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PREFACE

The Iowa Administrative Bulletin is published in pamphlet form biweekly pursuant to Chapter 17A, The Code, and supersedes Part I of the Iowa Administrative Code Supplement.

The Bulletin contains Notices of Intended Action on rules, Filed and Filed Emergency rules by state agencies [continue to refer to General Information for drafting style and form], all proclamations and executive orders of the Governor which are general and permanent in nature, and other "materials deemed fitting and proper by the Administrative Rules Review Committee."

The Bulletin may also contain economic impact statements to proposed rules and filed emergency rules, objections filed by Administrative Rules Review Committee, Governor or the Attorney General, any delay by the Committee of the effective date of filed rules, and agenda for monthly committee meetings.

PLEASE NOTE: *Italics* indicate new material added to existing rules; ~~strike through~~ letters indicate deleted material.

The ARC number which appears before each agency heading is assigned by the Administrative Rules Co-ordinator for identification purposes and should always be used when referring to this item in correspondence and other communications.

The Iowa Administrative Code Supplement is also published every other week in loose-leaf form, pursuant to section 17A.6, The Code. It contains replacement pages for the Iowa Administrative Code. These replacement pages incorporate amendments to existing rules, new rules or emergency or temporary rules which have been filed with the administrative rules co-ordinator and published in the Bulletin.

WAYNE A. FAUPEL, Code Editor
PHYLLIS BARRY, Deputy Code Editor
LAVERNE SWANSON, Administrative Code Assistant

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
2	Friday, July 2, 1982	July 21, 1982
3	Friday, July 16, 1982	August 4, 1982
4	Friday, July 30, 1982	August 18, 1982

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Iowa Administrative Bulletin

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Iowa Administrative Code

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PUBLIC HEARINGS

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
AGRICULTURE DEPARTMENT[30] Swine brucellosis, ch 16 IAB 7/7/82 ARC 3025	2nd Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	July 29, 1982 1:30 p.m.
Livestock importation, brucellosis-cattle, 17.5 IAB 7/7/82 ARC 3026	2nd Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	July 29, 1982 1:30 p.m.
COMMERCE COMMISSION[250] Utility extension policies IAB 7/7/82 ARC 3043	Commission Hearing Room First Floor Lucas State Office Bldg. Des Moines, Iowa	July 30, 1982 10:00 a.m.
CONSERVATION COMMISSION[290] Zoning and watercraft uses, 30.2 IAB 6/23/82 ARC 2990	Fourth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	July 13, 1982 10:00 a.m.
Docks, ch 33 IAB 7/7/82 ARC 3041	Fourth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	July 27, 1982 10:00 a.m.
Falconry regulations for hunting waterfowl, ch 100 IAB 6/23/82 ARC 2992	Fourth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	July 15, 1982 10:00 a.m.
ENVIRONMENTAL QUALITY DEPARTMENT[400] Emission standards for contaminants, 4.1(2) IAB 6/23/82 ARC 2983	Fifth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	July 13, 1982 10:00 a.m.
HEALTH DEPARTMENT[470] Nonpublic water wells, ch 45 IAB 7/7/82 ARC 3028	3rd Floor Conference Room Lucas State Office Bldg. Des Moines, Iowa	August 9, 1982 1:00 p.m.
HOUSING FINANCE AUTHORITY[495] Low or moderate income family, 1.8 IAB 7/7/82 ARC 3007, 3008, 3009	Housing Finance Authority Suite 550 Liberty Bldg. Des Moines, Iowa	July 28, 1982 1:30 p.m.
INSURANCE, DEPARTMENT OF[510] Health maintenance organizations, 40.4 IAB 6/23/82 ARC 2996	Iowa Insurance Dept. Ground Floor Lucas State Office Bldg. Des Moines, Iowa	July 15, 1982 10:00 a.m.
NURSING, BOARD OF[590] Nursing practice — R.N.'s and L.P.N.'s, 6.5(1) IAB 6/9/82 ARC 2923	Auditorium Wallace State Office Bldg. Des Moines, Iowa	July 21, 1982 7:00 p.m.
PAROLE, BOARD OF[615] Initial interviews, 3.6(2) IAB 7/7/82 ARC 3002	Fifth Floor Hoover State Office Bldg. Des Moines, Iowa	July 30, 1982 10:00 a.m.
Findings of the board hearing officer, 7.5(13) IAB 7/7/82 ARC 3003	Fifth Floor Hoover State Office Bldg. Des Moines, Iowa	July 30, 1982 10:00 a.m.
Hearing, 7.6(2) IAB 7/7/82 ARC 3004	Fifth Floor Hoover State Office Bldg. Des Moines, Iowa	July 30, 1982 10:00 a.m.

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
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Waiver of probable cause hearing, 7.7(2) IAB 7/7/82 ARC 3005	Fifth Floor Hoover State Office Bldg. Des Moines, Iowa	July 30, 1982 10:00 a.m.
Requests for reconsideration or appearance, 9.1 IAB 7/7/82 ARC 3006	Fifth Floor Hoover State Office Bldg. Des Moines, Iowa	July 30, 1982 10:00 a.m.
PLANNING AND PROGRAMMING[630]		
Comprehensive employment and training Act, 6.5 IAB 6/9/82 ARC 2963	Conference Room Office for Planning and Programming 523 E. 12th St. Des Moines, Iowa	July 22, 1982 1:30 p.m.
Youth affairs, ch 14 IAB 6/9/82 ARC 2921	Conference Room Office for Planning and Programming 523 E. 12th St. Des Moines, Iowa	July 22, 1982 7:30 p.m.
PUBLIC INSTRUCTION DEPARTMENT[670]		
Approvals, 16.4, 16.5 IAB 6/9/82 ARC 2959	State Board Conference Room 2nd Floor Grimes State Office Bldg. Des Moines, Iowa	July 7, 1982 1:30 p.m.
REGENTS, BOARD OF[720]		
Personnel administration, 3.14(2), 3.85, 3.90(2), 3.127 IAB 6/23/82 ARC 2987, 2988, 2989	Board of Regents Office Lucas State Office Bldg. Des Moines, Iowa	July 30, 1982 10:00 a.m. (If requested)
SOCIAL SERVICES DEPARTMENT[770]		
Medical assistance, 79.1 IAB 6/23/82 ARC 2980	Des Moines District Office Conference Room 3619½ Douglas Des Moines, Iowa	July 19, 1982 1:30 p.m.
SOIL CONSERVATION, DEPARTMENT OF[780]		
Surface coal mining and reclamation operations, 4.522, 4.523, 4.311 IAB 6/9/82 ARC 2968	West Half, 4th Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	July 27, 1982 9:00 a.m.
Financial incentives for soil erosion control, ch 5 amendments IAB 6/9/82 ARC 2969	East Half, 4th Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	July 9, 1982 10:00 a.m.
Abandoned mine land reclamation, ch 27 IAB 6/9/82 ARC 2970	West Half, 4th Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	July 27, 1982 9:00 a.m.
TRANSPORTATION DEPARTMENT[820]		
OMVUI and implied consent, [07,C] Driver licensing IAB 6/23/82 ARC 2973	Department of Transportation Complex Ames, Iowa	November 30, 1982
Railroad — Highway crossings [06,A] ch 10; [06,C] Ch 3; rescinded IAB 7/7/82 ARC 3029	Department of Transportation Complex Ames, Iowa	August 17, 1982
Railroad Transportation, organization, [10,A] to [10,F] IAB 7/7/82 ARC 3030	Department of Transportation Complex Ames, Iowa	August 17, 1982

ARC 3025
AGRICULTURE DEPARTMENT[30]
NOTICE OF INTENDED ACTION

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

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

Pursuant to the authority of Sections 163A.9, 163.1 and 159.5(11), the Department of Agriculture proposes to amend Chapter 16, LIVESTOCK DISEASES, appearing in the Iowa Administrative Code. The proposed rule appears in the division titled ERADICATION OF SWINE BRUCELLOSIS.

Currently, pork producers are having hogs tested for brucellosis prior to sale as breeding stock with the expense borne by the county brucellosis eradication fund. During 1981, costs to Iowa counties for such swine testing was \$135,000. No swine brucellosis has been detected in Iowa for six years. This has reduced the threat to human health that once existed and may not now justify the continued use of tax dollars for this purpose. Accordingly, the Department proposes these new rules authorizing payment from the County Brucellosis Eradication Fund only when infected swine are found or suspected. The fees for herd stops (for bleeding and tagging) are increased from \$10 to \$15.

Any interested person may submit written comments or suggestions for consideration on or before July 29, 1982, to Robert H. Lounsberry, Secretary of Agriculture, Iowa Department of Agriculture, Wallace State Office Building, Des Moines, Iowa 50319. A public hearing will be conducted on July 29, 1982 at 1:30 p.m., in the second floor conference room at the Wallace State Office Building. Persons may present their views at this hearing orally or in writing.

This rule is intended to implement Sections 163A.12 and 164.6, Iowa Code.

ITEM 1. Strike rule 30—16.67(163A) and insert in lieu thereof the following:

30—16.67(163A) Brucellosis test. When reactor animals are revealed on any test, the herd of origin and all exposed animals shall be placed under quarantine and inspections and tests performed as provided in chapter 163A, Iowa Code.

ITEM 2. Strike rule 30—16.68(163A) and insert in lieu thereof the following:

30—16.68(163A) Veterinarians to test. The department will designate a federal or state veterinarian or it may designate a licensed accredited veterinarian to make the inspections and tests. The expense of the tests may be charged to the county brucellosis eradication fund as provided in section 163A.12, Iowa Code.

ITEM 3. Strike rule 30—16.71(163A) and insert in lieu thereof the following:

30—16.71(163A) Fee Schedule.

16.71(1) Bleeding. Fifteen dollars per stop (herd) and two dollars and fifty cents per head for the first ten bled and two dollars per head for all animals bled thereafter.

16.71(2) Tagging of reactors. Fifteen dollars per stop (herd) and two dollars per head for all swine tagged. These rules are intended to implement section 163A.12, Iowa Code.

ARC 3026
AGRICULTURE DEPARTMENT[30]
NOTICE OF INTENDED ACTION

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

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

Pursuant to the authority of Sections 163.1 and 164.4, Iowa Code, the Department of Agriculture hereby gives Notice of Intended Action to amend Chapter 17, Livestock Importation, Iowa Administrative Code.

This proposed rule would amend the regulations governing the interstate movement of cattle, as related to brucellosis, by rescinding subrules that incorporated provisions of the July, 1977 Brucellosis Eradication Uniform Methods and Rules (UM&R) APHIS Publication 91-1. The UM&R forms the basis for co-operation between the states and the U.S.D.A. to control and eradicate brucellosis. The UM&R is subject to annual review and amendment to reflect progressive program needs as determined by representatives of all impacted segments of the livestock and scientific community.

The proposed rule would adopt by reference the current UM&R requirements as incorporated in regulations of 9C.F.R., Part 78 effective as of September 15, 1982. The new amendments to the current UM&R were the result of the United States Animal Health Association (USAHA), the National Cattlemen's Association, The American Farm Bureau Associations, along with other livestock industry oriented organizations, working in consultation with the Brucellosis Technical Commission appointed by the U.S.D.A.

Any interested person may direct written suggestions or comments on these proposed rules to Robert H. Lounsberry, Secretary of Agriculture, Wallace Building, Des Moines, Iowa 50319. All written submissions made pursuant to this notice must be received by the Secretary on or before July 29, 1982. There will be a public hearing on July 29, 1982, at 1:30 p.m. in the conference room on the second floor of the Wallace State Office Building. Interested persons may present their views at this public hearing either orally or in writing.

This rule is intended to implement Sections 163.7, 163.11 and Section 163.1, subsections (7), (8) and (9), Iowa Code.

The following amendments are proposed:

ITEM 1. Amend the first unnumbered introductory sentence to Rule 30—17.5(163) to read as follows:

057243

AGRICULTURE DEPARTMENT[30] (cont'd)

30—17.5(163) Brucellosis — cattle. Same as federal requirements for the interstate movement of cattle, 9 C.F.R., Part 78 effective as of September 15, 1982 with the following additions:

ITEM 2. Amend subrule 17.5(2) by rescinding paragraph "b" in its entirety and adopting the following:

b. All dairy and breeding cattle over six months of age must meet one of the following requirements:

1. Originate from a certified brucellosis free herd, showing date of last test and herd certification number.

2. Originate from a certified brucellosis "free" state, with a minimum duration of six months in state of origin.

3. Originate from a class "A" state; with a negative brucellosis test for the animal conducted within thirty days of entry.

4. Originate from a class "B" state with a pre-movement negative brucellosis test. On arrival, cattle must be quarantined and held for retest; and must show a negative post-movement brucellosis test within sixty to one hundred twenty days of entry.

5. Originate from a class "C" state with two pre-movement, negative brucellosis tests, with the second such test conducted no more than thirty days after the first, and no more than thirty days prior to entry. On entry, all animals must be quarantined, held for retest, and must show a negative post-movement brucellosis test within sixty to one hundred twenty days of entry.

6. The animals must be females of the beef type under twenty-four months of age or dairy type under twenty months of age, not visibly pregnant or post-parturient, identified as official calfhooed vaccinates with ear numbers shown on health certificates.

PERMITS. Permits are required on all test eligible cattle from "B" and "C" states.

This rule is intended to implement sections 163.1, 163.7 and 163.11, Iowa Code.

ARC 3043**COMMERCE COMMISSION[250]****NOTICE OF ORAL PRESENTATION**

The Iowa State Commerce Commission hereby gives notice that it is setting a date for oral presentation in Commission Docket No. RMU—82—3, In Re: Utility Extension Policies.

This proceeding was commenced by Commission order on April 9, 1982, and Notice of Intended Action was published April 28, 1982, as ARC 2855. The proposed amendments would establish a uniform method for utilities to make main and service line extensions.

Pursuant to the requirements of Section 17A.4, Iowa Code 1981, oral presentation in this matter will be held commencing at 10:00 a.m., on July 30, 1982, in the Commission's Hearing Room on the First Floor, Lucas State Office Building, Des Moines, Iowa 50319. This oral presentation will be conducted pursuant to Chapter 3 of the Commission's rules. Commission subrule 3.7(1) requires that any interested person may participate in the oral presentation upon filing a written appearance not less than five calendar days prior to the presentation.

ARC 3041**CONSERVATION COMMISSION[290]****NOTICE OF INTENDED ACTION**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in §17A.4(1)'6", Iowa Code.

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

Pursuant to the authority of Sections 107.24 and 111.4, the Conservation Commission hereby gives Notice of Intended Action to amend Chapter 33, Docks, of the Iowa Administrative Code.

These amendments to the dock rules provide an alternative method of constructing docks. It permits the widening of the last (water end) portion of the dock in lieu of "L" or "T" construction. The amendments also allow joint construction of a dock by two or more riparian property owners or lessees under certain conditions. The duration of the permits is set at five years to conform to current practice.

Any interested person may make written suggestions or comments on this rule prior to July 27, 1982. Such written materials should be directed to the Director, State Conservation Commission, Wallace State Office Building, Des Moines, Iowa 50319. Persons who wish to convey their views orally may present those views in the Wallace State Office Building's fourth floor conference room on July 27, 1982, at 10:00 a.m.

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

This rule is intended to implement Sections 106.32 and 111.4, Iowa Code.

The following amendments are proposed:

ITEM 1. Subrule 33.1(1) is amended to read as follows:

33.1(1) The duration of the permit issued pursuant to appropriate application shall not be more than ~~ten~~ five years.

ITEM 2. Amend **33.1(6)** by adding the following sentence at the end: "*Upon request by conservation commission official, the permittee is responsible for providing proof that the barrels are filled with foam.*"

ITEM 3. Strike subrule 33.3(2) and insert:

33.3(2) a. Except as provided in this subrule and 33.3(3), permits may be granted for "L" or "T" shaped docks on which the total length of the "L" or "T" portion facing the water is not greater than sixteen feet nor more than six feet in width.

b. On docks which are fifty feet or more from another dock, in lieu of the sixteen-foot "L" or "T" given in "a", the last sixteen feet of the dock (waterward end) may be eight feet wide. No hoist or other structure may be placed adjacent to that wider portion of the dock.

c. Permits for special purpose "L" or "T" docks may be granted by the commission only upon submission by the applicant of proof of need.

d. Where there are two or more riparian property owners or lessees with a combined frontage of seventy-five feet or more, a permit may be granted jointly for the construction of a dock with an "L" or "T" portion with a total of sixteen feet in length facing the water and up to

CONSERVATION COMMISSION[290] (cont'd)

eight feet wide. In lieu of the "L" or "T" any portion of the last sixteen feet (waterward end) of the dock may be ten feet wide.

The application for a permit under this provision must be signed by all owners or lessees involved and the applicants must waive any rights to additional docks from their property.

ITEM 4. Amend 33.3(3)"b"(1) by adding the following sentences at the end: "In lieu of the "L" or "T", the last ten feet of the dock (waterward end) may be eight feet wide. No hoist or other structure may be placed adjacent to that wider portion of the docks."

ITEM 5. Add a new rule as follows:

290—33.5(111) Liability. Neither the state conservation commission nor the state of Iowa will be responsible for any injury to persons or damage to property arising out of or incident to the construction, use, or storage of any dock for which the state conservation commission has issued a permit, howsoever such injury or damage may be caused. The permittee, and, if the riparian owner is not the permittee, the riparian owner as well shall indemnify and save the state conservation commission and the state of Iowa harmless from any and all claims for any such injury or damage, excepting claims for injury or damage arising from activities of the commission or the state in the use of said dock which are being conducted exclusively for the benefit of the commission or the state.

ARC 3022

ENVIRONMENTAL QUALITY
DEPARTMENT[400]ENVIRONMENTAL QUALITY COMMISSION
TERMINATION OF NOTICE

Pursuant to the authority of Section 455B.12, Iowa Code, the Environmental Quality Commission hereby terminates proposed amendments to Chapter 4 (455B), Iowa Administrative Code, relating to limitations of sulfur dioxide emissions from certain fuel burning sources.

The proposed amendments would have revised the sulfur dioxide emission standards for solid fuel fired and liquid fuel fired boilers that are not subject to the federal new source performance standards. Notice of Intended Action on the proposed amendments was published as ARC 2637 in the January 6, 1982, Iowa Administrative Bulletin; that Notice was amended by ARC 2741 in the March 3, 1982, Iowa Administrative Bulletin. This rule-making is being terminated because of continuing review of technical data used to determine the proposed limitations; the review cannot be completed within one hundred eighty days of the hearing which was held January 26, 1982. When the technical review is completed, the Commission will initiate rulemaking again.

ARC 3028

HEALTH DEPARTMENT[470]

NOTICE OF INTENDED ACTION

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

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

Pursuant to the authority of Section 135.11(15), Iowa Code, the Iowa State Department of Health hereby gives Notice of Intended Action to amend Chapter 45 "Nonpublic Water Wells", Iowa Administrative Code.

The amendment will allow as an alternative to homeowners the option of constructing a "well frost pit" in connection with new construction of nonpublic water wells. Also, there will be a renumbering of certain subrules allowing more accurate descriptions and direction.

There will be a public hearing held regarding the proposed amendment August 9, 1982, at 1:00 p.m., Lucas State Office Building, Third Floor Conference Room, Des Moines, Iowa.

Any interested person may make written suggestions or comments on this proposed amendment prior to August 9, 1982. Submission should be directed to Mark W. Wheeler, Hearings Officer, Iowa State Department of Health, Third Floor, Lucas State Office Building, Des Moines, Iowa 50319.

These rules are intended to implement section 135.11(1), Iowa Code.

The following amendments are proposed.

ITEM 1. Subrule 45.6(3) is amended to read as follows:

45.6(3) Wells located within frost pits.

a. In new construction, wells are not permitted to be located within frost pits since they present a sanitary hazard to the water supply by providing access of flood or surface waters to the well. *Exception — Wells are permitted to be located within frost pits of augered or bored wells which do not penetrate consolidated formations. See 45.7(2).*

ITEM 2. Subrule 45.7(2) is amended by adding the following:

d. Augered or bored wells which do not penetrate consolidated formations are permitted to terminate in tile frost pits provided that the pit walls, floor, and cover are constructed and sealed so as to not permit entry of any contamination.

(1) Pit walls (concrete tile). The pit shall extend twelve inches above natural grade. Pipe nipples or adaptors for entrance of water line and electric conduit through wall shall be mechanically sealed or poured in place.

(2) Pit floor. The pit floor shall be constructed of neat cement or concrete, and the well casing shall extend at least six inches above the floor.

(3) Pit, manhole or well cover. The pit, manhole or well cover shall be constructed of concrete and shall have a diameter two inches larger than the outer diameter of the pit, manhole, or well opening. All covers shall be

HEALTH DEPARTMENT[470] (cont'd)

shaped to provide a plug that extends at least one inch into the appropriate opening and fits snugly. If manholes are provided, the joint between a manhole and the pit cover shall be raised at least two inches above the top of the pit cover.

(4) Pit excavation. The annular space between sides of the pit excavation and outer diameter of pit tiles shall be a minimum of three inches. The annular space outside the pit wall shall be continuous with annular space outside the well casing.

(5) Grouting. Grouting of the annular space of the pit and well shall be accomplished in one continuous operation and in accordance with 45.7(2) and 45.8(3) except that in cases where concrete grout is applied from the surface, a mechanical concrete vibrator shall be employed by extending the vibrator at least two feet into the annular space outside the well casing during application of the grout.

ITEM 3. Subrule 45.7(2) is amended as follows:

45.7(2)c(1) is renumbered as 45.7(3).

ITEM 4. Subrule 45.7(2) is amended as follows:

45.7(2)c(2) is renumbered as 45.7(4).

ITEM 5. Subrule 45.7(2) is amended as follows:

45.7(2)c(3) is renumbered 45.7(5).

ARC 3007**HOUSING FINANCE
AUTHORITY[495]****NOTICE OF INTENDED ACTION - HEARING**

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

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

Pursuant to the authority of Section 220.5, subsection 15, Iowa Code, the Iowa Housing Finance Authority hereby given Notice of Intended Action to amend Chapter 1, "General". The substance of these rules is also being submitted as emergency adopted rules, ARC 3008, and ARC 3009, published in the Iowa Administrative Bulletin on July 7, 1982.

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

Any interested persons may make written suggestions or comments on these proposed rules prior to August 2, 1982. Such written materials should be directed to the General Counsel, Iowa Housing Finance Authority, 550 Liberty Building, Des Moines, Iowa 50309. Persons who want to convey their views orally should contact the General Counsel, George Cosson, at (515) 281-4058 or in the offices of the authority at Suite 550, Liberty Building. There also will be a public hearing on Wednesday, July 28, 1982, at 1:30 p.m. in the authority's offices at Suite 550 Liberty Building. Persons may present their views at this

public hearing either orally or in writing. The public hearing will be concluded at 2:30 p.m. or whenever all persons wishing to convey their views have finished, whichever is later.

ARC 3002**PAROLE, BOARD OF[615]
NOTICE OF INTENDED ACTION**

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

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

Pursuant to the authority of Section 906.3, Iowa Code, the Iowa Board of Parole hereby gives notice of its intended action to amend subrule 3.6(2) "Initial interviews," Iowa Administrative Code.

Subrule 3.6(2) refers to initial interviews of inmates recently incarcerated at one of the adult penal institutions of the state of Iowa. The proposed amendment reflects the board's recent decision to discontinue conducting initial interviews.

Any interested person may make written suggestions or comments on this proposed rule prior to July 29, 1982. Such written materials shall be directed to the Executive Secretary, Iowa Board of Parole, Hoover State Office Building, Des Moines, Iowa 50319. Persons who want to convey their views orally should contact the same at 515/281-4820. Also there will be a public hearing on July 30, 1982, at 10:00 a.m. in the parole board office on the fifth floor of the Hoover State Office Building. Persons may present their views at this hearing either orally or in writing. Persons who wish to make oral presentations at the public hearing should contact the said executive secretary at least one day prior to the date of the public hearing.

This rule is intended to implement Section 906.5, Iowa Code.

The following amendment is proposed.

Subrule 3.6(2) is amended by striking and substituting the word "Reserved", as follows:

3.6(2) Reserved.

ARC 3003**PAROLE, BOARD OF[615]
NOTICE OF INTENDED ACTION**

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

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

PAROLE, BOARD OF[615] (cont'd)

Pursuant to the authority of Section 906.3, Iowa Code, the Iowa Board of Parole hereby gives notice of its intended action to amend subrule 7.5(13) "Findings of the board hearing officer," Iowa Administrative Code.

Subrule 7.5(13) refers to the options the hearing officer has with regard to the placement of the parolee at the conclusion of the probable cause hearing. The amendment conforms the rule to the statute. (Section 908.6, Iowa Code).

Any interested person may make written suggestions or comments on these proposed rules prior to July 29, 1982. Such written materials shall be directed to the Executive Secretary, Iowa Board of Parole, Hoover State Office Building, Des Moines, Iowa 50319. Persons who want to convey their views orally should contact the same at 515-281-4820. Also there will be a public hearing on July 30, 1982, at 10:00 a.m. in the parole board offices on the fifth floor of the Hoover State Office Building. Persons may present their views at this hearing either orally or in writing. Persons who wish to make oral presentations at the public hearing should contact the said executive secretary at least one day prior to the date of public hearing.

This rule is intended to implement Section 908.6, Iowa Code.

The following amendment is proposed.

Subrule 7.5(13) is amended to read as follows:

7.5(13) Findings of the board hearing officer. If the board hearing officer finds that probable cause does not exist, he or she shall order that the parolee be released from custody and continued on parole. If the board hearing officer finds that probable cause does exist, he or she shall order that the parolee be committed to the custody of the department of social services or may recommend bail as provided in section 908.2, Iowa Code, pending the final decision of the board of parole regarding the revocation of parole. ~~If the board hearing officer finds that probable cause does exist, but also finds that there exist circumstances in mitigation which show that the violation does not warrant revocation of parole, he or she may order that the parolee continue on parole; in which case the hearing officer may modify the conditions of parole.~~

changes in the rule specify the board's intention to reserve the right to conduct such hearings in places other than those specifically identified in the rule. It also reflects a language change to accommodate the situation which occasionally arises in which the parolee is continued on bond in the community rather than being returned to the institution pending the final revocation hearing.

Any interested person may make written suggestions or comments on this proposed rule prior to July 29, 1982. Such written materials shall be directed to the Executive Secretary, Iowa Board of Parole, Hoover State Office Building, Des Moines, Iowa 50319. Persons who want to convey their views orally should contact the same at 515-281-4820. Also there will be a public hearing on July 30, 1982, at 10:00 a.m. in the parole board offices on the fifth floor of the Hoover State Office Building. Persons may present their views at this hearing either orally or in writing. Persons who wish to make oral presentations at the public hearing should contact the said executive secretary at least one day prior to the date of the public hearing.

This rule is intended to implement Sections 908.7, 908.8 and 908.9, Iowa Code.

The following amendment is proposed.

Subrule 7.6(2) is amended to read as follows:

7.6(2) Hearing. A parolee who is sent to a correctional institution by reason of a new sentence and a parolee who has been found to be in violation of his or her parole at a probable cause hearing or waiver thereof shall, after notice, be afforded a final parole revocation hearing before the board hearing panel at the time when the hearing panel next meets at the institution where the person is incarcerated. The hearing panel shall conduct final parole revocation hearings at the Iowa Men's Reformatory, Iowa Women's Reformatory and Iowa State Penitentiary on at least a bimonthly schedule. *The board may also designate other locations at which to conduct hearings.*

ARC 3005**PAROLE, BOARD OF[615]
NOTICE OF INTENDED ACTION**

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

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

Pursuant to the authority of Section 906.3, Iowa Code, the Iowa Board of Parole hereby gives notice of its intended action to amend subrule 7.7(2) "Waiver of probable cause hearing," Iowa Administrative Code.

Subrule 7.7(2) refers to the procedure to be followed when a parole violator elects to waive a probable cause hearing. The proposed amendment reflects the statutory requirement that the waiver of a probable cause hearing be recorded.

Any interested person may make written suggestions or comments on these proposed rules prior to July 29,

ARC 3004**PAROLE, BOARD OF[615]
NOTICE OF INTENDED ACTION**

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

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

Pursuant to the authority of Section 906.3, Iowa Code, the Iowa Board of Parole hereby gives notice of its intended action to amend subrule 7.6(2) "Hearing," Iowa Administrative Code.

Subrule 7.6(2) refers to the conducting of a final hearing before the revocation of a parole. The proposed

PAROLE, BOARD OF[615] (cont'd)

1982. Such written materials shall be directed to the Executive Secretary, Iowa Board of Parole, Hoover State Office Building, Des Moines, Iowa 50319. Persons who want to convey their views orally should contact the same at 515-281-4820. Also there will be a public hearing on July 30, 1982, at 10:00 a.m. in the parole board offices on the fifth floor of the Hoover State Office Building. Persons may present their views at this hearing either orally or in writing. Persons who wish to make oral presentations at the public hearing should contact the said executive secretary at least one day prior to the date of public hearing.

This rule is intended to implement Section 908.5, Iowa Code.

The following amendment is proposed.

Subrule 7.7(2) is amended by inserting an additional sentence after the word "officer" in the third line as follows:

7.7(2) Waiver of probable cause hearing. If the parolee desires to waive the probable cause hearing, this waiver shall be entered on a form provided by the board which shall be signed by the parolee in the presence of the board hearing officer. *The hearing officer shall make a verbatim record of the proceedings in which the hearing is waived.* The hearing officer shall address the parolee personally and inform the parolee of, and determine that the parolee understands, the contents of the probable cause hearing waiver form which shall include:

- a. The nature of the parole violation to which the waiver is addressed;
- b. That the parolee may have lost time served toward expiration of sentence during the period between the alleged parole violation and a return to custody;
- c. That the parolee has the right to a probable cause hearing where the state must show by clear and convincing evidence that there is probable cause to believe that the parole has been violated;
- d. That at this hearing the parolee has the right to the assistance of counsel, to call and cross-examine witnesses, and the right not to be compelled to incriminate himself or herself;
- e. That if the parolee waives the probable cause hearing the facts contained in the agent's report of the alleged violation(s) shall constitute an admission of the alleged violation(s) and shall constitute the hearing officer's findings of fact on which the board makes its final decision;
- f. That the alleged violator may be committed to the custody of the department of social services without further proceedings.

Pursuant to the authority of Section 906.3, Iowa Code, the Iowa Board of Parole hereby gives notice of its intended action to amend rule 615—9.1(906) "Requests for reconsideration or appearance," Iowa Administrative Code.

Rule 9.1(906) refers to requests by inmates for reconsideration by the board of parole of a decision the board has made in regard to that inmate. The amendment conforms the language of the rule to the practical fact that the board, not a board liaison officer must decide whether an inmate will be granted more than one appearance before the board each year for parole consideration.

Any interested person may make written suggestions or comments on these proposed rules prior to July 29, 1982. Such written materials shall be directed to the Executive Secretary, Iowa Board of Parole, Hoover State Office Building, Des Moines, Iowa 50319. Persons who want to convey their views orally should contact the same at 515-281-4820. Also there will be a public hearing on July 30, 1982, at 10:00 a.m. in the parole board offices on the fifth floor of the Hoover State Office Building. Persons may present their views at this hearing either orally or in writing. Persons who wish to make oral presentations at the public hearing should contact the said executive secretary at least one day prior to the date of public hearing.

This rule is intended to implement Section 906.3, Iowa Code.

The following amendment is proposed.

Rule **615—9.1(906)** Requests for reconsideration or appearance, is amended by amending the last paragraph (unnumbered) of the rule as follows:

The board of parole shall review the liaison officer's report and shall affirm, reverse, or modify its previous decision in writing. The board also may grant the inmate an appearance and thereafter may give a written report to the inmate of its decision. If the liaison officer so recommends, the board ~~shall~~ *may* grant the inmate an appearance, ~~unless there are compelling reasons to the contrary. Such reasons shall be stated to the inmate.~~ No inmate, as a matter of right, shall be entitled to more than one interview with the liaison officer under this rule in any twelve-month period.

ARC 3006**PAROLE, BOARD OF[615]
NOTICE OF INTENDED ACTION**

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

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

ARC 3031**REVENUE, DEPARTMENT OF[730]
NOTICE OF INTENDED ACTION**

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

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

Pursuant to the authority of Sections 421.14 and 422.68(1), Iowa Code, the Iowa Department of Revenue hereby gives Notice of Intended Action to amend Chapter 12, "Filing Returns, Payment of Tax, Penalty and Interest", Chapter 15, "Determination of Sale and Sale

REVENUE DEPARTMENT[730] (cont'd)

Price", Chapter 26, "Sales and Use Tax on Services", and Chapter 34, "Vehicles Subject to Registration", Iowa Administrative Code.

Chapter 12 amendments are made to implement the provisions of Senate File 2080, Acts of the Sixty-ninth General Assembly, 1982 Session. Senate File 2080 amended Section 422.52 to require all retailers who collect more than \$4,000 in a semimonthly period to remit deposits on a semimonthly basis. It also provides retailers the option of remitting the actual tax collected or an amount equal to a portion of the previous quarter's tax remittance.

Subrule 15.3(2)"b" is amended to implement the provisions of Senate File 362, Acts of the Sixty-ninth General Assembly, 1982 Session. This legislation allows retailers to provide their own exemption certificates if approved by the department. The amendment reflects this change and also states what information is necessary on the resale certificate.

Subrules 15.19(1) and (2) are amended to implement the provisions of Senate File 574, Acts of the Sixty-ninth General Assembly, 1982 Session. Senate File 574 amended the trade-in exemption provision effective July 1, 1982. The amendments explain that subrule 15.19(1) applies only to periods prior to July 1, 1982, and subrule 15.19(2) explains the trade-in provision for periods after June 30, 1982.

Rule 26.38 is amended to implement the provisions of House File 2396, Acts of the Sixty-ninth General Assembly, 1982 Session, which provides that private employment agencies are not required to collect tax on their services where the person being employed will have a principal place of employment outside the state of Iowa. The rule reflects this exclusion.

Subrule 34.1(5) is deleted because the same examples of taxable moment are contained in subrule 33.6(1).

Any interested person may make written suggestions or comment on these proposed amendments on or before August 6, 1982. Such written comments should be directed to the Director, Excise Tax Division, Iowa Department of Revenue, Hoover State Office Building, Des Moines, Iowa 50319.

Persons who want to orally convey their views should contact the Director, Excise Tax Division at 515/281-5476 or at Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by July 30, 1982.

