shall conform to all provisions of the regulations set forth herein and shall be penalized for any violation thereof.

ITEM 28. Subrule 4.46(7) is amended by inserting at the end thereof the words “in a designated crosswalk.”

ITEM 29. Subrule 4.48(5) is amended by striking said subrule and inserting in lieu thereof the following:

4.48(5) *Clinging to vehicles.* No person riding upon any bicycle shall cling to or otherwise attach the bicycle to any moving vehicle.

ITEM 30. Rule 4.48(262) is amended by adding a new subrule.

4.48(7) Bicycles shall yield the right of way to motor vehicles turning across marked bicycle lanes in streets.

ITEM 31. Subrule 4.50(2), paragraph “*k*”, line 4, is amended by striking the words “4.30(3)” and inserting in lieu thereof the words “4.30(4).” Further amend said subrule, paragraph “*m*”, line 6, by striking the words “4.31(5)” and inserting in lieu thereof the words “4.31(6).” Paragraph “*o*” is amended by striking from lines 3, 4, and 5 the words “or identification sticker (see 4.41(7))” and inserting in lieu thereof the words “permit when a current permit has been affixed (4.41(3) and 4.41(4)).”

ITEM 32. Subrule 4.50(5), line 7, is amended by inserting after the word “responsible” the words “immobilized or”.

ITEM 33. Subrule 4.50(6) is amended by striking said subrule and inserting in lieu thereof the following:

4.50(6) When motor vehicles are towed or impounded, or both, the cost of such towing and impounding shall be paid by the person responsible for said vehicle according to the records of the parking system office. Towing and impounding may consist of either:

a. Physical removal of the vehicle from the campus by a private contractor with impoundment on the premises of the contractor or

b. Immobilization of the vehicle in place by affixing to the vehicle a device designed for that purpose.

ITEM 34. Subrule 4.50(7), line one, is amended by inserting after the word “Impounded” the words “or immobilized”, and by striking the word “will” and inserting in lieu thereof the word “may”.

ITEM 35. Rule 4.51(262) is amended by striking all of subrule 4.51(5).

[Effective September 1, 1975]

REGENTS BOARD

(continued)

Pursuant to the authority of chapter 263 of the Code, the rules appearing in the IDR, 1973, page 893, relating to the State Hygienic (Bacteriological) Laboratory, Iowa City, Iowa, are hereby rescinded and the following rules are adopted.

[Filed May 19, 1975]

CHAPTER 5

STATE HYGIENIC LABORATORY
GENERAL REGULATIONS**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.

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.

5.3(263) Charges.**5.3(1) Specimens examined free of charge:**

a. Specimens submitted relating to diseases communicable from human to human, from animals to human, provided such examinations are required by rules of the state department of health.

b. Specimens submitted under statutory authority by state agencies or designees of state agencies which are involved in investigations or episodes challenging the health of the public or the quality of the environment.

c. Any specimen when there is probable cause that a direct threat to public health exists.

5.3(2) Specimens for which fees are charged.

a. Specimens submitted under no statutory authority which are part of special investigations or surveillance programs and where there is no direct threat to the public health or environmental quality.

b. Specimens submitted for the submittor's private information, such as well water samples.

c. Specimens submitted by private concerns and municipalities which are considered to be product quality control measures and, therefore, a cost of doing business.

d. Specimens not covered by statute, by rules of the state department of health, by rules of the department of environmental

quality or in this subrule, may be examined and charged for at rates to be determined by the state board of regents subject to any limitations imposed by law.

This rule is intended to implement section 263 of the Code.

[Effective May 19, 1975]

REGENTS BOARD

(continued)

Pursuant to the authority of section 262.9 of the Code the following rules are adopted.

[Filed June 27, 1975]

CHAPTER 7 EQUAL EMPLOYMENT OPPORTUNITY

7.1(262) State contracts and subcontracts. Every official responsible to the board of regents who is authorized to make contracts or subcontracts for public works or for goods or services shall cause to be inserted into every such contract or subcontract a clause in which the contractor or subcontractor is prohibited from engaging in discriminatory employment practices forbidden by the Iowa civil rights act of 1965 as amended, Iowa executive order number 15 of 1973, federal executive order 11246 of 1965 as amended by federal executive order 11375 of 1967, the equal employment opportunity act of 1972, and all provisions relevant to fair employment of the rules and regulations of the board of regents and of its institutions. Contractors, vendors and suppliers may further be required to submit or have on file with the board of regents equal opportunity compliance office a copy of their affirmative action program containing goals and time specifications. These contractual provisions shall be fully monitored and enforced; any breach of them shall be regarded as a material breach of contract.

7.2(262) Equal opportunity policy.

7.2(1) Policy of equal employment opportunity. All contractors, including suppliers, supplying goods or services to the institutions governed by the state board of regents, regardless of where located or the form of contractual relation-

ship, are expected to comply with the spirit of equal employment opportunity, as well as with the letter of all applicable statutes and regulations. Compliance shall require contractors not to discriminate and, in addition, to take affirmative action to ensure that members of minority groups are effectively afforded equal employment opportunities.

7.2(2) Administration

a. In order to carry out the purposes of the policy, the regents equal employment opportunity compliance office has been established at the Grimes State Office Building, Des Moines, Iowa. The administration of the policy shall be the primary responsibility of the regents equal employment opportunity compliance officer (hereinafter called the compliance officer) under the general supervision of the executive secretary of the board.

b. Since the purpose of the policy is to open up opportunity for and eliminate discrimination against members of minority groups, the emphasis in the administration of the policy shall be to encourage improvement by contractors in their employment practices, while at the same time requiring compliance, so as to effectively provide equal opportunities in employment for all persons.

c. Compliance shall be determined by a comprehensive review and evaluation of a contractor's employment policies and practices and shall depend on an analysis of all relevant factors, including the following:

(1) The contractor's publicly stated and posted policy regarding equal opportunity employment.

(2) The contractor's external dealings with unions, employment agen-

cies, newspapers, and other sources of employees.

(3) The methods by which and places where the contractor seeks to recruit employees.

(4) The contractor's use of tests and qualifications for positions which are job related and not culturally biased.

(5) Classification and compensation plans which apply equally to all employees.

(6) Training programs which provide minority group members with an equal opportunity to qualify for employment and advancement.

(7) The contractor's active support of local and national community action programs.

(8) The effectiveness of the contractor's affirmative action program as evidenced, in part, by the number of percentage of minority group employees employed at all levels, taking into account the geographical location of the contractor's work force

e. The judgment regarding compliance shall be favorable if it is determined that the contractor is working affirmatively toward extending opportunities for minority group persons and is not discriminating against such persons. Contractors must be able to demonstrate to the satisfaction of the compliance officer that their affirmative action program is productive.

7.2(3) Procedures.

a. Contractors will be sent periodically an informative statement explaining the regents' equal employment opportunity policy. In the case of construction contracts, the statement constitutes part of the general conditions and bid specifications and compliance therewith is a condition of doing business with regents institutions. It is the intention of the regents to be fair and to avoid harassment and unnecessary red tape, but to be clear and firm about policy and expectations.

b. Contractors are to submit periodic reports as requested by the compliance office on the basis of an impartial selection procedure, such as contracts over a fixed dollar amount, contractors with more than a fixed number of employees,

contractors with employees present on the campus, random sampling, or a combination of such factors. The report forms shall be as brief as possible and designed to elicit relevant information about employment practices. The compliance office may request other relevant information from a contractor at any time.

c. The compliance office will solicit and compile additional information about present and prospective contractors from any reliable source, including the regents institutions, the Iowa civil rights commission, and other state and federal agencies.

d. The compliance office shall systematically review the reports and all other available information concerning the employment practices of present and prospective contractors. Whenever there is reasonable doubt, based on such reports and information, as to whether or not a contractor is discriminating or is failing to take affirmative action in compliance with the regents policy, the compliance office shall undertake a compliance review of such contractor. Every reasonable effort shall be made to secure compliance through conciliation and persuasion. The burden shall be on the contractor to demonstrate compliance and eligibility to do business with the regents.

e. The compliance office will receive written and signed complaints against a contractor from any person aggrieved by the contractor's alleged discrimination. The compliance office shall promptly notify the institution involved of a complaint. The burden shall be on the complainant to prove the truth of the allegations. Cognizance will also be taken of verbal complaints, newspaper reports, and any other legitimate source, and these will be followed up if investigation appears justified. Award of contracts will ordinarily be deferred while an investigation is pending, but executed contracts will not be suspended except in compelling situations.

f. If an investigation or compliance evaluation discloses that there is reasonable cause to believe a contractor has discriminated or has failed to take affirmative action, the compliance officer may declare the contractor ineligible unless it can otherwise be affirmatively determined that the contractor is able to comply. The compliance officer shall issue a written

notice of ineligibility to the contractor, and giving thirty days to show cause why enforcement proceedings should not be instituted. During the thirty-day show cause period, every effort shall be made to effect compliance through the processes of conciliation, mediation and persuasion.

g. If the contractor fails to show good cause for failure to comply or fails to remedy that failure, with the advice and consent of the executive secretary of the board, the compliance officer may issue a written notice of proposed cancellation or termination of the existing contract or subcontract and debarment from future contracts and subcontracts, giving the contractor ten days to request a hearing. If a request for hearing has not been received within ten days from such notice, such contractor will be declared ineligible for future contracts and current contracts will be terminated for default following the approval of the state board of regents.

h. Hearings shall be conducted by a hearing examiner appointed by the executive secretary of the board from a panel of hearing examiners selected and ap-

proved by the board. The hearing examiner shall submit findings of fact and conclusions to the compliance officer and the executive secretary who shall make recommendations for final action to the board of regents.

i. The compliance officer shall promptly notify the board of regents when such action is pending regarding the suspension, cancellation, or termination of existing contracts or subcontracts and debarment from future contracts and subcontracts.

7.3(262) Bidding requirement. All construction specifications shall include, in the "instructions to bidders", the following paragraph: "Bidders shall file with each bid a completed board of regents equal employment opportunity data reporting form as included in the specifications or certify on the certificate of reporting that an equal employment opportunity data reporting form has been filed with the board of regents equal opportunity compliance officer."