These rules are intended to implement Sections 421.14, 422.51, 422.42, 422.43, 422.47, 422.52, 422.58(1) and 423.1 as amended by S.F. 362, S.F. 574, S.F. 2080, H.F. 2396 and H.F. 2475, Acts of the Sixty-ninth General Assembly, 1982 Session, and Sections 423.6, 423.13, 423.14 and 422.53, Iowa Code.

The following amendments are proposed.

ITEM 1. Amend rule 730—12.1 to read as follows:

730—12.1(422) . Returns and payment of tax. Every retailer collecting *more than* fifty dollars in tax in any one month shall make a *monthly* deposit with the department. A retailer collecting between fifty and five hundred dollars a month shall deposit the actual amount of tax collected during the month or an amount equal to not less than thirty percent of the amount of tax collected and paid during the preceding quarter. A retailer collecting five hundred dollars or more a month shall deposit the actual amount of tax collected. This deposit is due by the twentieth of the month following the month in which the

tax is collected and applies only to the first two months in the quarter.

On the quarterly return, every retailer shall report the gross sales for the entire quarter, listing allowable deductions and figuring tax for the entire quarter. Space is provided on the return for a deduction of tax deposited the first and second months of the quarter. *The quarterly return is due on or before the last day of the month following the end of the quarter.*

Effective January 1, 1983, retailers collecting fifty dollars a month and not more than four thousand dollars in tax in a semimonthly period shall deposit the actual amount of tax collected during the month or an amount equal to one-third of the amount of tax collected and paid during the preceding quarter.

Every retailer collecting more than four thousand dollars in tax in a semimonthly period shall make a semimonthly deposit with the department. A retailer collecting more than four thousand dollars in a semimonthly period shall deposit the actual amount of tax collected or an amount equal to not less than one-sixth of the amount of tax collected and paid during the preceding quarter. The first semimonthly deposit is for the period from the first of the month through the fifteenth of the month and is due on or before the twenty-fifth of the month. The second semimonthly deposit is for the period from the sixteenth through the end of the month and is due on or before the tenth day of the month of collection. A deposit is not required for the last semimonthly period of the calendar quarter.

On the quarterly return, every retailer shall report the gross sales for the entire quarter listing allowable deductions and figuring tax for the entire quarter. Space is provided on the return for a deduction of tax deposited for the previous five semimonthly deposits. The quarterly return is due on or before the last day of the month following the end of the calendar quarter.

Effective January 1, 1980, if it is expected that the total annual tax liability of a retailer will not exceed one hundred twenty dollars for a calendar year, the retailer may request, and the director may grant, permission to file and remit sales tax on a calendar year basis. The returns and tax will be due and payable no later than January 31, following each calendar year in which the retailer carried on business.

Following are nonexclusive examples the department could reasonably expect to be within the guidelines for annual reporting:

1. A person selling tangible personal property or taxable services where a major portion of the business is the selling of tangible personal property or taxable services exempt from the imposition of tax; such as a wholesaler whose sales are primarily for resale, or a contractor whose business is primarily new construction.

2. A person whose business is primarily seasonal, or a person engaged in part-time selling of tangible personal property or taxable services.

3. A person whose sales are of a nontaxable service and who may, on occasion, sell tangible personal property incidental to the service.

When the due date falls on Saturday, Sunday, or a legal holiday, the return or deposit will be due the first business day following such Saturday, Sunday, or legal holiday. If a return or deposit is placed in the mails, properly addressed and postage paid, and postmarked on or before the due date for filing, no penalty will attach should the return or deposit not be received until after that date. Mailed returns should be addressed to the Iowa

REVENUE DEPARTMENT[730] (cont'd)

State Excise Tax Division, Department of Revenue, Hoover State Office Building, Des Moines, Iowa 50319.

This rule is intended to implement sections 421.14, 422.51 and 422.52, Iowa Code, as amended by Senate File 2080 and House File 2475, Acts of the Sixty-ninth General Assembly, 1982 Session.

ITEM 2. Amend rule 730—12.2(422,423) to read as follows:

730—12.2(422,423) Remittances. The correct amount of tax collected and due shall accompany the forms prescribed by the department. The name, address and permit number of the sender and amount of tax for the quarterly remittance, or a *semimonthly* or monthly deposit shall be stated. Every return shall be signed and dated. Reporting forms and a self-addressed return envelope shall be furnished by the department to the taxpayer; and, when feasible, he or she shall use them when completing and mailing his or her return and remittance. All remittances shall be made payable to the Treasurer of the State of Iowa.

This rule is intended to implement sections 422.51, 422.52, 423.6, 423.13 and 423.14, Iowa Code.

ITEM 3. Amend subrule 12.10(3) to read as follows:

12.10(3) Computations for tax periods where the due date occurs after December 31, 1980. The filing of the tax return within the period prescribed by law and the payment of the tax required to be shown thereon are simultaneous acts and if either condition is not met, a penalty shall be assessed, unless it is shown that such failure was due to reasonable cause. Section 422.58(1), Iowa Code, provides a penalty for failure to file a permit holder's *semimonthly* or monthly tax deposit or a return or, if a permit holder fails to remit at least ninety percent of the tax due with the filing of the return or pay less than ninety percent of any tax required to be shown on the return, excepting the period between the completion of an examination of the books and records of a taxpayer and the giving of notice to the taxpayer that a tax or additional tax is due. The rate of penalty shall be five percent per month or fraction thereof, not to exceed twenty-five percent in the aggregate for failure to file a deposit or return and for failure to pay at least ninety percent of the tax due.

In case there is both a failure to file and a failure to pay, the penalty for failure to file shall be in lieu of the penalty for failure to pay. However, the imposition of the penalty for failure to file does not preclude the imposition of a penalty for failure to pay, if after the return is filed, there is a continued failure to pay during the five-month period after the tax was due (taking into consideration any extensions of time to file and pay). The combined penalties for failure to file or pay shall not exceed twenty-five percent of the tax due. The penalties are computed on the amount of the tax remaining unpaid that is required to be shown as due on the return as distinguished from the amount of the tax shown to be due on the return. Therefore, if an audit results in an additional tax which was required to be shown as due on the return, the additional tax is subject to the penalty for failure to pay, unless the failure was due to reasonable cause. See subrule 730—44.3(3) for examples of the penalty computation. These examples would also apply to sales and use tax unless ninety percent of the tax is remitted timely, then no penalty applies.

All payments shall be first applied to the penalty and then to the interest, and the balance, if any, to the amount of tax then due in the order specified.

In addition to the penalty, interest accrues on the tax or additional tax at the rate of three-fourths of one percent per month, counting each fraction of a month as an entire month, computed from the date the return or deposit was required to be filed until December 31, 1981. See rule 730—10.2 for the statutory interest date commencing on or after January 1, 1982.

This rule is intended to implement section 422.58(1), Iowa Code, as amended by Senate File 2080, Acts of the Sixty-ninth General Assembly, 1982 Session.

ITEM 4. Amend subrule 15.3(2), paragraph "b", and the implementation clause at the end of the rule to read as follows:

b. The director is required to provide exemption certificates to assist retailers in properly accounting for nontaxable sales of tangible personal property or services to buyers for purposes of resale or for processing. Since section 422.47, Iowa Code, defines a "valid exemption certificate" as one supplied by the director, the director cannot for periods commencing on or after January 1, 1979, and ending on or before June 30, 1982, recognize an exemption certificate other than his or her own. This exemption certificate must be completed as to the information required on the form in order to be valid.

For periods commencing after June 30, 1982, retailers may provide their own exemption certificates. The exemption certificates must contain information required by the department, including, but not limited to: The seller's name, the buyer's name and address, the buyer's nature of business (wholesaler, retailer, manufacturer, lessor, other), the reason for purchasing tax exempt (resale or processing), the general description of the products purchased, and state sales tax or I. D. registration number. The certificate must be signed and dated by the buyer.

An exemption certificate or blanket exemption certificate as referred to in paragraph "c" cannot be used to make a tax free purchase of any tangible personal property or service not covered by the certificate. For example, the certificate used to purchase a chemical consumed in processing cannot be used to purchase a generator which is going to become an integral part of other tangible personal property which will be ultimately sold at retail.

This rule is intended to implement sections 422.42(3), 422.42(13), 422.42(16), 422.47 as amended by Senate File 362, Acts of the Sixty-ninth General Assembly, 1982 Session, 422.53 and 423.1(1), Iowa Code.

ITEM 5. Amend subrule 15.19(1), first sentence, as follows:

15.19(1) Trade-ins involving tangible personal property only: for periods ending prior to July 1, 1982.

ITEM 6. Delete 15.19(2) in its entirety and insert in lieu thereof the following new subrule:

15.19(2) Trade-ins. For periods commencing after June 30, 1982.

When tangible personal property is traded toward the purchase price of other tangible personal property, the gross receipts shall be only that portion of the purchase price which is payable in money to the retailer if the following two conditions are met.

a. The tangible personal property is traded to a retailer, and the property traded is the type normally sold in the regular course of the retailer's business.

b. The tangible personal property traded to a retailer is intended by the retailer to be ultimately sold at retail and taxed under section 422.43 when sold. In addition, if property is traded under circumstances in which the

REVENUE DEPARTMENT[730] (cont'd)

transaction would be subject to Iowa use tax, then the property traded to the retailer will be subject to tax under either section 422.43 or chapter 423, when sold.

EXAMPLE 1. "A" owns a tractor valued at \$5,000. "A" trades its tractor to "XY" implement dealer for a tractor valued at \$12,000. "XY" implement dealer is located in Iowa and normally sells new and used tractors. Sales tax would be due on the \$7,000 in money "A" paid to "XY" implement dealer, as both conditions "a" and "b" have been met.

EXAMPLE 2. John Doe has a pickup truck with a value of \$2,000. John is needing a tractor so he offers to trade his \$2,000 pickup to "ABC" implement dealer for the purchase of a tractor valued at \$5,000. "ABC" implement dealer is strictly a farm machinery dealer. "ABC" implement dealer agrees to accept the \$2,000 pickup and \$3,000 cash in trade for the tractor. In this example the tax would be computed on \$5,000. The trade-in provision would not apply because condition "a" is not met. The property traded is not the type of property normally sold by "ABC" implement dealer in the regular course of the implement dealer's business.

EXAMPLE 3. "ABC" Corporation trades 500 bushels of corn and \$500 cash to the local co-operative elevator for the purchase of a tractor. "ABC" normally sells grain in its regular course of business. The trade-in provision in this example would not apply because condition "b" would not be met. The grain traded toward the purchase price of the tractor would not have been intended to be taxable when ultimately sold by the co-operative elevator.

EXAMPLE 4. Hometown Appliance store is in the business in Iowa of selling stoves, refrigerators and other various appliances. Hometown Appliance has a refrigerator valued at \$650. Customer "A" wishes to trade their used refrigerator toward the purchase price of the new refrigerator. Hometown Appliance agrees to accept "A's" used refrigerator at a value of \$150 toward the purchase price of the new refrigerator. "A" pays Hometown Appliance \$500 in money. The trade-in provision applies as both condition "a" and "b" are met and tax would be due on the \$500.

Several months later, Hometown Appliance sells the used refrigerator it received from customer "A" to the local school district who is exempt from sales tax on its purchase. The trade-in provision on the original transaction is still applicable as both condition "a" and "b" were met, even though "b" is later nullified due to another exemption in the statute, since at the time of the trade, Hometown Appliance intended to sell the property traded in a taxable transaction.

EXAMPLE 5. "ABC" Auto Parts, an Iowa dealer, advertises its 48-month battery for \$52 and will allow a trade-in allowance of \$10 for an old battery. The total selling price of the battery with a trade-in would be \$42. "ABC" Auto Parts has an agreement to sell all of the used batteries it receives in trade for new batteries to "XYZ" Salvage Company located outside of Iowa. "XYZ" Salvage Company will melt the batteries down for the metals in the batteries to make new products from the metals, and sell them all over the United States.

In this example the trade-in provision would not apply. "ABC" Auto Parts has met the first condition as they normally sell batteries in their regular course of business. The second condition is lacking. "ABC" Auto Parts does not intend the used batteries traded to be sold at retail and to be subject to sales or use tax. Prior to the time of the transaction "ABC" Auto Parts knows that the used

batteries will be sold to "XYZ" Salvage Company who will buy them tax free for further processing of removing the metal.

ITEM 7. Amend rule 15.19(422,423) by adding the following new subrules:

15.19(3) All the provisions of subrule 15.19(2) apply to the trade-in of vehicles subject to registration when the trade involves retailers of vehicles.

When vehicles subject to registration are traded between persons neither of which is a retailer of vehicles subject to registration, the conditions set forth in 15.19(2) "a" and "b" need not be met. The purchase price is only that portion of the purchase price represented by the difference between the total purchase price of the vehicle subject to registration acquired and the amount of the vehicle subject to registration traded.

EXAMPLE: John Doe has an automobile with a value of \$2,000. John and his neighbor Bill Jones, who has an automobile valued at \$3,500, decide to trade automobiles. John pays Bill \$1,500 cash. Vehicles subject to registration are subject to use tax which is payable to the County Treasurer at the time of registration. In this example John would owe use tax on \$1,500, or \$45 use tax, since this is the amount John paid Bill and tax is only due on the cash difference. Bill would not owe any use tax on the vehicle acquired through the trade.

EXAMPLE: Joe has a Ford automobile with a value of \$5,000. Joe and his friend Jim, who has a Chevrolet automobile also valued at \$5,000, decide to trade automobiles. Joe and Jim make an even trade, automobile for automobile with no money changing hands. In this example there is no tax due on either automobile because there is no exchange of money.

15.19(4) The trade-in provisions found in sections 422.42(6)"b" and 423.1(3), Iowa Code, do not apply to taxable enumerated services. Where taxable enumerated services are traded, the gross receipts would be determined based on the value of the service.

This rule is intended to implement sections 422.42(6)"b" and 423.1(3), Iowa Code, as amended by Senate File 574, Acts of the Sixty-ninth General Assembly, 1982 Session.

ITEM 8. Amend rule 730—26.38(422) by adding the following after the first unnumbered paragraph and adding the following implementation clause at the end of the rule.

For periods commencing after June 30, 1982, the gross receipts of private employment agencies from services rendered for placing a person in employment where the person's principal place of employment is to be located outside the State of Iowa are not taxable. Principal place of employment ordinarily means the work location of the employee.

EXAMPLE: "ABC" Company contracts with "XYZ", an Iowa employment agency, to secure an employee to work at a production plant in Illinois. "XYZ" employment agency finds a suitable employee that is hired by "ABC" Company. Since the employee's principal place of employment is outside the state, there is no tax due on the gross receipts of "XYZ" employment agency for securing that employment.

EXAMPLE: Hometown Sales Company contracts with "ABC" employment agency to secure a sales person to travel Iowa, Missouri and Nebraska. Both Hometown Sales Company and "ABC" employment agency are located in Iowa. "ABC" employment company is successful in finding a sales person for Hometown Sales

REVENUE DEPARTMENT (cont'd)

Company. Since this sales person will be traveling in three states the gross receipts of "ABC" employment agency from placing the employment of this sales person are taxable as the principal place of the sales person's employment is not outside the state of Iowa.

This rule is intended to implement section 422.43, Iowa Code, as amended by House File 2396, Acts of the Sixty-ninth General Assembly, 1982 Session.

ITEM 9. Delete subrule 34.1(5) in its entirety.

ARC 3032

REVENUE, DEPARTMENT OF[730]

NOTICE OF INTENDED ACTION

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

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

Pursuant to the authority of Sections 421.14 and 422.68(1), Iowa Code, the Iowa Department of Revenue hereby gives Notice of Intended Action to amend Chapter 63, "Administration", Chapter 64, "Motor Fuel", and Chapter 65, "Special Fuel", Iowa Administrative Code.

Rule 63.8 is amended to implement the provisions of House File 2362, Acts of the Sixty-ninth General Assembly, 1982 Session, which amends Section 324.68, Iowa Code, to provide that no penalty applies if the licensee remits at least ninety percent of the tax due or required to be shown on the report with the filing of the report.

New rule 63.27 is created to implement House File 2249, Acts of the Sixty-ninth General Assembly, 1982 Session, which provides that the director may impose a waiting period not to exceed ninety days before reissuing a license that has been canceled for cause. The rule provides how long a licensee must stay out of business for certain offenses.

Subrule 64.4(3) is amended to implement the provisions of Senate File 2091, Acts of the Sixty-ninth General Assembly, 1982 Session, which increased the tax rate on gasohol from six cents per gallon to eight cents per gallon effective May 1, 1982.

Subrule 64.4(4) provides the rate of tax due on gasohol between August 31, 1981 and July 1, 1983. This tax has been incorporated into rule 64.4(3).

Rule 64.8 is amended to implement the provisions of House File 2395, Acts of the Sixty-ninth General Assembly, 1982 Session, which provides a refund of fuel taxes paid on fuel used as a denaturant for alcohol.

Rule 65.8 is amended to reflect Senate File 2212, Acts of the Sixty-ninth General Assembly, 1982 Session. The rule allows L.P.G. dealers, distributors and users to measure L.P.G. in gross gallons without temperature compensation. If L.P.G. dealers, distributors and users elect to measure L.P.G. temperature compensated to 60 degrees Fahrenheit, it must be measured through automatic temperature compensating meters. Conversion to 60

degrees Fahrenheit cannot be done by use of a conversion chart.

Chapter 65 of the rules are amended to implement the provisions of Senate File 2251, Acts of the Sixty-ninth General Assembly, 1982 Session. Chapter 324, Iowa Code, imposed an excise tax on motor fuel and special fuel based on gallons. Since natural gas cannot be measured in gallons, special tax rates had to be implemented to measure natural gas on a cubic feet basis. Since natural gas is defined as a special fuel, all the provisions of Chapter 324, Division II apply.

Any interested person may make written suggestions or comment on these proposed amendments on or before August 6, 1982. Such written comments should be directed to the Director, Excise Tax Division, Iowa Department of Revenue, Hoover State Office Building, Des Moines, Iowa 50319.

Persons who want to orally convey their views should contact the Director, Excise Tax Division at 515/281-5476 or at Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by July 30, 1982.

These rules are intended to implement Section 324.17, as amended by House File 2395, Section 324.33, as amended by Senate File 2251, Section 324.34, as amended by Senate File 2212, Section 324.65, as amended by House File 2362, Section 324.68, as amended by House File 2249 and Section 422.45(1) as amended by Senate File 2091, Acts of the Sixty-ninth General Assembly, 1982 Session.

The following amendments are proposed.

ITEM 1. Amend rule 730—63.8(324) unnumbered paragraph two, and the implementation clause at the end of the rule to read as follows:

The penalty for a late filed report is five percent of the tax due for the first month and an additional five percent for each additional month or fraction of a month during which the report remains unfiled, up to a maximum of twenty-five percent. For the periods prior to January 1, 1981, the penalty for failure to remit a tax payment by the due date is five percent of the tax due. For periods where the due date occurs after December 31, 1980, the penalty for failure to remit a tax payment by the due date is five percent of the tax due for the first month and an additional five percent for each additional month or fraction of a month, up to a maximum of twenty-five percent. *For periods where the due date occurs after December 31, 1981, there is a penalty for failure to file a report or, if a licensee fails to remit at least ninety percent of the tax due with the filing of the report or fails to pay less than ninety percent of any tax required to be shown on the report. The rate of penalty shall be five percent per month or fraction thereof, not to exceed twenty-five percent in the aggregate for failure to file a report and for failure to pay at least ninety percent of the tax due.*

This rule is intended to implement section 324.65, Iowa Code, as amended by House File 2362, Acts of the Sixty-ninth General Assembly, 1982 Session.

ITEM 2. Amend chapter 63 of the rules by adding the following new rule.

730—63.27(324) Reinstatement of license canceled for cause. A license holder making application to the department for reinstatement of a license canceled for cause shall be charged the fee required by law.

A license canceled for cause shall be reinstated only on such terms and conditions as the cause may warrant.

REVENUE DEPARTMENT[730 (cont'd)]

Terms and conditions will include payments of any applicable fuel tax liability including interest and penalty which is due the department.

Pursuant to the director's statutory authority in section 324.68 as amended by House File 2249, Acts of the Sixty-ninth General Assembly, 1982 Session, to restore licenses after being canceled for cause, the director has determined that upon the cancellation of a motor vehicle fuel tax license the initial time, the license holder will be required to pay all delinquent fuel tax liabilities including interest and penalty, to file reports, and to post a bond and refrain from activities requiring a license under sections 324.4, 324.6, 324.18 and 324.36 as required by the director prior to the reinstatement or issuance of a new motor vehicle fuel tax license.

As set forth above, the director may impose a waiting period during which the license holder must refrain from activities requiring a license pursuant to the penalties provided in section 324.74, Iowa Code, for a period not to exceed ninety days to restore a license or issue a new license after canceled for cause. The department may require a statement stating that the license holder has fulfilled all requirements of said order canceling the license for cause, and stating the dates on which the license holder refrained from restricted activities.

Each of the following situations will be considered one offense, for the purpose of determining the waiting period to reinstate a license canceled for cause or issuing a new license after being canceled for cause unless otherwise noted.

Failure to post a bond as required.

Failure to file a monthly or quarterly report timely.

Failure to pay tax timely (including unhonored checks, failure to pay and late payments).

Failure to file a monthly or quarterly report and pay tax as shown on the report (counts as two offenses).

The hearing officer or director of revenue may order a waiting period after the cancellation for cause not to exceed:

Five days for one through five offenses.

Seven days for six through seven offenses.

Ten days for eight through nine offenses.

Thirty days for ten offenses or more.

The hearing officer or director of revenue may order a waiting period not to exceed:

Forty-five days if the second cancellation for cause occurs within twenty-four months of the first cancellation for cause.

Sixty days if the second cancellation for cause occurs within eighteen months of the first cancellation for cause.

Ninety days if the second cancellation for cause occurs within twelve months of the first cancellation for cause.

Ninety days if the third cancellation for cause occurs within thirty-six months of the second cancellation for cause.

This rule is intended to implement section 324.68 as amended by House File 2249, Acts of the Sixty-ninth General Assembly, 1982 Session.

ITEM 3. Amend subrule 64.4(3) and the implementation clause at the end of the rule to read as follows:

64.4(3) Gasohol taxation. ~~For periods after April 30, 1981 and to September 1, 1981.~~ Under section 324.3, Iowa Code, an excise tax of five cents per gallon is imposed on gasohol beginning May 1, 1981, and ending August 31, 1981. ~~The following procedures will be followed to report the tax on gasohol.~~ *For periods after August 31, 1981, and to May 1, 1982, an excise tax of six cents per gallon is imposed on gasohol.*

For periods after April 30, 1982, and to July 1, 1983, an excise tax of eight cents per gallon is imposed on gasohol. The following procedure will be followed to report tax on gasohol.

a. Licensed distributors. The distributor will report the total gallons of gasohol and pay the tax on the total gallons of gasohol. The gasohol gallons will be reported separately from the motor fuel gallons which are first received. *For periods after August 31, 1981, the evaporation and shrinkage allowance is applicable to gasohol or motor fuel blended into gasohol.*

b. Gasohol blenders. Gasohol blenders must purchase their motor fuel tax paid. The gasohol blenders will report the total ~~gallons~~ gallons of motor fuel purchased tax paid and the total gallons of alcohol which are blended into gasohol. A refund of five cents per gallon will be allowed on the difference between the tax paid on motor fuel and the tax due on the blended gasohol.

c. Signed statement. A statement signed by the person responsible for the blending is required for all persons showing gasohol on their distributor report or gasohol blenders refund form. The statement must show the total gallons of motor fuel and alcohol blended into gasohol.

This rule is intended to implement sections 324.3 and 422.45(1), Iowa Code, ~~and~~ Acts of the Sixty-ninth General Assembly, Second Extraordinary Session 1981, Chapter 2, and Senate File 2091, Acts of the Sixty-ninth General Assembly, 1982 Session.

ITEM 4. Amend rule 64.4 by deleting subrule (4) in its entirety and renumbering the balance of the subrules.

ITEM 5. Amend rule 730—64.8, first unnumbered paragraph and the implementation clause at the end of the rule, to read as follows:

Any person not licensed as a distributor, dealer or user under section 324.4 or 324.36, Iowa Code, is entitled to a refund of all taxes paid on motor fuel and special fuel which he or she uses for any purpose other than in watercraft or for propelling motor vehicles. A refund for the taxes paid on fuel used in the following manner shall also be allowed: (1) Motor fuel or special fuel used in the operation of or propelling farm tractors, corn shellers, roller mills, feed grinders mounted on trucks, stationary gas engines, aircraft, or for cleaning or dyeing; (2) fuel used in motor vehicles, not operated on public highway, which are used in the extraction and processing of natural deposits; (3) fuel used in the watercraft of a commercial fisherman, licensed and operating under an owner's certificate for commercial fishing gear issued pursuant to section 110.2, Iowa Code; ~~or~~ (4) fuel used to produce gasohol: *less the tax due on gasohol (See rule 64.4(3)); or (5) fuel used for producing denatured alcohol.* In order to receive this refund, the claimant must (1) hold a refund permit, (2) submit the claim on a form provided by the department complete with the permit number, within three-calendar months of the time the fuel was purchased, (3) the claim must be accompanied by the original invoice or a signed statement from the seller showing the purchase of the motor fuel or special fuel on which the refund is claimed, and (4) the claim must be signed under penalty of false certificate. The invoice must meet the following specifications:

(1) Original copy, (2) prepared by the seller, (3) departmental approved paper which prevents erasure or alteration, (4) legibly written, (5) no corrections or erasures, and (6) serially numbered. The invoice must contain the following information: (1) Name and address

REVENUE DEPARTMENT[730 (cont'd)]

of seller, (2) name and address of purchaser, (3) the kind of fuel (i.e., gasoline (grade), diesel, aviation), (4) the gallonage in figures, (5) the gross price per gallon, (6) any and all taxes included in the sales price (including Iowa excise tax) separately as a price per gallon, (7) the total purchase price, and (8) that the total purchase price including taxes has been paid. The claims shall state the manner in which the fuel was or will be used and the equipment in which it was or will be used as well as the receptacles in which the fuel was stored. See section 324.17, Iowa Code.

This rule is intended to implement section 324.17, Iowa Code, as amended by House File 2395, Acts of the Sixty-ninth General Assembly, 1982 Session.

ITEM 6. Amend rule 730—65.8(324) by deleting the last unnumbered paragraph in its entirety and inserting in lieu thereof the following:

Each special fuel L.P.G. distributor, dealer or user may elect to measure L.P.G. for the tax purposes either temperature compensated to 60 degrees Fahrenheit, or without temperature compensation. If the special fuel L.P.G. distributor, dealer or user elects to measure L.P.G. temperature compensated to 60 degrees Fahrenheit for tax purposes, they must use computing meters which are of an automatic temperature compensating type which shall compute gross gallons corrected to 60 degrees Fahrenheit.

This rule is intended to implement section 324.34, Iowa Code, as amended by Senate File 2212, Acts of the Sixty-ninth General Assembly, 1982 Session.

ITEM 7. Amend chapter 65 of the rules by adding the following new rule.

730—65.20(324) Natural gas used as special fuel—time tax attaches—tax rate—responsible party.

The excise tax on natural gas shall attach at the time of delivery into equipment for compressing the gas for subsequent delivery into the fuel supply tank of a motor vehicle.

For natural gas used as a special fuel the rate of tax shall be ten and one-half cents per hundred cubic feet adjusted to a base temperature of 60 degrees Fahrenheit and a pressure of fourteen and seventy-three hundredths pounds per square inch.

All natural gas used as a special fuel shall be delivered into compressing equipment through sealed meters certified for accuracy by the department of agriculture.

Persons responsible for placing natural gas into compressing equipment must hold a license as a dealer or user as defined in section 324.33(3) and (4), Iowa Code.

The tax is due no later than the last day of the month following the month the natural gas was placed into the compressing equipment.

This rule is intended to implement section 324.33, Iowa Code, as amended by Senate File 2251, Acts of the Sixty-ninth General Assembly, 1982 Session.

ARC 3013

SOCIAL SERVICES DEPARTMENT[770]

NOTICE OF INTENDED ACTION

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in §17A.4(1)“6”, Iowa Code.

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

Pursuant to the authority of Section 239.18, Iowa Code, the Department of Social Services proposed amending rules appearing in the IAC relating to aid to dependent children (Chapter 41). These rules redefine the components that make up the basic need. Definitions are needed so it is clear what is included in the standard.

Consideration will be given to written data, views, or arguments thereto, received by the Bureau of Policy, Research, and Analysis, Department of Social Services, Hoover State Office Building, Des Moines, Iowa 50319 on or before July 30, 1982.

These rules are intended to implement section 239.5, Iowa Code.

Subrule 41.8(2), chart for determining income in kind is rescinded and the following inserted in lieu thereof, new paragraphs “a” and “b” are added and current paragraphs “a” through “d” numbered as subparagraphs (1) through (4) under new paragraph “b”.

SOCIAL SERVICES DEPARTMENT[770] (cont'd)

CHART FOR DETERMINING INCOME IN KIND

Number of Persons	1	2	3	4	5	6	7	8	9	10	Each Additional Person
1. Housing											
a. Shelter	46.36	84.63	100.30	113.14	120.20	126.70	133.92	139.30	143.57	148.98	14.88
b. Utilities	22.84	41.69	47.21	50.83	54.01	56.93	56.97	57.16	56.53	55.99	5.59
Household Furnishings/Operations											
c. erations	14.15	24.97	32.51	35.66	37.26	39.47	42.58	44.68	46.50	48.76	4.87
2. Food	43.45	87.75	117.23	144.99	168.13	198.79	230.07	263.58	299.11	341.89	34.14
3. Clothing	9.72	19.68	24.19	28.83	34.99	39.47	44.78	50.43	56.40	63.52	6.34
4. Personal Care	3.47	6.80	7.56	9.09	9.88	11.40	12.08	12.98	13.91	15.06	1.51
5. Recreation, Reading, Miscellaneous											
5. neous	14.01	26.48	31.00	36.46	39.53	43.24	46.60	49.87	52.98	56.80	5.67

a. The definitions of the basic need components are as follows:

(1) Housing

1. Shelter: Rent or if buying, house payment, insurance on the house and taxes.

2. Utilities: Heating, cooking fuel, electricity, water, sewer, garbage disposal, telephone.

3. Household furnishings/operations: Furniture, household textiles, electrical appliances, tableware, servicing and repairs, tools, laundry and cleaning supplies, paper supplies.

(2) Food: Food at home.

(3) Clothing: Garments, shoes, clothing, materials (fabrics and notions), and clothing upkeep.

(4) Personal care: Services (haircut and hair care) and supplies (hand soap, toothpaste, shaving cream, cleansing tissue, shampoo, sanitary supplies and nonprescription medical cabinet supplies).

(5) Recreation, reading, miscellaneous: Reading (news-papers, magazines), recreation, education (pencils, paper, school supplies), miscellaneous expenses.

b. Special situations in determining eligible group:

ARC 3029**TRANSPORTATION,
DEPARTMENT OF[820]****06 HIGHWAY DIVISION****NOTICE OF INTENDED ACTION**

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

On August 17, 1982 at their regular meeting at the Department of Transportation Complex, 800 Lincoln Way, Ames, Iowa, the transportation commission shall consider for adoption the administrative rules as described herein. Such action shall be in accord with the Iowa administrative procedure Act, Chapter 17A, Iowa Code, and department of transportation rules 820—[01,B] Chapter 1, "Administrative Rules".

Written comments concerning these proposed rules or written requests to make an oral presentation at the above specified commission meeting shall be addressed to the Department of Transportation, Office of Financial/Operational Analysis, 800 Lincoln Way, Ames, Iowa 50010. Written comments or written requests to make an oral presentation may be accepted if received by the department of transportation on or before August 3, 1982.

Any person or agency, as defined in section 17A.2, subsections 1 and 6, Iowa Code, may submit written comments or written requests to make an oral presentation. Such comments or requests shall clearly state:

1. The name, address and phone number of the person or agency authoring the comment or request.

2. The title and number of the proposed rule as given in this notice which is the subject of the comment or request. (Comments pertaining to a specific section of a proposed rule shall reference that section by subrule, paragraph, and subparagraph as appropriate.)

3. With regard to requests to make an oral presentation, the general content shall be indicated.

Pursuant to the authority of Section 307.10, Iowa Code, the Department of Transportation hereby gives Notice of Intended Action to amend 820, Division 06 entitled "Highway Division".

These two chapters of rules are being rescinded because they are being transferred to Division 10, "Railroad Division".

These rule amendments are intended to implement Chapters 307 and 327G, Iowa Code.

Proposed rulemaking actions:

06 HIGHWAY DIVISION

Pursuant to the authority of Section 307.10, Iowa Code, the rules in Division 06, entitled "Highway Division", articles A and C are hereby amended.

ITEM 1. Rescind all of [06,A] chapter 1 entitled "Guidelines for Safety Evaluation of Rural Railroad-Highway Grade Crossings" and reserve the number for future use.

ITEM 2. Rescind all of [06,C] chapter 3 entitled "Highway-Railroad Crossing Projects" and reserve the number for future use.

ARC 3034**TRANSPORTATION,
DEPARTMENT OF[820]****NOTICE OF INTENDED ACTION**

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

Pursuant to the authority of Section 325.3, Iowa Code, the Iowa Department of Transportation hereby gives Notice of Intended Action to change the procedure for submitting deposits in conjunction with applications under Iowa Administrative Code Section 820—[07,F]4.5(2) and (3), "Motor Carriers and Charter Carriers."

The proposed rule no longer requires applicants to file a \$400 deposit with their applications, which was refunded except for a \$50 fee to cover administrative and clerical costs, in the event no hearing on the application was required. Under the new rule, applicants would submit the \$50 fee with the application and would be required to submit an additional \$350 hearing fee only if a hearing on the application is scheduled. If the applicant fails to submit the hearing fee within the designated time period, the hearing is canceled and the application is denied.

Any interested person may make written comments on the proposed rule on or before July 27, 1982. Comments should be addressed to the Superintendent, Transportation Regulation Authority, 507 Tenth Street, Des Moines, Iowa 50319. Persons who want to convey their views orally should contact Jane Phillips, Counsel, Transportation Regulation Authority, at (515) 281-3631, or at the general counsel offices on the fifth floor of the Colony Building.

This rule is intended to implement Chapter 325, Iowa Code.

The following amendments are proposed:

ITEM 1. Strike all of subrule 4.5(2) and in lieu thereof insert the following:

4.5(2) Filing fee. An application for a certificate of public convenience and necessity shall be accompanied by a nonrefundable filing fee of fifty dollars to cover administrative and clerical costs. This fee shall be paid by check made payable to the Iowa department of transportation.

ITEM 2. Strike all of the subrule 4.5(3) and in lieu thereof insert the following:

4.5(3) Hearing fee. In the event that a hearing on the application is ordered:

a. Applicant shall submit a hearing fee in the amount of three hundred and fifty dollars to cover payment of all costs and expenses of the hearing and any preliminary investigation in connection therewith. The department reserves the right to require such additional amount as it may deem necessary. The hearing fee shall be made by a check payable to the Iowa department of transportation.

b. The hearing fee shall be received no later than fourteen calendar days from the date of the notice of hearing, unless otherwise ordered in the notice of hearing. Failure

TRANSPORTATION, DEPARTMENT OF[820] (cont'd)

to make timely submission of the hearing fee will result in cancellation of the hearing and denial of the application.

c. If a scheduled hearing is canceled, the hearing fee, less expenses incurred by the department, will be refunded to the payor; however, this provision shall not be interpreted to authorize a refund to an applicant who fails to appear at a scheduled hearing.

ARC 3033**TRANSPORTATION,
DEPARTMENT OF[820]****NOTICE OF INTENDED ACTION**

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

Pursuant to the authority of Section 327A.17, Iowa Code, the Iowa Department of Transportation hereby gives Notice of Intended Action to change the procedure for submitting deposits in conjunction with applications under Iowa Administrative Code section 820—[07,F]13.4(2), "Liquid Transport Carriers."

The proposed rule no longer requires applicants to file a \$400 deposit with their applications, which was refunded except for a \$50 fee to cover administrative and clerical costs, in the event no hearing on the application was required. Under the new rule, applicants would submit the \$50 fee with the application and would be required to submit an additional \$350 hearing fee only if a hearing on the application is scheduled. If the applicant fails to submit the hearing fee within the designated time period, the hearing is canceled and the application is denied.

Any interested person may make written comments on the proposed rule on or before July 27, 1982. Comments should be addressed to the Superintendent, Transportation Regulation Authority, 507 Tenth Street, Des Moines, Iowa 50319. Persons who want to convey their views orally should contact Jane Phillips, Counsel, Transportation Regulation Authority, at (515) 281-3631, or at the general counsel offices on the fifth floor of the Colony Building.

This rule is intended to implement Chapter 327A, Iowa Code.

The following amendments are proposed.

ITEM 1. Strike all of subrule 13.4(2) and in lieu thereof insert the following:

13.4(2) Filing fee. An application for a certificate of public convenience and necessity shall be accompanied by a nonrefundable filing fee of fifty dollars to cover administrative and clerical costs. This fee shall be paid by check made payable to the Iowa department of transportation.

ITEM 2. Strike all of subrule 13.4(3) and in lieu thereof insert the following:

13.4(3) Hearing fee. In the event that a hearing on the application is ordered:

a. Applicant shall submit a hearing fee in the amount of three hundred and fifty dollars to cover payment of all costs and expenses of the hearing and any preliminary investigation in connection therewith. The department reserves the right to require such additional amount as it may deem necessary. The hearing fee shall be made by a check payable to the Iowa department of transportation.

b. The hearing fee shall be received no later than fourteen calendar days from the date of the notice of hearing, unless otherwise ordered in the notice of hearing. Failure to make timely submission of the hearing fee may result in cancellation of the hearing and denial of the application.

c. If a scheduled hearing is canceled, the hearing fee, less expenses incurred by the department, will be refunded to the payor; however, this provision shall not be interpreted to authorize a refund to an applicant who fails to appear at a scheduled hearing.

Subrules 13.4(3), 13.4(4) and 13.4(5) shall be renumbered, respectively, as 13.4(4), 13.4(5) and 13.4(6).

ARC 3030**TRANSPORTATION,
DEPARTMENT OF[820]****NOTICE OF INTENDED ACTION**

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

On August 17, 1982 at their regular meeting at the Department of Transportation Complex, 800 Lincoln Way, Ames, Iowa, the Transportation Commission shall consider for adoption the administrative rules as described herein. Such action shall be in accord with the Iowa Administrative Procedure Act, Chapter 17A, Iowa Code, and Department of Transportation rules 820—[01,B] Chapter 1, "Administrative Rules".

Written comments concerning these proposed rules or written requests to make an oral presentation at the above specified commission meeting shall be addressed to the Department of Transportation, Office of Financial/Operational Analysis, 800 Lincoln Way, Ames, Iowa 50010. Written comments or written requests to make an oral presentation may be accepted if received by the Department of Transportation on or before August 3, 1982.

Any person or agency, as defined in Section 17A.2, subsections 1 and 6, Iowa Code, may submit written comments or written requests to make an oral presentation. Such comments or requests shall clearly state:

1. The name, address and phone number of the person or agency authoring the comment or request.

2. The title and number of the proposed rule as given in this notice which is the subject of the comment or request. (Comments pertaining to a specific section of a proposed rule shall reference that section by subrule, paragraph, and subparagraph as appropriate.)

TRANSPORTATION, DEPARTMENT OF [820] (cont'd)

3. With regard to requests to make an oral presentation, the general content shall be indicated.

Pursuant to the authority of Section 307.10, Iowa Code, the Department of Transportation hereby gives Notice of Intended Action to amend 820, division 10 entitled "Railroad Transportation Division".

The administrative rules for the department's railroad division are being revised because of Code changes, federal government preemptions of authority and departmental reorganization.

Five chapters of rules and four rules have been deleted. These rules and the reasons for their deletion are:

A. 820—[10,D]chapter 10, "Railroad Clearances", and 820—[10,E]chapter 9, "Catwalks and Handrails", concern topics of minimum departmental responsibility under Iowa Code which are competently covered by AREA (American Railway Engineering Association) manuals of standards.

B. 820—[10,E]chapter 7, "Railroad Operating Signals and Operating Devices", and 820—[10,E]chapter 8, "Railroad-Highway Grade Crossing Signal Protection", are duplicates of federal rules in 49 CFR 236 and departmental rules 820—[06,C]chapter 3.

C. Rules 820—[10,B]1.4(307), "Formal complaints", and 820—[10,B]1.5(307), "Applications and petitions", and 820—[10,C]chapter 11, "Abandonment or Reduction of Stations and Service", are responsibilities of the transportation regulation authority not the railroad division.

D. Rules 820—[10,B]1.2(307), "Relationship of the division to the transportation regulation board", and 820—[10,B]1.3(307), "Informal complaints", are mere repetitions of Iowa Code.

Two chapters of rules are being transferred to this division of rules because of a departmental reorganization which transferred responsibilities to the railroad division. 820—[06,A]chapter 1, "Guidelines for Safety Evaluation of Rural Railroad-Highway Grade Crossings", and 820—[06,C]chapter 3, "Highway-Railroad Crossing Projects", have been updated, edited and renumbered as 820—[10,B]chapters 3, 4 and 5.

The title of division 10 has been shortened to "Railroad Division".

One chapter has been revised to reflect legislative changes to Chapter 327H, Iowa Code, as amended by the Acts of the Sixty-ninth General Assembly, 1981 Session, Chapter 116. 820—[10,F]chapter 1, "General Requirements for Implementing the Rail Assistance Program", has been amended and renumbered as 820—[10,C]chapter 1.

A new chapter has been written because of legislative changes to subsection 307B.7(5), Iowa Code, as amended by the Acts of the Sixty-ninth General Assembly, 1981 Second Extraordinary Session, Chapter 3, Section 7. 820—[10,C]chapter 2, "Relationship with Iowa Railway Finance Authority", defines an enforceable undertaking.

All of the rules have been edited for clarity and for language and have been updated to reflect current practices and procedures.

These rule amendments are intended to implement Chapters 17A, 307, 327C, 327G and 327H, Iowa Code.

Proposed rulemaking actions:

10 RAILROAD TRANSPORTATION DIVISION

Pursuant to the authority of Section 307.10, Iowa Code, the title of Division 10, "Railroad Transportation Division", and Articles A through F of Division 10 are

hereby rescinded and the following new division title and articles are adopted in lieu thereof.

10 RAILROAD DIVISION

ARTICLE A
RAIL ADMINISTRATION

CHAPTER 1
ITEMS OF GENERAL APPLICATION

820—[10,A]1.1(307) Definitions. The following terms when used in this division of rules shall have the following meanings:

1.1(1) Department. The state department of transportation.

1.1(2) Railroad. Persons who own rail facilities or who are responsible for their operation and maintenance.

1.1(3) Crossing. The point where the railroad tracks and highway meet at the same location.

This rule is intended to implement sections 307.1 and 307.26, Iowa Code.

820—[10,A]1.2(17A) Location and submission of documents. All documents, including applications, petitions, complaints, notices, reports, and forms, which must be submitted to the railroad division shall be submitted to this address: Department of Transportation, Railroad Division, 800 Lincoln Way, Ames, Iowa 50010. This includes all documents concerning railroad matters which, according to statute, must be submitted to the department.

This rule is intended to implement section 17A.3, Iowa Code.

820—[10,A]1.3(327C) Financial and statistical reports. The department hereby adopts the accounting rules and regulations of the interstate commerce commission for railroad companies found in 49 CFR 1201 (1981). A copy of each annual report submitted to the interstate commerce commission by the railroad under 49 CFR 1201 and 1241 (1981) shall also be submitted to the railroad division.

This rule is intended to implement sections 327C.38, 327C.41, and 327C.42, Iowa Code.

ARTICLE B
RAIL SAFETY AND CONSTRUCTION

CHAPTER 1
RAILROAD TRACK SAFETY STANDARDS

820—[10,B]1.1(307,327C) Track standards. The department adopts the railroad track safety standards contained in 49 CFR 213 (1981).

This rule is intended to implement sections 307.26, 327C.2, and 327C.4, Iowa Code.

820—[10,B]1.2(327C) Track inspection.

1.2(1) Credentials required. Authorized departmental employees who present state identification cards shall be admitted to any railroad property to conduct safety inspections of the track and track structures.

1.2(2) Measurement tools and vehicles. Authorized employees shall be permitted by the railroad to use the measurement tools and vehicles deemed necessary by the railroad division for the conduct of inspections. To ensure safe operating conditions for measurement vehicles and trains on the segment of track being inspected, the railroad shall provide the employees with all information and assistance necessary.

This rule is intended to implement section 327C.4, Iowa Code.

TRANSPORTATION, DEPARTMENT OF [820] (cont'd)

CHAPTER 2
RAILROAD-HIGHWAY GRADE CROSSING
WARNING DEVICES

820—[10,B]2.1(307,327G) Standards. All railroad-highway grade crossing warning devices installed shall be in conformance with "Part VIII Traffic Control Systems for Railroad-Highway Grade Crossings" of the "Manual on Uniform Traffic Control Devices for Streets and Highways" (1978), published by the United States Department of Transportation. Information for obtaining the manual is available from the railroad division.

This rule is intended to implement sections 307.26, 327G.2, 327G.23 and 327G.28, Iowa Code.

CHAPTER 3
GUIDELINES FOR SAFETY EVALUATION OF
RURAL RAILROAD-HIGHWAY GRADE CROSSINGS

820—[10,B]3.1(307,327G) Purpose. The purpose of this chapter of rules is to provide guidelines for the uniform safety evaluation of rural railroad-highway grade crossings and for the use of traffic control or warning devices in addition to existing crossbuck signs, advance warning signs, and pavement markings.

This rule is intended to implement sections 307.26, 327G.2, 327G.15, 327G.23, and 327G.28, Iowa Code.

820—[10,B]3.2(307) Definitions. The following terms when used in this chapter of rules shall have the following meanings:

3.2(1) Highway AADT. The average annual daily traffic on the highway at the crossing.

3.2(2) Number of trains per day. The average daily number of through trains using the crossing.

3.2(3) Crossing angle factor. A factor established for the angle at which the highway and railroad intersect. Crossing angle factors are:

Angle of Highway-Railroad Grade Crossing	Crossing Angle Factor
0° - 29°	2.0
30° - 59°	1.2
60° - 90°	1.0

3.2(4) Train speed factor. A factor for the maximum train speed over the crossing. Train speed factors shall be computed as follows:

Train Speed Limit (MPH)	Train Speed Factor
60 or greater	1.0
40 - 59	0.9
25 - 39	0.8
below 25	0.7

3.2(5) Highway speed factor. A factor for the posted speed limit on the highway at the crossing. Highway speed factors shall be computed as follows:

Highway Speed Limit (MPH)	Highway Speed Factor
45 - 55	1.0
35 - 40	0.8
25 - 30	0.6
below 25	0.5

3.2(6) Number of tracks factor. A factor for the number of tracks present at the crossing. Number of tracks factors shall be computed as follows:

Number and Type of Tracks	Number of Tracks Factor
Two or more mainline tracks	1.0
One mainline plus other	0.85
One mainline	0.80
Other	0.675

3.2(7) Crossing rating number. The number derived by applying the following formula:

$$\begin{aligned} & (\text{Highway AADT}) \times (\text{number of trains per day}) \\ & \times (\text{crossing angle factor}) \times (\text{train speed factor}) \times \\ & (\text{highway speed factor}) \times (\text{number of tracks factor}) \\ & = \text{crossing rating number.} \end{aligned}$$

This rule is intended to implement section 307.26, Iowa Code.

820—[10,B]3.3(307,327G) Procedures.

3.3(1) Elements used to evaluate crossing safety. The authority having jurisdiction over the highway at the crossing shall consider the following elements to evaluate the safety at a crossing. If one or more of these elements are present, the crossing may qualify for traffic control devices such as temporary stop signs, flashing signals, or flashing signals with gates in addition to the crossbuck signs, advance warning signs, and pavement markings.

a. The crossing rating number is equal to or greater than fifteen hundred.

b. The view up or down the track is blocked by trackside development or other obstructions so that a motorist must proceed beyond the normal stopping point (approximately fifteen feet from the nearest rail) to see an approaching train.

c. The ambient noise level outside a motor vehicle in the vicinity of the crossing is so high that audio train signals are ineffective.

d. The highway surface through the crossing is in a condition or state of disrepair that requires complete attention from a vehicle driver, or the potential exists for a vehicle to become stalled on the crossing.

e. The crossing has experienced an accident rate equal to or in excess of 0.5 accidents per year over the five-year period preceding the date of the latest accident of record.

3.3(2) Rumble strips. Rumble strips may be installed at the crossing as an auxiliary warning device to supplement stop signs, flashing signals, or flashing signals with gates if the crossing is judged to have an unusually high potential for accidents or in fact has an established accident experience. Rumble strips may also be used in conjunction with crossbucks and standard advance warning signs when the view of a railroad crossing from the approaching highway is less than the following distances for the indicated posted speed limits:

Posted Speed Limit (MPH)	Distance (Feet)
Less than 35	No rumble strips
	500
	600
	700
	800
55	1000

3.3(3) Rumble strip design. Rumble strips shall be the grooved rather than the raised design and shall allow a clear path for bicycle travel as shown in the department's Design Aids Manual #2613 (1977).

This rule is intended to implement sections 307.26, 327G.2, 327G.23, and 327G.28, Iowa Code.

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820—[10,B]3.4(307) Applicability. This chapter of rules shall not apply to crossings located within the corporate limits of municipalities, except crossings that are generally rural in nature, such as, but not limited to, those involving one or two tracks, rural speeds, agricultural land areas, etc. Municipal crossings frequently involve a more complex group of study variables than rural crossings, such as higher vehicle volumes, lower and more variable vehicle and train speeds, groups of switch and mainline tracks with the associated mixture of switching and through train movements, and closely adjacent buildings. These crossings require individual study and analysis by an engineer with special attention directed to the unique group of safety related elements present at each crossing.

This rule is intended to implement subsection 307.26(5), Iowa Code.

**CHAPTER 4
HIGHWAY GRADE CROSSING SAFETY FUND**

820—[10,B]4.1(327G) Definitions. The following terms when used in this chapter of rules shall have the following meanings:

4.1(1) Active warning devices. Traffic control devices activated by the approach or presence of a train, such as flashing light signals, flashing light signals with cantilever assemblies, and flashing light signals with automatic gate arms, all of which actively warn motorists of a train.

4.1(2) Maintenance costs of active warning devices. Costs incurred by a railroad associated with the repair or replacement of obsolete, worn out, damaged, or missing component parts of an approved active warning device. Maintenance costs shall include repair or replacement of damaged, vandalized, or stolen component parts only for that amount which exceeds the amount recovered from the liable party or the liable party's insurer.

4.1(3) AAR signal unit. The relative maintenance difficulty value assigned to component parts of an active warning device. Units and interpretations are designated by the Association of American Railroads Signal Manual, Part 203 (1981).

4.1(4) Safety fund. The highway grade crossing safety fund established in section 327G.19, Iowa Code, and administered by the department.

This rule is intended to implement sections 327G.15 and 327G.19, Iowa Code.

820—[10,B]4.2(327G) Use of fund. The safety fund may be used for participation in a portion of maintenance costs associated with active warning devices, the installation of new active warning devices, or the replacement of obsolete ones.

This rule is intended to implement sections 327G.15 and 327G.19, Iowa Code.

820—[10,B]4.3(327G) Use of fund for maintenance costs.

4.3(1) Maintenance cost participation. The safety fund may be used to participate in the annual maintenance costs of active warning devices ordered or agreed to be installed on or after July 1, 1973, as stated in the individual order or agreement.

a. Orders or agreements which provide for revision in the maximum amount that can be expended from the safety fund, by reason of amendment of section 327G.15, Iowa Code, shall be binding.

b. Orders or agreements which contain that provision were amended to read: The fund's participation for

calendar years preceding 1977 shall be equal to that of the railroad but limited to a maximum of four hundred and fifty dollars for any one year, for any one crossing, and for calendar year 1977 and subsequent years, the fund may participate in an amount up to seventy-five percent of annual maintenance costs of active warning devices based upon a cost for each eligible AAR signal unit.

c. Orders or agreements issued on or after March 8, 1978, shall provide that the safety fund may be used to participate in up to seventy-five percent of the annual maintenance costs of active warning devices, based upon a cost for each eligible AAR signal unit.

4.3(2) Determination of eligible AAR signal units.

a. The railroad shall tabulate the number of AAR signal units for each warning device which is eligible under subrule 4.3(1) of this chapter, and shall furnish the number to the railroad division.

b. The railroad division shall review the railroad's tabulation for conformance with AAR guidelines.

4.3(3) Determination of unit maintenance costs.

a. Each railroad having eligible warning device installations shall compile the actual maintenance costs for its entire warning device system in Iowa for the calendar year. A portion of the railroad's warning device system in adjacent states may be included if the railroad's signal districts are not wholly within Iowa. The maintenance costs to be compiled shall be one hundred percent of allowable costs under section 249 and fifty percent of allowable costs under section 404, as defined in the "Uniform System of Accounts for Railroad Companies" (1979), published by the interstate commerce commission. The compiled costs may include applicable labor additives and materials handling charges allowed in federal highway administration directives. Each railroad shall also tabulate the number of AAR signal units in its system.

b. For each calendar year, each railroad shall compile the actual maintenance costs and number of AAR units in accord with 4.3(3)"a" of this chapter. The compilation shall be submitted to the railroad division by February 15 of each year for the preceding year and may be audited by the department.

c. The department shall compute an average unit maintenance cost for the preceding year to be used by all railroads for billing purposes.

d. the average unit cost computed for the preceding year shall be the basis for determining the safety fund's participation in the annual maintenance costs of all active warning devices eligible for participation in that year. However, the fund's percentage of participation shall not exceed seventy-five percent of the annual maintenance costs.

e. Before April 15 of each year, each railroad shall submit one billing to the railroad division covering maintenance costs for the preceding year for all eligible warning device installations. Prior to reimbursement the department may perform an audit to determine conformity of the billed costs with the order or agreement. The department shall make proper reimbursement to each eligible railroad; however, if a railroad fails to submit a billing before April 15, the railroad may not be reimbursed. If, when all billings are received, it is determined that the safety fund is inadequate to reimburse all railroads in the amount of their total billings, the department shall reimburse each railroad on a prorated basis.

f. If a warning device has been installed less than one calendar year, the maintenance costs shall be prorated

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from the date the installation was placed in operation to the end of that calendar year.

4.3(4) Cost to railroad. The balance of the annual maintenance costs not paid from the safety fund shall be the responsibility of the railroad.

This rule is intended to implement sections 327G.15 and 327G.19, Iowa Code.

820—[10,B]4.4(327G) Use of fund for warning device installation/replacement.

4.4(1) Percentage of participation. After reimbursement of annual maintenance costs, any balance in the safety fund may be used to participate in a maximum of ninety percent of the project costs to install or replace active warning devices. The remaining ten percent of the costs shall be paid by the jurisdiction having primary authority over the highway, street or alley at the crossing, unless otherwise agreed upon by the parties to the agreement.

4.4(2) Priorities. Use of the balance in the fund shall be determined as follows: Priority one — installation of new active warning devices; priority two — replacement of obsolete active warning devices.

This rule is intended to implement sections 327G.15 and 327G.19, Iowa Code.

820—[10,B]4.5(327G) Procedures to use safety funds.

4.5(1) Project application. The board of supervisors of a county, the council of a city, or the highway division of the department, hereinafter referred to as the jurisdiction, may submit candidate projects to the railroad division.

4.5(2) Selection of projects. The railroad division shall identify all candidate projects as either priority one or priority two as defined in rule 4.4 of this chapter and shall evaluate these projects in accordance with subrule 820—[10,B]3.3(1), IAC.

a. Priority two projects may be considered ahead of priority one projects if the railroad division determines that a more hazardous condition exists at a priority two project location.

b. The railroad division shall notify the jurisdiction whether or not the project is selected and whether funds are available. Projects not selected shall be considered by the railroad division for funding in the following year.

4.5(3) Request for negotiations. If a project is selected and funds are available, the jurisdiction shall submit a written request to the department to enter into negotiations with the railroad. The written request from a city or county shall be in the form of a resolution of the council or board of supervisors.

4.5(4) Negotiations for agreements. Upon receipt of the resolution or written request, the railroad division shall initiate negotiations with the railroad. When concurrence is attained, a written agreement shall be consummated between the railroad, the railroad division and the jurisdiction.

a. Prior to execution of the agreement, the department may perform a preaudit evaluation of the railroad.

b. The preaudit evaluation may include: An examination of the railroad's accounting methods and procedures to determine the railroad's ability to segregate and accumulate costs to be charged against the project and to be charged for subsequent maintenance of active warning devices; an examination of the railroad's cost factors to assure their propriety and allowability; and examination of any other general information available which might be pertinent or necessary in determining the railroad's auditability.

4.5(5) Provisions to be contained in the agreement. The written agreement shall specify the portion of the expenses which shall be paid by each party to the agreement including the costs associated with subsequent maintenance of the active warning device. The agreement shall specify the contract period and the method of payment from the safety fund. The installation, inspection, operation, and maintenance responsibilities of each party to the agreement for the active warning device shall be stated. The agreement may contain other provisions unique to a particular installation.

4.5(6) Resolution of disagreement. When agreement cannot be reached, either the railroad or the jurisdiction may apply to the transportation regulation authority as provided in section 327G.16, Iowa Code. A hearing may be held in accordance with section 327G.17, Iowa Code, and any rules adopted pursuant thereto.

4.5(7) Processing of executed agreement. Upon final execution by the railroad division, the agreement shall be transmitted to the jurisdiction by the railroad division. The jurisdiction shall transmit the agreement to the railroad and authorize the railroad to order necessary materials and proceed with the work.

4.5(8) Inspection and certification of installed warning devices. Upon completion of the project, the railroad shall notify the railroad division. If, upon inspection, the active warning device satisfies applicable specifications and standards, the railroad division shall issue a letter of approval to the railroad.

4.5(9) Final billing. The railroad shall submit a final detailed billing for the project work to the railroad division to be reviewed by the railroad division and the jurisdiction for reasonable conformance with the agreement. The billing shall then be processed by the railroad division for payment from the safety fund to the railroad.

4.5(10) Payments and audits. Payment from the safety fund shall be made as provided in the agreement. Before payment is authorized, the department may perform an audit to determine the conformity of the billed construction or maintenance costs with the agreement.

This rule is intended to implement sections 327G.15, 327G.16, 327G.17, and 327G.19, Iowa Code.

CHAPTER 5
HIGHWAY-RAILROAD
GRADE CROSSING SURFACE
REPAIR FUND

820—[10,B]5.1(327G) Definitions. The following terms when used in this chapter of rules shall have the following meanings:

5.1(1) Grade crossing surface repair. Repair or maintenance of that portion of the grade crossing surface above the top elevation of the ties, unless it is determined that the surface cannot be improved without complete renovation of the crossing in which case the renovation shall constitute surface repair.

5.1(2) Jurisdiction. The authority having primary control over a highway, street, or alley.

5.1(3) Repair fund. The grade crossing surface repair fund established in section 327G.29, Iowa Code, and administered by the department.

This rule is intended to implement sections 327G.29 and 327G.30, Iowa Code.

820—[10,B]5.2(327G) Procedures for the use of grade crossing surface repair funds.

5.2(1) Notification to department. If a railroad and a jurisdiction enter into negotiations for grade crossing

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surface repair and desire to use the repair fund, written notification of the action shall be sent to the railroad division by both parties.

a. The notification may be in the form of a single statement signed by both parties and shall include the total estimated cost of the anticipated repair.

b. The notification shall include the American association of railroads — department of transportation (AAR-DOT) crossing number.

c. Notification shall be accepted by the railroad division in order of receipt.

5.2(2) Availability of funds. The railroad division shall notify the jurisdiction if funds are available in the repair fund. If funds are available, the railroad division shall furnish the jurisdiction with three copies of a standard draft agreement for grade crossing surface repair.

5.2(3) Submission of agreement to the department. If the jurisdiction and the railroad reach an agreement for grade crossing surface repair whereby each contributes one-third of the cost, all three copies of the agreement shall be transmitted to the railroad division by the jurisdiction. The agreement shall include the AAR-DOT crossing number.

5.2(4) Allocation of funds. If funds are available, the department shall allocate one-third of the total estimated cost of the repair from the repair fund, after receipt of a fully executed agreement.

5.2(5) Resolution of disagreement. If the railroad and the jurisdiction cannot reach agreement on grade crossing surface repair, either party may appeal to the transportation regulation authority as provided in section 327G.31, Iowa Code.

5.2(6) Need for additional information. The department shall determine if the agreed-upon work constitutes surface repair of the crossing and shall consult with the jurisdiction or the railroad if further justification or information is needed.

5.2(7) Approval and preaudit of the agreement. If the agreed-upon work constitutes surface repair of the crossing, the department shall approve the agreement. An amount equal to one-third of the cost of the agreed-upon work shall then be obligated from the repair fund.

a. Prior to approval of the agreement, the department may perform a preaudit evaluation of the railroad.

b. The preaudit evaluation may include: An examination of the railroad's accounting methods and procedures to determine the railroad's ability to segregate and accumulate costs to be charged against the surface repair project; an examination of the railroad's cost factors to assure their propriety and allowability; and an examination of any other general information available which might be pertinent or necessary in determining the railroad's auditability.

5.2(8) Work authorization. Upon approval by the railroad division, two copies of the agreement shall be transmitted to the jurisdiction. The jurisdiction shall then transmit one copy of the approved agreement to the railroad and authorize the railroad to order necessary materials and proceed with the work. The third copy shall be retained by the railroad division.

5.2(9) Certification of project completion. Upon completion of the agreed-upon work, the jurisdiction shall complete form 640003, "Certificate of Completion and Final Acceptance of Agreement Work", certifying project completion and shall send it to the railroad division.

5.2(10) Project billing. The railroad shall submit to the jurisdiction a final detailed billing covering the actual

and necessary costs incurred by the railroad for the agreed-upon work. The jurisdiction shall review the billing for reasonable conformance with the agreement. The billing, if approved by the jurisdiction, shall be sent to the railroad division for payment from the repair fund.

5.2(11) Final payment — department. The department, prior to approval of the billing, may perform an audit of the submitted billing to determine the allowability and propriety of the billing costs in accordance with the executed agreement. Upon approval of the billing, the department shall pay to the railroad from the repair fund an amount equal to one-third of the actual cost of the agreed-upon work.

5.2(12) Final payment — jurisdiction. Upon approval of the billing, the railroad division shall notify the jurisdiction of the approval. The jurisdiction shall pay to the railroad an amount equal to one-third of the actual cost of the agreed-upon work.

This rule is intended to implement sections 327G.29, 327G.30, and 327G.31, Iowa Code.

**CHAPTER 6
REPORTING OF RAILROAD
ACCIDENTS/INCIDENTS**

820—[10,B]6.1(327C) Monthly reports. The department hereby adopts the reporting requirements contained in 49 CFR 225 (1981) unless otherwise noted by rule.

6.1(1) Grade crossing accident/incident. At the end of each month the railroad shall file a report with the railroad division for each occurrence of any impact between railroad on-track equipment and a highway user, such as an automobile, bus, truck, motorcycle, bicycle, farm vehicle, or pedestrian at or adjacent to a railroad-highway grade crossing. This report shall be filed on the federal railroad administration's form FRA F 6180.57, "Rail-Highway Grade Crossing Accident/Incident Report".

6.1(2) Rail equipment accident/incident. At the end of each month the railroad shall file a report with the railroad division for each occurrence of damage to railroad or track equipment, signals, structures, track or roadbed in accordance with 49 CFR 225 (1981). This report shall be filed on the federal railroad administration's form FRA F 6180.54, "Rail Equipment Accident/Incident Report". If a grade crossing accident/incident also qualifies as an equipment accident/incident, both forms shall be filed.

6.1(3) Death, injury and occupational illness accident/incident. At the end of each month the railroad shall file a report with the railroad division for any death, injury or occupational illness arising from the operation of the railroad. The report shall be filed on the federal railroad administration's form FRA F 6180.55, "Railroad Injury and Illness Summary".

This rule is intended to implement section 327C.41, Iowa Code.

820—[10,B]6.2(327C) Immediate reporting of personal injury or death. Any accident/incident which results in personal injury or death shall be reported immediately to the railroad division.

6.2(1) Content of immediate report. The immediate report of an accident/incident shall provide the date and time it occurred, the nearest city, the location as accurately as possible, the number of fatalities or injuries, the train(s) involved, the nature and cause insofar as known, the name of the individual filing the report, and the name of the railroad involved.

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6.2(2) Method of immediate reporting. During normal business hours the immediate report shall be filed with the railroad division by telephone at (515) 239-1367. At other times the report shall be filed with the office of operating authority of the motor vehicle division of the department by telephone at (515) 281-5827. This twenty-four-hour number allows railroad division personnel to be notified immediately at all times.

This rule is intended to implement section 327C.37, Iowa Code.

ARTICLE C
RAIL DEVELOPMENT
CHAPTER 1
GENERAL REQUIREMENTS FOR
IMPLEMENTING THE
RAIL ASSISTANCE PROGRAM

820—[10,C]1.1(327H) Definitions. The following terms when used in this chapter of rules shall have the following meanings:

1.1(1) Branchline. A rail line which carries less than five million gross tons per mile per year.

1.1(2) Rail facilities. Fixed rail facilities including track, roadbed, and related structures; terminal and yard facilities; sidings, switches and connections with existing tracks used in rail freight transportation services.

1.1(3) Shippers. Direct users of rail facilities for freight transportation services.

1.1(4) Rehabilitation projects. Any project involving restoration, improvement or conservation of rail facilities.

1.1(5) Installation projects. Any project involving the construction of new rail facilities.

1.1(6) State funds. Rail assistance funds established in chapter 327H, Iowa Code, as amended by the Acts of the Sixty-ninth General Assembly, 1981 Regular Session, chapter 116, for use in the construction and rehabilitation of rail facilities.

1.1(7) Federal funds. Funds available for rail assistance in accordance with 49 USC 1654 (1981).

1.1(8) Other sources. Cities, counties, shippers, railroads or any other financial participants in rail assistance program projects, excluding those state and federal funds in subrules 1.1(6) and 1.1(7) of this chapter.

1.1(9) Construction costs. Costs associated with the improvement, restoration, or conservation of rail facilities or with the installation of new rail facilities. Expenses incurred by other sources necessary to the administration of their contract obligations and any costs associated with the acquisition of rail facilities or acquisition of right of way shall not be eligible for reimbursement from funds administered by the department.

This rule is intended to implement section 327H.20, Iowa Code, as amended by the Acts of the Sixty-ninth General Assembly, 1981 Regular Session, chapter 116.

820—[10,C]1.2(327H) Project eligibility. Eligible projects have been evaluated and are identified in the Iowa Rail Plan (1978) and the 1980 Iowa Railroad Analysis Update, a copy of which may be obtained from the department. Projects not identified in the above publications may become eligible following a public hearing. Other sources may submit written requests to the department for the evaluation of proposed projects for future inclusion in the program. Projects using federal funds must meet the eligibility requirements of 49 CFR 266.7 (1981).

This rule is intended to implement sections 327H.20 and 327H.21, Iowa Code, as amended by the Acts of the Sixty-ninth General Assembly, 1981 Regular Session, chapter 116.

820—[10,C]1.3(327H) Project selection. The department shall select projects from the list of eligible projects defined in rule 1.2(327H) of this chapter, based on the availability of funding, a favorable benefit/cost ratio and agreed-upon financial participation by other sources. First priority shall be given to previously funded rehabilitation projects requiring additional construction for completion. Second priority shall be given to new branchline rehabilitation projects. Third priority shall be given to installation projects. Fourth priority shall be given to mainline, switching yards and siding rehabilitation projects.

This rule is intended to implement sections 327H.20 and 327H.21, Iowa Code, as amended by the Acts of the Sixty-ninth General Assembly, 1981 Regular Session, chapter 116.

820—[10,C]1.4(327H) Administration of funds. The department shall administer state and federal funds and determine the percentage of these funds to be used for each project. State funds shall not be used for installation projects. Costs eligible for reimbursement shall comply with appropriate federal and state guidelines. Any negotiated subcontracts to be billed as reimbursable project costs by other sources shall be approved by the department, and the federal railroad administration when appropriate, before the work is performed.

This rule is intended to implement sections 327H.18, 327H.20, and 327H.21, Iowa Code, as amended by the Acts of the Sixty-ninth General Assembly, 1981 Regular Session, chapter 116.

820—[10,C]1.5(327H) Project participation requirements.

1.5(1) Rehabilitation projects. Rehabilitation projects using state funds shall require from other sources a minimum participation of two-thirds of construction costs. Projects using federal funds or a combination of state and federal funds shall require a minimum participation of one-half of construction costs from other sources. State participation shall not exceed one-third of construction costs for each project.