[Effective June 27, 1975]

REGENTS BOARD

(continued)

Pursuant to the authority of section 262.12 of the Code the following rules are adopted.

[Filed June 10, 1975]

CHAPTER 8 PURCHASING

8.1(262) Procurement policy.

8.1(1) The best interests of the state of Iowa and of the regent institutions is served through implementation of a full and free competitive purchasing system fostered by the use of open specifications, competitive bids or quotations and awards to the lowest responsible bidder. To further a competitive and economical system, the following operating rules are hereby adopted.

a. Preference shall be given to Iowa products and suppliers. This preference shall exist when Iowa products can be obtained at equal or less cost and are of equal quality to those products obtain-

able from out-of-state suppliers. The purchasing officials use their professional judgment in making such determinations.

b. Each purchasing officer at each institution maintains a master list of prospective suppliers for each established category and utilizes this list to request, when practical and feasible, three or more quotations or bids for each item to be purchased.

c. Any person, agency or firm wishing to supply materials in a category may request, in writing, that their name be added to the master list. The name is added to the list if in the professional judgment of the purchasing officer the addition would aid in fostering a competitive situation. The purchasing officer may require the requesting party to furnish information relative to qualification to supply the items indicated and relative to financial responsibility.

d. Once a supplier is accepted on the master list, the name is not removed from

the list except upon the supplier's request, or for good and sufficient reasons, including, but not limited to, the following which may be construed as evidence the supplier is not a responsible bidder:

(1) Delivery of commodities that do not comply with specifications.

(2) Failure to deliver within the specified time.

(3) Refusal to deliver after making a quotation and after receiving an order.

(4) Repeated withdrawal of quotations prior to the placing of an order.

(5) Failure to have qualified service available in the area to set up, check out, instruct personnel in use or parts to service equipment, if a part of the agreement or warranty, written or implied.

(6) Bankruptcy or other evidence of insolvency, or any other fact which might cause substantial doubt about the supplier's ability to continue as a responsible source and to fulfill obligations.

(7) Failure to comply with the regents' equal employment opportunity policy. Removal shall be on recommendation of the regents' compliance officer.

(8) Repeated failure to respond to requests for prices.

(9) No longer in business.

e. Whenever possible and practical, specifications drawn by regent institutions are written in general terms so as to foster competition between bidders. If brand names are used to indicate quality desired, the specifications shall contain an "or equal" clause. Approval of the "or equal" status shall be left to the judgment of the purchasing officials.

f. In some instances scientific, mechanical and technical equipment or supplies may be required which are obtainable from a single source only, and further, that in some emergency situations the taking of competitive bids or quotations is not feasible or possible and in such situations, the requirements to do so may be waived. Recognition is also given to standardization and compatibility requirements which should be maintained for purposes of economics in replacement and maintenance.

g. The purchasing officers may establish a procedure, based on economy-of-scale, to handle local small orders. The procedure used as to dollar amount allowable, firms to be utilized, and definition of local area is determined by the purchasing officer at each institution.

h. The name of the successful bidder and all other bidders and the amounts bid shall be supplied to any person upon oral or written request.

i. Nothing contained in these rules shall be construed to mean that the lowest priced goods or inferior or sub-standard goods must be purchased. The regents institutions purchase the best quality consistent with economy and when possible test and evaluate all supplies, materials and equipment purchased.

8.1(2) Reserved.

8.2(262) Special considerations.

8.2(1) All purchases of equipment, furnishings and supplies for which an exclusive franchise is granted such as laundry equipment, vending machines and coin-operated equipment are subject to the receipt of bids or quotations.

8.2(2) Equipment, furnishings and supplies are purchased by the chief business officer of each institution acting through the institutional purchasing agent, on the basis of quotations when practical and feasible.

8.2(3) The chief executive officer of each institution is delegated authority by the board of regents to approve agreements and contracts for all goods and services purchased by the institution except for capital improvements, fire protection, legal services, projects and engineers. The excepted items require approval of the board. The chief executive officer may further delegate this authority to others.

8.3(262) Purchase of equipment funded by academic revenue bond proceeds.

8.3(1) On each equipment grouping funded by academic revenue bond proceeds where the estimated cost of the equipment to be purchased from a single source is equal to or less than \$10,000.00:

a. A university shall follow its normal purchasing procedures.

b. Purchase orders shall be issued with the approval of the chief business officer

or designee to the lowest responsible bidder for equipment conforming to the specifications.

c. Bid security will not be required unless it is deemed to be in the public interest to do so by the chief business officer or designee.

8.3(2) On each equipment grouping funded by academic revenue bond proceeds where the estimated cost of the equipment to be purchased from a single source exceeds \$10,000.00:

a. A notice to bidders shall be published as provided by the Code, establishing a time for public opening of bids.

b. Bid security in the amount of five percent of the total bid for each group shall be required in the form of cash, certified check or bid bond, payable to the executive secretary, board of regents.

8.3(3) Public hearings shall not be required under subrules 8.3(1) or 8.3(2).

8.4(262) Insurance purchases.

8.4(1) Insurance is purchased from the company offering the lowest net cost. Consideration is given to rates, dividend experience, and financial responsibility. Any changes in present insurers made in compliance with this provision are, where practical, made upon expiration of present insurance contracts.

8.4(2) Insurance coverages, authorized by the regents, are purchased upon authorization of the chief business officer of each institution on the basis of the low competitive bid or quotation and in accordance with principles approved by the board.

8.4(3) Builder's risk insurance may be required of contractors, and certification of such coverage provided in each instance when required in the notice to bidders.

8.5(262) Purchase of coal. Coal may be purchased upon authorization of the chief business officer for each institution on the basis of the low competitive bid or quotation and in accordance with the Code and in accordance with specifications approved by the executive secretary and incorporated in the notice for bids or quotations.

8.6(262) Capital procedures.

8.6(1) Estimated cost exceeding \$10,000.00. When the estimated cost of construction, repairs, or improvements of buildings or grounds exceeds \$10,000.00, initial public hearings are conducted by the chief business officer of each institution, or delegated representative, except as noted in subrule 8.6(2). Reports of public hearings are filed with the executive secretary by the chief business officer. All final hearings required by law are held by the board.

8.6(2) Revenue bond projects. On any project financed in whole or in part by academic revenue bond or hospital revenue bond proceeds, the public hearing is held by the board at a regular meeting.

a. Except in unusual circumstances, the board adopts a resolution by roll call vote setting the date, place and time of the hearing. This resolution is acted on at a meeting prior to the date set forth in the resolution for the hearing.

b. The procedure for a board-held public hearing is: (1) Call the meeting to order; (2) call the roll; (3) state that this is the day, time and place set for a hearing on the proposed plans, specifications and proposed form of contract for _____ (project); (4) ask whether anyone present wishes to register objections concerning either the proposed plans and specifications or proposed form of contract; (5) ask whether the executive secretary received any written objections to the project; (6) if no objections, oral or written received, declare the public hearing closed.

8.6(3) Bid security.

a. Bids shall be accompanied by and secured with a certified check, cash, or a bid bond in an amount of at least five percent of the bids. Check shall be made payable to the Executive Secretary, State Board of Regents.

b. Bid bonds must be either in the form prescribed by the board of regents or in a form approved by the American Institute of Architects which substantially complies with AIA document A310, February 1970 edition. Bid bonds must be executed by corporations authorized to contract as surety in Iowa and in addition to all other provisions, clearly designate an Iowa resident agent as attorney-in-fact.

c. A cashier's check shall not be accepted as bid security. Bids accompanied by and secured with a cashier's check shall automatically be disqualified.

d. Bid security shall be agreed upon as the measure of liquidated damages which owner will sustain by failure, neglect or refusal of bidder to deliver a signed contract stipulating performance of the work in unqualified compliance with contract documents within ten days after notification of award of contract to him.

e. Bid security of all except three lowest bidders will be returned within forty-eight hours after opening. Remaining securities will be returned within forty-eight hours after executed contract and performance and payment bond of successful bidder have been approved by the board of regents.

f. Should award become a process involving time over forty-five consecutive

calendar days, bidders whose securities are retained shall have the right to negotiate with the board of regents on the matter.

8.6(4) *Equal employment opportunity bidding requirement.* All construction specifications shall include in the "instructions to bidders", the following from rule 7.3(262): "Bidders shall file with each bid a completed board of regents equal employment opportunity data reporting form as included in the specifications or certify on the certificate of reporting that an equal employment opportunity data reporting form has been filed with the board of regents equal opportunity compliance officer."

These rules are intended to implement chapter 262 of the Code.

[Effective June 10, 1975]

REGENTS BOARD

(continued)

Pursuant to the authority of section 262.12 of the Code the following rules are adopted.

[Filed June 16, 1975]

CHAPTER 9

POLICIES, PRACTICES AND PROCEDURES

9.1(262) **Uniform rules of personal conduct.**

9.1(1) *Definitions.* For purposes of these rules, the following words shall have the meaning set forth unless the context requires otherwise.

a. "Board" means the state board of regents, state of Iowa.

b. "University" means an institution of higher learning under the jurisdiction of the board. When used in the plural, the word means all institutions of higher learning under the jurisdiction of the board.

c. "President" means the president (or acting president) of the university or any person or persons designated to act on his or her behalf for purposes of these rules.

d. "Campus" includes all property owned or used by the university.

e. "Student" means a person who is currently registered as a student at the university in an undergraduate, graduate or professional program on the campus.

f. "Member of the faculty or staff" includes all employees of the university.

g. "Visitor" means any person on the campus who is not a student or a member of the faculty or staff. A suspended member of the faculty or staff, or a suspended student, who is on the campus during the period of such suspension shall be deemed a visitor.

h. "Person" means any student, member of the faculty or staff, or visitor.

i. "Admission" means admission, readmission, re-entry, registration, and re-registration as a student to any educational program of the university.

j. "Suspension of a member of the faculty or staff" means that during a specified period of time, the member of the faculty or staff is not eligible to continue as an employee of the university, or to resume employment status or to be granted admission as a student. Subject to other

rules and regulations of each institution concerning continued employment by the institution, a member of the faculty or staff who has been suspended for a specified period shall be reinstated by the university at the expiration of the suspension period provided that during the suspension period the member of the faculty or staff has not committed acts of misconduct specified in 9.1(2). One under such suspension whose re-employment is denied on the basis of alleged acts of misconduct committed during a suspension period shall have a right to a hearing on that issue as provided in 9.1(3).

k. "Suspension of a student" means that during a specified period of time, the student shall be denied admission to the university or employment by it. Subject to the rules and regulations of each institution concerning enrollment at the institution, a suspended student shall be reinstated to the university at the expiration of the suspension period provided that during the suspension period the student has not committed acts of misconduct specified in 9.1(2). A suspended student whose reinstatement is denied on the basis of alleged acts of misconduct committed during this suspension period shall have a right to a hearing on that issue, as provided in 9.1(3).

l. "Expulsion of a student" means termination of status as a student without right of readmission.

m. "Dismissal of a member of the faculty or staff" means termination of status as an employee without right of re-employment.