1.5(2) Installation projects. Federal participation shall not exceed seventy percent of eligible construction costs for installation projects, provided federal participation shall not exceed fifty percent of the total of construction and acquisition costs.

This rule is intended to implement sections 327H.20 and 327H.21, Iowa Code, as amended by the Acts of the Sixty-ninth General Assembly, 1981 Regular Session, chapter 116.

820—[10,C]1.6(327H) Implementation.

1.6(1) Contract approval required. Contract obligations of the state under this chapter shall be negotiated by the railroad division of the department with final contract approval by the state transportation commission. Project contracts using federal funds require approval by both the commission and the federal railroad administration. The department shall submit the contracts to the federal railroad administration and make appropriate application for federal funds.

a. Prior to execution of the contract, the department may perform a preaudit evaluation of the railroad.

TRANSPORTATION, DEPARTMENT OF [820] (cont'd)

b. The preaudit evaluation may include: An examination of the railroad's accounting methods and procedures to determine the railroad's ability to segregate and accumulate costs to be charged against the project and to be charged for subsequent maintenance of the rail line; an examination of the railroad's cost factors to assure their propriety and allowability; and an examination of any other general information available which might be pertinent or necessary in determining the railroad's auditability.

1.6(2) Project reporting. Railroads shall submit to the railroad division written notice when work begins on a project, monthly progress reports, itemized billing statements pursuant to the contract, written notice of project completion, and a final billing statement of all project costs.

1.6(3) Project monitoring. The railroad division shall monitor the project work through periodic on-site inspections and shall conduct a final inspection of work completed and materials used. The department shall conduct a final audit of all project costs.

This rule is intended to implement sections 327H.20 and 327H.21, Iowa Code, as amended by the Acts of the Sixty-ninth General Assembly, 1981 Regular Session, chapter 116.

CHAPTER 2
RELATIONSHIP WITH IOWA
RAILWAY FINANCE AUTHORITY

820—[10,C]2.1(307B) Definitions.

2.1(1) "Enforceable undertaking to operate a facility", as used in subsection 307B.7(5), Iowa Code, as amended by the Acts of the Sixty-ninth General Assembly, 1981 Second Extraordinary Session, chapter 3, section 7, shall mean a contract or agreement enforceable in the courts of Iowa between a railroad and the department in which the railroad agrees to provide a level of rail service acceptable to the state transportation commission and in accordance with applicable United States statutes, rules and regulations. The review of the level of rail service provided shall include a review of the frequency of operation, maintenance of facility, and locomotive and car supply. The contract or agreement may provide for economic incentives or penalties to encourage satisfaction of the terms and conditions of the contract or agreement and to ensure the operation of the facility.

2.1(2) Reserved.

This rule is intended to implement subsection 307B.7(5), Iowa Code, as amended by the Acts of the Sixty-ninth General Assembly, 1981 Second Extraordinary Session, chapter 3, section 7.

ARC 3018**ACCOUNTANCY, BOARD OF[10]**

Pursuant to the authority of Sections 116.3 and 17A.4(2), Iowa Code, the Iowa Board of Accountancy adopts and implements by emergency rules amendments to Chapter 6, "Registration and Renewal of Certificates and Licenses" and Chapter 12, "Procedure for Enforcement," to allow certificates of certified public accountants, registration of a public accountant and license of an accounting practitioner to lapse upon failure to renew after notice.

In compliance with section 17A.4(2), Iowa Code, the Iowa Board of Accountancy finds that public participation is impracticable and contrary to the public interest in that Acts of the Sixty-ninth General Assembly, 1982 Session, House File 2067, becomes effective July 1, 1982.

The Iowa Board of Accountancy also finds, pursuant to section 17A.5(2)"b"(1), Iowa Code, that the normal effective date of these rules, thirty-five days after publication, should be waived and these rules be effective upon filing with the Administrative Rules Coordinator on June 18, 1982, as it confers a benefit upon the public to ensure speedy and uniform compliance with the agency's legislative mandate.

The Iowa Board of Accountancy adopted these rules on June 14, 1982.

These rules implement Acts of the Sixty-ninth General Assembly, 1982 Session, House File 2067.

ITEM 1. Rule 10—6.1(116) is amended as follows:
10—6.1(116) Biennial renewal. To maintain the certificate of certified public accountant granted by the board under section 116.5, Iowa Code, the registration with the board as a public accountant under section 116.6, and the license to practice as an accounting practitioner granted under section 116.7, 116.8 or 116.13, certificates and licenses shall be renewed biennially, beginning July 1, 1982. Licensees whose last names begin with A-K will register in even-numbered years. Licensees whose last names begin with the letters L-Z will register their certificate or license for the one year beginning July 1, 1982. Thereafter, L-Z registration will be biennial in odd-numbered years. ~~The failure to do so is cause for revocation or suspension of the certificate of license under the provisions of section 116.21.~~ The renewal of certificates, registrations, and licenses, as required by section 116.20, shall be on the basis of a biennial expiration date of June 30, upon forms provided by the board and obtainable from its office. A biennial renewal fee will be charged.

ITEM 2. Subrule 6.4(2) is amended by striking and inserting the following:

6.4(2) The board shall give notice by restricted certified mail, return receipt requested, to the holder of a certificate, registration or license who has failed to renew it. If the holder fails to renew the certificate, registration, or license within thirty days of receipt of the notice, the certificate, registration, or license lapses and is void. The board may reinstate the certificate, registration, or license upon the payment of a penalty of one hundred dollars.

ITEM 3. Subrule 12.9(1) is amended as follows:

12.9(1) The board will publish the names and circumstances of licensees disciplined by the board, when such publication is consistent with the "Positive Enforcement Program," designed for the protection of the public. Names of all licensees disciplined, regardless of the

infraction involved, will be published in the Board of Accountancy publication. However, the board will not publish the name of the licensee where the infraction was of such a minor nature that it resulted only in a warning or citation being issued. In those instances in which a licensee's name is not published because the infraction was of a minor nature, the board will publish a summary, without names, of the violation to acquaint practitioners with the types of disciplinary matters being acted upon by the board.

The board will prepare a formal press release in those instances when a certificate or license has been revoked or suspended. In addition, the names of licensees who have received sanctions other than revocation or suspension (except for the minor infractions referred to above) will be published in the board's periodic publication. ~~Revocation and suspension resulting from a failure to register the certificate or license are also to be reported in the publication.~~

[Filed emergency 6/16/82, effective 6/18/82]

[Published 7/7/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/7/82.

ARC 3042**COMMERCE COMMISSION[250]**

On May 20, 1982, the Commerce Commission adopted a number of amendments to Chapter 22 (ARC 2935), "Telephone Utilities," Iowa Administrative Code, which are to become effective July 14, 1982, pursuant to Section 17A.5, Iowa Code. On June 18, 1982, the Commission amended one of these rules to clear up an apparent contradiction and effectuate its original intent. Pursuant to Section 17A.5(2)"b"(2), Iowa Code, this amendment shall also become effective July 14, 1982. It is adopted pursuant to Sections 17A.4(1) and 476.2 and implements Section 476.8, Iowa Code.

This amendment serves to make it clear that customers have twelve days from the date of mailing within which to comply with a request for a new or additional deposit, the period provided for in the new 22.4(2)"h".

Item 20 of the rules filed May 21, 1982, with the Administrative Rules Coordinator, consisting of a new subrule 22.4(5), is amended by changing subparagraph 22.4(5)"h"(1) as follows:

(1) Has provided the customer with five days' prior written notice *with respect to an unpaid bill and twelve days' prior written notice with respect to an unpaid deposit*, as required by this rule; disconnection may take place prior to the expiration of the five-day *unpaid bill* notice period if the utility determines, from verifiable data, that usage during the five-day notice period is so abnormally high that a risk of irreparable revenue loss is created.

[Filed emergency 6/18/82, effective 7/14/82]

[Published 7/7/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/7/82.

ARC 3023**ENVIRONMENTAL QUALITY
DEPARTMENT[400]****ENVIRONMENTAL QUALITY COMMISSION**

Pursuant to the authority of Section 455B.12, Iowa Code, the Environmental Quality Commission emergency adopts rules amending Chapter 4, "Emission Standards for Contaminants", Iowa Administrative Code (IAC). Specifically, Subrule 4.5(4) on criteria for approval of certain anaerobic lagoons is amended by: (1) The deletion of the separation distance requirements; (2) the exclusion of expansions of industrial lagoons constructed prior to February 22, 1979 from sulfate requirements; and (3) the inclusion of criteria for all industrial anaerobic lagoons.

In compliance with section 17A.4(2), Iowa Code, the Commission finds that public participation is unnecessary and contrary to the public interest in that the Acts of the Sixty-ninth General Assembly, 1982 Regular Session, Senate File 2243, establishes minimum separation distances for new anaerobic lagoons for industrial wastewater treatment and excludes expansions of certain anaerobic lagoons from sulfate requirements.

The Commission also finds, pursuant to Section 17A.5(2)"b"(2), Iowa Code, that the normal effective date of this rule, thirty-five days after publication, should be waived and the rule be made effective upon filing with the Administrative Rules Coordinator on July 1, 1982, as it confers a benefit upon the public to ensure speedy and uniform conformance with the Department's legislative mandate.

The Environmental Quality Commission adopted these amendments at a regular meeting on June 15, 1982.

This rule implements Section 455B.12, Iowa Code, as amended by the Acts of the Sixty-ninth General Assembly, 1982 Regular Session, Senate File 2243.

Subrule 4.5(4) is amended to read as follows:

4.5(4) ~~**Criteria for approval of other industrial anaerobic lagoons.~~

~~a. New anaerobic lagoons will be approved only for the meat products industry or the rendering plant industry.~~

~~b. a. Lagoons designed to treat 100,000 gpd or less.~~

~~(1) The sulfate content of the water supply shall not exceed 250 mg/l. However, this paragraph does not apply to an expansion of an industrial anaerobic lagoon facility which was constructed prior to February 22, 1979.~~

~~(2) The anaerobic lagoon shall be located no less than one half mile from the nearest occupied premise or public use area.~~

~~(3) (2) The design loading rate for the total lagoon volume shall not be less than 10 pounds nor more than 20 pounds of biochemical oxygen demand (five day) per thousand cubic feet per day.~~

~~e. b. Lagoons designed to treat more than 100,000 gpd.~~

~~(1) The sulfate content of the water supply shall not exceed 100 mg/l. However, this paragraph does not apply to an expansion of an industrial anaerobic lagoon facility which was constructed prior to February 22, 1979.~~

~~(2) The anaerobic lagoon shall be located no less than three fourths of a mile from the nearest occupied premise or public use area.~~

~~(3) (2) The design loading rate for the total lagoon volume shall not be less than ten pounds nor more than~~

twenty pounds of biochemical oxygen demand (five day) per thousand cubic feet per day.

[Filed emergency 6/18/82, effective 7/1/82]

[Published 7/7/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/7/82.

ARC 3008**HOUSING FINANCE
AUTHORITY[495]**

Pursuant to the authority of Section 220.5, subsection 15, Iowa Code, the Iowa Housing Finance Authority emergency adopts a rule adding a new paragraph "g" to subrule 1.8(1), to allow an additional deduction for job related child care expenses in determining adjusted income. Adjusted income is used by the authority in determining eligibility for mortgage financing it provides, and the additional deduction will increase the number of families that can qualify.

In compliance with section 17A.4(2), Iowa Code, the authority finds that public notice and participation is impracticable in that the delays which such public notice and participation would require could prevent the authority from issuing bonds to fulfill its purposes early enough to make funds available during 1982.

The authority also finds, pursuant to section 17A.5(2)"b"(2) that the normal effective date of this rule thirty-five days after publication should be waived and the rule be made effective upon filing with the administrative rules coordinator on June 11, 1982, as it confers a benefit, and removes a restriction on a segment of the public. Families with children that incur job related child care expenses will be permitted an additional deduction in computing their eligibility for mortgage financing from the authority.

The housing finance authority adopted this rule at a special open meeting on June 9, 1982.

This rule implements sections 220.1(2), 220.1(3), 220.1(4), and 220.1(10), Iowa Code.

This rule has been filed as a Notice of Intended Action under ARC 3007.

Subrule 1.8(1) is amended to read as follows:

1.8(1) Adjusted income. The gross annual income from all sources and before taxes or withholding of all members of a family living in a housing unit, after deducting the following:

a. Ten percent of combined gross annual income.

b. The income of any family member (other than the head of household or spouse) who is under eighteen years of age.

c. The first three hundred dollars of the income of a secondary wage earner who is the spouse of the head of the household.

d. Three hundred dollars for each dependent member of the family residing in the household (other than the

HOUSING FINANCE AUTHORITY[495] (cont'd)

head of the household or spouse) who is under eighteen years of age or older but has no income.

e. Unusual income, as determined by the authority.

f. Extraordinary medical payments, as determined by the authority.

g. *Job related child care expenses.*

[Filed emergency 6/11/82, effective 6/11/82]

[Published 7/7/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/7/82.

ARC 3009

HOUSING FINANCE
AUTHORITY[495]

Pursuant to the authority of Section 220.5, subsection 15, Iowa Code, the Iowa Housing Finance Authority emergency adopts rules repealing the existing definition of the phrase "low or moderate income family" and establishing a new definition for the phrase "low or moderate income family". Subrule 1.8(11) is rescinded and a new subrule adopted in lieu thereof.

In compliance with section 17A.4(2), Iowa Code, the authority finds that public notice and participation is unnecessary in that section 220.1, subsection 2, Iowa Code, defines the phrase "low or moderate income family" more broadly than the present administrative rule. Thus the rule is being expanded to more closely fit the statutory definition. Public notice and participation is also impracticable in that the delays which such notice and participation would require could prevent the authority from issuing bonds to fulfill its purposes early enough to make funds available during 1982.

The authority also finds, pursuant to section 17A.5(2)"b"(2) that the normal effective date of this rule thirty-five days after publication should be waived and the rule be made effective upon filing with the Administrative Rules Coordinator on June 11, 1982, as it confers a benefit and removes a restriction upon a segment of the public. The effect of this rule will be to enlarge the class of families who qualify for mortgage financing from the authority.

The Iowa housing finance authority adopted this rule on June 9, 1982, at a special open meeting.

This rule implements section 220.1(2), Iowa Code.

This rule has been filed as a Notice of Intended Action under ARC 3007.

Subrule 1.8(11) is rescinded and a new 1.8(11) is inserted as follows:

1.8(11) Low or moderate income family. A family whose adjusted income is less than the amount determined by the authority to be necessary to purchase a single family residence at a price of 90% of the average area purchase price (as defined in Section 103A(f) of the United States Internal Revenue Code of 1954, as amended, and the Regulations promulgated thereunder) at conventional rates and terms, and who does not own real property, other than that for which eligibility for financing is

presently being determined, with a market value of \$10,000 or greater. The authority shall determine the maximum permissible adjusted income separately for each series or issue of bonds and may revise such maximums from time to time.

[Filed emergency 6/11/82, effective 6/11/82]

[Published 7/7/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/7/82.

ARC 3035

INDUSTRIAL COMMISSIONER[500]

Pursuant to the authority of Sections 17A.1 and 86.8, Iowa Code, the Industrial Commissioner hereby adopts amendments to Chapter 1, "Purpose and Function", Iowa Administrative Code, to include reference to Chapter 85B, Iowa Code, and to change the address of the Industrial Commissioner.

In compliance with Section 17A.4(2), Iowa Code, the department finds that public notice and participation is unnecessary in that the Acts of the Sixty-eighth General Assembly, 1980 Session, Chapter 1026, created a new Chapter 85B, to the Iowa Workers' Compensation Act. The present rules make no reference to 85B and do not provide for the current address of the department.

The department also finds, pursuant to Section 17 A.5(2)"b"(2), that the normal effective date of this rule thirty-five days after publication should be waived and the rule be made effective on July 1, 1982 as it confers a benefit upon the public to make reference to Chapter 85B, Iowa Code, and to provide the current address of the department.

The Industrial Commissioner adopted this rule on June 18, 1982.

These rules implement Sections 86.8 and 17A.1, Iowa Code, and the Acts of the Sixty-eighth General Assembly, 1980 Session, Chapter 1026.

ITEM 1. Rule 500—1.1(86,17A) is amended to read as follows:

500—1.1(86,17A) Purpose and function. The function of the Iowa industrial commissioner is to adjudicate the rights and duties of persons provided for in chapters 85, 85A, 85B, 86, and 87 and these rules, and to administer and enforce the provisions of chapters 85, 85A, 85B, 86, 87 and these rules. The indicated chapters provide for the rights and duties of persons injured in employment and the responsible employers and insurance carriers. The chapters are commonly referred to as the ~~workmen's~~ *workers'* compensation chapters of the Iowa Code.

This rule is intended to implement sections 17A.1 and 86.8, Iowa Code.

ITEM 2. Rule 500—1.2(86,17A) is amended to read as follows:

500—1.2(86,17A) Location. Interested persons may contact the Iowa industrial commissioner at the ~~State Capitol Complex, 610 Des Moines Street, 507 - 10th Street,~~ Des Moines, Iowa 50319, or by telephoning (515) 281-5934.

057243

INDUSTRIAL COMMISSIONER[500] (cont'd)

This rule is intended to implement sections 17A.1 and 86.8, Iowa Code.

[Filed emergency 6/18/82, effective 7/1/82]

[Published 7/7/82]

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ARC 3036**INDUSTRIAL COMMISSIONER[500]**

Pursuant to the authority of Sections 17A.1 and 86.8, Iowa Code, the Industrial Commissioner hereby adopts amendments to Chapter 2, "General Provisions", Iowa Administrative Code, to include reference to Chapter 85B, Iowa Code.

In compliance with Section 17A.4(2), Iowa Code, the department finds that public notice and participation is unnecessary in that the Acts of the Sixty-eighth General Assembly, 1980 Session, Chapter 1026, created a new Chapter 85B, to the Iowa Workers' Compensation Act. The present rules make no reference to Chapter 85B, Iowa Code.

The department also finds, pursuant to Section 17 A.5(2)"b"(2), that the normal effective date of this rule thirty-five days after publication should be waived and the rule be made effective on July 1, 1982, as it confers a benefit upon the public to make reference to Chapter 85B, Iowa Code, whenever applicable.

The Industrial Commissioner adopted this rule on June 18, 1982.

These rules implement Sections 86.8 and 17A.1, Iowa Code, and Acts of the Sixty-eighth General Assembly, 1980 Session, Chapter 1026.

ITEM 1. Rule 500—2.2(85A,86) is amended to read as follows:

500—2.2(85A, 85B, 86) Applicability to ~~chapter chapters~~ 85A and 85B. When appropriate, all rules shall apply to ~~chapter chapters~~ 85A and 85B as well as chapter 85.

This rule is intended to implement sections 17A.1 and 86.8, Iowa Code.

ITEM 2. Rule 500—2.3(86,87) first paragraph is amended to read as follows:

500—2.3(86,87) Representative within the state. All licensed insurers, foreign and domestic, insuring workers' compensation and all employers relieved from insurance pursuant to section 87.11, Iowa Code, shall designate one or more persons geographically located within the borders of this state, which person or persons shall be knowledgeable of the Iowa Workers' Compensation Law and Rules and shall be given the authority and have the responsibility to expedite the handling of all matters within the scope of chapters 85, 85A, 85B, 86, and 87, Iowa Code.

[Filed emergency 6/18/82, effective 7/1/82]

[Published 7/7/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/7/82.

ARC 3037**INDUSTRIAL COMMISSIONER[500]**

Pursuant to the authority of Section 17A.3(b), Iowa Code, the Industrial Commissioner emergency adopts rules to amend Chapter 3, "Forms", Iowa Administrative Code.

In compliance with Section 17A.4(2), Iowa Code, the department finds that public notice and participation is impracticable in that the Acts of the Sixty-ninth General Assembly, 1982 Regular Session, Senate File 539, Sections 7 and 23, provide in part for payments of temporary partial disability and filing of notice of commencement of payment. The present forms of the department do not conform to the statutory mandates.

The department also finds, pursuant to Section 17 A.5(2)"b", that the normal effective date of this rule thirty-five days after publication should be waived and the rule be made effective on July 1, 1982 as it confers a benefit to the public by providing the forms on the date the statutory amendments become effective.

The Industrial Commissioner adopted these rules on June 18, 1982.

These rules implement Section 17A.3(b), Iowa Code, and the Acts of the Sixty-ninth General Assembly, 1982 Regular Session, Senate File 539, Sections 7 and 23.

ITEM 1. Strike the first paragraph of rule 500—3.1(86) and insert in lieu thereof the following:

500—3.1(86) Forms. The following forms are available from the industrial commissioner's office for use in matters under the jurisdiction of the industrial commissioner. Insurance carriers, self-insured employers, or their adjusting agents may reproduce the forms in which event the name, address, telephone number, and identification number may be imprinted. The current revision of the form must be used.

ITEM 2. Subrule 3.1(2) is amended to read as follows:

3.1(2) Form No. 2—claim activity report. Upon establishment of a claim with this agency, the industrial commissioner will mail to the insurer this form which will show basic claim data found in the agency files. The form provides for *filing of notice of commencement of payments*, correcting erroneous claim information, supplying additional information, denying compensability, making of voluntary payments, agreeing to rate and agreeing to make payments under the Workers' Compensation Act, reporting the status of a claim, or recording benefits paid. *Notice of commencement of payments shall be filed within thirty days of the first payment.* When liability on a claim is denied, a copy of the letter sent to claimant denying liability shall be filed with this form. This form shall also be filed when compensation is terminated or significantly interrupted. Medical data supporting the action taken shall be attached when temporary total disability or temporary partial disability ~~exceeds exceed~~ thirteen weeks or when the employee sustains a permanent disability. In the event this form is rejected by the agency, a refiling should be made within fifteen days of the date of rejection.

ITEM 3. Strike all of subrule 3.1(3) and insert in lieu thereof the following:

INDUSTRIAL COMMISSIONER[500] (cont'd)

3.1(3) Form No. 2A—claim activity report. This form is to be used by the insurer as the initiating party when a Form 2 is not available.

[Filed emergency 6/18/82, effective 7/1/82]

[Published 7/7/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/7/82.

ARC 3038**INDUSTRIAL COMMISSIONER[500]**

Pursuant to the authority of Sections 86.8 and 86.24, Iowa Code, the Industrial Commissioner hereby adopts amendments to Chapter 4, "Contested Cases", Iowa Administrative Code, to include reference to Chapter 85B, Iowa Code, to clarify when briefs are due in the event there is a cross-appeal, and to clarify the responsibility for payment of the cost of the transcript in the event of a cross-appeal.

In compliance with Section 17A.4(2), Iowa Code, the department finds that public notice and participation is unnecessary in that the Acts of the Sixty-eighth General Assembly, 1980 Session, Chapter 1026, created a new Chapter, 85B, to the Iowa Workers' Compensation Act. The Acts of the Sixty-ninth General Assembly, 1982 Regular Session, Senate File 539, provide in part for a transcript to be provided by the appealing party. The present rules make no reference to 85B and do not clarify the responsibility for payment of costs of the transcript in the event there is a cross-appeal.

The department also finds, pursuant to Section 17A.5(2)"b"(2), that the normal effective date of this rule thirty-five days after publication should be waived and the rule be made effective on July 1, 1982, as it confers a benefit upon the public to ensure speedy and uniform compliance with the agency's legislative mandate.

The Industrial Commissioner adopted these rules on June 18, 1982.

These rules implement Sections 17A.1, 17A.12, 17A.15, 86.19, 86.24 and 86.40, Iowa Code, Acts of the Sixty-eighth General Assembly, 1980 Session, Chapter 1026, and Acts of the Sixty-ninth General Assembly, 1982 Regular Session, Senate File 539, Section 24.

ITEM 1. Rule 500—4.1(85,85A,86,87,17A) is amended to read as follows:

500—4.1(85,85A,85B, 86,87,17A) Contested cases. Contested case proceedings before the industrial commissioner are:

ITEM 2. Subrule 4.1(13) is amended to read as follows:

4.1(13) Determination of compliance with chapters 85, 85A, 85B, 86, and 87.

ITEM 3. The first paragraph of rule 500—4.28(86,17A) is amended to read as follows:

500—4.28(86,17A) Scope of appeal. The commissioner shall decide an appeal upon the record submitted to the deputy industrial commissioner unless the commissioner is satisfied that there exists additional material evidence,

newly discovered, which could not with reasonable diligence be discovered and produced at the hearing. A request for the taking of additional evidence must be filed with the industrial commissioner within twenty days of the filing of the appeal. The appellant, *and in the event of a cross-appeal, the cross-appellant shall submit a respective brief* briefs and exceptions on appeal as directed by the industrial commissioner which shall include the following:

ITEM 4. Rule 500—4.30(86,17A) is amended to read as follows:

500—4.30(86,17A) Transcript on appeal or review. When an appeal to or review on motion of the commissioner is taken pursuant to 4.27(86,17A) or 4.29(86,17A), a transcript of the proceedings before the industrial commissioner shall be filed with the industrial commissioner within thirty days after the notice of the appeal is filed with the industrial commissioner. The appealing party shall bear the initial cost of transcription on appeal and shall pay the certified shorthand reporter or service for the transcript. *In the event there is a cross-appeal, the appellant and cross-appellant shall share the cost of the transcript.* In the event the cost of the transcript has been initially borne by a nonappealing party prior to the appeal, the appealing party or parties within thirty days after notice of appeal or cross-appeal shall reimburse the cost of the transcript to the nonappealing party.

This rule is intended to implement Sections 17A.12, 17A.15, 86.19, 86.24 and 86.40, Iowa Code.

ITEM 5. Rule 500—4.35(86) is amended to read as follows:

500—4.35(86) Rules of civil procedure. The rules of civil procedure shall govern the contested case proceedings before the industrial commissioner unless the provisions are in conflict with these rules and chapters 85, 85A, 85B, 86, 87 and 17A, or obviously inapplicable to the industrial commissioner. In those circumstances, these rules or the appropriate Code section shall govern. Where appropriate, reference to the word "court" shall be deemed reference to the "industrial commissioner."

This rule is intended to implement Sections 17A.1, 17A.12, 17A.13, 17A.14, and 86.8, Iowa Code.

[Filed emergency 6/18/82, effective 7/1/82]

[Published 7/7/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/7/82.

ARC 3039**INDUSTRIAL COMMISSIONER[500]**

Pursuant to the authority of Section 85.47, Iowa Code, the Industrial Commissioner emergency adopts rules to amend Chapter 6, "Settlements and Commutations", Iowa Administrative Code.

In compliance with Section 17A.4(2), Iowa Code, the department finds that public notice and participation is impracticable in that the Acts of the General Assembly, 1982 Regular Session, Senate File 539, Section 16, provides

INDUSTRIAL COMMISSIONER[500] (cont'd)

that when a commutation is ordered the lump sum to be paid will equal the total sum of probable future payments capitalized at their present value and upon the basis of interest, the rate of which is provided in Section 535.3, Iowa Code, which is currently ten percent.

The department also finds, pursuant to Section 17A.5(2)"b", that the normal effective date of this rule thirty-five days after publication should be waived and the rule be made effective on July 1, 1982 as it confers a benefit to the public by providing a ten percent discount table for calculating the correct commuted value of a settlement on the date the statutory amendment becomes effective.

The Industrial Commissioner adopted this rule on June 18, 1982.

This rule implements section 85.47, Iowa Code, as amended by the Sixty-ninth General Assembly, 1982 regular session, Senate File 539, Section 16.

ITEM 1. Strike all of subrule 6.3(2) and insert in lieu thereof the following:

6.3(2) Ten percent discount table. Column "A" indicates the total number of weeks to be commuted. Column "B" indicates the present value in weeks of the column "A" total weeks to be commuted. To determine the present dollar value, multiply the appropriate weekly compensation rate by the number of weeks in column "B". For example, assume one wishes to commute an unaccrued five hundred weeks of weekly compensation benefits. Assume the weekly compensation benefit rate is two hundred dollars. Five hundred weeks is the column "A" figure. Column "B" represents the present value in weeks of five hundred weeks. The present value is thus 350.0941 weeks. To determine the dollar amount to be commuted, multiply 350.0941 weeks by the weekly rate of two hundred dollars. The commuted present dollar value would be \$70,018.82.

Column "A" contains total unaccrued weeks to be paid. Column "B" contains present or commuted value in weeks of Column "A".

A	B	A	B	A	B
1.....	.9981	37.....	35.7097	73.....	68.2486
2.....	1.9942	38.....	36.6416	74.....	69.1240
3.....	2.9885	39.....	37.5719	75.....	69.9980
4.....	3.9809	40.....	38.5005	76.....	70.8704
5.....	4.9714	41.....	39.4274	77.....	71.7415
6.....	5.9599	42.....	40.3526	78.....	72.6110
7.....	6.9467	43.....	41.2763	79.....	73.4791
8.....	7.9315	44.....	42.1982	80.....	74.3458
9.....	8.9145	45.....	43.1186	81.....	75.2110
10.....	9.8956	46.....	44.0373	82.....	76.0748
11.....	10.8749	47.....	44.9544	83.....	76.9372
12.....	11.8524	48.....	45.8699	84.....	77.7981
13.....	12.8280	49.....	46.7838	85.....	78.6576
14.....	13.8018	50.....	47.6961	86.....	79.5157
15.....	14.7737	51.....	48.6068	87.....	80.3724
16.....	15.7439	52.....	49.5159	88.....	81.2276
17.....	16.7122	53.....	50.4234	89.....	82.0815
18.....	17.6788	54.....	51.3293	90.....	82.9339
19.....	18.6435	55.....	52.2336	91.....	83.7850
20.....	19.6065	56.....	53.1364	92.....	84.6347
21.....	20.5676	57.....	54.0376	93.....	85.4830
22.....	21.5271	58.....	54.9373	94.....	86.3299
23.....	22.4847	59.....	55.8354	95.....	87.1754
24.....	23.4406	60.....	56.7319	96.....	88.0196
25.....	24.3947	61.....	57.6269	97.....	88.8624
26.....	25.3471	62.....	58.5204	98.....	89.7038
27.....	26.2977	63.....	59.4124	99.....	90.5438
28.....	27.2466	64.....	60.3028	100.....	91.3825
29.....	28.1938	65.....	61.1917	101.....	92.2199
30.....	29.1393	66.....	62.0790	102.....	93.0559
31.....	30.0830	67.....	62.9649	103.....	93.8906
32.....	31.0250	68.....	63.8492	104.....	94.7239
33.....	31.9654	69.....	64.7321	105.....	95.5559
34.....	32.9040	70.....	65.6135	106.....	96.3866
35.....	33.8409	71.....	66.4933	107.....	97.2159
36.....	34.7762	72.....	67.3717	108.....	98.0440

INDUSTRIAL COMMISSIONER[500] (cont'd)

A	B	A	B	A	B
109.....	98.8707	164.....	142.4273	219.....	182.6158
110.....	99.0961	165.....	143.1864	220.....	183.3185
111.....	100.5202	166.....	143.9445	221.....	184.0203
112.....	101.3429	167.....	144.7014	222.....	184.7211
113.....	102.1644	168.....	145.4572	223.....	185.4210
114.....	102.9846	169.....	146.2119	224.....	186.1199
115.....	103.8035	170.....	146.9655	225.....	186.8179
116.....	104.6211	171.....	147.7181	226.....	187.5149
117.....	105.4375	172.....	148.4695	227.....	188.2111
118.....	106.2525	173.....	149.2199	228.....	188.9062
119.....	107.0663	174.....	149.9691	229.....	189.6005
120.....	107.8788	175.....	150.7173	230.....	190.2938
121.....	108.6900	176.....	151.4645	231.....	190.9862
122.....	109.5000	177.....	152.2105	232.....	191.6777
123.....	110.3087	178.....	152.9555	233.....	192.3683
124.....	111.1161	179.....	153.6994	234.....	193.0580
125.....	111.9223	180.....	154.4423	235.....	193.7467
126.....	112.7273	181.....	155.1841	236.....	194.4345
127.....	113.5310	182.....	155.9248	237.....	195.1215
128.....	114.3335	183.....	156.6645	238.....	195.8075
129.....	115.1347	184.....	157.4032	239.....	196.4926
130.....	115.9347	185.....	158.1407	240.....	197.1768
131.....	116.7335	186.....	158.8773	241.....	197.8601
132.....	117.5310	187.....	159.6128	242.....	198.5425
133.....	118.3273	188.....	160.3473	243.....	199.2240
134.....	119.1225	189.....	161.0807	244.....	199.9047
135.....	119.9163	190.....	161.8131	245.....	200.5844
136.....	120.7090	191.....	162.5444	246.....	201.2633
137.....	121.5005	192.....	163.2748	247.....	201.9412
138.....	122.2908	193.....	164.0041	248.....	202.6183
139.....	123.0799	194.....	164.7324	249.....	203.2945
140.....	123.8677	195.....	165.4597	250.....	203.9698
141.....	124.6544	196.....	166.1859	251.....	204.6443
142.....	125.4399	197.....	166.9112	252.....	205.3179
143.....	126.2242	198.....	167.6354	253.....	205.9906
144.....	127.0074	199.....	168.3586	254.....	206.6624
145.....	127.7893	200.....	169.0808	255.....	207.3334
146.....	128.5701	201.....	169.8021	256.....	208.0035
147.....	129.3497	202.....	170.5223	257.....	208.6727
148.....	130.1282	203.....	171.2415	258.....	209.3411
149.....	130.9054	204.....	171.9597	259.....	210.0086
150.....	131.6816	205.....	172.6770	260.....	210.6753
151.....	132.4565	206.....	173.3932	261.....	211.3411
152.....	133.2303	207.....	174.1085	262.....	212.0061
153.....	134.0030	208.....	174.8228	263.....	212.6702
154.....	134.7745	209.....	175.5361	264.....	213.3334
155.....	135.5449	210.....	176.2484	265.....	213.9959
156.....	136.3141	211.....	176.9598	266.....	214.6574
157.....	137.0822	212.....	177.6702	267.....	215.3182
158.....	137.8492	213.....	178.3796	268.....	215.9781
159.....	138.6150	214.....	179.0880	269.....	216.6371
160.....	139.3797	215.....	179.7955	270.....	217.2954
161.....	140.1433	216.....	180.5020	271.....	217.9528
162.....	140.9057	217.....	181.2076	272.....	218.6093
163.....	141.6671	218.....	181.9122	273.....	219.2651

INDUSTRIAL COMMISSIONER[500] (cont'd)