9.1(2) Rules of personal conduct. Any person, student, member of the faculty or staff, or visitor, who intentionally commits, attempts to commit, or incites or aids others in committing any of the following acts of misconduct shall be subject to disciplinary procedures by the university as hereinafter provided:

a. Obstruction or disruption of teaching, research, administration, disciplinary procedures, or other university or university-authorized function or event.

b. Unauthorized occupation or use of or unauthorized entry into any university facility. However, any entry into, use of, or occupation of any university facility by a student or member of the faculty or

staff, which does not violate any of the other rules of personal conduct set forth herein, shall be deemed unauthorized only if specifically prohibited, if that facility is closed at that time to general use or if the person fails to comply with proper notice to leave.

c. Physical abuse or the threat of physical abuse against any person on the campus or at any university-authorized function or event, or other conduct which threatens or endangers the health or safety of any such person.

d. Theft of or damage to property of the university or of a person on the campus.

e. Interference with the right of access to university facilities or with any other lawful right of any person on the campus.

f. Setting a fire on the campus without proper authority.

g. Use or possession on the campus of firearms, ammunition, or other dangerous weapons, substances, or materials (except as expressly authorized by the university), or of bombs, explosives, or explosive or incendiary devices prohibited by law.

h. Conduct off campus which leads directly to a violation of any of paragraphs "a" to "g" of this subrule.

9.1(3) Sanctions.

a. Any student or member of the faculty or staff who is found after appropriate hearing to have violated any of the rules of personal conduct set forth in 9.1(2) may be sanctioned up to and including suspension, expulsion or dismissal.

If a suspension is ordered after the start of a semester or quarter, however, the time period of the suspension shall be deemed to run from the beginning of the semester or quarter rather than from the actual date of the order. A faculty or staff member who is suspended shall receive no salary during the period of suspension; provided, however, that payment shall be made for work done prior to the date of the suspension order.

b. A person who applies for admission to or employment by the university (either for the first time, or after a term of suspension or dismissal) may be denied such admission or employment if it is

found that such person has committed any acts of misconduct specified in 9.1(2) while a visitor on the campus. A person denied admission or employment under this section shall have a right to an appropriate hearing.

c. Any sanction imposed under 9.1(3) "a" and "b" shall have operative effect at all universities, and a person not eligible for admission to or employment by one university shall be barred similarly at the other universities.

9.1(4) *Emergency power.*

a. The president is authorized to declare a state of emergency to exist at the institution upon a determination that violent actions or disruptive activities at the university are of such a nature as:

(1) To present a clear and present danger to the orderly processes of the university or to persons or property on the campus, and

(2) To require extraordinary measures to

(a) Safeguard persons or property at such institution, or

(b) Maintain educational or other legitimate institutional functions.

b. The state of emergency shall cease to exist automatically forty-eight hours after it is declared unless the president, after reviewing the situation, determines that it should be extended, such determination to be made under the standards established in 9.1(4)"a"(1) and 9.1(4)"a"(2). Each extension shall be for a maximum period of forty-eight hours with a new determination being made for each extension. The president may declare the state of emergency to be over before the forty-eight hour period has run.

c. As soon as feasible after declaring a state of emergency, the president shall notify the board of actions taken.

d. Upon a finding by the president as set forth in 9.1(4)"a", the president is authorized to take such action as may be necessary to eliminate or alleviate a clear and present danger to the orderly processes of the university and to safeguard persons or property at the university or to maintain educational or other legitimate university functions including bar-

ring a particular person or persons from the campus.

9.1(5) *Sanctions under emergency power.*

a. Any person who, after appropriate hearing, is found to have violated knowingly a presidential order issued as contemplated in 9.1(4) may be expelled or dismissed from the university.

b. Any person who, after appropriate hearing, is found to have violated during a state of emergency, knowing that a state of emergency has been declared, any of the regents' rules of personal conduct, set forth in 9.1(2) of this policy, may be expelled or dismissed from the university.

c. Any person who, after appropriate hearing, is found to have violated knowingly a presidential order as contemplated in 9.1(4) and, knowing that a state of emergency had been declared, is found to have violated during the state of emergency any of the regents' rules of personal conduct, set forth in 9.1(2) of this policy, may be expelled or dismissed from the university.

d. Any sanction imposed under this section shall have operative effect at all universities, and a person not eligible for admission to or employment by one university shall be barred similarly at the other universities.

9.1(6) *Constitutional rights.* The foregoing rules shall be construed so as not to abridge any person's constitutional right of free expression of thought or opinion, including the traditional American right to assemble peaceably and to petition authorities.

9.2(262) *Transfers.* Each transfer applicant from any institution of higher learning to a university governed by the board of regents is asked about his or her eligibility to return to the institution from which the applicant is transferring. If the applicant is not eligible to return, the following rules apply:

9.2(1) *Transfers among regent institutions.* Transcripts at all regent universities now include an appropriate notation if a student is ineligible for readmission or re-enrollment. Admission is denied if the applicant currently is under disciplinary suspension or has been dismissed from one of the other regent universities for viola-

tion of the regents' rules of personal conduct and is not eligible to re-enter. Further, if such transfer applicant is currently on probation for having violated the regents' rules of personal conduct at one university, the applicant, if admitted to another regents university is admitted on probation.

9.2(2) *Transfers from nonregent institutions.* If the application for admission or the transcript from another institution shows that the applicant is not eligible to re-enroll there, further inquiry will be made to determine the reason. Such inquiry may lead to admission, conditional admission, or denial of admission. Appeals from the decision will be referred to appropriate university channels.

9.2(3) *Applications from "visitors".* Under the regents' rules of personal conduct, "visitors" to the campus who are believed to have violated the rules and who later apply for admission may be denied admission because of their prior conduct, subject to review if the denial is appealed by the applicant. An applicant who would be subject to such a denial and review at any university governed by the board of regents shall be subject to the same denial and review by the other two regents universities if application for admission is made to them. The three universities shall co-operate in making known the identity

of such persons among all three institutions.

9.3(262) Regents approved judicial system.

9.3(1) If, in the university president's judgment, the university's disciplinary procedures are not adequate to the task of enforcement of rules governing conduct at the institution on any particular occasion, the president may temporarily set aside or supplement local administrative disciplinary procedures by appointing a hearing examiner from a panel of hearing examiners who have previously been approved by the board of regents.

9.3(2) The examiner so appointed finds the facts, and, if a violation is found, recommends to the president, or designate, as to sanctions. In the event review is sought from the president's decision, requests for review may be made to the board of regents, and the board may in its discretion review the case.

9.3(3) For hearing examiner procedures, a copy of the Regents Hearing Examiner Manual, October 1, 1971, revision is available from the executive secretary of the board of regents.

These rules are intended to implement chapter 262 of the Code.

[Effective June 16, 1975]

REGENTS BOARD

(continued)

Pursuant to the authority of section 304.17 of the Code, the following rules are adopted.

[Filed June 27, 1975]

CHAPTER 10

[The 720 preceding each rule number in Regents Board rules, Chapter 10, is the agency number assigned for use after July 1, 1975]

RECORDS MANAGEMENT

720 — 10.1(304) Records management. The board of regents' office and each institution governed by the board of regents shall develop internal rules and

regulations for the economical, efficient, and systematic management of its records. Each institutional and board office records management system shall be approved by the board of regents when found by the board to be consistent with the objectives of chapter 304 of the Code.

720 — 10.2(304) Records system. Each system shall incorporate the following:

a. Procedures dealing with records of transactions of the official business of the institution or board office, including design, handling, maintenance, filing storage and security.

b. Procedures dealing with utilization of space, equipment, and supplies.

c. Schedules for retention of records, and the form in which they are to be retained, either in offices or archives.

d. Schedules for destruction of records and the method to be used.

e. Standards for reproduction of records.

720 — 10.4(304) Public inspection.
The system governing the records man-

agement procedure for each institution and the board office shall be available for public inspection at the respective institution and the Office of the Executive Secretary, State Board of Regents, Grimes State Office Building, Des Moines, Iowa 50319.

These rules are intended to implement chapter 304 of the Code.

[Effective June 27, 1975]

REGENTS BOARD

(continued)

Pursuant to the authority of section 262.12 and chapter 17A of the Code the following rules are adopted.

[Filed June 30, 1975]

CHAPTER 12

UNIVERSITY OF IOWA PROCEDURES

12.1(262) Organization.

12.1(1) Statement of university mission.
The state university of Iowa is committed to undergraduate, professional, graduate and continuing education. To discharge this commitment, as part of its established mission, the university engages in teaching, research, and appropriate extension, health and other public services. The university is recognized as having a broad mandate in order that it may continue to be a distinguished state university, offering pre-professional courses, the full panoply of undergraduate liberal arts and science courses, graduate and professional work in law, medicine, dentistry, pharmacy, nursing, engineering, and allied fields related to these professional disciplines, as well as social work, business administration, journalism, education (early childhood, elementary, secondary, and higher), library science, and all the liberal arts and sciences. The university is characterized by a general orientation toward human growth, the health sciences, the humanities, the fine arts and the social sciences. It maintains strong programs in the physical and biological sciences and engineering.

12.1(2) Officers. The university has three statutory officers: president, secretary and treasurer. The president is the chief administrative officer of the university and has such authority and duties as

have been delegated by the board of regents.

The president has nominated and the board of regents has appointed an executive vice president, who is acting president in the president's absence, and five vice presidents. The vice president for academic affairs and dean of the faculties is the chief academic officer of the university and is responsible with the deans of the colleges for the educational programs of the university, the appointment, promotion and welfare of the faculty and related matters. The vice president for educational development and research and dean of the graduate college is responsible for the advancement of research, educational development, relations with government agencies, private foundations and the public generally, and is the person to whom the graduate departments, the computer center, and the university press report. The vice president for student services and dean of academic affairs is responsible for the advancement of teaching, student services, admissions, orientation, records, financial aids, evaluation, counseling, job placement, recreation, programming of extracurricular events, and program advising in residence halls. The vice president for administrative services is responsible for non-faculty personnel, development and assignment of facilities including housing, the Museum of Art and Old Capitol. The vice president for business and finance is responsible for investments, financial transactions, financial records, purchasing, maintenance of facilities, laundry, parking, traffic, security, and related services. The state hygienic laboratory and university health services report to the office of the president.

A detailed listing of the university units is shown on the organizational chart contained in the university operations manual.

12.1(3) Operations. The academic mission of the university is principally carried out through its ten colleges: pharmacy, law, education, nursing, medicine, dentistry, liberal arts, engineering, business administration, and the graduate college. The dean of each college is its chief administrative officer.

The university hospitals and clinics provide tertiary level patient care, clinical education and clinical research. The state sanatorium at Oakdale provides care and treatment for tuberculosis, chronic and rehabilitation patients and related services. The state psychopathic hospital provides care and treatment for persons afflicted with abnormal mental conditions. The hospital school provides education and treatment for severely handicapped children. The chief administrative officer of the hospital school is the director. The student health service provides primary health care services to students.

The state hygienic laboratory conducts examinations and investigations and makes recommendations pertaining to methods of overcoming and preventing epidemics of disease.

12.1(4) Communications. Written and personal inquiry, submissions and requests should be addressed to the office of public information, 102 Jessup Hall, University of Iowa, Iowa City, Iowa 52242; or the office of the board of regents, Grimes State Office Building, Des Moines, Iowa 50319. Generally, inquiries, submissions, and requests by the public may be submitted by informal letter. However, application for some purposes is to be made on a specified form. A list of the forms, general description and the address where they may be obtained are found at 12.6(262).

12.1(5) University operations manual. The university operations manual contains the policies governing the internal administrative operation of the university. It is available for public inspection in the university library, the office of public information and in the office of the state board of regents.

12.2(262) Petition regarding rules. A petition for the promulgation, amendment, or repeal of a rule by the university may be submitted to the office of the vice president for administrative services by any person. Each such petition, which may be in the form of a letter, shall set forth the text of the rule or proposed rule in question and, if an amendment is proposed, the rule as it would read with the proposed amendment, together with a concise statement of the reasons supporting the granting of the petition. The university will notify the petitioner of its disposition of the petition within sixty days after receipt of the petition.

12.3(262) Petition for declaratory ruling. If there is a disagreement regarding the interpretation or applicability of a statutory provision, university or board of regents rule or other university or board statement of law or policy, decision or order, between a vice president or designee and a person whose rights or interests are affected by such statute, rule, decision or order, the person so affected may petition the university for a declaratory ruling. Each such petition shall describe the facts or circumstances giving rise to the request for a ruling, shall contain the text or a citation to the statute, rule, statement of law or policy, decision or order to which the petition relates, may include arguments supporting the petitioner's position, and shall specify the action requested. The university has discretion to determine that a declaratory ruling is inappropriate under the circumstances presented by the petition. The appropriate vice president will notify the petitioner in writing of its disposition of the petition within sixty days after the petition is received.

12.4(262) Rule adoption—opportunity for oral presentation. When a timely request for oral presentation regarding the proposed adoption of a rule is presented to the university pursuant to section 17A.4 of the Code the vice president for administrative services will set a time and place for such presentation, the time will be not less than ten days after notice of such opportunity is published in the "Iowa Administrative Code." The notice will state the time when, the person before whom, the subject matter of, and the location where such presentation may be made.

12.5(262) Contested cases.

12.5(1) Informal settlement. Parties are encouraged to request informal settlement of a controversy which could culminate in a contested case as defined in section 17A.2. The request should be made by letter setting forth a concise statement of the circumstances giving rise to the controversy, the text of or citation to any applicable law, rule or decision, and a statement of the settlement proposed. The appropriate vice president will advise the party of its disposition of the request within thirty days. If the appropriate vice president determines that a conference is appropriate, the party will be notified when, where and with whom such a conference is to be held. The terms of any informal settlement agreed to by the parties shall be embodied in a written stipulation.

12.5(2) Hearing officers. Except as provided in 12.5(5) the hearing in a contested case for which an evidentiary hearing is required by section 17A.11 shall be conducted by an administrative hearing officer appointed by the board of regents.

12.5(3) Procedure. The procedures followed in hearings conducted pursuant to 12.5(2) shall be those set forth in sections 17A.12 to 17A.17, except that notice of the hearing may be provided by first class mail.

12.5(4) Subpoenas; administration of oath. Subpoenas for the production of books, papers, records, and other real evidence may be issued pursuant to section 17A.13 by the appropriate vice president prior to the commencement of a contested case proceeding. After the commencement of such proceeding, the administrative hearing officer appointed pursuant to 12.5(2) or 12.5(5) has the authority to administer oaths and to issue subpoenas as provided in section 17A.13.

12.5(5) Decision and appeal. The administrative hearing officer shall render a proposed decision in a contested case in writing, which shall be delivered to all parties by first class mail. The proposed decision shall become the final decision of the university fifteen days after mailing of the proposed decision, unless prior to that time the university or any other party submits an appeal from, or the president requests a review of the proposed decision. Notice of an appeal from or the president's request for review of a

proposed decision shall be mailed to all parties by the university.

Within fifteen days after mailing of a notice of appeal or of a request for review, any party may submit to the president exceptions to and a brief in support of or opposition to the proposed decision, copies of which exceptions or brief shall be mailed by the submitting party to all other parties to the proceeding. The president shall notify the parties if the president deems oral arguments by the parties to be appropriate. The president shall render a decision in writing within thirty days of receipt of the exceptions and briefs or of the close of oral hearings, whichever is later. The decision of the president becomes final fifteen days after mailing unless prior to that time a party appeals to the board of regents.

12.5(6) Appeals to the board of regents. Appeals from a decision in a contested case rendered by the president under 12.5(5) may be taken to the board of regents in the manner specified in 11.5(3).

12.5(7) Alternate procedures. Where a contested case as defined in section 17A.2 falls within one of the classes of cases listed below, the university consents to the use of the procedures specified below, including the hearing officers provided for in such proceedings, in lieu of the procedures prescribed in sections 17A.11 to 17A.17, provided that all other parties to such proceedings also waive the use of the procedures contained in sections 17A.11 to 17A.17:

a. In proceedings involving acts of misconduct arising under board of regent rules, chapter 9, involving students, faculty members or staff members, as defined therein, the procedures provided in section 20.270 of the university operations manual shall be used.

b. In cases involving ethics, unfitness, grievance, non-renewal, denial of tenure, and failure to promote involving faculty members, the procedures provided in section 20.260, university operations manual, shall be used.

c. In cases involving claims by and against university employees, as defined by section 20.280, university operations manual, the procedures provided therein shall be used.

d. In cases involving student employee grievances, the procedures provided in section 20.300, university operations manual, shall be used.

e. In cases involving academic status or standing of a student, the procedures

used shall be those prescribed for each college within the university which are available in the office of the dean of the respective college.

[Effective July 30, 1975]

REGENTS BOARD

(continued)

Pursuant to the authority of section 262.12 of the Code the following rules are adopted.

[Filed June 30, 1975]

CHAPTER 12

UNIVERSITY OF IOWA PROCEDURES

12.1 to 12.5 Reserved.

12.6(262) Forms. The university uses the forms listed below in dealing with the public. The various forms are classified by subject matter, followed by the name of the office where they are available in care of the University of Iowa, Iowa City, Iowa 52242.

Admission application forms - director of admissions

Undergraduate, graduate, law, medicine, dental hygiene, special non-degree, physical therapy, dentistry, physicians assistant, student financial aid, Saturday and evening class - graduate and undergraduate, Quad-Cities graduate program, guided independent study through correspondence.

Housing forms - university housing office

Application and contract for residence halls quarters for unmarried students, application for married student housing, leasehold for married student housing at Hawkeye Drive, Hawkeye Court and Park-lawn apartments.

Educational placement - educational placement office

Registration forms for credential service, reference forms for credential files

Iowa memorial union - Iowa memorial union

Space use application

Hancher auditorium space use - Hancher auditorium

Rental agreement

Gymnastics - recreation department

Waiver of liability for public participants

Dental care - college of dentistry
Patient registration form

Hospital and health care - general hospital

Patient registration form

Employment - personnel service

Application for employment

Parking and traffic - transportation and security

Violation citation

12.7(262) General rules.

12.7(1) Dogs and other mammals, birds and reptiles are not permitted in any university building or structure, and if found are subject to impoundment. Leader dogs and experimental subjects are excepted.

12.7(2) University buildings, except hospitals, are closed to public access from 10:00 p.m. until 7:00 a.m., except when different hours are communicated by signs at one or more points of access.

12.7(3) Salespersons or agents for any product, proposition, or cause are prohibited from soliciting employees or students in any building or part of the university property, except with the permission of the vice president for business and finance in the case of employees, or the vice president for student services in the case of students.

12.7(4) Photographs for publication purposes are not to be taken in university buildings, including residence halls, except with approval of the appropriate vice president. Student pictures are not to be used in commercial advertising if the name of the university is involved.

12.7(5) Lost and found items are deposited with the Iowa memorial union. After thirty days unclaimed items are given to charitable organizations dealing with used materials.

12.7(6) The use of cameras, tape recorders, and noisemakers is prohibited during performances in the various theatres, auditoria, ballrooms, and lounges. Such items may be impounded by university personnel and returned at the conclusion of the performance. Permission may be granted for an exception by the president of the university or the president's designee, to be announced publicly in advance.