A	B
274.....	219.9200
275.....	220.5741
276.....	221.2273
277.....	221.8798
278.....	222.5314
279.....	223.1822
280.....	223.8322
281.....	224.4814
282.....	225.1298
283.....	225.7713
284.....	226.4241
285.....	227.0701
286.....	227.7152
287.....	228.3596
288.....	229.0032
289.....	229.6459
290.....	230.2879
291.....	230.9291
292.....	231.5695
293.....	232.2091
294.....	232.8479
295.....	233.4860
296.....	234.1232
297.....	234.7597
298.....	235.3954
299.....	236.0303
300.....	236.6644
301.....	237.2978
302.....	237.9304
303.....	238.5623
304.....	239.1933
305.....	239.8236
306.....	240.4532
307.....	241.0819
308.....	241.7100
309.....	242.3372
310.....	242.9637
311.....	243.5895
312.....	244.2145
313.....	244.8387
314.....	245.4622
315.....	246.0850
316.....	246.7070
317.....	247.3283
318.....	247.9488
319.....	248.5686
320.....	249.1876
321.....	249.8059
322.....	250.4235
323.....	251.0404
324.....	251.6565
325.....	252.2719
326.....	252.8865
327.....	253.5004
328.....	254.1137

A	B
329.....	254.7261
330.....	255.3379
331.....	255.9489
332.....	256.5593
333.....	257.1689
334.....	257.7778
335.....	258.3860
336.....	258.9935
337.....	259.6002
338.....	260.2063
339.....	260.8116
340.....	261.4163
341.....	262.0202
342.....	262.6235
343.....	263.2260
344.....	263.8279
345.....	264.4290
346.....	265.0295
347.....	265.6293
348.....	266.2284
349.....	266.8267
350.....	267.4244
351.....	268.0215
352.....	268.6178
353.....	269.2134
354.....	269.8084
355.....	270.4027
356.....	270.9963
357.....	271.5892
358.....	272.1815
359.....	272.7731
360.....	273.3640
361.....	273.9542
362.....	274.5438
363.....	275.1327
364.....	275.7209
365.....	276.3085
366.....	276.8954
367.....	277.4816
368.....	278.0672
369.....	278.6521
370.....	279.2364
371.....	279.8200
372.....	280.4030
373.....	280.9853
374.....	281.5670
375.....	282.1480
376.....	282.7283
377.....	283.3080
378.....	283.8871
379.....	284.4655
380.....	285.0433
381.....	285.6204
382.....	286.1969
383.....	286.7728

A	B
384.....	287.3480
385.....	287.9226
386.....	288.4965
387.....	289.0699
388.....	289.6425
389.....	290.2146
390.....	290.7860
391.....	291.3568
392.....	291.9270
393.....	292.4966
394.....	293.0655
395.....	293.6338
396.....	294.2015
397.....	294.7685
398.....	295.3350
399.....	295.9008
400.....	296.4660
401.....	297.0306
402.....	297.5946
403.....	298.1580
404.....	298.7208
405.....	299.2830
406.....	299.8445
407.....	300.4055
408.....	300.9658
409.....	301.5255
410.....	302.0847
411.....	302.6432
412.....	303.2012
413.....	303.7585
414.....	304.3152
415.....	304.8714
416.....	305.4270
417.....	305.9819
418.....	306.5363
419.....	307.0901
420.....	307.6433
421.....	308.1959
422.....	308.7479
423.....	309.2993
424.....	309.8502
425.....	310.4004
426.....	310.9501
427.....	311.4992
428.....	312.0477
429.....	312.5957
430.....	313.1430
431.....	313.6898
432.....	314.2361
433.....	314.7817
434.....	315.3268
435.....	315.8713
436.....	316.4152
437.....	316.9586
438.....	317.5014

INDUSTRIAL COMMISSIONER[500] (cont'd)

A	B	A	B	A	B
439.....	318.0436	494.....	347.0278	549.....	374.4814
440.....	318.5853	495.....	347.5401	550.....	374.9674
441.....	319.1264	496.....	348.0519	551.....	375.4529
442.....	319.6669	497.....	348.5632	552.....	375.9380
443.....	320.2069	498.....	349.0740	553.....	376.4226
444.....	320.7463	499.....	349.5843	554.....	376.9068
445.....	321.2852	500.....	350.0941	555.....	377.3905
446.....	321.8235	501.....	350.6035	556.....	377.8738
447.....	322.3612	502.....	351.1123	557.....	378.3566
448.....	322.8984	503.....	351.6206	558.....	378.8390
449.....	323.4350	504.....	352.1284	559.....	379.3209
450.....	323.9711	505.....	352.6357	560.....	379.8024
451.....	324.5067	506.....	353.1425	561.....	380.2834
452.....	325.0416	507.....	353.6489	562.....	380.7640
453.....	325.5761	508.....	354.1547	563.....	381.2441
454.....	326.1100	509.....	354.6600	564.....	381.7238
455.....	326.6433	510.....	355.1649	565.....	382.2031
456.....	327.1761	511.....	355.6693	566.....	382.6819
457.....	327.7083	512.....	356.1731	567.....	383.1603
458.....	328.2400	513.....	356.6765	568.....	383.6383
459.....	328.7712	514.....	357.1794	569.....	384.1158
460.....	329.3018	515.....	357.6818	570.....	384.5928
461.....	329.8318	516.....	358.1838	571.....	385.0694
462.....	330.3614	517.....	358.6852	572.....	385.5456
463.....	330.8904	518.....	359.1862	573.....	386.0214
464.....	331.4188	519.....	359.6867	574.....	386.4967
465.....	331.9467	520.....	360.1867	575.....	386.9716
466.....	332.4741	521.....	360.6862	576.....	387.4461
467.....	333.0010	522.....	361.1852	577.....	387.9201
468.....	333.5273	523.....	361.6838	578.....	388.3937
469.....	334.0531	524.....	362.1819	579.....	388.8668
470.....	334.5783	525.....	362.6795	580.....	389.3395
471.....	335.1031	526.....	363.1766	581.....	389.8118
472.....	335.6272	527.....	363.6733	582.....	390.2837
473.....	336.1509	528.....	364.1694	583.....	390.7552
474.....	336.6741	529.....	364.6652	584.....	391.2262
475.....	337.1967	530.....	365.1604	585.....	391.6968
476.....	337.7188	531.....	365.6552	586.....	392.1669
477.....	338.2403	532.....	366.1495	587.....	392.6367
478.....	338.7614	533.....	366.6433	588.....	393.1060
479.....	339.2819	534.....	367.1366	589.....	393.5749
480.....	339.8019	535.....	367.6295	590.....	394.0433
481.....	340.3214	536.....	368.1220	591.....	394.5114
482.....	340.8403	537.....	368.6139	592.....	394.9790
483.....	341.3588	538.....	369.1054	593.....	395.4462
484.....	341.8767	539.....	369.5964	594.....	395.9130
485.....	342.3941	540.....	370.0870	595.....	396.3794
486.....	342.9110	541.....	370.5771	596.....	396.8453
487.....	343.4274	542.....	371.0667	597.....	397.3108
488.....	343.9433	543.....	371.5559	598.....	397.7760
489.....	344.4586	544.....	372.0446	599.....	398.2407
490.....	344.9735	545.....	372.5329	600.....	398.7049
491.....	345.4878	546.....	373.0207	601.....	399.1688
492.....	346.0017	547.....	373.5081	602.....	399.6323
493.....	346.5150	548.....	373.9950	603.....	400.0953

INDUSTRIAL COMMISSIONER[500] (cont'd)

A	B	A	B	A	B
604.....	400.5580	659.....	425.3891	714.....	449.0885
605.....	401.0202	660.....	425.8297	715.....	449.5093
606.....	401.4820	661.....	426.2700	716.....	449.9300
607.....	401.9434	662.....	426.7100	717.....	450.3504
608.....	402.4044	663.....	427.1495	718.....	450.7704
609.....	402.8650	664.....	427.5887	719.....	451.1901
610.....	403.3251	665.....	428.0275	720.....	451.6095
611.....	403.7849	666.....	428.4660	721.....	452.0285
612.....	404.2443	667.....	428.9041	722.....	452.4472
613.....	404.7032	668.....	429.3418	723.....	452.8655
614.....	405.1618	669.....	429.7791	724.....	453.2835
615.....	405.6199	670.....	430.2161	725.....	453.7012
616.....	406.0777	671.....	430.6527	726.....	454.1185
617.....	406.5350	672.....	431.0889	727.....	454.5355
618.....	406.9920	673.....	431.5248	728.....	454.9522
619.....	407.4485	674.....	431.9603	729.....	455.3685
620.....	407.9047	675.....	432.3955	730.....	455.7845
621.....	408.3604	676.....	432.8303	731.....	456.2002
622.....	408.8157	677.....	433.2647	732.....	456.6155
623.....	409.2707	678.....	433.6987	733.....	457.0305
624.....	409.7252	679.....	434.1324	734.....	457.4452
625.....	410.1794	680.....	434.5658	735.....	457.8596
626.....	410.6331	681.....	434.9987	736.....	458.2736
627.....	411.0865	682.....	435.4314	737.....	458.6873
628.....	411.5394	683.....	435.8636	738.....	459.1006
629.....	411.9920	684.....	436.2955	739.....	459.5136
630.....	412.4442	685.....	436.7270	740.....	459.9263
631.....	412.8960	686.....	437.1582	741.....	460.3387
632.....	413.3474	687.....	437.5890	742.....	460.7508
633.....	413.7984	688.....	438.0195	743.....	461.1625
634.....	414.2490	689.....	438.4496	744.....	461.5739
635.....	414.6992	690.....	438.8794	745.....	461.9849
636.....	415.1490	691.....	439.3088	746.....	462.3957
637.....	415.5984	692.....	439.7378	747.....	462.8061
638.....	416.0475	693.....	440.1665	748.....	463.2162
639.....	416.4962	694.....	440.5948	749.....	463.6260
640.....	416.9444	695.....	441.0228	750.....	464.0354
641.....	417.3923	696.....	441.4504	751.....	464.4445
642.....	417.8398	697.....	441.8777	752.....	464.8533
643.....	418.2869	698.....	442.3046	753.....	465.2618
644.....	418.7337	699.....	442.7312	754.....	465.6700
645.....	419.1800	700.....	443.1575	755.....	466.0778
646.....	419.6260	701.....	443.5833	756.....	466.4854
647.....	420.0716	702.....	444.0089	757.....	466.8926
648.....	420.5168	703.....	444.4341	758.....	467.2994
649.....	420.9616	704.....	444.8589	759.....	467.7060
650.....	421.4061	705.....	445.2834	760.....	468.1123
651.....	421.8501	706.....	445.7075	761.....	468.5182
652.....	422.2938	707.....	446.1313	762.....	468.9238
653.....	422.7371	708.....	446.5548	763.....	469.3291
654.....	423.1801	709.....	446.9779	764.....	469.7341
655.....	423.6226	710.....	447.4006	765.....	470.1388
656.....	424.0648	711.....	447.8231	766.....	470.5431
657.....	424.5066	712.....	448.2451	767.....	470.9472
658.....	424.9480	713.....	448.6669	768.....	471.3509

INDUSTRIAL COMMISSIONER[500] (cont'd)

A	B	A	B	A	B
769.....	471.7543	824.....	493.4735	879.....	514.3217
770.....	472.1574	825.....	493.8601	880.....	514.6932
771.....	472.5602	826.....	494.2464	881.....	515.0643
772.....	472.9627	827.....	494.6325	882.....	515.4352
773.....	473.3648	828.....	495.0182	883.....	515.8059
774.....	473.7667	829.....	495.4037	884.....	516.1762
775.....	474.1682	830.....	495.7889	885.....	516.5464
776.....	474.5695	831.....	496.1738	886.....	516.9162
777.....	474.9704	832.....	496.5584	887.....	517.2858
778.....	475.3710	833.....	496.9427	888.....	517.6551
779.....	475.7713	834.....	497.3268	889.....	518.0242
780.....	476.1713	835.....	497.7105	890.....	518.3929
781.....	476.5710	836.....	498.0940	891.....	518.7615
782.....	476.9704	837.....	498.4772	892.....	519.1297
783.....	477.3695	838.....	498.8601	893.....	519.4978
784.....	477.7682	839.....	499.2428	894.....	519.8655
785.....	478.1667	840.....	499.6251	895.....	520.2330
786.....	478.5649	841.....	500.0072	896.....	520.6002
787.....	478.9627	842.....	500.3890	897.....	520.9672
788.....	479.3603	843.....	500.7705	898.....	521.3339
789.....	479.7575	844.....	501.1517	899.....	521.7004
790.....	480.1545	845.....	501.5327	900.....	522.0666
791.....	480.5511	846.....	501.9134	901.....	522.4325
792.....	480.9475	847.....	502.2937	902.....	522.7982
793.....	481.3435	848.....	502.6739	903.....	523.1636
794.....	481.7392	849.....	503.0537	904.....	523.5288
795.....	482.1347	850.....	503.4333	905.....	523.8937
796.....	482.5298	851.....	503.8126	906.....	524.2584
797.....	482.9247	852.....	504.1916	907.....	524.6228
798.....	483.3192	853.....	504.5703	908.....	524.9869
799.....	483.7134	854.....	504.9487	909.....	525.3508
800.....	484.1074	855.....	505.3269	910.....	525.7144
801.....	484.5010	856.....	505.7048	911.....	526.0778
802.....	484.8944	857.....	506.0825	912.....	526.4409
803.....	485.2874	858.....	506.4598	913.....	526.8038
804.....	485.6802	859.....	506.8369	914.....	527.1664
805.....	486.0726	860.....	507.2137	915.....	527.5288
806.....	486.4648	861.....	507.5903	916.....	527.8909
807.....	486.8566	862.....	507.9665	917.....	528.2528
808.....	487.2482	863.....	508.3425	918.....	528.6144
809.....	487.6395	864.....	508.7182	919.....	528.9756
810.....	488.0304	865.....	509.0937	920.....	529.3369
811.....	488.4211	866.....	509.4689	921.....	529.6977
812.....	488.8115	867.....	509.8438	922.....	530.0583
813.....	489.2016	868.....	510.2184	923.....	530.4187
814.....	489.5914	869.....	510.5928	924.....	530.7788
815.....	489.9809	870.....	510.9669	925.....	531.1387
816.....	490.3701	871.....	511.3407	926.....	531.4983
817.....	490.7591	872.....	511.7143	927.....	531.8577
818.....	491.1477	873.....	512.0876	928.....	532.2168
819.....	491.5361	874.....	512.4606	929.....	532.5756
820.....	491.9241	875.....	512.8334	930.....	532.9343
821.....	492.3119	876.....	513.2059	931.....	533.2926
822.....	492.6994	877.....	513.5781	932.....	533.6508
823.....	493.0866	878.....	513.9501	933.....	534.0086

A	B
934.....	534.3663
935.....	534.7237
936.....	535.0808
937.....	535.4377
938.....	535.7944
939.....	536.1508
940.....	536.5069
941.....	536.8629
942.....	537.2185
943.....	537.5740
944.....	537.9292
945.....	538.2841
946.....	538.6388
947.....	538.9933
948.....	539.3475
949.....	539.7015
950.....	540.0552
951.....	540.4087
952.....	540.7620
953.....	541.1150
954.....	541.4678
955.....	541.8203
956.....	542.1726
957.....	542.5247
958.....	542.8765
959.....	543.2281
960.....	543.5795
961.....	543.9306
962.....	544.2815
963.....	544.6321
964.....	544.9825
965.....	545.3327
966.....	545.6826
967.....	546.0323
968.....	546.3818
969.....	546.7310
970.....	547.0800
971.....	547.4287
972.....	547.7773
973.....	548.1256
974.....	548.4736
975.....	548.8214
976.....	549.1690
977.....	549.5164
978.....	549.8635
979.....	550.2104
980.....	550.5571
981.....	550.9035
982.....	551.2497
983.....	551.5957
984.....	551.9415
985.....	552.2870
986.....	552.6323

A	B
987.....	552.9773
988.....	553.3221
989.....	553.6667
990.....	554.0111
991.....	554.3553
992.....	554.6992
993.....	555.0429
994.....	555.3863
995.....	555.7295
996.....	556.0726
997.....	556.4153
998.....	556.7579
999.....	557.1002
1000.....	557.4423
1001.....	557.7842
1002.....	558.1259
1003.....	558.4673
1004.....	558.8085
1005.....	559.1495
1006.....	559.4902
1007.....	559.8308
1008.....	560.1711
1009.....	560.5112
1010.....	560.8511
1011.....	561.1907
1012.....	561.5301
1013.....	561.8693
1014.....	562.2083
1015.....	562.5471
1016.....	562.8856
1017.....	563.2239
1018.....	563.5620
1019.....	563.8999
1020.....	564.2376
1021.....	564.5750
1022.....	564.9123
1023.....	565.2493
1024.....	565.5861
1025.....	565.9226
1026.....	566.2590
1027.....	566.5951
1028.....	566.9310
1029.....	567.2667
1030.....	567.6022
1031.....	567.9375
1032.....	568.2725
1033.....	568.6074
1034.....	568.9420
1035.....	569.2764
1036.....	569.6106
1037.....	569.9446
1038.....	570.2783
1039.....	570.6119

A	B
1040.....	570.9452
1041.....	571.2783
1042.....	571.6112
1043.....	571.9439
1044.....	572.2764
1045.....	572.6087
1046.....	572.9407
1047.....	573.2726
1048.....	573.6042
1049.....	573.9356
1050.....	574.2668
1051.....	574.5978
1052.....	574.9286
1053.....	575.2592
1054.....	575.5896
1055.....	575.9197
1056.....	576.2497
1057.....	576.5794
1058.....	576.9089
1059.....	577.2383
1060.....	577.5674
1061.....	577.8963
1062.....	578.2250
1063.....	578.5535
1064.....	578.8818
1065.....	579.2098
1066.....	579.5377
1067.....	579.8654
1068.....	580.1928
1069.....	580.5201
1070.....	580.8471
1071.....	581.1740
1072.....	581.5006
1073.....	581.8270
1074.....	582.1532
1075.....	582.4793
1076.....	582.8051
1077.....	583.1307
1078.....	583.4561
1079.....	583.7813
1080.....	584.1063
1081.....	584.4311
1082.....	584.7557
1083.....	585.0801
1084.....	585.4043
1085.....	585.7283
1086.....	586.0520
1087.....	586.3756
1088.....	586.6990
1089.....	587.0222
1090.....	587.3452
1091.....	587.6680
1092.....	587.9905

INDUSTRIAL COMMISSIONER[500] (cont'd)

A	B	A	B	A	B
1093.....	588.3129	1145.....	604.8071	1197.....	620.7942
1094.....	588.6351	1146.....	605.1193	1198.....	621.0969
1095.....	588.9571	1147.....	605.4312	1199.....	621.3994
1096.....	589.2789	1148.....	605.7429	1200.....	621.7017
1097.....	589.6004	1149.....	606.0545	1201.....	622.0039
1098.....	589.9218	1150.....	606.3659	1202.....	622.3058
1099.....	590.2430	1151.....	606.6771	1203.....	622.6076
1100.....	590.5640	1152.....	606.9881	1204.....	622.9093
1101.....	590.8848	1153.....	607.2989	1205.....	623.2107
1102.....	591.2054	1154.....	607.6095	1206.....	623.5120
1103.....	591.5258	1155.....	607.9200	1207.....	623.8131
1104.....	591.8460	1156.....	608.2302	1208.....	624.1140
1105.....	592.1660	1157.....	608.5403	1209.....	624.4148
1106.....	592.4858	1158.....	608.8502	1210.....	624.7153
1107.....	592.8054	1159.....	609.1599	1211.....	625.0157
1108.....	593.1248	1160.....	609.4694	1212.....	625.3160
1109.....	593.4440	1161.....	609.7788	1213.....	625.6160
1110.....	593.7630	1162.....	610.0879	1214.....	625.9159
1111.....	594.0818	1163.....	610.3969	1215.....	626.2156
1112.....	594.4005	1164.....	610.7057	1216.....	626.5152
1113.....	594.7189	1165.....	611.0143	1217.....	626.8145
1114.....	595.0371	1166.....	611.3227	1218.....	627.1137
1115.....	595.3552	1167.....	611.6310	1219.....	627.4127
1116.....	595.6730	1168.....	611.9390	1220.....	627.7116
1117.....	595.9907	1169.....	612.2469	1221.....	628.0103
1118.....	596.3081	1170.....	612.5546	1222.....	628.3088
1119.....	596.6254	1171.....	612.8621	1223.....	628.6071
1120.....	596.9425	1172.....	613.1694	1224.....	628.9053
1121.....	597.2594	1173.....	613.4766	1225.....	629.2033
1122.....	597.5761	1174.....	613.7835	1226.....	629.5011
1123.....	597.8926	1175.....	614.0903	1227.....	629.7988
1124.....	598.2089	1176.....	614.3969	1228.....	630.0962
1125.....	598.5250	1177.....	614.7034	1229.....	630.3935
1126.....	598.8409	1178.....	615.0096	1230.....	630.6907
1127.....	599.1566	1179.....	615.3157	1231.....	630.9877
1128.....	599.4721	1180.....	615.6215	1232.....	631.2845
1129.....	599.7875	1181.....	615.9272	1233.....	631.5811
1130.....	600.1026	1182.....	616.2328	1234.....	631.8776
1131.....	600.4176	1183.....	616.5381	1235.....	632.1739
1132.....	600.7324	1184.....	616.8433	1236.....	632.4700
1133.....	601.0469	1185.....	617.1483	1237.....	632.7659
1134.....	601.3613	1186.....	617.4531	1238.....	633.0617
1135.....	601.6755	1187.....	617.7577	1239.....	633.3574
1136.....	601.9895	1188.....	618.0621	1240.....	633.6528
1137.....	602.3034	1189.....	618.3664	1241.....	633.9481
1138.....	602.6170	1190.....	618.6705	1242.....	634.2432
1139.....	602.9304	1191.....	618.9744	1243.....	634.5382
1140.....	603.2437	1192.....	619.2782	1244.....	634.8330
1141.....	603.5568	1193.....	619.5817	1245.....	635.1276
1142.....	603.8696	1194.....	619.8851	1246.....	635.4220
1143.....	604.1823	1195.....	620.1883	1247.....	635.7163
1144.....	604.4948	1196.....	620.4913	1248.....	636.0104

INDUSTRIAL COMMISSIONER[500] (cont'd)

A	B	A	B	A	B
1249.....	636.3044	1301.....	651.3653	1353.....	666.0023
1250.....	636.5982	1302.....	651.6507	1354.....	666.2797
1251.....	636.8918	1303.....	651.9360	1355.....	666.5571
1252.....	637.1852	1304.....	652.2210	1356.....	666.8343
1253.....	637.4785	1305.....	652.5060	1357.....	667.1113
1254.....	637.7717	1306.....	652.7907	1358.....	667.3882
1255.....	638.0646	1307.....	653.0754	1359.....	667.6649
1256.....	638.3574	1308.....	653.3598	1360.....	667.9415
1257.....	638.6500	1309.....	653.6441	1361.....	668.2180
1258.....	638.9425	1310.....	653.9283	1362.....	668.4943
1259.....	639.2348	1311.....	654.2123	1363.....	668.7704
1260.....	639.5269	1312.....	654.4961	1364.....	669.0464
1261.....	639.8189	1313.....	654.7798	1365.....	669.3223
1262.....	640.1107	1314.....	655.0634	1366.....	669.5980
1263.....	640.4023	1315.....	655.3467	1367.....	669.8736
1264.....	640.6938	1316.....	655.6300	1368.....	670.1490
1265.....	640.9851	1317.....	655.9130	1369.....	670.4243
1266.....	641.2763	1318.....	656.1959	1370.....	670.6994
1267.....	641.5673	1319.....	656.4787	1371.....	670.9744
1268.....	641.8581	1320.....	656.7613	1372.....	671.2493
1269.....	642.1488	1321.....	657.0438	1373.....	671.5240
1270.....	642.4393	1322.....	657.3261	1374.....	671.7985
1271.....	642.7296	1323.....	657.6082	1375.....	672.0729
1272.....	643.0198	1324.....	657.8902	1376.....	672.3472
1273.....	643.3098	1325.....	658.1721	1377.....	672.6213
1274.....	643.5997	1326.....	658.4537	1378.....	672.8953
1275.....	643.8894	1327.....	658.7353	1379.....	673.1691
1276.....	644.1789	1328.....	659.0167	1380.....	673.4428
1277.....	644.4683	1329.....	659.2979	1381.....	673.7163
1278.....	644.7575	1330.....	659.5790	1382.....	673.9897
1279.....	645.0465	1331.....	659.8599	1383.....	674.2630
1280.....	645.3354	1332.....	660.1407	1384.....	674.5361
1281.....	645.6241	1333.....	660.4213	1385.....	674.8090
1282.....	645.9127	1334.....	660.7018	1386.....	675.0819
1283.....	646.2011	1335.....	660.9821	1387.....	675.3545
1284.....	646.4894	1336.....	661.2623	1388.....	675.6271
1285.....	646.7775	1337.....	661.5423	1389.....	675.8995
1286.....	647.0654	1338.....	661.8222	1390.....	676.1717
1287.....	647.3532	1339.....	662.1019	1391.....	676.4438
1288.....	647.6408	1340.....	662.3815	1392.....	676.7158
1289.....	647.9282	1341.....	662.6609	1393.....	676.9876
1290.....	648.2155	1342.....	662.9402	1394.....	677.2593
1291.....	648.5027	1343.....	663.2193	1395.....	677.5308
1292.....	648.7896	1344.....	663.4982	1396.....	677.8022
1293.....	649.0764	1345.....	663.7771	1397.....	678.0735
1294.....	649.3631	1346.....	664.0557	1398.....	678.3446
1295.....	649.6496	1347.....	664.3343	1399.....	678.6156
1296.....	649.9359	1348.....	664.6126	1400.....	678.8864
1297.....	650.2221	1349.....	664.8909	1401.....	679.1571
1298.....	650.5082	1350.....	665.1689	1402.....	679.4277
1299.....	650.7940	1351.....	665.4469	1403.....	679.6981
1300.....	651.0797	1352.....	665.7246	1404.....	679.9683

INDUSTRIAL COMMISSIONER[500] (cont'd)

A	B	A	B	A	B
1405.....	680.2385	1457.....	694.0453	1509.....	707.5924
1406.....	680.5085	1458.....	694.3582	1510.....	707.8486
1407.....	680.7783	1459.....	694.6210	1511.....	708.1046
1408.....	681.0480	1460.....	694.8836	1512.....	708.3605
1409.....	681.3176	1461.....	695.1461	1513.....	708.6163
1410.....	681.5870	1462.....	695.4084	1514.....	708.8720
1411.....	681.8563	1463.....	695.6707	1515.....	709.1275
1412.....	682.1255	1464.....	695.9328	1516.....	709.3829
1413.....	682.3945	1465.....	696.1947	1517.....	709.6382
1414.....	682.6634	1466.....	696.4566	1518.....	709.8933
1415.....	682.9321	1467.....	696.7183	1519.....	710.1484
1416.....	683.2007	1468.....	696.9798	1520.....	710.4033
1417.....	683.4691	1469.....	697.2413	1521.....	710.6580
1418.....	683.7375	1470.....	697.5026	1522.....	710.9127
1419.....	684.0056	1471.....	697.7638	1523.....	711.1672
1420.....	684.2737	1472.....	698.0248	1524.....	711.4216
1421.....	684.5416	1473.....	698.2857	1525.....	711.6759
1422.....	684.8093	1474.....	698.5465	1526.....	711.9301
1423.....	685.0770	1475.....	698.8071	1527.....	712.1841
1424.....	685.3445	1476.....	699.0677	1528.....	712.4380
1425.....	685.6118	1477.....	699.3281	1529.....	712.6918
1426.....	685.8790	1478.....	699.5883	1530.....	712.9454
1427.....	686.1461	1479.....	699.8484	1531.....	713.1990
1428.....	686.4130	1480.....	700.1084	1532.....	713.4524
1429.....	686.6799	1481.....	700.3683	1533.....	713.7057
1430.....	686.9465	1482.....	700.6281	1534.....	713.9588
1431.....	687.2130	1483.....	700.8877	1535.....	714.2119
1432.....	687.4794	1484.....	701.1471	1536.....	714.4648
1433.....	687.7457	1485.....	701.4065	1537.....	714.7176
1434.....	688.0118	1486.....	701.6657	1538.....	714.9703
1435.....	688.2778	1487.....	701.9248	1539.....	715.2228
1436.....	688.5437	1488.....	702.1838	1540.....	715.4752
1437.....	688.8094	1489.....	702.4426	1541.....	715.7275
1438.....	689.0749	1490.....	702.7013	1542.....	715.9797
1439.....	689.3404	1491.....	702.9599	1543.....	716.2318
1440.....	689.6057	1492.....	703.2183	1544.....	716.4837
1441.....	689.8709	1493.....	703.4767	1545.....	716.7355
1442.....	690.1359	1494.....	703.7349	1546.....	716.9872
1443.....	690.4008	1495.....	703.9929	1547.....	717.2388
1444.....	690.6656	1496.....	704.2509	1548.....	717.4903
1445.....	690.9302	1497.....	704.5087	1549.....	717.7416
1446.....	691.1947	1498.....	704.7664	1550.....	717.9928
1447.....	691.4591	1499.....	705.0239	1551.....	718.2439
1448.....	691.7233	1500.....	705.2813	1552.....	718.4948
1449.....	691.9874	1501.....	705.5386	1553.....	718.7457
1450.....	692.2513	1502.....	705.7958	1554.....	718.9964
1451.....	692.5152	1503.....	706.0528	1555.....	719.2470
1452.....	692.7789	1504.....	706.3098	1556.....	719.4975
1453.....	693.0424	1505.....	706.5666	1557.....	719.7479
1454.....	693.3058	1506.....	706.8232	1558.....	719.9981
1455.....	693.5691	1507.....	707.0798	1559.....	720.2482
1456.....	693.8323	1508.....	707.3362	1560.....	720.4982

INDUSTRIAL COMMISSIONER[500] (cont'd)

A	B	A	B	A	B
1561.....	720.7481	1613.....	733.5791	1665.....	746.1011
1562.....	720.9979	1614.....	733.8228	1666.....	746.3390
1563.....	721.2475	1615.....	734.0663	1667.....	746.5168
1564.....	721.4970	1616.....	734.3098	1668.....	746.8144
1565.....	721.7464	1617.....	734.5531	1669.....	747.0520
1566.....	721.9957	1618.....	734.7963	1670.....	747.2894
1567.....	722.2449	1619.....	735.0394	1671.....	747.5268
1568.....	722.4939	1620.....	735.2824	1672.....	747.7640
1569.....	722.7428	1621.....	735.5253	1673.....	748.0011
1570.....	722.9916	1622.....	735.7681	1674.....	748.2381
1571.....	723.2403	1623.....	736.0107	1675.....	748.4750
1572.....	723.4889	1624.....	736.2533	1676.....	748.7118
1573.....	723.7373	1625.....	736.4957	1677.....	748.9485
1574.....	723.9857	1626.....	736.7380	1678.....	749.1851
1575.....	724.2339	1627.....	736.9802	1679.....	749.4216
1576.....	724.4820	1628.....	737.2223	1680.....	749.6579
1577.....	724.7299	1629.....	737.4643	1681.....	749.8942
1578.....	724.9778	1630.....	737.7061	1682.....	750.1303
1579.....	725.2255	1631.....	737.9479	1683.....	750.3664
1580.....	725.4731	1632.....	738.1895	1684.....	750.6023
1581.....	725.7206	1633.....	738.4310	1685.....	750.8381
1582.....	725.9680	1634.....	738.6724	1686.....	751.0739
1583.....	726.2153	1635.....	738.9137	1687.....	751.3095
1584.....	726.4624	1636.....	739.1549	1688.....	751.5450
1585.....	726.7095	1637.....	739.3960	1689.....	751.7804
1586.....	726.9564	1638.....	739.6370	1690.....	752.0157
1587.....	727.2032	1639.....	739.8778	1691.....	752.2509
1588.....	727.4499	1640.....	740.1186	1692.....	752.4859
1589.....	727.6964	1641.....	740.3592	1693.....	752.7209
1590.....	727.9429	1642.....	740.5997	1694.....	752.9558
1591.....	728.1892	1643.....	740.8401	1695.....	753.1905
1592.....	728.4354	1644.....	741.0804	1696.....	753.4252
1593.....	728.6815	1645.....	741.3206	1697.....	753.6598
1594.....	728.9275	1646.....	741.5607	1698.....	753.8942
1595.....	729.1733	1647.....	741.8006	1699.....	754.1285
1596.....	729.4191	1648.....	742.0405	1700.....	754.3628
1597.....	729.6647	1649.....	742.2802	1701.....	754.5969
1598.....	729.9102	1650.....	742.5199	1702.....	754.8309
1599.....	730.1556	1651.....	742.7594	1703.....	755.0648
1600.....	730.4009	1652.....	742.9988	1704.....	755.2987
1601.....	730.6461	1653.....	743.2381	1705.....	755.5324
1602.....	730.8911	1654.....	743.4773	1706.....	755.7660
1603.....	731.1361	1655.....	743.7164	1707.....	755.9995
1604.....	731.3809	1656.....	743.9553	1708.....	756.2329
1605.....	731.6256	1657.....	744.1942	1709.....	756.4661
1606.....	731.8702	1658.....	744.4329	1710.....	756.6993
1607.....	732.1147	1659.....	744.6716	1711.....	756.9324
1608.....	732.3590	1660.....	744.9101	1712.....	757.1654
1609.....	732.6033	1661.....	745.1485	1713.....	757.3983
1610.....	732.8474	1662.....	745.3869	1714.....	757.6310
1611.....	733.0914	1663.....	745.6251	1715.....	757.8637
1612.....	733.3353	1664.....	745.8632	1716.....	758.0962

INDUSTRIAL COMMISSIONER[500] (cont'd)