12.7(7) Hancher auditorium aisle doors will be closed when performances begin. Latecomers will be taken to an observation room and seated at intermission. Standing in aisles during performances is not permitted, except by employees.

12.7(8) Smoking of all types is prohibited in the following locations and circumstances:

a. In all rooms in which organized academic activity is occurring. This includes specifically, but is not limited to, classrooms, seminar rooms, auditoria, teaching laboratories and gymnasias.

b. In all rooms, areas and buildings posted with "no smoking" signs. The administrative (e.g., collegiate, departmental) unit primarily responsible for a room not covered by paragraph "a" above shall decide whether or not "no smoking" signs shall be posted. In rooms where smoking is not expressly prohibited, smoking will be permissible as long as no one present raises an objection.

12.7(9) Food and beverages shall be consumed in academic buildings only in areas designated by the responsible administrative (e.g., collegiate, departmental) unit.

12.7(10) Tickets for concerts scheduled primarily for the entertainment of university students, held in the field house are not to be made available to minors who are not university students.

12.7(11) Use of the Iowa memorial union and university recreation facilities by minors who are not university students is not permitted, except in the following situations:

a. When participating in university-sponsored activities or when guests or invitees of the university;

b. While on campus tours or at preregistration events;

c. When accompanied by teachers, parents, or other responsible adults;

d. When displaying a university name badge for a conference or event in progress.

12.7(12) No alcoholic beverages or metal or glass containers are allowed in the field house, football stadium or recreation building. Checking service is provided. A search sufficient to insure that such articles are not taken into the field house, recreation building or football stadium will be made. Refusing search or refusing to check the items are grounds to deny admission.

12.7(13) The following articles may not be taken into the field house or football stadium during contests or concerts for which admission tickets are required: placards, noise makers, bugles, banners, horns, seat backs, coolers, disruptive devices.

12.7(14) Spectators who are not contestants are not permitted on the football field, basketball court, or other areas where athletic contests are taking place or are to take place. Spectators may not block aisles and passage ways which provide ingress and egress to seating at athletic contests.

12.7(15) The following fees or deposits apply to the members of the public prior to admission to the university as students:

a. A ten dollar fee is required to accompany an application submitted by a prospective student. This fee is not required from a student previously enrolled for full-time study at the University during a regular academic year, or an applicant to the graduate college or the colleges of dentistry, law or medicine who has earned a degree from the university.

b. A fifty dollar deposit is required to accompany applications for contracts for residence hall accommodations. The deposit is credited to the first required payment for the accommodations.

c. A twenty-five dollar deposit is required to be paid at the time a married

student apartment is assigned to the prospective student. The deposit is credited to the first required payment for the apartment.

12.8(262) Contracting authority. The state board of regents has delegated to the president authority to make contracts and agreements as specified in Iowa departmental rules, board of regents, chapter 8. The president has delegated authority for signing such agreements and contracts to the vice president for business and finance and the business manager in all cases except the following:

a. Employment matters involving deans, directors, departmental executive officers and faculty are reserved to the office of the president.

b. Applications for grants for educational development and research from all

sources are signed by the vice president for educational development and research.

c. Supplies, equipment, and services to be ordered from sources outside the university in compliance with Iowa departmental rules, board of regents, chapter 8 are purchased only by means of purchase orders or purchase contracts approved and signed by the purchase agent, and based on requisitions submitted to the purchasing agent.

These rules become effective immediately upon filing in the office of the secretary of state as provided in chapter 17A of the Code.

[Effective June 30, 1975]

REGENTS BOARD

(continued)

Pursuant to the authority of section 262.12 of the Code the following rules are adopted.

[Filed June 30, 1975]

CHAPTER 13

**IOWA STATE UNIVERSITY OF
SCIENCE AND TECHNOLOGY
PROCEDURES**

13.1 to 13.5 Reserved.

13.6(262) Forms. The university uses the forms listed below in dealing with the public. The various forms are classified by subject matter, followed by the name of the office where they are available in care of the Iowa State University of Science and Technology, Ames, Iowa 50010.

Admission application forms - director of admissions.

Undergraduate, graduate, veterinary medicine, special student, Saturday and evening class - graduate and undergraduate.

Housing forms - director of residence

Application and contract for residence halls quarters for unmarried students, application for married student housing, leasehold for married student housing at

Pammel Court, Hawthorn Court, University Village, Schilleter Village.

Student financial aid - student financial aids office.

Application for student financial aid.

Educational placement - teacher placement office.

Registration forms for credential service, reference forms for credential files.

Engineering, sciences and humanities placement - engineering sciences and humanities placement office.

Alumni placement registration card.

Home economics placement - home economics placement office.

Registration forms for credential service, reference forms for credential files.

Agricultural placement - agriculture placement office.

Alumni placement registration card.

Veterinary placement- veterinary medicine placement office.

Placement information forms.

Soil testing - soil testing laboratory.

Informational forms for soil testing.

Veterinary services - veterinary clinic.
 Informational forms and euthanasia form.
 Seed testing - seed laboratory.
 Seed sample identification forms.
 Iowa State University Center space use -
 Iowa State University Center.
 Rental agreement.
 Employment - personnel office.
 Application for employment.
 Parking and traffic - traffic office.
 Violation citation.

13.7(262) General rules.

13.7(1) Dogs and other mammals, birds and reptiles are not permitted in any university building or structure, and if found are subject to impoundment. Leader dogs and experimental subjects are excepted.

13.7(2) University buildings are open to public access except for specific periods of time based on building usage.

13.7(3) Salespersons or agents for any product, proposition, or cause are prohibited from soliciting employees or students in any building or part of the university property, except with the permission of the vice president for business and finance.

13.7(4) Lost and found items are deposited in room 107, Beardshear Hall. At the end of the academic year unclaimed items are given to charitable organizations dealing with used materials.

13.7(5) The use of cameras, tape recorders, and noisemakers is prohibited during performances in the various theatres, auditoria, ballrooms, and lounges. Such items may be impounded by university personnel and returned at the conclusion of the performance. Permission may be granted for an exception by the president of the university or the president's designee, to be announced publicly in advance.

13.7(6) Auditoria aisle doors will be closed when performances begin. Latecomers may not be seated until an appropriate program break. Standing in aisles during performances is not permitted, except by employees.

13.7(7) Smoking of all types is prohibited in the following locations and circumstances:

a. In all rooms in which organized academic activity is occurring. This includes specifically, but is not limited to, classrooms, seminar rooms, auditoria, teaching laboratories and gymnasias.

b. In all rooms, areas and buildings posted with "no smoking" signs the departmental supervisor primarily responsible for a room not covered by paragraph "a" above shall decide whether or not "no smoking" signs shall be posted. In rooms where smoking is not expressly prohibited, smoking will be permissible as long as no one present raises an objection.

13.7(8) Food and beverages shall be consumed in academic buildings only in areas designated by the responsible departmental supervisor.

13.7(9) The following fees and deposits apply to the members of the public prior to admission to the university as students:

a. A ten dollar fee is required to accompany an application submitted by a prospective student. This fee is not required from a student previously enrolled for full-time study at the university during a regular academic year, or an applicant to the graduate college or the college of veterinary medicine who has earned a degree from the university.

b. A twenty-five dollar deposit is required to accompany applications for contracts for residence hall accommodations. This deposit is refunded when the student leaves the university provided there has been no damage to the accommodations.

c. A twenty-five dollar deposit is required to be paid at the time a married student apartment is assigned to the prospective student. This deposit is refunded when the student leaves the university provided there has been no damage to the apartment.

13.8(262) Contracting authority. The state board of regents has delegated to the president authority to make contracts and agreements as specified in Iowa departmental rules, board of regents, chapter 8. The president has delegated authority for signing such agreements and con-

tracts to the vice president for business and finance in all cases except the following:

a. Employment matters involving deans, directors, departmental executive officers and faculty are administered by the vice president for academic affairs.

b. Applications for grants for educational development and research from all sources are signed by the contracts and grants officer.

c. Supplies, equipment, and services to be ordered from sources outside the uni-

versity in compliance with Iowa departmental rules, board of regents, chapter 8 are purchased only by means of purchase orders or purchase contracts approved and signed by the purchasing agent, and based on requisitions submitted to the purchasing agent.

[Effective June 30, 1975]

SECRETARY OF STATE

Pursuant to the authority of 1973 Acts of the Sixty-fifth General Assembly, chapter 136, section 399, rules of the secretary of state appearing in the July 1974 IDR supplement page 125 are amended.

[Filed May 16, 1975]

Chapter 5 entitled "Selection of Jurors and use of Pollbooks" is hereby rescinded.

[Effective May 16, 1975]

SOCIAL SERVICES DEPARTMENT

Pursuant to the authority of section 249A.4 of the Code, rules appearing in 1973 IDR, pages 1006 and 1007, relating to medical assistance (chapter 3) are amended as follows:

[Filed February 13, 1975]

Rule 3.8 is rescinded and the following inserted in lieu thereof.

3.8(249A) Chiropractors. All chiropractors licensed to practice in the state of Iowa are eligible to participate providing they have been determined eligible to participate in Title XVIII of the Social Security Act (Medicare) by the social security administration.

[Effective February 13, 1975]

SOCIAL SERVICES DEPARTMENT

(continued)

Pursuant to the authority of section 249A.4 of the Code, rules appearing in July 1973 IDR Supplement, page 49, relating to medical assistance (chapter 3) are amended as follows:

[Filed March 21, 1975]

Rule 3.13 is amended by striking the entire rule and inserting the following in lieu thereof.

3.13(249A) Hearing aid dealers. Hearing aid dealers are eligible to participate if they are duly licensed by the state of Iowa. Hearing aid dealers in other states will be eligible to participate if they are duly licensed in that state.

[Effective March 21, 1975]

SOCIAL SERVICES DEPARTMENT

(continued)

Pursuant to the authority of section 249A.4 of the Code, rules appearing in July 1973 IDR Supplement, pages 49 through 51, relating to medical assistance (Chapter 7) are amended as follows:

[Filed June 3, 1975]

ITEM 1. Rule 7.1 is amended by striking from line 3 the words "or basic nursing home" and inserting the words "care facility" in lieu thereof.