A	B	A	B	A	B
1717.....	758.3287	1769.....	770.2753	1821.....	781.9536
1718.....	758.5610	1770.....	770.5024	1822.....	782.1757
1719.....	758.7933	1771.....	770.7294	1823.....	782.3976
1720.....	759.0254	1772.....	770.9562	1824.....	782.6195
1721.....	759.2575	1773.....	771.1830	1825.....	782.8412
1722.....	759.4894	1774.....	771.4097	1826.....	783.0629
1723.....	759.7212	1775.....	771.6363	1827.....	783.2844
1724.....	759.9530	1776.....	771.8628	1828.....	783.5059
1725.....	760.1846	1777.....	772.0891	1829.....	783.7272
1726.....	760.4161	1778.....	772.3154	1830.....	783.9485
1727.....	760.6475	1779.....	772.5416	1831.....	784.1697
1728.....	760.8789	1780.....	772.7677	1832.....	784.3908
1729.....	761.1101	1781.....	772.9937	1833.....	784.6118
1730.....	761.3412	1782.....	773.2196	1834.....	784.8327
1731.....	761.5722	1783.....	773.4454	1835.....	785.0535
1732.....	761.8031	1784.....	773.6711	1836.....	785.2742
1733.....	762.0339	1785.....	773.8967	1837.....	785.4948
1734.....	762.2646	1786.....	774.1222	1838.....	785.7154
1735.....	762.4952	1787.....	774.3476	1839.....	785.9358
1736.....	762.7257	1788.....	774.5729	1840.....	786.1561
1737.....	762.9561	1789.....	774.7981	1841.....	786.3764
1738.....	763.1864	1790.....	775.0232	1842.....	786.5965
1739.....	763.4166	1791.....	775.2482	1843.....	786.8166
1740.....	763.6467	1792.....	775.4731	1844.....	787.0366
1741.....	763.8766	1793.....	775.6979	1845.....	787.2564
1742.....	764.1065	1794.....	775.9226	1846.....	787.4762
1743.....	764.3363	1795.....	776.1473	1847.....	787.6959
1744.....	764.5660	1796.....	776.3718	1848.....	787.9155
1745.....	764.7956	1797.....	776.5962	1849.....	788.1350
1746.....	765.0251	1798.....	776.8205	1850.....	788.3544
1747.....	765.2544	1799.....	777.0448	1851.....	788.5737
1748.....	765.4837	1800.....	777.2689	1852.....	788.7929
1749.....	765.7129	1801.....	777.4930	1853.....	789.0121
1750.....	765.9420	1802.....	777.7169	1854.....	789.2311
1751.....	766.1709	1803.....	777.9408	1855.....	789.4501
1752.....	766.3998	1804.....	778.1645	1856.....	789.6689
1753.....	766.6286	1805.....	778.3882	1857.....	789.8877
1754.....	766.8573	1806.....	778.6117	1858.....	790.1063
1755.....	767.0858	1807.....	778.8352	1859.....	790.3249
1756.....	767.3143	1808.....	779.0586	1860.....	790.5434
1757.....	767.5427	1809.....	779.2818	1861.....	790.7618
1758.....	767.7709	1810.....	779.5050	1862.....	790.9801
1759.....	767.9991	1811.....	779.7281	1863.....	791.1983
1760.....	768.2272	1812.....	779.9511	1864.....	791.4164
1761.....	768.4552	1813.....	780.1740	1865.....	791.6345
1762.....	768.6830	1814.....	780.3967	1866.....	791.8524
1763.....	768.9108	1815.....	780.6194	1867.....	792.0703
1764.....	769.1385	1816.....	780.8421	1868.....	792.2880
1765.....	769.3660	1817.....	781.0646	1869.....	792.5057
1766.....	769.5935	1818.....	781.2870	1870.....	792.7233
1767.....	769.8209	1819.....	781.5093	1871.....	792.9407
1768.....	770.0481	1820.....	781.7315	1872.....	793.1581

INDUSTRIAL COMMISSIONER[500] (cont'd)

A	B	A	B	A	B
1873.....	793.3754	1925.....	804.5517	1977.....	815.4928
1874.....	793.5926	1926.....	804.7643	1978.....	815.7010
1875.....	793.8098	1927.....	804.9768	1979.....	815.9091
1876.....	794.0268	1928.....	805.1892	1980.....	816.1171
1877.....	794.2437	1929.....	805.4016	1981.....	816.3250
1878.....	794.4606	1930.....	805.6138	1982.....	816.5328
1879.....	794.6773	1931.....	805.8260	1983.....	816.7406
1880.....	794.8940	1932.....	806.0380	1984.....	816.9483
1881.....	795.1106	1933.....	806.2500	1985.....	817.1559
1882.....	795.3271	1934.....	806.4619	1986.....	817.3634
1883.....	795.5435	1935.....	806.6737	1987.....	817.5708
1884.....	795.7598	1936.....	806.8855	1988.....	817.7781
1885.....	795.9760	1937.....	807.0971	1989.....	817.9854
1886.....	796.1921	1938.....	807.3087	1990.....	818.1925
1887.....	796.4081	1939.....	807.5201	1991.....	818.3996
1888.....	796.6241	1940.....	807.7315	1992.....	818.6066
1889.....	796.8399	1941.....	807.9426	1993.....	818.8136
1890.....	797.0557	1942.....	808.1540	1994.....	819.0204
1891.....	797.2714	1943.....	808.3651	1995.....	819.2272
1892.....	797.4870	1944.....	808.5762	1996.....	819.4338
1893.....	797.7025	1945.....	808.7871	1997.....	819.6404
1894.....	797.9179	1946.....	808.9980	1998.....	819.8469
1895.....	798.1332	1947.....	809.2088	1999.....	820.0534
1896.....	798.3484	1948.....	809.4195	2000.....	820.2597
1897.....	798.5636	1949.....	809.6301	2001.....	820.4660
1898.....	798.7786	1950.....	809.8406	2002.....	820.6722
1899.....	798.9936	1951.....	810.0511	2003.....	820.8783
1900.....	799.2085	1952.....	810.2614	2004.....	821.0843
1901.....	799.4233	1953.....	810.4717	2005.....	821.2902
1902.....	799.6380	1954.....	810.6819	2006.....	821.4961
1903.....	799.8526	1955.....	810.8920	2007.....	821.7019
1904.....	800.0671	1956.....	811.1020	2008.....	821.9076
1905.....	800.2815	1957.....	811.3119	2009.....	822.1132
1906.....	800.4959	1958.....	811.5218	2010.....	822.3187
1907.....	800.7101	1959.....	811.7315	2011.....	822.5242
1908.....	800.9243	1960.....	811.9412	2012.....	822.7295
1909.....	801.1384	1961.....	812.1508	2013.....	822.9348
1910.....	801.3524	1962.....	812.3603	2014.....	823.1400
1911.....	801.5663	1963.....	812.5697	2015.....	823.3452
1912.....	801.7801	1964.....	812.7791	2016.....	823.5502
1913.....	801.9938	1965.....	812.9883	2017.....	823.7552
1914.....	802.2075	1966.....	813.1975	2018.....	823.9601
1915.....	802.4210	1967.....	813.4066	2019.....	824.1649
1916.....	802.6345	1968.....	813.6156	2020.....	824.3696
1917.....	802.8478	1969.....	813.8245	2021.....	824.5742
1918.....	803.0611	1970.....	814.0333	2022.....	824.7788
1919.....	803.2743	1971.....	814.2421	2023.....	824.9833
1920.....	803.4875	1972.....	814.4508	2024.....	825.1877
1921.....	803.7005	1973.....	814.6593	2025.....	825.3920
1922.....	803.9134	1974.....	814.8678	2026.....	825.5963
1923.....	804.1263	1975.....	815.0763	2027.....	825.8004
1924.....	804.3390	1976.....	815.2846	2028.....	826.0045

INDUSTRIAL COMMISSIONER[500] (cont'd)

A	B
2029.....	826.2085
2030.....	826.4124
2031.....	826.6163
2032.....	826.8200
2033.....	827.0237
2034.....	827.2273
2035.....	827.4308
2036.....	827.6343
2037.....	827.8376
2038.....	828.0409
2039.....	828.2441
2040.....	828.4473
2041.....	828.6503
2042.....	828.8533
2043.....	829.0562
2044.....	829.2590
2045.....	829.4617
2046.....	829.6643
2047.....	829.8669
2048.....	830.0694
2049.....	830.2718
2050.....	830.4742
2051.....	830.6764
2052.....	830.8786
2053.....	831.0807
2054.....	831.2827
2055.....	831.4846
2056.....	831.6865
2057.....	831.8883
2058.....	832.0900
2059.....	832.2916
2060.....	832.4932
2061.....	832.6947
2062.....	832.8960
2063.....	833.0974
2064.....	833.2986
2065.....	833.4998
2066.....	833.7008
2067.....	833.9018
2068.....	834.1028
2069.....	834.3036
2070.....	834.5044
2071.....	834.7051
2072.....	834.9057
2073.....	835.1063
2074.....	835.3067
2075.....	835.5071
2076.....	835.7074
2077.....	835.9076
2078.....	836.1078
2079.....	836.3079
2080.....	836.5079

A	B
2081.....	836.7078
2082.....	836.9076
2083.....	837.1074
2084.....	837.3071
2085.....	837.5067
2086.....	837.7063
2087.....	837.9057
2088.....	838.1051
2089.....	838.3044
2090.....	838.5036
2091.....	838.7028
2092.....	838.9019
2093.....	839.1009
2094.....	839.2998
2095.....	839.4987
2096.....	839.6975
2097.....	839.8962
2098.....	840.0948
2099.....	840.2933
2100.....	840.4918
2101.....	840.6902
2102.....	840.8885
2103.....	841.0868
2104.....	841.2849
2105.....	841.4830
2106.....	841.6811
2107.....	841.8790
2108.....	842.0769
2109.....	842.2747
2110.....	842.4724
2111.....	842.6700
2112.....	842.8676
2113.....	843.0651
2114.....	843.2625
2115.....	843.4598
2116.....	843.6571
2117.....	843.8543
2118.....	844.0514
2119.....	844.2485
2120.....	844.4454
2121.....	844.6423
2122.....	844.8392
2123.....	845.0359
2124.....	845.2326
2125.....	845.4292
2126.....	845.6257
2127.....	845.8221
2128.....	846.0185
2129.....	846.2148
2130.....	846.4110
2131.....	846.6072
2132.....	846.8033

A	B
2133.....	846.9993
2134.....	847.1952
2135.....	847.3911
2136.....	847.5866
2137.....	847.7826
2138.....	847.9782
2139.....	848.1738
2140.....	848.3692
2141.....	848.5647
2142.....	848.7600
2143.....	848.9553
2144.....	849.1505
2145.....	849.3456
2146.....	849.5406
2147.....	849.7356
2148.....	849.9305
2149.....	850.1253
2150.....	850.3201
2151.....	850.5148
2152.....	850.7094
2153.....	850.9039
2154.....	851.0984
2155.....	851.2928
2156.....	851.4871
2157.....	851.6814
2158.....	851.8755
2159.....	852.0696
2160.....	852.2637
2161.....	852.4576
2162.....	852.6515
2163.....	852.8453
2164.....	853.0391
2165.....	853.2327
2166.....	853.4263
2167.....	853.6199
2168.....	853.8133
2169.....	854.0067
2170.....	854.2000
2171.....	854.3932
2172.....	854.5864
2173.....	854.7795
2174.....	854.9725
2175.....	855.1655
2176.....	855.3583
2177.....	855.5511
2178.....	855.7439
2179.....	855.9365
2180.....	856.1291
2181.....	856.3217
2182.....	856.5141
2183.....	856.7065
2184.....	856.8988

INDUSTRIAL COMMISSIONER[500] (cont'd)

A	B	A	B	A	B
2185.....	857.0910	2237.....	866.9907	2289.....	876.7053
2186.....	857.2832	2238.....	867.1792	2290.....	876.8904
2187.....	857.4753	2239.....	867.3677	2291.....	877.0754
2188.....	857.6673	2240.....	867.5561	2292.....	877.2603
2189.....	857.8593	2241.....	867.7444	2293.....	877.4451
2190.....	858.0511	2242.....	867.9327	2294.....	877.6299
2191.....	858.2430	2243.....	868.1209	2295.....	877.8147
2192.....	858.4347	2244.....	868.3090	2296.....	877.9993
2193.....	858.6264	2245.....	868.4971	2297.....	878.1839
2194.....	858.8180	2246.....	868.6851	2298.....	878.3684
2195.....	859.0095	2247.....	868.8730	2299.....	878.5529
2196.....	859.2010	2248.....	869.0609	2300.....	878.7373
2197.....	859.3923	2249.....	869.2487	2301.....	878.9216
2198.....	859.5837	2250.....	869.4364	2302.....	879.1059
2199.....	859.7749	2251.....	869.6240	2303.....	879.2901
2200.....	859.9661	2252.....	869.8116	2304.....	879.4742
2201.....	860.1572	2253.....	869.9992	2305.....	879.6583
2202.....	860.3482	2254.....	870.1866	2306.....	879.8423
2203.....	860.5392	2255.....	870.3740	2307.....	880.0262
2204.....	860.7301	2256.....	870.5613	2308.....	880.2101
2205.....	860.9209	2257.....	870.7486	2309.....	880.3939
2206.....	861.1117	2258.....	870.9358	2310.....	880.5777
2207.....	861.3024	2259.....	871.1229	2311.....	880.7614
2208.....	861.4930	2260.....	871.3099	2312.....	880.9450
2209.....	861.6835	2261.....	871.4969	2313.....	881.1285
2210.....	861.8740	2262.....	871.6838	2314.....	881.3120
2211.....	862.0644	2263.....	871.8707	2315.....	881.4954
2212.....	862.2547	2264.....	872.0575	2316.....	881.6788
2213.....	862.4450	2265.....	872.2442	2317.....	881.8621
2214.....	862.6352	2266.....	872.4308	2318.....	882.0453
2215.....	862.8253	2267.....	872.6174	2319.....	882.2285
2216.....	863.0154	2268.....	872.8039	2320.....	882.4116
2217.....	863.2054	2269.....	872.9904	2321.....	882.5946
2218.....	863.3953	2270.....	873.1767	2322.....	882.7776
2219.....	863.5851	2271.....	873.3631	2323.....	882.9605
2220.....	863.7749	2272.....	873.5493	2324.....	883.1433
2221.....	863.9646	2273.....	873.7355	2325.....	883.3261
2222.....	864.1543	2274.....	873.9216	2326.....	883.5088
2223.....	864.3439	2275.....	874.1076	2327.....	883.6915
2224.....	864.5334	2276.....	874.2936	2328.....	883.8740
2225.....	864.7226	2277.....	874.4795	2329.....	884.0566
2226.....	864.9122	2278.....	874.6654	2330.....	884.2390
2227.....	865.1015	2279.....	874.8512	2331.....	884.4214
2228.....	865.2907	2280.....	875.0369	2332.....	884.6037
2229.....	865.4798	2281.....	875.2225	2333.....	884.7860
2230.....	865.6689	2282.....	875.4081	2334.....	884.9682
2231.....	865.8580	2283.....	875.5936	2335.....	885.1503
2232.....	866.0469	2284.....	875.7791	2336.....	885.3324
2233.....	866.2358	2285.....	875.9644	2337.....	885.5144
2234.....	866.4246	2286.....	876.1498	2338.....	885.6964
2235.....	866.6134	2287.....	876.3350	2339.....	885.8783
2236.....	866.8020	2288.....	876.5202	2340.....	886.0601

INDUSTRIAL COMMISSIONER[500] (cont'd)

A	B	A	B	A	B
2341.....	886.2418	2393.....	895.6066	2445.....	904.8057
2342.....	886.4235	2394.....	895.7850	2446.....	904.9810
2343.....	886.6051	2395.....	895.9634	2447.....	905.1562
2344.....	886.7867	2396.....	896.1417	2448.....	905.3314
2345.....	886.9682	2397.....	896.3200	2449.....	905.5066
2346.....	887.1496	2398.....	896.4982	2450.....	905.6817
2347.....	887.3310	2399.....	896.6764	2451.....	905.8567
2348.....	887.5123	2400.....	896.8544	2452.....	906.0317
2349.....	887.6936	2401.....	897.0325	2453.....	906.2066
2350.....	887.8748	2402.....	897.2104	2454.....	906.3814
2351.....	888.0559	2403.....	897.3883	2455.....	906.5562
2352.....	888.2369	2404.....	897.5662	2456.....	906.7309
2353.....	888.4179	2405.....	897.7439	2457.....	906.9056
2354.....	888.5989	2406.....	897.9217	2458.....	907.0802
2355.....	888.7797	2407.....	898.0993	2459.....	907.2548
2356.....	888.9606	2408.....	898.2769	2460.....	907.4293
2357.....	889.1413	2409.....	898.4544	2461.....	907.6037
2358.....	889.3220	2410.....	898.6319	2462.....	907.7781
2359.....	889.5026	2411.....	898.8093	2463.....	907.9524
2360.....	889.6831	2412.....	898.9867	2464.....	908.1267
2361.....	889.8636	2413.....	899.1640	2465.....	908.3009
2362.....	890.0441	2414.....	899.3412	2466.....	908.4750
2363.....	890.2244	2415.....	899.5184	2467.....	908.6491
2364.....	890.4047	2416.....	899.6955	2468.....	908.8232
2365.....	890.5850	2417.....	899.8725	2469.....	908.9971
2366.....	890.7652	2418.....	900.0495	2470.....	909.1710
2367.....	890.9453	2419.....	900.2265	2471.....	909.3449
2368.....	891.1253	2420.....	900.4033	2472.....	909.5187
2369.....	891.3053	2421.....	900.5801	2473.....	909.6924
2370.....	891.4853	2422.....	900.7569	2474.....	909.8661
2371.....	891.6651	2423.....	900.9336	2475.....	910.0397
2372.....	891.8449	2424.....	901.1102	2476.....	910.2133
2373.....	892.0247	2425.....	901.2868	2477.....	910.3868
2374.....	892.2044	2426.....	901.4633	2478.....	910.5603
2375.....	892.3840	2427.....	901.6397	2479.....	910.7336
2376.....	892.5635	2428.....	901.8161	2480.....	910.9070
2377.....	892.7430	2429.....	901.9925	2481.....	911.0803
2378.....	892.9225	2430.....	902.1687	2482.....	911.2535
2379.....	893.1018	2431.....	902.3450	2483.....	911.4266
2380.....	893.2812	2432.....	902.5211	2484.....	911.5997
2381.....	893.4604	2433.....	902.6972	2485.....	911.7728
2382.....	893.6396	2434.....	902.8732	2486.....	911.9458
2383.....	893.8187	2435.....	903.0492	2487.....	912.1187
2384.....	893.9978	2436.....	903.2251	2488.....	912.2916
2385.....	894.1768	2437.....	903.4010	2489.....	912.4644
2386.....	894.3557	2438.....	903.5768	2490.....	912.6371
2387.....	894.5346	2439.....	903.7525	2491.....	912.8098
2388.....	894.7134	2440.....	903.9282	2492.....	912.9825
2389.....	894.8922	2441.....	904.1038	2493.....	913.1551
2390.....	895.0709	2442.....	904.2793	2494.....	913.3276
2391.....	895.2495	2443.....	904.4548	2495.....	913.5001
2392.....	895.4281	2444.....	904.6303	2496.....	913.6725

INDUSTRIAL COMMISSIONER[500] (cont'd)

A	B	A	B	A	B
2497.....	913.8448	2532.....	919.8416	2567.....	925.7700
2498.....	914.0171	2533.....	920.0119	2568.....	925.9384
2499.....	914.1894	2534.....	920.1822	2569.....	926.1067
2500.....	914.3616	2535.....	920.3524	2570.....	926.2750
2501.....	914.5337	2536.....	920.5226	2571.....	926.4433
2502.....	914.7058	2537.....	920.6927	2572.....	926.6114
2503.....	914.8778	2538.....	920.8627	2573.....	926.7796
2504.....	915.0497	2539.....	921.0327	2574.....	926.9476
2505.....	915.2216	2540.....	921.2026	2575.....	927.1156
2506.....	915.3935	2541.....	921.3725	2576.....	927.2836
2507.....	915.5653	2542.....	921.5423	2577.....	927.4515
2508.....	915.7370	2543.....	921.7121	2578.....	927.6193
2509.....	915.9087	2544.....	921.8818	2579.....	927.7871
2510.....	916.0803	2545.....	922.0515	2580.....	927.9549
2511.....	916.2518	2546.....	922.2211	2581.....	928.1226
2512.....	916.4234	2547.....	922.3906	2582.....	928.2902
2513.....	916.5948	2548.....	922.5601	2583.....	928.4578
2514.....	916.7662	2549.....	922.7296	2584.....	928.6253
2515.....	916.9375	2550.....	922.8989	2585.....	928.7928
2516.....	917.1088	2551.....	923.0683	2586.....	928.9602
2517.....	917.2800	2552.....	923.2375	2587.....	929.1276
2518.....	917.4512	2553.....	923.4068	2588.....	929.2949
2519.....	917.6223	2554.....	923.5759	2589.....	929.4621
2520.....	917.7934	2555.....	923.7450	2590.....	929.6293
2521.....	917.9643	2556.....	923.9141	2591.....	929.7965
2522.....	918.1353	2557.....	924.0831	2592.....	929.9636
2523.....	918.3062	2558.....	924.2520	2593.....	930.1306
2524.....	918.4770	2559.....	924.4209	2594.....	930.2976
2525.....	918.6478	2560.....	924.5897	2595.....	930.4645
2526.....	918.8185	2561.....	924.7585	2596.....	930.6314
2527.....	918.9891	2562.....	924.9272	2597.....	930.7983
2528.....	919.1598	2563.....	925.0959	2598.....	930.9650
2529.....	919.3303	2564.....	925.2645	2599.....	931.1317
2530.....	919.5008	2565.....	925.4331	2600.....	931.2984
2531.....	919.6712	2566.....	925.6016		

[Filed emergency 6/18/82, effective 7/1/82]

[Published 7/7/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/7/82.

ARC 3040

INDUSTRIAL COMMISSIONER[500]

Pursuant to the authority of Sections 85.27, 85.34(1), and 85.61, Iowa Code, the Industrial Commissioner hereby adopts amendments to Chapter 8, "Substantive and Interpretive Rules", Iowa Administrative Code, to clarify the definition of "appliance", to rescind the definition for "healing period" and to provide reference to tables which determine payroll taxes.

In compliance with Section 17A.4(2), Iowa Code, the department finds that public notice and participation is unnecessary in that the Acts of the Sixty-eighth General Assembly, 1979 Session, Chapter 31, Section 2, provide for repair or replacement of appliances damaged or made unusable in connection with an injury or avoidance of an injury. The Acts of the Sixty-ninth General Assembly, 1982 Regular Session, Senate File 539, Sections 8 and 9, provide for a definition of "Healing Period" and require adoption of tables to determine payroll taxes by July 1, 1982.

The department also finds, pursuant to Section 17A.5(2)"b"(2), that the normal effective date of this rule thirty-five days after publication should be waived and the rules be made effective July 1, 1982 as it confers a benefit upon the public to ensure speedy and uniform compliance with the agency's legislative mandate.

The Industrial Commissioner adopted these rules on June 18, 1982.

These rules implement Sections 85.27, 85.34(1) and 85.61, Iowa Code, Acts of the Sixty-eighth General Assembly, 1979 Session, Chapter 31, Section 2, and the Acts of the Sixty-ninth General Assembly, 1982 Regular Session, Senate File 539, Sections 8 and 19.

ITEM 1. Rule 500—8.3(85) is rescinded.

ITEM 2. Strike all of rule 500—8.5(85) and insert in lieu thereof the following:

500—8.5(85) Appliances. Appliances are defined as hearing aids, corrective lenses, orthodontic devices, dentures, or any other artificial device used to provide function or for therapeutic purposes.

Appliances which are for the correction of a condition resulting from an injury or appliances which are damaged or made unusable as a result of an injury or avoidance of an injury are compensable under section 85.27, Iowa Code.

This rule is intended to implement section 85.27, Iowa Code.

ITEM 3. Chapter 8, Substantive and Interpretive Rules, is amended by adding a new rule as follows:

500—8.8(85,17A) Payroll Tax Tables. Tables for determining payroll taxes to be used for the period July 1, 1982 to June 30, 1983, are the tables in effect on July 1, 1982, for computation of:

a. Federal income tax withholding according to the percentage method of withholding for weekly payroll period. (Internal Revenue Service Circular E [Supplement] Publication 15 [Supplement] [July 1982].)

b. Iowa income tax withholding computer formula for weekly payroll period. (Iowa Department of Revenue Publication 44-001 for wages paid after October 1, 1981.)

c. Social Security withholding (FICA) at the rate of 6.7% (Internal Revenue Service, Circular E [Supplement] Publication 15 [Supplement] [July 1982].)

This rule is intended to implement section 85.61, Iowa Code.

[Filed Emergency 6/18/82, effective 7/1/82]

[Published 7/7/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/7/82.

ARC 3019

NURSING, BOARD OF[590]

Pursuant to the authority of Sections 17A.3, 147.53 and 152.1, Iowa Code, the Iowa Board of Nursing hereby adopts and emergency implements amendments to Chapter 3, "Licensure to Practice — Registered Nurse", appearing in the Iowa Administrative Code.

The Board finds, pursuant to Section 17A.5(2)"b"(2) that the normal effective date of these amendments thirty-five days after publication should be waived and the amendments be made effective upon filing with the Administrative Rules Coordinator on June 21, 1982 as it confers a benefit upon the public to administer the new official licensing examination on July 13-14, 1982. The new official licensing examination will facilitate licensure in the State of Iowa since there is no other examination that can be administered at this time and will benefit licensees seeking licensure in other U.S. jurisdictions. The Iowa Board of Nursing adopted these amendments at a regular meeting on June 21, 1982.

These amendments relate to the identification of the official licensing examination utilized by the Board and re-examination of individuals who fail the registered nurse licensing examination and who will be required to rewrite the comprehensive registered nurse licensing examination which has been adopted by the Board rather than an examination divided into parts. The national registered nurse licensing examination utilized by Iowa is utilized by all U.S. jurisdictions.

Notice of intended action was published in the IAB 23, May 12, 1982 as ARC 2872. A public hearing was held on June 2, 1982.

The only change from such notice is as follows:

3.1(5) Delete the words "as defined in subrule 4.1(1)" appearing in the last sentence.

Except for the change stated above, these amendments are identical to those published as Notice of Intended Action.

These rules are intended to implement Sections 17A.3, 147.53 and 152.1, Iowa Code.

ITEM 1. Strike all of subrule 3.1(1) and insert in lieu of the following:

3.1(1) Official examination.

a. The board contracts with the National Council of State Boards of Nursing, Inc. to utilize the national licensing examination.

b. The passing score for the licensing examination is determined by the board.

NURSING, BOARD OF^[590] (cont'd)

c. The licensing examination shall be administered in Des Moines, Iowa under the terms of the contract as specified in paragraph "a" of this subrule.

d. Examination statistics are available to the public.

ITEM 2. Strike all of subrule 3.1(5) and insert in lieu of the following:

3.1(5) Re-examination. Applicants for licensure by examination shall be entitled to write the licensing examination up to and including the fourth writing. An applicant who fails the licensing examination on the fourth writing shall not be permitted to repeat the examination. An applicant who fails the licensing examination as defined in this subrule shall be permitted to write the licensed practical nurse licensing examination once.

These rules are intended to implement sections 17A.3, 147.53 and 152.1, Iowa Code.

[Filed emergency after Notice 6/21/82, effective 6/21/82]
[Published 7/7/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/7/82.

ARC 3015**SOCIAL SERVICES
DEPARTMENT^[770]**

Pursuant to the authority of Acts of the Sixty-ninth General Assembly, 1981 Session, Chapter 11, Section 3, and Acts of the Sixty-ninth General Assembly, 1982 Session, Senate File 2304 rules of the Department of Social Services appearing in the IAC relating to adult correctional institutions (Chapter 16) are hereby amended. This rule interprets the language in Senate File 2304 which increased the prison population limit and made the change retroactive.

The department of social services finds that notice and public participation are impracticable. Because Senate File 2304 is effective July 1, 1982, there currently is a prison overcrowding state of emergency, and there could be a prison overcrowding state of emergency under the new population limit either before or shortly after July 1, the law needs to be interpreted before that date and there is not time to go through regular rulemaking procedures. Therefore, this rule is filed pursuant to section 17A.4(2), Iowa Code.

The department of social services finds that this rule confers a benefit on the public by removing any confusion over the language in Senate File 2304 and the effect it will have on the present prison overcrowding state of emergency. Therefore, this rule is filed pursuant to section 17A.5(2)"b"(2), Iowa Code.

The council on social services adopted this rule June 7, 1982.

This rule is intended to implement Acts of the Sixty-ninth General Assembly, 1982 Session, Senate File 2304, Section 2.

This rule shall become effective July 1, 1982.

Rule 770—16.10(69GA, Ch11) is amended by adding the following subrule:

16.10(8) In order to implement Acts of the Sixty-ninth General Assembly, 1982 Session, Senate File 2304, the commissioner of the Iowa department of social services shall declare a prison overcrowding state of emergency to be in effect at any time before or after July 1, 1982, when the population of Iowa's prison system reaches two thousand seven hundred eighty-one or above for forty-five consecutive days.

a. Following the declaration of an overcrowding emergency, the Iowa board of parole will review the cases of all inmates within nine months of their sentence discharge date. Should this review result in the population dropping to two thousand six hundred seventy-nine or before the ninetieth day following the declaration of the prison overcrowding state of emergency, the commissioner shall declare the emergency to have ended. Should this review not result in a population of two thousand six hundred seventy-nine or below on the ninety-first day following the declaration of the emergency the tentative discharge dates of those inmates classified by rule in the category "crimes against property" shall be reduced by ninety days.

b. If the population has reached two thousand seven hundred eighty-one or above for forty-five consecutive days prior to July 1, 1982, that forty-fifth day shall constitute the beginning of the state of emergency. The forty-sixth consecutive day shall be the first of the ninety days allowed for parole board review.

c. Any prison overcrowding state of emergency declared pursuant to a population exceeding two thousand six hundred fifty shall be null and void as of July 1, 1982, but nullification shall not impact on an emergency declared pursuant to a population in excess of two thousand seven hundred eighty for forty-five consecutive days.

[Filed emergency 6/15/82, effective 7/1/82]

[Published 7/7/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/7/82.

ARC 3027**AGRICULTURE DEPARTMENT[30]**

Pursuant to the authority of Sections 189.2(2), 190.2 and 194.2, Iowa Code, the Iowa Department of Agriculture hereby adopts amendments to Chapter 34, "Food Standards" and Chapter 30, "Dairy", Iowa Administrative Code.

These rules adopt, by reference, standards for dairy products that conform with those of the Secretary of Agriculture of the United States; and will establish standards for cheese, butter and margarine, dry dairy products, ice cream and frozen dessert. Also, the rules will establish standards for performing dairy farm inspections as recommended by the United States Department of Agriculture. The adoption of these rules was postponed until this time at the request of the Administrative Rules Review Committee.

Notice of Intended Action was published in the Iowa Administrative Bulletin, Volume IV, Number 18, March 3, 1982, as ARC 2760. These rules have been modified as a consequence of oral and written suggestions from concerned persons. Item 1 was amended by deleting from federal rules, to be adopted, those that pertained solely to federal inspection procedures. Item 2 was amended to include a sanitation standard for dairy farm water supplies. In addition, Item 2 was amended by updating Brucellosis Test requirements to conform to the latest federal regulations.

These rules are intended to implement Sections 190.2 and 194.2, respectively, Iowa Code.

These rules will become effective August 11, 1982.

ITEM 1. Chapter 34 is amended by adding the following rule:

30—34.5(190) Dairy products. The general specifications and standards of U.S.D.A. for grades of dairy products as contained in 7 C.F.R. Part 2858, Subparts B and H through S, revised as of January 1, 1981, is hereby adopted in its entirety, with the exception of the following subsections: 646, 734, and 101 through 124, 155 through 158, and 505 through 530. Nothing in the foregoing is intended to require use of grades for Iowa dairy products. In addition, the following standards established and revised by F.D.A. as of January 1, 1981, are hereby adopted in their entirety: 21 C.F.R. Parts 101 (Food Labeling), 122 (Cheese and Related Products), 135 (Frozen Dessert), 166 (Margarine), 168 (Sweeteners) and 182 (Substances Generally Recognized as Safe). All reference to "administrator" in these rules shall be deemed to mean the Iowa Secretary of Agriculture and "department" shall be deemed to mean Iowa Department of Agriculture.

This rule is intended to implement Section 190.2, Iowa Code.

ITEM 2. Chapter 30 is amended by adding the following rule:

30—30.27(192, 194) Standards for performing farm inspections. The August 1, 1976 Manual prepared by U.S.D.A./AMS, Dairy Division, titled "General Instructions for Performing Farm Inspections According to U.S.D.A. Recommended Requirements for Manufacturing Purposes and Its Production and Processing for Adoption by State Regulatory Agencies", is adopted in its entirety, and shall constitute the official standards for

farms producing milk for manufacturing, with the following exception:

Strike from Rule 1c, Brucellosis Test, the words "Uniform Methods and Rules" for establishing and maintaining Certified Brucellosis Free Herds of Cattle, Modified Certified Brucellosis Area and Certified Brucellosis Free Areas which are approved by Animal Disease Eradication Division, Agricultural Research Service...", and insert in lieu thereof, "Brucellosis Eradication, Uniform Methods and Rules, effective April 1, 1981".

The bacteriological standards for private water supplies used by dairy farms consists of a MPN (Most Probable Number of Coliform Organisms) of less than 2.2/100ml by the multiple tube fermentation technique, or less than 1/100ml by the membrane filter technique.

[Filed 6/18/82, effective 8/11/82]

[Published 7/7/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/7/82.

ARC 3021**COLLEGE AID COMMISSION[245]**

Pursuant to the authority of Sections 261.1 and 261.15, Iowa Code, and the Acts of the Sixty-ninth General Assembly, Chapter 8, Section 6, the College Aid Commission adopts amendments to Chapter 9, Iowa Administrative Code.

The amendments implement technical changes which make the rules more consistent with the rules and legislation applicable to the scholarship and grant programs.

Notice of Intended Action was published in IAB 23, May 12, 1982, as ARC 2875.

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

This rule will become effective on August 11, 1982.

Subrule 9.1(1) is amended by adding paragraphs "f" and "g" as follows:

f. Applicant must be in good standing at his/her institution and must meet the institution's minimum standards of academic progress.

g. Applicants pursuing or planning to pursue a correspondence course of study are not eligible to receive awards under this rule.

These rules are intended to implement Acts of the Sixty-ninth General Assembly, Chapter 8.

[Filed 6/18/82, effective 8/11/82]

[Published 7/7/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/7/82.

ARC 3024
ENVIRONMENTAL QUALITY
DEPARTMENT[400]

ENVIRONMENTAL QUALITY COMMISSION

Pursuant to the authority of Section 455B.32(3) and (6), Iowa Code, the Environmental Quality Commission amends Chapter 22, "Water Supplies", Iowa Administrative Code. The commission adopted these rules on June 15, 1982. Notice of Intended Action on these rules was published on April 14, 1982, in the Iowa Administrative Bulletin [ARC 2814].

The amendments establish a program of operation permits and permit fees for public water supplies. The permit program also incorporates existing variance and exemption procedures, including public notice and participation, for public water supplies that do not currently meet water quality standards yet pose no immediate risk to public health.

These adopted rules are identical to those published under notice with the following exceptions:

1. The "narrowly tailored category" rule [22.2(2)], which as proposed would allow permit fees to be changed without notice and public participation, was not adopted.

2. Option 3 of the four proposed fee alternatives was adopted. This alternative is projected to generate eighty percent of the state program cost from operation permits and twenty percent from construction permits. Option 3 provides for lower construction permit fees than Options 1 and 2, and the bulk of public comment was for lower construction permit fees, if any. Option 4 would have provided no fees from construction permits. The Commission concluded that this option would not meet the statutory mandate to adopt a fee schedule for permit applications which is based on the reasonable cost of reviewing, issuing and enforcing such permits.

3. The penalty fee structure was changed significantly. Much public comment expressed objection to the 100 percent penalty fee proposed. Although the goal of the department is to avoid excessive administrative costs of simply trying to collect fees, it is recognized that a 100 percent penalty for missing a deadline may be overly simplistic. The adopted rule establishes set fees for each administrative action beyond a first notice that the department is made to take in order to collect the fee. Such additional fees are based on the administrative costs of taking each action.

4. Based on comment by the Attorney General, rule 22.6(8) was changed to specify that "good cause" rather than "cause" is necessary for denial, modification, suspension, or revocation of a permit.

These rules are intended to implement Part 1 of Division III, Sections 455B.30 to 455B.49, Iowa Code.

These rules will become effective on August 11, 1982.

ITEM 1. Subrule 22.2(1), first unnumbered paragraph, is amended to read as follows:

22.2(1) Coverage. Rules 22.3(455B) to 22.67(455B) shall apply to each public water supply system, unless the public water supply system meets all of the following conditions:

ITEM 2. Subrule 22.4(3), paragraph "d", is amended to read as follows:

d. When the average of four analyses made pursuant to paragraph "c", rounded to the same number of significant figures as the maximum contaminant level

for the substance in question, exceeds the maximum contaminant level, the supplier of water shall notify the department pursuant to 22.5(1) and give notice to the public pursuant to 22.5(2). Monitoring after public notification shall be at a frequency designated by the department and shall continue until the maximum contaminant level has not been exceeded in two successive samples or until a monitoring schedule as a condition to a ~~variance, exemption~~ *an operation permit* or enforcement action shall become effective.

ITEM 3. Subrule 22.4(4), paragraph "c", is amended to read as follows:

c. When the average of four analyses made pursuant to paragraph "b", rounded to the same number of significant figures as the maximum contaminant level for the substance in question, exceeds the maximum contaminant level, the supplier of water shall report to the department pursuant to 22.5(1) and give notice to the public pursuant to 22.5(2). Monitoring after public notification shall be at a frequency designated by the department and shall continue until the maximum contaminant level has not been exceeded in two successive samples or until a monitoring schedule as a condition to a ~~variance, exemption~~ *an operation permit* or enforcement action shall become effective.

ITEM 4. Subrule 22.4(5), paragraph "d", is amended to read as follows:

d. Compliance with 22.3(2)"c", shall be determined based on a running annual average of quarterly samples collected by the system as prescribed in 22.4(5)"b"(1) or 22.4(5)"b"(2). If the average of samples covering any twelve-month period exceeds the maximum contaminant level, the supplier of water shall report to the department pursuant to 22.5(1) and notify the public pursuant to 22.5(2). Monitoring after public notification shall be at a frequency designated by the department and shall continue until a monitoring schedule as a condition to a ~~variance, exemption~~ *an operation permit* or enforcement action shall become effective.

ITEM 5. Subrule 22.5(2), paragraph "a", is amended to read as follows:

a. The supplier of water shall notify the public whenever the supplier's public water supply system fails to comply with a maximum contaminant level or is ~~granted a variance or exemption from a maximum contaminant level~~ *issued a permit or modified permit pursuant to 22.7* or fails to comply with a schedule for contaminant levels prescribed ~~pursuant to a variance or an exemption in such permit.~~

ITEM 6. Subrule 22.5(3), paragraph "d", is amended to read as follows:

d. Records concerning a ~~variance or exemption~~ *granted permit issued pursuant to 22.7* to the system shall be kept for a period ending not less than five years ~~following the expiration of such variance or exemption~~ *after the system achieves compliance with 22.3.*

ITEM 7. Strike all of rule 22.6(455B) and insert the following:

400-22.6(455B) Permit to operate.

22.6(1) Except as provided in 22.6(2) and 22.6(3), no person shall operate any public water supply system or part thereof without, or contrary to any condition of, an operation permit issued by the executive director.

22.6(2) The owner of any community water system or part thereof operating on or before December 31, 1982,

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must make application for an operation permit no later than June 30, 1983. No such system shall be operated without an operation permit after June 30, 1983, unless proper application has been made. The time requirement for having a valid operation permit is automatically extended until the application has either been approved or disapproved by the executive director.

22.6(3) The owner of any noncommunity water system or part thereof operating on or before December 31, 1983, must make application for an operation permit no later than June 30, 1984. No such system shall be operated without an operation permit after June 30, 1984, unless proper application has been made. The time requirement for having a valid operation permit is automatically extended until the application has either been approved or disapproved by the executive director.

22.6(4) Application and issuance.

a. Application for operation permits must be made on forms provided by the department and shall be accompanied by the fee specified in paragraph "b". The application for an operation permit for a community water system not in operation on or before December 31, 1982, or a noncommunity water system not in operation on or before December 31, 1983, shall be filed at least ninety days prior to the date operation is scheduled to begin unless a shorter time is approved by the executive director. Except as provided in 22.7, the executive director shall issue or deny operation permits for facilities which begin operation after said dates within sixty days of receipt of a completed application, unless a longer period is required and the applicant is so notified. The executive director may require the submission of additional information deemed necessary to evaluate the application. If the application is incomplete or otherwise deficient, processing of the application shall not be completed until such time as the applicant has supplied the missing information or otherwise corrected the deficiency.

b. Fees. A nonrefundable fee for administration and enforcement of operation permits shall be paid with the application. The fee for a noncommunity water system shall be \$30.00. The fee for a community water system shall be based on the population served, as follows:

Under 500	—	\$	60.00
501 - 1,000	—	\$	100.00
1,001 - 5,000	—	\$	200.00
5,001 - 10,000	—	\$	500.00
10,001 - 50,000	—	\$	1,000.00
50,001 - 100,000	—	\$	1,500.00
Over 100,000	—	\$	2,000.00

Where a system provides water to another public water supply system which is required to have an operation permit, the population of the recipient water supply shall not be counted for purposes of calculating the fee.

c. Late fees. When the owner of a public water supply fails to make timely application or payment of fees, the department shall follow a standard series of actions, consisting of a first, second, and third written notice of delinquency, an administrative order under 455B.34(1), Iowa Code, and referral to the attorney general under 455B.34(3), Iowa Code, as necessary. The department shall allow a minimum of thirty days between each successive action.

A fee shall be paid for each administrative action of the department to collect the required fee after a first written

notice of delinquency has been issued, in accordance with the following schedule:

Second written notice of delinquency	—	\$	15.00
Third written notice of delinquency	—	\$	15.00
Administrative order	—	\$	35.00
Referral to the Attorney General	—	\$	70.00

These fees are in addition to any penalties otherwise provided by law, if referral to the attorney general is necessary.

d. Identity of signatories of operation permit applications. The person who signs the application for an operation permit shall be:

(1) Corporation. In the case of a corporation, a principal executive officer of at least the level of vice president.

(2) Partnership. In the case of a partnership, a general partner.

(3) Sole proprietorship. In the case of a sole proprietorship, the proprietor.

(4) Public facility. In the case of a municipal, state or other public facility, by either the principal executive officer or the ranking elected official.

e. Appeal. The denial of a permit, or any permit condition, may be appealed by the applicant to the commission pursuant to 55.2.

22.6(5) Permit conditions.

a. Operation permits may contain such conditions as are deemed necessary by the executive director to assure compliance with all applicable rules of the department, to assure that the public water supply system is properly operated and maintained, to assure that potential hazards to the water consumer are eliminated promptly, and to assure that the requirements of the Safe Drinking Water Act are met.

b. Where one or more maximum contaminant levels of 22.3 cannot be met immediately, a compliance schedule for achieving compliance with standards may be made a condition of the permit, subject to 22.7. A compliance schedule requiring alterations in accordance with the standards for construction in 22.12(2) may also be included for any supply that, in the opinion of the executive director, contains a potential hazard.

22.6(6) The owner of a public water supply system shall notify the executive director within thirty days of any change in conditions identified in the permit application. This notice does not relieve the owner of the responsibility to obtain a construction permit as required by 22.12.

22.6(7) Renewal of operation permits. Operation permits must be renewed every two years after initial issuance in order to remain valid. The renewal date shall be specified in the permit or in any renewal. Application for renewal must be received by the executive director, or postmarked, sixty days prior to the renewal date, on forms provided by the department and shall be accompanied by the fee specified in 22.6(4)"b". The procedures and late fees of 22.6(4)"c" shall also apply, provided that the second notice of delinquency shall not be issued until the permit has expired.

22.6(8) The executive director may deny renewal of, modify, suspend or revoke, in whole or in part, any operation permit for good cause. Denial of renewal or modification of a permit, may be appealed to the commission pursuant to 55.2. Suspension or revocation may occur after hearing, pursuant to 55.12. Good cause includes the following:

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- a. Violation of any term or condition of the permit.
- b. Obtaining a permit by misrepresentation of fact or failure to disclose fully all material facts.
- c. A change in any condition that requires either a permanent or temporary modification of a permit condition.
- d. Failure to submit such records and information as the executive director may require both generally and as a condition of the operation permit in order to assure compliance with conditions specified in the permit.

ITEM 8. Add a new rule 22.7(455B) as follows:

400—22.7(455B) Notice and public participation—when required.

22.7(1) When the executive director determines that a public water supply cannot promptly comply with one or more maximum contaminant levels of 22.3 and that there is no immediate, unreasonable risk to the health of persons served by the system, a draft operation permit or modified permit will be formulated, which may include interim contaminant levels or a compliance schedule. Prior to issuance of a final permit, notice and opportunity for public participation must be given in accordance with this section.

22.7(2) Public notice. Prior to the issuance of a final operation permit which is subject to 22.7(1), public notice shall be circulated in a manner designed to inform interested and potentially interested persons of any proposed interim contaminant level or compliance schedule.

a. The public notice shall be prepared by the department and circulated by the applicant within its geographical area by posting the public notice in the local post office and by publishing the public notice in local newspapers and periodicals, or, if appropriate, in a newspaper of general circulation. The public notice shall be mailed by the department to any person upon request.

b. The department shall provide a period of not less than thirty days following the date of the public notice during which time interested persons may submit their written views on the tentative determinations with respect to the operation permit. All written comments submitted during the thirty-day comment period shall be retained by the department and considered by the executive director in the formulation of the executive director's final determinations with respect to the operation permit. The period for comment may be extended at the discretion of the department.

c. The contents of the public notice of a proposed operation permit shall include at least the following:

- (1) The name, address, and phone number of the department.
- (2) The name and address of the applicant.
- (3) A statement of the department's tentative determination to issue the operation permit.
- (4) A brief description of each applicant's water supply operations which necessitate the proposed permit conditions.

(5) A brief description of the procedures for the formulation of final determinations, including the thirty-day comment period required by paragraph "b" of this subrule, the right to request a public hearing pursuant to 22.7(3), and any other means by which interested persons may influence or comment upon those determinations.

(6) The address and phone number of places at which interested persons may obtain further information, request a copy of the draft permit prepared pursuant to

22.7(1), and inspect and copy the application forms and related documents.

22.7(3) Public hearings on proposed operation permits. The applicant or any interested agency, person or group of persons may request or petition for a public hearing with respect to the proposed action. Any such request shall clearly state issues and topics to be addressed at the hearing. Any such request or petition for public hearing must be filed with the executive director within the thirty-day period prescribed in 22.7(2)"b" and shall indicate the interest of the party filing such request and the reasons why a hearing is warranted. The executive director shall hold an informal and noncontested case hearing if there is a significant public interest (including the filing of requests or petitions for such hearing) in holding such a hearing. Frivolous or insubstantial requests for hearing may be denied by the executive director. Instances of doubt should be resolved in favor of holding the hearing. Any hearing held pursuant to this subrule shall be held in the geographical area of the system, or other appropriate area at the discretion of the executive director, and may, as appropriate, consider related groups of permit applications.

22.7(4) Public notice of public hearings.

a. Public notice of any hearing held pursuant to 22.7(3) shall be circulated at least as widely as was the notice under 22.7(2)"a", at least thirty days in advance of the hearing.

b. The contents of public notice of any hearing held pursuant to 22.7(3) shall include at least the following:

- (1) The name, address, and phone number of the department;
- (2) The name and address of each applicant whose application will be considered at the hearing;
- (3) A brief reference to the public notice previously issued, including identification number and date of issuance;
- (4) Information regarding the time and location for the hearing;
- (5) The purpose of the hearing;
- (6) A concise statement of the issues raised by the person requesting the hearing;
- (7) The address and phone number of the premises where interested persons may obtain further information, request a copy of the draft operation permit or modification prepared pursuant to 22.7(1), and inspect and copy the application forms and related documents; and
- (8) A brief description of the nature of the hearing, including the rules and procedures to be followed.

22.7(5) Decision by the executive director. Within thirty days after the termination of the public hearing held pursuant to 22.7(3), or if no public hearing is held, within thirty days after the termination of the period for requesting a hearing, the executive director shall issue or deny the operation permit.

ITEM 9. Subrule 22.12(4), paragraph "b", is amended to read as follows:

b. Application for any project shall be submitted to the department at least thirty days prior to the proposed date for commencing construction or awarding of contracts, and after January 1, 1983, shall be accompanied by a nonrefundable fee, as specified below:

<i>Type of Construction</i>	<i>Fee</i>
<i>Distribution System</i>	\$ 50.00

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Treatment Units	\$ 75.00
per unit, not to	
exceed \$225.00 total	
Storage Facilities	\$ 100.00
New Water Source	\$ 125.00

[Filed 6/18/82, effective 8/11/82]

[Published 7/7/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/7/82.

ARC 3011**HEALTH DEPARTMENT[470]**

MEDICAL EXAMINERS, BOARD OF

Pursuant to the authority of Sections 147.76 and 147.36, Iowa Code, the Iowa Board of Medical Examiners adopts amendments to Chapter 135, "Medical Examiners", Iowa Administrative Code. These rules establish requirements to sit the Federation Licensing Examination (FLEX) that correspond more closely with the present requirements for licensure as specified in Section 148.3, Iowa Code, in that individuals who pass the examination and present evidence of one year of post graduate training will be eligible for licensure in the state of Iowa.

Notice of Intended Action was published in IAB 22, April 28, 1982 as ARC 2856.

These rules are identical to those published as Notice of Intended Action and will become effective August 11, 1982.

Subrule 135.102(5) is amended by striking the original language and inserting in lieu thereof the following:

135.102(5) To be eligible to take the examination for a license to practice medicine and surgery or osteopathic medicine and surgery, a person must be a graduate of a college of medicine and surgery or college of osteopathic medicine and surgery approved by the board, or present other evidence of equivalent medical education approved by the board. For the purpose of taking the examination, the board may accept all of the following evidence as equivalent medical education in lieu of graduation from a college of medicine and surgery or college of osteopathic medicine and surgery approved by the board:

a. A diploma issued by a medical college which has been neither approved nor disapproved by the board; and

b. The recommendation of the Educational Council for Foreign Medical Graduates, Inc. or similar accrediting agency.

This rule is intended to implement sections 147.36, 148.3, and 150A.3, Iowa Code.

[Filed 6/14/82, effective 8/11/82]

[Published 7/7/82]

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ARC 3010**HEALTH DEPARTMENT[470]**

MEDICAL EXAMINERS, BOARD OF

Pursuant to the authority of Section 147.76, Iowa Code, the Iowa Board of Medical Examiners adopts amendments to Chapter 135, "Medical Examiners", Iowa Administrative Code.

These rules prohibit the use of presigned prescriptions and the use of rubber stamp signatures on prescriptions for the purpose of obtaining medications and contain exemptions as specified in Section 4.1(17), Iowa Code, which is applicable to handicapped individuals who are unable to make a signature.

Notice of Intended Action was published in IAB 22, April 28, 1982 as ARC 2857.

These rules are identical to those published as Notice of Intended Action and will become effective August 11, 1982.

ITEM 1. Subrule 135.204(3) is amended by adding the following:

d. *Practice harmful or detrimental to the public includes, but is not limited to, the use of a rubber stamp to affix a signature to a prescription. A person who is unable, due to a physical handicap, to make a written signature or mark, however, may substitute in lieu of a signature a rubber stamp which is adopted by the handicapped person for all purposes requiring a signature and which is affixed by the handicapped person or affixed by another person upon the request of the handicapped person and in his/her presence.*

e. *Practice harmful or detrimental to the public includes, but is not limited to, the practice of maintaining any presigned prescription which is intended to be completed and issued at a later time.*

These rules are intended to implement sections 147.55, 148.6, and 258A.4, Iowa Code.

[Filed 6/14/82, effective 8/11/82]

[Published 7/7/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/7/82.

ARC 3012**HEALTH DEPARTMENT[470]**BOARD OF EXAMINERS FOR THE LICENSING AND
REGULATION OF HEARING AID DEALERS

Pursuant to the authority of Sections 147.76, 147.80, 154A.15 and 258A.2, Iowa Code, the rules of the Board of Examiners for the Licensing and Regulation of Hearing Aid Dealers appearing in the IAC relating to the renewal of license, continuing education, and fees (Chapters 145 and 160) are hereby amended. The board adopted the rules May 9, 1982.

HEALTH DEPARTMENT[470] (cont'd)

Notice of Intended Action regarding these rules was published in the IAB January 20, 1982 as ARC 2663. The rules change fees to biennial licensure and convert to biennial continuing education.

The rules are identical to those published under notice, except subrule 145.10(2) was modified.

The rules are intended to implement sections 147.80, 154A.15 and 258A.2, Iowa Code.

The rules shall become effective August 12, 1982.

ITEM 1. Subrule 145.5(1) is rescinded and the following inserted in lieu thereof:

145.5(1) Until January 1, 1983, a license as a hearing aid dealer shall expire one year from the date of issuance.

Beginning January 1, 1983, initial and renewal licenses as a hearing aid dealer shall be issued for a biennial period from January 1 of the odd-numbered year to December 31 of the next even-numbered year.

ITEM 2. Subrule 145.6(2) is amended to read as follows:

145.6(2) ~~Beginning~~ From January 1, 1976, to December 31, 1982, in addition to payment of the required license fee, each hearing aid dealer applying for renewal of his or her license shall furnish to the department satisfactory evidence that he or she has completed at least sixteen clock hours of educational programs during the year preceding the date of his the application for renewal.

Beginning January 1, 1983, in addition to the payment of the required renewal license fee, each hearing aid dealer when applying for renewal of his or her license shall furnish to the department satisfactory evidence that he or she has completed at least thirty-two hours of board approved continuing education programs during the preceding continuing education period. At least sixteen hours of board approved continuing education programs shall be completed each year.

The continuing education period shall extend from January 1 of each odd-numbered year to October 1 of the next even-numbered year.

If a new license holder is licensed during the first year of the continuing education period, he or she is only required to complete sixteen hours of board approved continuing education for renewal. If a new license holder is licensed during the second year of the continuing education period, he or she shall be exempt from meeting continuing education requirements for the first license renewal. The license holder will be required to complete thirty-two hours of continuing education for the second license renewal.

ITEM 3. Chapter 145 is amended by adding the following new rule.

470—145.10(154A) License fees. All fees are nonrefundable.

145.10(1) Examination fee is thirty-five dollars.

145.10(2) Prior to January 1, 1983, the application fee for a license to practice as a hearing aid dealer issued upon the basis of an examination or reciprocity is fifty dollars for a one-year period. From and after January 1, 1983, the application fee for a license to practice as a hearing aid dealer issued upon the basis of an examination or reciprocity is one hundred dollars.

145.10(3) Prior to January 1, 1983, the fee for renewal of a license to practice as a hearing aid dealer for a one-year period is fifty dollars. From and after January 1, 1983, the fee for renewal of a license to practice as a hearing aid dealer for a biennial period is one hundred dollars.

145.10(4) Fee for a temporary permit is twenty-five dollars.

145.10(5) Fee for a certified statement that a licensee is licensed in this state is five dollars.

145.10(6) Fee for a duplicate license if the original is lost or stolen is five dollars.

ITEM 4. Rule **470—160.8(154A)** is rescinded.

[Filed 6/14/82, effective 8/12/82]

[Published 7/7/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/7/82.

ARC 3016**MERIT EMPLOYMENT
DEPARTMENT[570]**

Pursuant to the authority of Section 19A.9, Iowa Code, the Iowa Merit Employment Commission on June 10, 1982, adopted amendments to Chapter 12, "Appeals" and Chapter 15, "Grievances and Complaints", Iowa Administrative Code.

Notice of Intended Action was published in IAB 22, April 28, 1982, as ARC 2864.

These rules will allow the person presiding at an appeal or grievance hearing to be the commission, a member of the commission or a hearing officer appointed by the commission.

Changes from such notice are as follows:

12.10(1)"1"

15.3 Step 4, last five paragraphs

15.9(2), first paragraph

15.9(2) and Step 4

These rules are intended to implement section 19A.9, Iowa Code.

These rules will become effective August 11, 1982.

ITEM 1. Rule 570—12.10(19A) is amended to read as follows:

570—12.10(19A) Conduct of appeal hearings.

12.10(1) Information about the conduct of appeal hearings.

a. Appeal hearings under rules 12.6(19A) and 12.9(19A) and from grievance appeal under chapter 15 of these rules shall not be open to the public, unless an open hearing is requested by the appellant prior to or at the hearing. All other appeal hearings shall be open. All appeal hearings shall be conducted in accordance with this rule.

b. Appeal hearings shall be held in an informal manner and technical rules of evidence shall not apply.

c. The commission's chairperson, any member of the commission, or a hearing officer appointed by the commission may preside at an appeal hearing. The decision as to who will hear the appeal shall rest with the commission.

d. An appointing authority may appear in person or through designated representatives.

MERIT EMPLOYMENT DEPARTMENT[570] (cont'd)

e. An appellant may appear in his/her own behalf or may be represented by any designated representative.

f. The commission will require that appeal requests, allegations, charges, answers, issues, and motions be clearly and sufficiently set forth so the commission and the parties to the appeal understand the appeal issues presented. This does not prohibit nor prevent parties to an appeal hearing availing themselves of a formal procedure, such as, but not limited to, the taking of depositions under the Code of Iowa. Where formal procedures are requested, the provisions of the Code must be reasonably followed. The commission will make no preliminary assumption of innocence, guilt, truth, fact or judgment of any material item. The decision of the commission shall be based solely upon the testimony, evidence, data, facts and materials presented and admitted to the hearing record of the appeal. The commission shall also take "official notice" as provided in section 17A.14, Iowa Code.

g. Although technical rules of evidence shall not apply at an appeal hearing, testimony, facts, data, documents and other materials offered must be reasonably relevant and pertinent to the issues presented by the appeal. Testimony, facts, documents or other materials considered not to meet these criteria will be excluded. The person presiding at the hearing will consider the objection of either party to the admission of the aforementioned.

h. Parties to an appeal hearing are defined to include the appellant, an agency, an appointing authority, the department or their designated representatives. Decisions or orders of the commission as the result of an appeal hearing shall not be made concerning any nonparty to an appeal hearing.

i. All testimony and statements for the appeal record shall be made under oath or affirmation. Testimony and statements shall be subject to cross-examination and informational questions or inquiry by the commission, if desired.

j. Any letter, paper, document or other material offered for identification or appeal record shall be properly presented to the person presiding at the hearing and shall be marked with a distinguishing number, such as Appointing Authority Exhibit #1. Parties shall be entitled to examine the exhibits as offered and make objections if desired.

k. Testimony may be presented in statement form or by questions and answer. Testimony and statements of record shall be recorded, transcribed or otherwise preserved as the commission may direct. Parties to an appeal hearing may provide shorthand reporters or other reporting systems for their own use and at their own expense.

l. No questioning shall be allowed or statements made by any person attending an appeal hearing except through the parties or by permission of the person presiding at the hearing. Examination of materials admitted to the hearing record shall be at the discretion of the *person presiding officer at the hearing*.

m. The members of the commission, a hearing officer appointed by the commission, and the director have the authority to administer oaths or affirmations to witnesses, subpoena witnesses and compel the production of books, papers, records and other documents or materials pertinent to or relevant to any investigation or appeal hearing authorized by these rules or chapter 19A, Iowa Code.

Parties to an appeal hearing have the right to request the issuance of a subpoena. The service of the subpoena and the costs, if any, are the sole responsibility and obliga-

tion of the party requesting the subpoena. A subpoena will not be issued less than five working days prior to a scheduled appeal hearing date, unless good and sufficient cause for the request delay is demonstrated to the director. The issued subpoena is subject to the pertinent provisions of the Code of Iowa. Notification of the issuance of a subpoena will be made to the parties. Challenges, resistance or objection to the reasonableness of a requested or issued subpoena may be made and ruling thereon shall be made by the commission prior to or on the date of the scheduled appeal hearing.

Per diem expenses, mileage payments, use of a state vehicle or payment of wages for attendance at an appeal hearing by a classified employee are not authorized for the appellant or other employee representing the appellant or for appearing as a witness at the request of the appellant, except in an appeal hearing which results from a grievance filed according to the provisions of chapter 15 of these rules.

Per diem expenses, mileage payments, use of a state vehicle or payment of wages for attendance at an appeal hearing by a classified employee may be allowed by the appointing authority for employees representing management at an appeal hearing in accordance with the authority and practices of the appointing authority.

The commission will not authorize payment by the department for legal counsel or other representation for parties or for the cost of the appearance of witnesses or for the production of materials or for any other cost of an appeal hearing. No hearing costs will be assessed and all incurred costs are the sole responsibility of the parties and not the commission or the department.

n. For good reason an appeal hearing may be continued, rescheduled, adjourned or recessed by the commission or by mutual agreement of the parties. Requests for continuance or rescheduling shall be made to the commission at least five working days prior to the scheduled appeal hearing date, but may be waived by the commission upon proper showing of good cause.

ITEM 2. Rule 570—15.3(19A) is amended to read as follows:

Step 4. If the grievant is not satisfied with the decision of the appointing authority, the grievant may, within seven calendar days after the receipt of the written decision of the appointing authority, file the grievance or complaint in writing to the commission containing all pertinent matters which were brought forth and decided in the steps of the appointing authority's approved grievance procedure. The commission, a member of the commission, or a hearing officer appointed by the commission will hear the grievance or complaint as quickly as scheduling permits after receipt of the written grievance or complaint.

The person presiding at the hearing will follow the appeal hearing procedure outlined in 12.10(19A) of these rules in the conduct of any grievance or complaint appeal hearing.

~~The appointing authority, either under their approved grievance procedure or under this chapter, may designate for the final administrative step in their grievance procedure, in place of the commission, or hearing officer appointed by the commission, any of the following:~~

- a. ~~A hearing officer appointed in accordance with the provisions of chapter 17A, The Code.~~
- b. ~~A single arbitrator.~~
- c. ~~A tripartite final review.~~

MERIT EMPLOYMENT DEPARTMENT[570] (cont'd)

In the choice of an alternate final administrative review, all costs shall be borne by the appointing authority. The commission shall approve the alternative chosen and the procedure adopted.

ITEM 3. Subrule 15.9(2) is amended to read as follows:

15.9(2) The presiding officer of the respective hearings at the various steps; in the absence of a different approved appointing authority's grievance procedure, the person presiding at the respective hearings at the various steps shall be:

Step 2. The next higher designated representative of the appointing authority.

Step 3. The appointing authority or its designated representative.

Step 4. The commission, a member of the commission, or a hearing officer appointed by the commission; or the person selected in the alternative procedure set forth in 15.3(19A); Step 4.

[Filed 6/16/82, effective 8/11/82]

[Published 7/7/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/7/82.

ITEM 3. Amend subrule 6.3(2) to read as follows:

6.3(2) The licensed practical nurse shall participate in the nursing process, consistent with accepted and prevailing practice by assisting the registered nurse or physician. A licensed practical nurse may assist the registered nurse in monitoring, observing, adding, discontinuing intravenous infusions and reporting of patient's reaction to treatment. Unless otherwise defined, assisting shall not include:

ITEM 4. Amend subrule **6.3(3)** by deleting the word "immediate" and inserting in lieu thereof the word "proximate".

These rules are intended to implement sections 17A.3, 147.53, 152.1, 152.10 and 258A.4, Iowa Code.

[Filed 6/17/82, effective 8/11/82]

[Published 7/7/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/7/82.

ARC 3020

NURSING, BOARD OF[590]

Pursuant to the authority of Sections 17A.3, 147.53, 152.1, 152.10 and 258A.4, Iowa Code, the Iowa Board of Nursing hereby adopts amendments to Chapter 6, "Nursing Practice for Registered Nurses/Licensed Practical Nurses" appearing in the Iowa Administrative Code.

These amendments are to provide further clarification of subrule 6.3(3).

Notice of Intended Action was published in the IAB 23, May 12, 1982 as ARC 2873. A public hearing was held on June 2, 1982.

The only change from such notice is as follows:

6.3(2) Add the word "adding" after the word observing.

Except for the change stated above, these amendments are identical to those published as Notice of Intended Action.

These rules are intended to implement Sections 17A.3, 147.53, 152.1, 152.10 and 258A.4, Iowa Code.

These rules will become effective on August 11, 1982.

ITEM 1. Add the following new subrule:

6.1(14) Proximate area. In the interpretation of proximate area, the board shall take into account the professional judgment of the registered nurse in determining the necessary capability of the licensed practical nurse to be assigned to a given area, as well as the appropriate distance within the building and time necessary to be readily available to the licensed practical nurse.

ITEM 2. Renumber previous subrule **6.1(14)** as **6.1(15)**.

ARC 3017

PUBLIC INSTRUCTION, DEPARTMENT OF[670]

Pursuant to the authority of Sections 285.1 and 285.8, Iowa Code, the Iowa Department of Public Instruction adopted on June 11, 1982, amendments to 670—Chapter 22, "School Transportation," Iowa Administrative Code.

The department feels that it is appropriate to make determinations of a handicapped person's ability to perform the duties and responsibilities of a school bus driver on an individual basis. Further, the proposed amendment rescinds a portion of the requirements for common carrier type vehicles used as school buses in that it is in conflict with the Acts of the Sixty-ninth General Assembly, 1981 Regular Session, Senate File 492.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 28, 1982, as ARC 2859.

These rules are identical to those published as Notice of Intended Action.

These rules will become effective on August 11, 1982.

These rule revisions implement chapter 285, Iowa Code.

ITEM 1. Amend subrule 22.15(2) by striking it in its entirety and inserting in lieu thereof the following:

22.15(2) Less than full and normal use of both hands, both arms, both feet or both legs may disqualify the applicant. Individual evaluations will be made for applicants and requirements may be waived upon submission of a written statement from the superintendent of schools attesting to the ability of the applicant to safely perform the duties of a school bus driver. The superintendent or a superintendent's designee shall evaluate the applicant's ability in the operation of a school bus including all safety equipment, in providing assistance to passengers in evac

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

uation of the school bus and in the performance of other duties required of a school bus driver.

ITEM 2. Amend subrule 22.43(1) by striking paragraph "c".

[Filed 6/16/82, effective 8/11/82]

[Published 7/7/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/7/82.

ARC 3014

SOCIAL SERVICES
DEPARTMENT[770]

Pursuant to the authority of Section 239.18, Iowa Code, rules of the Department of Social Services appearing in the IAC relating to aid to dependent children (Chapters 40, 41, 44, and 46) are hereby amended. The Council on Social Services adopted these rules June 7, 1982.

Notice of Intended Action regarding these rules was published in the IAB March 17, 1982 as ARC 2772.

Under these rules, eligibility and the amount of the grant for the first two months of payment will be based on actual and anticipated income and circumstances. After that, only eligibility and the addition of a person to the household will be determined prospectively. Income will be based on actual income and expenses two months previously. Income and expenses will be reported monthly by the recipient. The monthly report form will be sent to the eligible group the last of each month with the date for return clearly printed on each form. The rights and responsibilities of each individual are also explained on the form. The form contains complete instructions for completion. The local office will use the information contained on each returned form to determine if eligibility continues and the amount of assistance to be paid. When a form is not returned eligibility is canceled. Help in completing the form will be given when needed. In addition to the monthly reporting and retrospective budgeting system, these rules make minor technical changes.

In adopting these rules, the council recognizes the extremely limited nature of its discretion in view of the federal statutes and regulations mandating monthly reporting and prior month budgeting. One area that caused a lot of concern was who must file a monthly report. The department has asked for a waiver from the secretary of health and human services to exempt those persons with no income or a constant unearned income and no recent work history, elderly or disabled receiving social security benefits with no earned income or recent work history, and persons receiving supplemental security income and with no earned income and recent work history. Another major area of concern was the complexity that would be added and the confusion that might result from concurrently implementing monthly reporting and retrospective budgeting in the food stamp program. The department is postponing the food stamp portion until next summer. Other options the department had were to have one or two month retrospective budget-

ing, to suspend or cancel cases ineligible for only one month, to establish the filing deadline for monthly reports, to define when a monthly report form is considered complete, to define good cause for not timely reporting earned income, and to process a monthly review or a six month review.

Several changes were made as a result of public comment and technicalities in wording were corrected. 40.1(5) was reworded. Provision for a partial month was included in 40.1(14). A definition of income in kind was added. Paragraphs "b" and "d" were added to 40.2(5) and the other paragraphs reworded. Items 3 and 4 were added. Item 6 was added. Subrule 40.7(4)"b" was reworded. 40.7(5) and paragraph "a" were reworded and paragraphs "b" and "c" added. Items 15 and 16 were added. 770—41.7(239) was reworded. 41.7(1) was reworded. Additions were made to 41.7(2). 41.7(2)"c" was reworded. 41.7(2)"d"(1), (2), and (3) were reworded. 41.7(2)"n" was reworded. 41.7(9)"a"(4), (5), and (7) were reworded. 41.7(9)"b"(1) and (4) were reworded. 41.7(9)"c"(1) and (2) were reworded. 41.7(9)"e" was reworded and subparagraphs (2) and (3) eliminated. 41.7(9)"f" was reworded. 41.7(9)"g" was reworded. 41.7(9)"i"(1) and (2) were reworded. Item 25 under notice was eliminated. 46.4(3)"a" was reworded.