Further amend said rule by striking from lines 6 to 8 the words "in a facility currently licensed by the department of health pursuant to chapter 135C of the Code" and inserting the words "They may be admitted only to a facility certified for participation in the medical program." in lieu thereof.

ITEM 2. Rule 7.2 is amended by striking from line 2 the words "or basic nursing home" and inserting the words "care facility" in lieu thereof.

Further amend said rule by striking from lines 6 and 7 the words "each calendar quarter during his visit to the recipient" and inserting the words "every sixty days" in lieu thereof.

ITEM 3. Rule 7.3 is amended by striking from the catchwords the words "and basic nursing homes" and inserting the words "care facilities" in lieu thereof.

Further amend said rule by striking from line 2 the words "and basic nursing homes" and inserting the words "care facilities" in lieu thereof.

ITEM 4. Subrule 7.4(1) is amended by striking from lines 2 to 4 and words "or basic nursing home shall not be made without prior authorization by" and inserting the words "care facility shall be made upon authorization of" in lieu thereof.

ITEM 5. Subrule 7.4(2) is amended by striking from line 2 the words "and basic nursing homes" and inserting the words "care facilities" in lieu thereof.

ITEM 6. Subrule 7.4(3) is amended by striking from line 2 the words "and basic nursing homes" and inserting the words "care facilities" in lieu thereof.

ITEM 7. Rule 7.5 is amended by striking from the catchwords the words "and basic nursing homes" and inserting the words "care facilities" in lieu thereof.

ITEM 8. Subrule 7.5(1) is amended by striking from lines 2 to 13 the words "and basic nursing home shall have in effect a utilization review plan, meeting the requirements for such plans in Title XVIII of the Social Security Act. This utilization review must assure that required health services are provided and that only required services are being received by recipients of medical assistance and that the cost of such services is not in excess of that charged the general public or persons receiving assistance under similar circumstances. The nursing home" and inserting the words "care facility participating in the program shall have a plan for utilization review in effect that applies to the services that the facility provides to individuals entitled to benefits under Title XIX of the Social Security Act. This review is to assure that each resident receives care of a quality and quantity consistent with such resident's actual health care needs and to prevent excessive or inappropriate uses of medical and health care services. The facility".

ITEM 9. Subrule 7.5(2) is amended by striking from line 2 the words "and basic nursing home" and inserting the words "care facility" in lieu thereof.

Further amend said subrule by striking from lines 8 and 9 the words "and basic nursing homes" and inserting the words "care facilities" in lieu thereof.

ITEM 10. Subrule 7.5(3) is amended by striking from the catchwords the words "and basic nursing homes" and inserting the words "care facilities" in lieu thereof.

Further amend said subrule 7.5(3) by adding paragraph f.

f. Failure to comply with all federal conditions of participation for intermediate care facilities.

ITEM 11. Subrule 7.5(4) is amended by striking from the catchwords the words "and basic nursing homes" and inserting the words "care facilities" in lieu thereof.

[Effective June 3, 1975]

SOCIAL SERVICES DEPARTMENT

(continued)

Pursuant to the authority of section 217.6 of the Code the following rules are rescinded.

[Filed June 11, 1975]

ITEM 1. Chapter 13, relating to old age assistance, appearing in 1973 IDR.

ITEM 2. Chapter 14, relating to old age assistance, appearing in 1973 IDR.

ITEM 3. Chapter 15, relating to old age assistance, appearing in 1973 IDR.

ITEM 4. Chapter 16, relating to old age assistance, appearing in 1973 IDR.

ITEM 5. Chapter 23, relating to aid to the blind, appearing in 1973 IDR.

ITEM 6. Chapter 24, relating to aid to the blind, appearing in 1973 IDR.

ITEM 7. Chapter 33, relating to aid to disabled persons, appearing in 1973 IDR.

ITEM 8. Chapter 34, relating to aid to disabled persons, appearing in 1973 IDR and July 1973 Supplement.

[Effective June 11, 1975]

SOCIAL SERVICES DEPARTMENT

(continued)

Pursuant to the authority of section 239.18 of the Code, rules appearing in 1973 IDR, pages 1018 through 1019, relating to aid to dependent children (Chapter 43), are amended as follows:

[Filed June 3, 1975]

ITEM 1. Rule 43.2 is amended by striking from lines 4 and 5 the words "When the applicant has a guardian, the guardian shall sign the application." and inserting the words "The application shall be signed by the applicant, the applicant's authorized representative, or, when the applicant is incompetent or incapacitated, someone acting responsibly on the applicant's behalf." in lieu thereof.

ITEM 2. Rule 43.3 is amended by striking the entire rule and inserting the following in lieu thereof.

43.3(239) Date of application. The date of application is the date an identifiable Public Assistance Application, Form PA-2207-0, is received in the county. An identifiable application is an application containing a legible name and address, that has been signed.

ITEM 3. Rule 43.4 is amended by striking from lines 3 to 6 the words "The applicant shall be informed by the county that the application form must be returned within ten days from the date of application or the application will be de-

nied." and inserting the words "The county shall notify the applicant in writing of additional information or verification that is required to establish eligibility for assistance. Failure of the applicant to supply such information or refusal to authorize the county department to secure such information from other sources shall serve as a basis for denial of assistance. Ten working days shall be considered as a reasonable period for the applicant to supply the required information or verification." in lieu thereof.

ITEM 4. Further amend said rules by striking from lines 4 and 5 the words " , except when a decision is delayed by failure of the applicant to supply information" and inserting the words "Such time standard shall apply except in unusual circumstances, such as when the county cannot reach a decision because of failure or delay on the part of the applicant or an examining physician, or because of some administrative or other emergency that could not be controlled by the county." in lieu thereof.

ITEM 5. Chapter 43 is amended by adding rule 43.6.

43.6(236) Effective date of grant. The effective date of the grant shall be the date of application or the date the client becomes eligible, whichever is later.

[Effective June 3, 1975]

SOCIAL SERVICES DEPARTMENT

(continued)

Pursuant to the authority of sections 239.18 of the Code, rules appearing in 1973 IDR, pages 1018 through 1019, as amended June 1, 1975, relating to aid to dependent children (chapter 43) are amended as follows:

[Filed June 27, 1975]

Rule 43.4 is amended by striking from the last sentence the word "Ten" and inserting the word "Five" in lieu thereof.

Further amend said rule by inserting at the end thereof the words "Any time taken beyond the five days shall be considered a delay on the part of the applicant."

[Effective June 27, 1975]

SOCIAL SERVICES DEPARTMENT

(continued)

Pursuant to the authority of section 239.18 of the Code, rules appearing in 1973 IDR, page 1019, and July 1973 Supplement, pages 51 and 52, relating to aid to dependent children (chapter 44) are amended as follows:

[Filed March 21, 1975]

ITEM 1. Subrule 44.1(1) "f" is amended by striking from line 2 the words "\$500" and inserting the words "\$800" in lieu thereof.

Further amend said rule by striking from line 3 the words "\$200" and inserting the words "\$400" in lieu thereof.

ITEM 2. Subrule 44.1(1) is amended by adding paragraph "h".

h. An amount not to exceed the need of the eligible group for one month, based on the payment standard, when such amount is either cash on hand or in a checking account.

ITEM 3. Subrule 44.1(1) is amended by striking the last unnumbered paragraph which reads, "When a parent receives aid to disabled persons and his minor children living with him receive aid to dependent children, the resource limitations for both eligible groups shall be combined into one total to establish the limitations for the family."

[Effective April 1, 1975]

SOCIAL SERVICES DEPARTMENT

(continued)

Pursuant to the authority of chapter 1163, Acts of the Sixty-fifth General Assembly, 1974 session [chapter 237A of the Code], rules appearing in the 1973 IDR, pages 1033 to 1036, relating to child welfare services are rescinded and the following adopted in lieu thereof as developed in consultation with the state day care advisory committee.

[Filed February 14, 1975]

TITLE XI

CHILDREN'S BOARDING HOMES CHAPTER 108 CHILD CARE CENTERS

108.1(237A) Staffing.

108.1(1) In these rules qualified staff shall mean:

a. The director or administrator must:

(1) Have two years of administrative or program experience in a child care center, or be able to demonstrate an equivalent amount of other child development related employment or educational experience.

(2) Have completed high school or an equivalent program. Persons who do not meet this educational requirement, and who possess unusual qualifications or experience, could be employed with the approval of the department of social services.

b. Persons considered part of the staff ratio who have direct contact with the child must meet the following requirements.

- (1) Be at least fourteen years of age.
- (2) At least one staff member on duty must be trained in first aid principles.
- (3) Have records of persons employed.

108.1(2) Basic minimum qualified child care staff should consist of two people on duty when six or more children, five years of age or younger, are present.

a. Staff ratio shall be as shown in the following table:

Age of children	Minimum ratio of staff to children
Two weeks to two years	One to every four children
Two to four years	One to every six children
Four to five years	One to every twelve children
Five years and over	One to every fifteen children

b. Every child-occupied program room must have adult supervision.

c. In transporting six or more pre-school children any child care vehicle shall have a minimum of two staff members or other adults present.

108.2(237A) Plant.

108.2(1) The minimum program room size shall be eighty square feet.

108.2(2) The child care center shall have thirty-five square feet per child in indoor area and seventy-five square feet per ambulatory child using the space at any given time in outdoor recreation area. Kitchens, bathrooms and halls may not be counted in the square feet per child area.

108.2(3) Facilities that do not meet these requirements may be approved by the department of social services.

108.3(237A) Food services.

108.3(1) The feeding schedules, food and preparation shall meet the recom-

mended daily dietary allowances of the National Research Council.

a. Children remaining at the center longer than two hours shall receive mid-morning or midafternoon nourishment or both.

b. When breakfast is provided for children, it shall be at least one-fourth to one-third of the child's total recommended daily dietary allowances.

c. Children at the center during regular meal times shall have available to them a full-balanced meal which should provide at least one-third of the child's recommended daily dietary allowances of the National Research Council for children.

d. Each child's file shall contain information from parents regarding allergies and any special dietary needs.

108.3(2) Menus shall be planned one week in advance. Such menus shall be dated, posted, and kept on file at the center. Notations shall be made for special dietary needs of the children.

a. Menus planning shall include a variety of foods and varying textures, flavors, and colors that will provide children with many different food experiences, help stimulate their interests in foods, and meet the recommended daily dietary allowances.

b. Each noon or evening meal time menu should include a carbohydrate food, a protein food, a vegetable, and a salad.

108.3(3) Feeding of children under two years of age.

a. All children under six months of age are to be held during feeding. No bottles are to be propped for children of any age.

b. Single service ready to feed formulas shall be used for children three months and younger unless otherwise ordered by a physician or parent.

c. Pasteurized vitamin D-fortified milk shall be used for children not on formula unless otherwise directed by a physician or parent.

d. Special formulas prescribed by a physician shall be made available for the child who has a feeding problem.

e. Aseptic techniques shall be used in preparation of all milk mixtures and other foods prepared at the nursery.

f. Spoon feeding shall be adapted to the developmental needs of the child.

108.3(4) Food preparation and storage.

a. Sufficient refrigerator space shall be provided for holding perishable foods at 40° F.

b. Kitchens shall be clean, well lighted and ventilated and free of rodents and insects.

c. Food service personnel must wash hands after using the toilet.

d. All persons preparing food shall wear clean clothing and assure that hair is appropriately contained to protect food preparation and serving.

e. All persons preparing meals in the child care center shall have a yearly physical.

f. A sufficient number of flytight, watertight garbage and rubbish containers shall be provided to properly store all material between collections. Containers must be maintained in a sanitary condition outside the building and away from the play area.

g. No chipped or cracked dishes shall be used.

h. Dishes and silverware should be properly cleansed by prerinsing or scraping, washing, sterilizing, and air-drying. A dishwashing machine must provide a wash temperature of 140° F. For hand dishwashing at least a two compartment sink or comparable facility must be available. Dishes must either be rinsed in water of 180° F. or rinsed in a chemical sanitizing agent and air-dried. No dishes shall be towel dried.

108.3(5) Water supply.

a. Water for drinking and culinary purposes will be from a public water system when available.

b. Private water supplies for drinking and culinary purposes shall be located and constructed in accordance with recommendations outlined in the Iowa state department of health bulletin "Sanitary Standards for Water Wells." Water must be of satisfactory bacteriological quality as shown by annual laboratory analysis. When the facility provides care for children under two years of age a nitrate analysis must be also obtained.

108.4(237A) Activity program requirements.

108.4(1) The program conducted in a child care center shall provide:

a. A safe environment.

b. Experiences which promote the individual child's physical, emotional, social and intellectual growth and well-being.

c. Both active and quiet learning experiences which promote the development of skills, social competence, self-esteem, positive self-identity, and creative expression.

108.4(2) The program shall provide experience in harmony with the ethnic and cultural backgrounds of the children.

108.4(3) A daily schedule must be established for each group of children in care which will:

a. Provide a program of activities with sufficient flexibility to respond to the needs of the individual children. Each child's file shall contain information regarding physical disabilities or special needs.

b. Provide program and equipment for both indoor and outdoor play.

c. Provide for both fine and gross motor development.

d. Provide for a nap or quiet time on a cot, crib, mat, or bed for all preschool-age children present at the center for five or more hours.

108.4(4) Play material and equipment in sufficient variety and quantity to meet the interests and needs of the children accepted for care shall be provided. Equipment and materials shall be suitable for the age range served and shall be selected according to the type of supervision required. All equipment shall be kept in good condition, free of sharp, loose, or pointed parts, and, if painted, only lead free paint shall be used. Permanent outdoor play equipment must be firmly anchored.

A clean washable cot, bed, mat or crib and bedding to cover both cot, bed, or crib and child shall be provided by the center for each child who naps. Mats may be substituted as beds or cots for physically handicapped children when necessary for their safety.

108.4(5) A child care center serving children two weeks to thirty-five months must provide an environment which protects the children from physical harm but is not so restrictive as to inhibit physical, intellectual, emotional, and social development. Such children shall be provided physical stimulation through being held, rocked and played with several times each day.

108.4(6) A child care center offering night care must provide modifications for the special needs of children during the night.

a. A selection of toys for quiet activities shall be available.

b. Bathing facilities shall be provided. Comfortable individual cots or beds, complete bedding, and night clothes shall be available.

108.4(7) Any child care center sponsored program activity conducted away from the licensed facility shall provide a minimum of one additional responsible person over the required staff ratio for the protection of the children.

to work with the program and, whenever possible, observe their children in the child care center.

108.5(2) Whenever a nonprofit child care center provides day care for forty or more children, there shall be a policy advisory committee. The committee membership shall include not less than fifty percent parents or parent representatives, selected by the parents themselves in a democratic fashion. Other members may include individuals who have particular knowledge, interests, or skills in family and child development. Policy advisory committees must perform productive functions, including, but not limited to:

a. Assisting in the development of the programs.

b. Initiating suggestions and ideas for program improvements.

c. Assisting in organizing activities for parents.

d. Encouraging parental participation in the programs.

[Effective February 14, 1975]

108.5(237A) Parental participation.

108.5(1) Opportunities shall be provided for parents at times convenient to them

SOCIAL SERVICES DEPARTMENT

(continued)

Pursuant to the authority of section 237A.12 of the Code, rules filed February 14, 1975 relating to child care centers are amended as follows:

[Filed March 21, 1975]

ITEM 1. Subrule 108.1(2) is amended by striking from line 2 the word "should" and inserting the word "shall" in lieu thereof.

ITEM 2. Subrule 108.1(2), paragraph "a" is amended by striking the table and inserting the following in lieu thereof.

Age of Children	Minimum ratio of staff to children
Two weeks to two years	One to every four children
Two years	One to every six children
Three years	One to every eight children
Four years	One to every twelve children
Five years and over	One to every fifteen children

[Effective March 21, 1975]

TRANSPORTATION DEPARTMENT

Pursuant to authority of sections 307.10 and 307A.2, Code 1975, the following rules are adopted.

[Filed May 20, 1975]

GENERAL**ARTICLE B****PROCEDURES OF GENERAL APPLICABILITY****CHAPTER 1****ADMINISTRATIVE RULES**

1.1(307) Definitions. The definitions of terms listed in section 17A.2 of the Code shall apply for these terms as they are used throughout this chapter. In addition, as used in this chapter:

1.1(1) "Commission" means the Iowa transportation commission.

1.1(2) "Department" means the department of transportation.

1.1(3) "Director" means the director of transportation.

1.2(307) Adoption; amendment and repeal of administrative rules. Administrative rulemaking operations of the department of transportation shall be conducted in substantial compliance with the procedures of this rule and chapter 17A.

1.2(1) Notice of intended rulemaking. The notice of intended rulemaking shall be prepared in conformance with the following format:

Iowa Department of Transportation

**NOTICE OF INTENDED
RULE-MAKING**

On (date and time of the appropriate Commission meeting) at (location of the appropriate Commission meeting) the Transportation Commission shall consider for adoption the following Administrative Rules as described herein.

Comments and requests to make an oral presentation shall be addressed to the Department of Transportation, in care of the Office of Management Review, 826 Lincoln Way, Ames, Iowa 50010.

Written comments or written requests to make an oral presentation at the above specified Commission meeting concerning these proposed rules may be accepted if received by the Department of Transportation on or before (date of the 10th working day prior to the Commission meeting at which the rule shall be considered).

Any person or agency as described in Section 17A.2., Paragraphs 1 and 6 of the Code of Iowa, 1975, may submit written comments or requests to make an oral presentation. Such comments and requests shall clearly state:

1. The name, address and phone number of person or agency authoring the comment or request.

2. The title and number of the proposed rule as given in this notice which is subject of the comment or request. (Comments pertaining to a specific section of a proposed rule shall reference that section by subrule, paragraph, subparagraph, and line as appropriate).

3. With regard to requests to make an oral presentation, the general content shall be indicated.

Proposed rule-making actions:

1. (Rule title and number)

A. (If available, the proposed rule or if an extensive publication, the location and means by which it may be obtained.)

B. (A description of the rule including a statement of the issues involved.)

2. (Rule title and number)

A. Same as above.

B. Same as above.

1.2(2) Submission and acceptance of comments and requests to make an oral presentation concerning intended rule-making. The department shall accept and consider written comments and written requests to make an oral presentation from any person or agency when received on or before the tenth working day prior to the commission meeting at which the rule (which is the subject of the comments or requests) is to be considered and provided the comments or request is prepared in reasonable conformance with the information requirements and format stipulated within this subrule.

a. All comments and requests shall state:

(1) The name, address, and phone number of each person or agency party to the comments or request;

(2) The number and title of the proposed rule as given in the notice of intend-

ed rulemaking which is the subject of the comments or request. (Comments pertaining to a specific section of a proposed rule shall reference that section by sub-rule, paragraph, subparagraph and line as appropriate.); and

(3) with regard to requests to make an oral presentation, the general content of the presentation shall be indicated.

b. A separate comment or request to make an oral presentation shall be made for each proposed rule to which remarks are to be asserted.

c. Comments and requests to make an oral presentation shall be addressed to the department of transportation, in care of the Office of Management Review, 826 Lincoln Way, Ames, Iowa 50010.

d. The receipt and acceptance for consideration of comments and requests shall be promptly acknowledged by the department.

(1) Where appropriate, acknowledgements shall inform the requester that he has been accorded time on the agenda of the commission meeting at which the proposed rulemaking is to be considered.

(2) Comments received after the deadline specified in 1.2(2) may be accepted by the department although their consideration is not assured.

(3) Requests to make an oral presentation received after the deadline specified in 1.2(2) shall not be accepted and shall be returned to the requester.

1.2(3) Consideration of proposed rulemaking. Approval of administrative rules proposed for adoption, amendment and repeal shall be at the discretion of the transportation commission upon consideration of pertinent written and oral data, views or arguments accepted from interested parties.

a. Consideration of proposed rulemaking deferred from previous commission meetings at which an opportunity for public comment was provided shall not include additional oral presentations unless specifically directed by the commission, although additional written information received during the interim may be considered.

b. Immediately upon approval by the commission, the director shall file a cer-

tified copy of the rule with the secretary of state and shall provide the Code editor with a copy of the rule and whatever other material and assistance is necessary to assure publication of the rule at the earliest possible date.

1.2(4) Petitions for rulemaking. The department shall accept petitions requesting the adoption, deletion or revision of rules from any person or agency.

a. Petitions shall be addressed to the department of transportation, in care of the Office of Management Review, 826 Lincoln Way, Ames, Iowa 50010.

b. Petitions shall have a title page to include the following information:

(1) Title: "Petition For the (insert one — Promulgation, Amendment or Repeal) of a Department of Transportation Administrative Rule";

(2) Petitioners: List the name, address, and phone number of each person or agency party to the petition;

(3) Subject: When the petition concerns amendment or repeal, the rule, sub-rule, paragraph or subparagraph which is the subject of the petition shall be referenced by Administrative Code index number and general content. When the petition concerns the promulgation of a rule, a brief statement describing its substance shall appear on the title page.

c. Petitions concerning amendment or repeal of rules shall include:

(1) The rule or part thereof which is the subject of the petition. In addition, amendments to rules shall be illustrated to portray the changes in wording requested; deletions are to be indicated by strike-throughs, and additions by under-scoring;

(2) A statement of the perceived illegality or adverse effects upon the public of the current rule;

(3) A statement describing the anticipated results of the proposed rule amendment or repeal in terms of public betterment as related in the statement of purpose of the administrative procedures Act, section 17A.1.

d. Petitions concerning promulgation of a rule shall include:

(1) A description of the situation, area of responsibility or authority, or nature of the procedures which the intended rule shall govern;

(2) A description of the actions or procedures of the department (pertaining to the situation which is the subject of the petition) which prescribe a penalty or course of action, confer a right, privilege, authority or immunity or impose an obligation or in some other way limit, regulate or substantially affect the legal rights of the public and which are not governed by an administrative rule;

(3) A statement describing the effects upon the petitioner of the department's lack of an administrative rule governing its operation or exercise of authority which is the subject of the petition;

(4) A proposed administrative rule or essential terms, conditions or procedures thereof, which if adopted shall satisfy the petition;

(5) A statement describing the anticipated results of the proposed rule in terms of public betterment as described in the statement of purpose of the administrative procedures Act, section 17A.1.

e. A petition shall pertain to only one rule and with regard to amendment or repeal shall pertain only to a rule currently in effect at the time the petition is received by the department.

f. It is recommended that petitions be typewritten, although legible hand-printed petitions may be accepted.

g. Documents referenced in the petition supporting recommended rulemaking shall be submitted as appendices to the petition or made available to the department upon request.

h. The receipt of all petitions shall be recorded by the department.

(1) Petitions not in reasonable compliance with the stipulations described within this subrule shall be promptly returned to the petitioner. Modifications or additional information required to make the petition acceptable shall be indicated to the petitioner.

(2) The receipt and acceptance for consideration of petitions shall be acknowledged as such to the petitioner.

i. The disposition of petitions for rule-making shall be determined by the commission.

(1) Approval of the petition, completely or in part, shall include authorization for the department to publish a "Notice of Intended RuleMaking" and shall authorize consideration of the rule petitioned for at the commission meeting next following the expiration of 35 days after publication of the notice in the *Administrative Code*.

(2) Denial of the petition completely or in part shall authorize the department to issue to the petitioner a statement of the department's position and reasons for denial.

1.2(5) Amendment of rules without publication of intent or public participation. In reliance on section 17A.4(2), rule-making concerning nonsubstantive amendments to administrative rules shall be exempted from section 17A.4(1).

a. Because nonsubstantive amendments do not alter the meaning or consequence of a rule, it is determined unnecessary and contrary to the public interest to expend resources in publication of a notice of intended rulemaking and providing an opportunity for public comment during this rulemaking process.

b. Nonsubstantive revisions shall include only the following:

(1) Changes in nomenclature, such as deleting references to the "Iowa State Highway Commission" in favor of "Department of Transportation";

(2) Changes in references to authorizing legislation to reflect its most current edition such as deleting reference to "House File 182 of the Acts of the 64th General Assembly, First Session" in favor of "Chapter 316 of the Code of Iowa 1975"; and

(3) Changes to rectify spelling, typographical and grammatical errors.

1.3(307) Departmental position affirmation statement. The department shall respond to written requests from interested persons for issuance of a statement of principal reasons for and against a rule adopted by the commission. The response shall include the reasons for overruling considerations urged against the rule.

1.3(1) Requests shall be submitted in writing to the department of transportation in care of the Office of Management Review, 826 Lincoln Way, Ames, Iowa 50010.

1.3(2) Requests shall be accepted if received on or before the 30th calendar day following adoption of the subject rule by the commission and provided the request is in reasonable compliance with the requirements specified in 1.2(2) "a" (1) and (2).

a. Requests received after the deadline shall be returned to the requester without consideration.

b. Requests not in reasonable compliance to the requirements of form and content specified in this rule shall be returned to the requestor with a statement of modifications or additional information required to make the request acceptable.

1.3(3) Within a reasonable time after the effective date of the subject rule, the department shall issue to all parties so requesting a statement affirming the position of the department in overruling objections to the rule.

1.3(4) In the event the rule which is the subject of a request is not adopted by the commission, the requester shall be so informed.

1.4(307) Declaratory rulings. The department shall accept petitions for declaratory rulings as to the applicability of any effective statutory provision, administrative rule, written policy or recorded decisions from persons or agencies.

1.4(1) Petitions shall be typewritten and submitted to the department of transportation, in care of the Office of Management Review, 826 Lincoln Way, Ames, Iowa 50010.

1.4(2) Petitions shall be titled "PETITION FOR ISSUANCE OF A DECLARATORY RULING AS TO THE APPLICABILITY OF (reference or index number of the statute, rule, policy, decision or part thereof which is the subject of the petition) PERTAINING TO (the title of the statute, rule, policy or decision or a brief statement describing the content of the subject of the petition)".

1.4(3) The name, address and phone number of all persons or agencies party

to the petition shall be listed on the initial page of the petition.

1.4(4) The body of the petition:

a. Shall specify the exact words, passages, sentences or paragraphs which are the subject of inquiry;

b. Shall specify the specific set of facts, situation, conditions or difficulties about which conflicting interpretation of applicability are evident or for which the petitioner is unable to determine the applicability of the subject of the petition; and

c. May express interpretations of applicability and may advocate a particular interpretation of applicability.

1.4(5) Additional documented information concerning the situation for which the statute, rule, policy or decision is to be interpreted and documents referenced in the petition supporting a particular interpretation shall be made available to the department upon request.

1.4(6) The department shall acknowledge the receipt of petitions or may return such submittals to the petitioner when not prepared in reasonable compliance with 1.4(1) to 1.4(4) or when, in the opinion of the department, issuance of a ruling petitioned for would not be in the best interests of the public. In such cases, the petitioner shall be informed of the reasons the petition is not accepted.

1.4(7) The department may provide an opportunity for interested parties to submit written comments concerning the petition when requested by the petitioner or an interested party or when deemed advisable by the department. In such cases, the department shall make a reasonable effort to inform interested parties of the content of the petition and provide a reasonable amount of time for submittal of written comment.

1.4(8) The department shall within a reasonable time after its receipt issue a ruling disposing of the petition.

a. Rulings shall be in writing and provided to all persons and agencies party to the petition and other parties at the discretion of the department. (Rulings shall be indexed and available for public inspection in accord with section 17A.3(1) "d".)

TRANSPORTATION DEPARTMENT

(continued)

Pursuant to authority of section 307A.2, Code 1975, the following rule is adopted.

[Filed May 20, 1975]

HIGHWAY DIVISION

ARTICLE G

CONTRACTS

CHAPTER 1

GENERAL REQUIREMENTS AND COVENANTS FOR CONSTRUCTION ON PRIMARY, FARM-TO-MARKET, SECONDARY, STATE PARK, AND INSTITUTIONAL ROADS AND MAINTENANCE WORK ON THE PRIMARY ROAD SYSTEM

1.1(307A) General requirements for highway construction. Sections 1101 to 1105 of the 1972 edition of the "Standard Speci-

fications for Construction on Primary, Farm-to-Market, Secondary, State Park and Institutional Roads and Maintenance work on the Primary Road System" and supplemental specifications thereto altering these sections constitute the standards and requirements governing terminology, proposal requirements and condition, approval for award and award of contracts, scope of work and control of work for highway construction and maintenance performed under contracts awarded by the highway division, department of transportation.

This rule is intended to implement section 307A.2 of the Code.

[Effective July 1, 1975]

TRANSPORTATION DEPARTMENT

(continued)

For additional rules of the Transportation Department refer to the Iowa Administrative Code

Pursuant to the authority of section 307A.2 of the Code, the following rule is adopted.

[Filed May 19, 1975]

HIGHWAY DIVISION

CHAPTER 10

GENERAL REQUIREMENTS AND COVENANTS FOR COUNTIES TO BORROW MONEY FROM THE SPECIAL APPROPRIATION TO THE DEPARTMENT OF TRANSPORTATION.

10.1(307A) General requirements for counties to borrow money from the department. Any county, with a project eligible for federal-aid participation and authorized as a federal-aid participating project after April 7, 1975 and before June 30, 1975, shall be afforded an opportunity to borrow from the funds made available under the provisions of Sixty-sixth General Assembly 1975 Session,

House File 368, section 2, provided they do not have sufficient unobligated or anticipated funds for calendar year 1975 in their farm-to-market account to fund the project.

10.2(307A) The amount borrowed by a county will be determined based on the cost of the project(s) minus the funds available to the county. The loans will be made on a "first come-first serve" basis until 3,600,000 dollars is obligated.

10.3(307A) The county must, by resolution, request the loan, indicate the projects for which the loan is requested, agree to the repayment by December 30, 1976, and state that repayment is to be made from their farm-to-market funds.

This rule is to implement section 307A.2 of the Code.

[Effective May 19, 1975]