These rules are intended to implement sections 239.5 and 239.6, Iowa Code.

These rules shall become effective September 1, 1982.

ITEM 1. Rule 770—40.1(239) is amended by adding the following subrules:

40.1(5) Budgeting process. "Budgeting process" means the process by which income is computed to determine eligibility under the one hundred fifty percent eligibility test described in 770—41.7(239), initial eligibility, the initial aid-to-dependent-children grant, ongoing eligibility, and the ongoing aid-to-dependent-children grant.

40.1(6) Prospective budgeting. "Prospective budgeting" means the determination of eligibility and the amount of assistance for a calendar month based on the best estimate of income and circumstances which will exist in that calendar month.

40.1(7) Retrospective budgeting. "Retrospective budgeting" means the computation of the amount of assistance for a payment month based on actual income and circumstances which existed in the budget month.

40.1(8) Payment month. "Payment month" means the calendar month for which assistance is paid.

40.1(9) Budget month. "Budget month" means the calendar month from which the local office uses income or circumstances of the eligible group to compute eligibility and the amount of assistance.

a. For retrospective budgeting, the budget month is the second month preceding the payment month.

b. For prospective budgeting, the budget month and payment month are the same calendar month.

40.1(10) Report month. "Report month" for retrospective budgeting means the calendar month following the budget month. "Report month" for prospective budgeting means the calendar month in which a change occurs.

40.1(11) Change in income. "Change in income" means a permanent change in hours worked, rate of pay, or beginning or ending income.

40.1(12) Change in work expenses. "Change in work expenses" means a permanent change in the cost of

SOCIAL SERVICES DEPARTMENT[770] (cont'd)

dependent care or the beginning or ending of dependent care.

40.1(13) Suspension. "Suspension" means a month in which an assistance payment is not made due to ineligibility for one month when eligibility is expected to exist the following month.

40.1(14) Initial two months. "Initial two months" means the first two months for which assistance is paid. This may include a month for which a partial payment is made.

40.1(15) Income in kind. "Income in kind" is any gain or benefit which is not in the form of money payable directly to the eligible group including nonmonetary or in kind benefits, such as meals, clothing, and vendor payments. Vendor payments are money payments which are paid to a third party and not to the eligible group.

ITEM 2. Subrule 40.2(5) is amended to read as follows:

40.2(5) Reinstatement.

a. ~~Except as specified in 40.2(4), assistance~~ *Assistance* shall be reinstated without a new application when eligibility ~~is can be regained~~ *re-established on the basis of information provided at least three working days prior to before the effective date of cancellation.*

b. *Assistance may be reinstated without a new application when eligibility can be re-established before the effective date of cancellation based on information provided after the third working day but before the effective date of cancellation.*

c. *When eligibility factors are met, assistance shall be reinstated when the completed Public Assistance Eligibility Report, Form PA—2140-0, is received by the local office within ten days of the date a cancellation notice is sent to the recipient because the form was incomplete or not returned.*

d. *A determination of eligibility and the amount of assistance shall be made and an adequate notice shall be promptly sent to the recipient, when the requirements of "a", "b", or "c" of this subrule are met. When the recipient is ineligible or is eligible for a reduced payment, the recipient shall be notified of the right to a fair hearing. When an appeal is filed within ten days of the notice, assistance shall continue at the same level pending the appeal decision.*

ITEM 3. Subrule 40.4(1) is amended to read as follows:

40.4(1) The decision with respect to eligibility shall be based primarily on information furnished by the applicant. *The applicant shall promptly report any change as defined in 40.7(4)"e" which occurs during the application process. 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 the information or refusal to authorize the county department local office to secure such the information from other sources shall serve as a basis for denial of assistance. Five working days shall be considered as a reasonable period for the applicant to supply the required information or verification. Any time taken beyond the five days shall be considered a delay on the part of the applicant.*

ITEM 4. Subrule 40.4(2) is amended to read as follows:

40.4(2) ~~In the processing of an application, the local office shall conduct at least one face-to-face interview with the applicant prior to approval of the application for assistance. The local office shall assist the applicant, when requested, in providing information needed to determine eligibility and amount of assistance.~~ *The application process shall include a visit, or visits, to the home of the child*

and the person with whom the child will live during the time assistance is granted under the following circumstances:

ITEM 5. Subrule 40.4(3) is amended to read as follows:

40.4(3) The decision with respect to eligibility shall be based on the applicant's eligibility or ineligibility on the date the decision is made in the local office. *The applicant shall become a recipient on the date the local office determines the applicant is eligible for aid and sends a notice to this effect.*

ITEM 6. Rule 770—40.5(239) is amended to read as follows:

770—40.5(239) Time limit for decision. The applicant shall receive a ~~money payment notice approving assistance~~ *notice approving assistance* or a written notice of denial *as soon as possible, but not later than within thirty days from the date of application. Such This time standard shall apply except in unusual circumstances, such as when the local office 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 local office and the applicant have made every reasonable effort to secure necessary information which has not been supplied by the date the time limit expired; or because of emergency situations, such as fire, flood or other conditions beyond the administrative control of the local office. When eligibility is dependent upon the birth of a child the time limit may be extended while awaiting the birth of the child. When it becomes evident that due to an error on the part of the local office, eligibility will not be established within the thirty day limit, the application shall be approved pending a determination of eligibility.*

ITEM 7. Subrules 40.7(1) and 40.7(2) are rescinded and the following inserted in lieu thereof:

40.7(1) Eligibility factors shall be reviewed monthly for aid to dependent children using information contained in and verification supplied with form PA-2140-0, Public Assistance Eligibility Report except as specified in paragraphs "a", "b", and "c" below. A face-to-face interview shall be conducted at least annually at the time of a monthly review.

a. The following eligibility units shall be exempt from monthly review, provided a waiver is granted by the secretary of health and human services: Those with no income, or only very constant unearned income, and no recent work history; or those with no earned income or recent work history whose adult members are sixty years old or older, or are receiving disability or blindness payments under Titles I, II, X, XIV, or XVI of the Social Security Act; and those with no earned income and no recent work history, whose adult member(s) receives supplemental security income. These cases shall be reviewed at least every six months. When the source or amount of the nonexempt unearned income, such as social security benefits, is not expected to change more often than annually, the income shall be considered very constant unearned income. An individual who has been unemployed for six months or longer shall be considered to have no recent work history. Income disregarded in accordance with 41.7(2)"e" shall not be considered earned income for this exemption.

b. Aid to dependent children foster care cases shall be reviewed at least every six months.

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c. Aid to dependent children unemployed parent cases shall be reviewed monthly.

40.7(2) A redetermination of specific eligibility factors shall be made when:

- a. The recipient reports a change in circumstances, or
- b. A change in the recipients circumstances comes to the attention of a staff member.

ITEM 8. Subrule 40.7(3) is amended to read as follows:

40.7(3) Information for reviews shall be submitted on form ~~PA-2227-5 PA-2140-0, Aid to Dependent Children Review Public Assistance Eligibility Report.~~ The review This form shall be signed by the payee, the payee's authorized representative, or, when the payee is incompetent or incapacitated, someone acting responsibly on the payee's behalf. When both parents, or a parent and a stepparent, are in the home, both shall sign the ~~review Public Assistance Eligibility Report form.~~

ITEM 9. Subrule 40.7(4) and paragraphs "b" and "c" are amended to read as follows:

40.7(4) Responsibilities of recipients (including individuals in suspension status).

b. The recipient shall complete form ~~PA-2227-5 PA-2140-0, Aid to Dependent Children Review Public Assistance Eligibility Report,~~ when requested by the local agency office in accordance with these rules. The form will be supplied as needed to the recipient by the department or local office. The department shall pay the cost of postage to return the form. The recipient shall return the completed form to the local agency office within ten calendar days from the date it was mailed to the recipient's current mailing address or given to the recipient by the fifth calendar day of the report month. The local office shall give the recipient a form PA-2140-0, Public Assistance Eligibility Report, on request. Failure to respond shall serve as a basis for return a completed form shall result in cancellation of assistance. A completed form is a form with all items answered, signed, dated and accompanied by verification as required in 41.7(1)"i", and 41.7(2)"q".

c. The recipient shall supply, insofar as the recipient is able, additional information needed to establish eligibility and the amount of the aid-to-dependent-children grant within five working days from the date a written request is mailed by the local agency office to the recipient's current mailing address or given to the recipient. The recipient shall give written permission for release of information on form PA-2206-0, Authorization for Release of Information, when the recipient is unable to furnish information needed to establish eligibility and the amount of the aid-to-dependent-children grant. Failure to supply such the information or refusal to authorize the local agency office to secure such the information from the other sources shall serve as a basis for cancellation of assistance.

ITEM 10. Subrule **40.7(4)**, paragraph "e" is amended by adding new subparagraphs:

- (7) Payment of child support.
- (11) Payment for child support, alimony, or dependents as defined in 41.7(8)"b" and 41.7(10).

ITEM 11. Subrule **40.7(4)**, paragraph "f" is amended by adding new subparagraphs:

- (7) The date the client increases or decreases child support payments.
- (11) The date the stepparent or sponsor increases or decreases payments for child support, alimony or dependents.

ITEM 12. Subrule 40.7(5) is amended to read as follows:
40.7(5) After assistance has been approved, eligibility for ~~continued~~ continuing assistance and the amount of the grant shall be effective as of the first of each month. Any change affecting eligibility reported during a month shall be effective the first day of the next calendar month and any change affecting the amount of assistance shall be effective for the corresponding payment month except:

a. Payment shall be made for the month of report w When the recipient timely reports, as defined in 40.7(4), a change and such change occurred prior to the month of report a new person entered the home the preceding month, and that person meets eligibility requirements, a payment adjustment shall be made for the month the recipient reports the change.

b. When income ended during the second initial month of eligibility and a grant adjustment could not be made effective the first of the following month in accordance with 41.7(9)"b"(1), a payment adjustment shall be made.

c. When verification of an income deduction or diversions is provided before the end of the report month, but too late for a grant adjustment to be made effective the first of the following month, a payment adjustment shall be made.

b. d. Payment When cancellation of assistance is later in those cases where issuance of a timely notice, as required by the department's rule 770—7.6(217), necessitates postponement of the action to requires that the action be delayed until the first day of the second calendar month. Any overpayment received in the first calendar month shall be recouped.

e. Any change not reported prospectively in the budget month and reported on the monthly report form shall be effective for the corresponding payment month. When the change creates ineligibility for more than one month, the payment made in the report month shall be recouped.

ITEM 13. Subrule **41.2(10)**, paragraph "h", subparagraph (1), is amended to read as follows:

(1) Periodically, but not less frequently than at each redetermination of eligibility every six months, review those cases in which the agency has determined that good cause exists based on a circumstance that is subject to change.

ITEM 14. Subrule **41.5(5)**, paragraph "a", is amended to read as follows:

a. The family of any parent with whom the child(ren) is living or of any caretaker relative, who is a member of the eligible group, shall be ineligible for aid to dependent children for any month in which the parent or caretaker relative is participating in a strike on the last day of the month.

ITEM 15. Subrule **41.6(1)**, paragraph "f", is amended to read as follows:

f. Money which is counted as income in a month, during that same month; and that part of lump sum income as defined in 41.7(9)"c"(2) reserved for the current or future month's income.

ITEM 16. Subrule **41.6(2)**, paragraph "b", is amended to read as follows:

b. Resources of the parent who has elected to be excluded from the eligible group, or who is excluded due to lump sum income as defined in 41.7(9)"c"(2), or the parent whose needs have been removed from the eligible group because the parent refuses to cooperate with the department in the work incentive program or refuses to assign

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support or cooperate in establishing paternity or securing support payments or refuses to apply for benefits from other sources or refuses to comply with 41.2(13) and the minor payee living with a self-supporting parent shall be considered in the same manner as if the parent or payee were included in the eligible group.

ITEM 17. Rule 770—41.7(239) is amended to read as follows:

770—41.7(239) Income. All unearned and earned income, unless specifically exempted, disregarded, or deducted for work expenses as defined in these rules, shall be considered in determining initial and continuing eligibility and the amount of the aid-to-dependent-children grant. Initial and continuing aid-to-dependent-children assistance shall be granted only when the countable gross nonexempt unearned and earned income as defined in 41.7(2), exclusive of the aid-to-dependent-children grant, received by the eligible group and available to meet the current month's needs is no more than one hundred fifty percent of the basic needs schedule defined in subrule 41.8(2), plus any special need allowable under subrule 41.8(3), and the countable net unearned and earned income is less than the total of the amount designated as basic needs according to the schedule of basic needs in subrule 41.8(2) and any special need allowable under subrule 41.8(3). Child support assigned to the department in accordance with subrule 41.2(7) shall be considered unearned income for the purpose of determining continuing eligibility. *Expenses for care of children or disabled adults, deductions, and diversions shall be allowed when verification is provided. The local office shall return all verification to the recipient.*

ITEM 18. Subrule 41.7(1) is amended to read as follows:

41.7(1) Unearned income. Unearned income is any income in cash or in kind that is not gained by labor or service. Net unearned income, *from investments*, shall be determined by deducting reasonable income producing costs from the gross unearned income. *Money left after this deduction shall be considered gross income available to meet the needs of the eligible group.*

ITEM 19. Subrule 41.7(1), paragraph "h" is amended to read as follows:

h. Support payments in cash shall be considered as unearned income in determining initial and continuing eligibility.

(1) When child support has been assigned, any such cash child support paid to the recipient after the date of decision to approve assistance until the assignment is implemented by the clerk of court shall be refunded to the child support recovery unit. *This applies only when the child is a member of the eligible group.*

(2) *Support income shall be considered as income in the month in which the local office receives an official written report from the child support recovery unit.*

ITEM 20. Subrule 41.7(2) is amended to read as follows:

41.7(2) Earned income. Earned income is defined as income in the form of a salary, wages, tips, *bonuses*, commission earned as an employee, *income from Job Corps*, or profit from self-employment. *With reference to Earned income from commissions, wages, tips, bonuses, Job Corps, or salary, earned income means the total gross amount irrespective of expenses of employment. With respect to self-employment, earned income means the total profit determined by comparing gross income with the total*

allowable costs of producing the income. Income shall be considered earned income when it is produced as a result of the performance of services by an individual. Advance earned income credit payments shall be considered earned income both either when received or when it appears that the applicant or recipient would meet internal revenue service requirements for payment of the credit upon filing an Earned Income Credit Advance Payment Certificate (form W-5). Where an individual who is eligible to receive advance payments of the earned income credit has made all possible efforts to receive them, but does not receive them because of the refusal of the employer to issue them, the local office shall not count the credit as earned income.

ITEM 21. Subrule 41.7(2), paragraph "a", subparagraphs (1) and (2), are amended to read as follows:

(1) The first \$75.00 of nonexempt earned income shall be deducted monthly for a full-time employee. Full-time employment shall be defined as employment *averaging* of one hundred twenty-nine or more hours per month.

(2) The first \$74.00 of nonexempt earned income shall be deducted monthly for part-time employees. Part-time employment shall be defined as employment *averaging* of fewer than one hundred twenty-nine hours per month.

ITEM 22. Subrule 41.7(2), paragraph "c", subparagraph (2) is amended to read as follows:

(2) The \$30.00 plus one-third disregard shall be limited to four consecutive months for each individual whose needs are included in the eligible group. Any individual whose needs are included in the eligible group and who received the disregard for four consecutive months shall not receive the disregard again until the individual has not been a recipient of assistance for twelve consecutive months. *A month of suspension shall not be considered as an interruption of the four consecutive months for receiving the disregard. However, the month of suspension shall not be counted as a month in which the disregard is received. A "recipient of assistance" includes an individual not receiving a payment due to the limitation on payment described in 770—45.6(239).*

ITEM 23. Subrule 41.7(2), paragraph "d", is amended to read as follows:

d. Ineligibility for expenses and disregards.

(1) An applicant/recipient is not eligible for the standard work expense, ~~child~~ care expense, or \$30.00 plus one-third disregard of earned income for one month if within thirty days preceding the *month of application or the report* month the individual terminated employment, reduced earned income or refused to accept a bona fide offer of employment in which the individual ~~is~~ *was* able to engage, without good cause as defined in 41.4(1). A "bona fide offer of employment" is an offer made through the work incentive program or an offer made by an employer of which the worker ~~determined~~ *determines* there was a definite offer of employment at the federal minimum wage or more; there were no unreasonable risks to health or safety due to working conditions or there was ~~no lack of~~ *no* worker's compensation protection; the individual was physically able to engage in the employment and the individual ~~is~~ *was* able to get to and from the job by using public or private transportation, or by walking, where feasible.

(2) A recipient is not eligible for the standard work expense, ~~child~~ care expense, or the \$30.00 plus one-third disregard for any month in which the individual failed,

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without good cause, to timely report a change in earned income which resulted in a monthly error of \$10.00 or more or to timely report earned income on the Public Assistance Eligibility Report, or requested that assistance be canceled for the sole purpose of avoiding receiving the \$30.00 plus one-third disregard for four consecutive months. Good cause for not timely returning a Public Assistance Eligibility Report or timely reporting a change in earned income shall be limited to circumstances beyond the control of the individual such as, but not limited to, a failure by the local office to provide needed assistance when requested, to give needed information, or to follow procedure resulting in a delay in the return of the Public Assistance Eligibility Report; or when the individual was prevented from reporting by a physical or mental disability, death or serious illness of an immediate family member; or other unanticipated emergencies; or mail was not delivered due to a disruption of regular mail delivery. The recipient who returns the Public Assistance Eligibility Report, listing earned income, by the twelfth day of the report month shall be considered to have good cause for not timely returning the Public Assistance Eligibility Report.

(3) A recipient is not eligible for the standard work expense, care expense, or the \$30.00 plus one-third disregard for any month in which the individual requested that assistance be canceled for the primary purpose of avoiding the receipt of the \$30.00 plus one-third disregard for four consecutive months.

(3) (4) Any month in which an applicant or recipient does not receive the \$30.00 plus one-third disregard due to the sanctions in subparagraphs (1), and (2), and (3) shall be counted toward the four consecutive months limitation of 41.7(2)"c"(2).

ITEM 24. Subrule 41.7(2), paragraph "n", is amended to read as follows:

n. Gross income from providing child care in the applicant's or recipient's own home shall include the total payment(s) received for the service and any payment received due to the Child Nutrition Amendments of 1978 for the cost of providing meals to children. In determining profit from providing child care services in the applicant's or recipient's own home, forty percent of the total gross income received shall be deducted to cover the costs of producing the income, unless the individual requests to have expenses in excess of the forty percent considered. When the applicant or recipient requests to have actual expenses considered, profit shall be determined in the same manner as specified in 41.7(2)"o".

ITEM 25. Subrule 41.7(6), paragraphs "r" and "s", are amended to read as follows and paragraph "t" rescinded and the following inserted in lieu thereof:

r. Any loan or grant to any undergraduate student for educational purposes made or insured under any program administered by the United States commissioner secretary of education.

s. All earned income of the undergraduate student in a college work study program administered by the United States commissioner secretary of education.

t. Any income restricted by law or regulation which is paid to a representative payee, other than a parent who is the applicant or recipient, unless the income is actually made available to the applicant or recipient by the representative payee.

ITEM 26. Subrule 41.7(7) is amended by adding a new paragraph:

a. Reimbursements from a third party.

ITEM 27. Subrule 41.7(8), paragraph "b", subparagraphs (2) and (4), are amended to read as follows:

(2) Any amounts actually paid by the stepparent to individuals not living in the home, who are claimed or could be claimed by the stepparent as dependents for federal income tax purposes, shall be deducted from the total nonexempt monthly earned and unearned income of the stepparent.

(4) The nonexempt monthly earned and unearned income of the stepparent remaining after application of the deductions in 41.7(8)"b"(1), (2) and (3) above shall be used to meet the needs of the stepparent and the stepparent's dependents living in the home, when the dependents' needs are not included in the eligible group and the stepparent claims or could claim the dependents for federal income tax purposes. These needs shall be determined in accordance with the aid-to-dependent-children standard of need, including special needs, for a family group of the same composition. Any remaining income in excess of these needs shall be applied as unearned income to the needs of the eligible group.

ITEM 28. Subrule 41.7(9) is rescinded and the following inserted in lieu thereof:

41.7(9) Budgeting process.

a. Initial eligibility.

(1) At time of application all earned and unearned income received and anticipated to be received by the eligible group during the month the decision is made shall be considered to determine eligibility for aid to dependent children, except income which is exempt. When income is prorated in accordance with 41.7(9)"c"(1), 41.7(9)"g" and 41.7(9)"i", the prorated amount is counted as income received in the month of decision. Allowable work expenses during the month of decision shall be deducted from earned income, except when determining eligibility under the one hundred fifty percent rule defined in 770-41.7(239).

(2) When countable gross earned and unearned income in the month of decision, or in any month after assistance is approved, exceeds one hundred fifty percent of the basic needs for the eligible group as defined in 41.8(2) plus any special need defined in 41.8(3), the application shall be rejected or the assistance grant canceled. When the countable gross earned and unearned income in the month of decision equals or is less than one hundred fifty percent of the basic needs for the eligible group as defined in 41.8(2) plus any special need as defined in 41.8(3), initial eligibility shall then be determined. When countable net earned and unearned income in the month of decision equals or exceeds the needs of the eligible group, the application shall be rejected.

(3) When income in the month of decision is less than the needs of the eligible group, the application shall be approved and the earned income disregards shall be applied in the computation of the aid-to-dependent-children grant.

(4) Eligibility for aid to dependent children for any month or partial month before the month of decision shall be determined only when there is eligibility in the month of decision. The family composition for any month or partial month before the month of decision shall be considered the same as on the date of decision. In determining eligibility and the amount of the assistance payment for any month or partial month preceding the month of deci-

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sion, income and all circumstances except family composition in that month shall be considered in the same manner as in the month of decision. When the eligibility determination is delayed until the third initial month or later and payment is being made for the preceding months, the payment for the month following the initial two months shall be based, retrospectively, on income and all circumstances except family composition in the corresponding budget month.

(5) The amount of the assistance grant for the initial two months of eligibility shall be computed prospectively with two exceptions. Income shall be considered retrospectively for the first two payment months which follow a month of suspension, unless there has been a change in the family's circumstances. Also, income for the first two months of eligibility shall be considered retrospectively when the applicant received assistance for the immediately preceding payment month, including a month for which payment was not received due to the restriction defined in 770—45.6(239).

(6) Income considered for prospective budgeting shall be the best estimate, based on knowledge of current and past circumstances and reasonable expectations of future circumstances.

(7) Work expense for care, as defined in 41.7(2)"b", shall be the allowable care expense expected to be billed or otherwise expected to become due during the budget month. The amount of standard work expense deduction for each wage earner as defined in 41.7(2)"a" shall be allowed.

b. Ongoing eligibility.

(1) After the initial two payment months, the amount of each grant shall be based, retrospectively, on income and other circumstances in the budget month. However, when the income was considered prospectively in the initial application and is not expected to continue, it shall not be considered again. This includes an eligible group not receiving a payment due to the restriction defined in 770—45.6(239).

(2) When a change in eligibility factors occurs, the local office shall prospectively compute eligibility based on the change, effective no later than the month following the month the change occurred. If eligibility continues, no action is taken. If ineligibility exists, assistance shall be canceled or suspended. Continuing eligibility under the one hundred fifty percent rule, defined in 770—41.7(239), shall be computed prospectively.

(3) Income considered for retrospective budgeting shall be the actual income received in the budget month, except for the income described in 41.7(9)"c"(1), 41.7(9)"g" and 41.7(9)"i". A payroll check will be considered received the date the employer distributes payroll checks to employees.

(4) Work expense for care, as defined in 41.7(2)"b" shall be the actual allowable expense billed or which otherwise became due in the budget month. The amount of standard work expense deduction for each wage earner, as defined in 41.7(2)"a", shall be allowed.

c. Lump sum income.

(1) Recurring lump sum income. Recurring lump sum earned and unearned income, except for the income of the self-employed, shall be prorated over the number of months for which the income was received and applied to the grant for the same number of months. When this lump sum income is earned income, the appropriate disregards, deductions and diversions shall be applied to the

monthly prorated income. This is true when the lump sum income is received before the month of decision and the income is expected to continue, in the month of decision, and any time during the receipt of assistance. Income received by an individual employed under a contract shall be prorated over the period of the contract. Income received at periodic intervals or intermittently shall be prorated over the period covered by the income and applied to the grant for the same number of months. Periodic or intermittent income from self-employment shall be treated as described in 41.7(9)"i".

(2) Nonrecurring lump sum income. Nonrecurring lump sum income, except as specified in 41.7(7)"c", shall be considered as income in the budget month, and counted in computing eligibility and the amount of the grant for the payment month. Nonrecurring lump sum income is defined as a payment which is a one-time distribution of funds from a single source such as a property settlement, inheritance, insurance settlement, or a retroactive payment of benefits, such as social security, job insurance or workers' compensation. A lump sum payment of earned income credit shall be treated as nonrecurring lump sum payment of earned income. When countable income, exclusive of the aid-to-dependent-children grant, but including the lump sum income, exceeds the needs of the eligible group, the case shall be canceled or the application rejected. The eligible group shall be ineligible for the number of full months derived by dividing the income by the needs of the eligible group. Any excess shall be applied to the first month in which eligibility may be re-established and disregarded as income thereafter. When countable income, including the lump sum income, is less than the needs of the eligible group, the lump sum shall be counted as income for the budget month. For purposes of applying the lump sum provision, the eligible group shall include all eligible persons and any other individual whose lump sum income is counted in determining the period of ineligibility. During the period of ineligibility, individuals who were not in the eligible group when the lump sum income was received may be eligible for aid to dependent children. These individuals shall be considered as a separate eligible group. Income of this eligible group plus income, excluding the lump sum income already considered, of the parent or other legally responsible person in the home shall be considered as available in determining eligibility and the amount of the grant.

d. The third digit to the right of the decimal point in any computation of income, hours of employment and work expenses for care, as defined in 41.7(2)"b", shall be dropped.

e. In any month for which an individual is determined eligible to be added to a currently active aid-to-dependent-children case, the individual's needs shall be included prospectively. When adding an individual to an existing eligible group, any income of that individual shall be considered prospectively for the initial two months of that individual's eligibility and retrospectively for subsequent months. Any income considered in prospective budgeting shall be considered in retrospective budgeting only when the income is expected to continue.

f. Suspension. The local office shall suspend assistance when income or circumstances cause ineligibility and the local office has knowledge or reason to believe that ineligibility will exist for only one month. Individuals in suspended status shall be considered recipients for purposes of child support collections.

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g. Lump sum nonexempt financial assistance for education or training shall be prorated over the period it is intended to cover after deducting allowable expenses of education or training. This is true when the income is received prior to the month of decision and covers a period of time extending beyond the month of decision, is expected to continue, and covers a period of time extending beyond the month of decision; or received in the month of decision; or received or is anticipated to be received after the approval of assistance.

h. Income from self-employment received on a regular weekly, biweekly, semimonthly or monthly basis shall be budgeted in the same manner as the earnings of an employee. The countable income shall be the net profit.

i. Income from self-employment not received on a regular weekly, biweekly, semimonthly or monthly basis that represents an individual's annual income shall be averaged over a twelve-month period of time, even if the income is received within a short period of time during that twelve-month period. Any change in self-employment shall be handled in accordance with subparagraphs (3), (4) and (5) below.

(1) When a self-employment enterprise which does not produce a regular weekly, biweekly, semimonthly or monthly income has been in existence for less than a year, income shall be averaged over the period of time the enterprise has been in existence and the monthly amount projected for the same period of time. If the enterprise has been in existence for such a short time that there is very little income information, the worker shall establish, with the cooperation of the client, a reasonable estimate which shall be considered accurate and projected for three months, after which the income shall be averaged and projected for the same period of time. Any changes in self-employment shall be considered in accordance with subparagraphs (3), (4) and (5) below.

(2) These policies apply when the self-employment income is received before the month of decision and the income is expected to continue, in the month of decision, and after assistance is approved.

(3) A change in the cost of producing self-employment income is defined as an established permanent ongoing change in the operating expenses of a self-employment enterprise. Change in self-employment income is defined as a change in the nature of business.

(4) When a change in operating expenses occurs, the local office shall recompute the expenses on the basis of the change.

(5) When a change occurs in the nature of the business, the income and expenses shall be computed on the basis of the change.

ITEM 29. Subrule 41.7(10), paragraph "e", subparagraphs (1), (2), and (3), are amended to read as follows:

(1) Twenty percent or \$175.00, whichever is less, of the total gross unearned and earned income or net profit income from self-employment shall be deducted as a work expense.

(2) The needs of the sponsor and anyone else living in the same household who the sponsor claims or could be claimed as a dependent for federal tax purposes shall be deducted. Need shall be determined in accordance with the schedule of basic needs and includes any special needs for a family of the same composition.

(3) Any amount actually paid by the sponsor to individuals not living in the home who are claimed or could be claimed as dependents for federal income tax purposes or to or for an ex-spouse or child not living in the home shall be deducted.

ITEM 30. Rule 770—44.5(239) is amended to read as follows:

770—44.5(239) Income. Any income which is restricted to the sole use of the child being removed from the eligible group of an active aid-to-dependent-children case shall be made available to the child and shall be considered in the computation of the aid-to-dependent-children foster care payment when made available. *This income shall be considered prospectively.*

ITEM 31. Subrule 46.4(3), paragraph "a", is amended to read as follows:

a. An overpayment due to willful withholding of information shall be computed as if the information had been reported and acted upon timely. Exception: When the client, without good cause as defined in 41.7(2)"d"(2), fails to report income earned as specified in subrule 40.7(4) 41.7(2)"d"(2), the deduction in subrule 41.7(2)"a", "b" and "c" shall not be allowed.

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SUMMARY OF DECISIONS - THE SUPREME COURT OF IOWA
FILED - June 16, 1982

NOTE: Copies of these opinions may be obtained from the Supreme Court Clerk, State Capitol Building, Des Moines, IA 50319, for a fee of 40 cents per page.

No. 66953. COSPER v. IOWA DEPARTMENT OF JOB SERVICE.
Appeal from Polk District Court, Thomas S. Bown, Judge.
Reversed and remanded with directions. Considered by
Reynoldson, C.J., and Harris, Allbee, McGiverin, and
Schultz, JJ. Opinion by Reynoldson, C.J. (13 pages \$5.20)

This is an appeal by an unemployment compensation claimant from a district court affirmance of agency action that denied her benefits on the basis of excessive absenteeism and tardiness. OPINION HOLDS: I. The board's "Decision on Rehearing" showing the date of the application to be January 31, 1980, coupled with the fact the board must have considered the application timely when it ruled on it, substantiates claimant's contention that she mailed the application for rehearing on January 31, 1980; because the date entered on the application for rehearing as the date of completion, January 31, 1980, shall be considered the date the application was received and filed with the department pursuant to 370 I.A.C. subsection 4.35(1), the application was filed on time; the district court had, and this court consequently has, jurisdiction to review the department's action. II. Upon review we cannot determine whether the department held plaintiff's absences were excused or unexcused; we do not approve the department's rule, 370 I.A.C. subsection 4.32(7) relating to "excessive absenteeism" because it draws no distinction between excused and unexcused absences; excessive absences are not misconduct unless they are unexcused; we reverse and remand to district court with directions to vacate its prior judgment and to remand the appeal to the department to make appropriate findings relating to claimant's contentions her absences were excused, and to apply the rule laid down in this opinion; department's rule 370 I.A.C. subsection 4.32(4), imposes the burden of proving misconduct on the employer.

No. 65950. GORDON v. WRIGHT COUNTY BOARD OF SUPERVISORS.

Appeal from Wright District Court, Albert Habhab, Judge. Appeal dismissed. Considered by Reynoldson, C.J., and Harris, Allbee, McGiverin, and Schuitz, JJ. Opinion by Reynoldson, C.J. (4 pages \$1.60)

Plaintiffs appeal from trial court judgment dismissing their appeal from action of a joint drainage district. Trial court's judgment was entered November 14, 1980; November 24, 1980, plaintiff's counsel mailed notice of appeal to opposing counsel, our clerk, and the clerk of the district court; January 26, 1981, we entered an order informing plaintiffs that no notice of appeal had been filed with the district court clerk and granting time to submit a statement explaining why the case should not be dismissed; on the same day, plaintiffs filed a notice of appeal with the district court clerk. OPINION HOLDS: Under Iowa R. Civ. P. 82(d) the mandatory filing with the district court clerk is timely if (1) service is timely and (2) "actual" filing is completed within a "reasonable time thereafter"; this case presents a sixty-three day delay from service on the parties to actual filing; it does not meet the above "reasonable time" test; defendants suffered no loss from this delay, but we do not interpret that factor in the definition as extending what would otherwise be a reasonable time; a loss factor would collapse what would otherwise be a reasonable time into a shorter period for performance.

No. 65195. STATE v. MOSES.

Appeal from Black Hawk District Court, Joseph C. Keefe, Judge. Affirmed. Considered by LeGrand, P.J., and Harris, Allbee, Larson, and Schultz, JJ. Opinion by LeGrand, J. (20 pages \$8.00)

Defendant appeals from conviction on two counts of first degree murder. Section 707.2, The Code 1979. OPINION HOLDS: I. The trial court was clearly right in ordering defendant to disclose the names of the lay witnesses who were to testify on the insanity issue. II. The State's medical experts did not testify to any incriminating statements or admissions made by the defendant, so defendant was not entitled to a bifurcated trial. III. There were facts in the record to support the three hypothetical questions objected to by defendant on appeal. IV. The testimony by an expert medical witness was clearly rebuttal in nature. V. The articles to which defendant made a chain of custody objection were returned to the State by the Federal Bureau of Investigation in substantially the same condition as received; the court did not abuse its discretion in permitting the evidence to be received. VI. There was substantial evidence from which a rational factfinder could find beyond a reasonable doubt that defendant killed Deborah Lane; the trial court properly permitted the State's psychiatrists to answer questions concerning the definition of insanity referred to in section 701.4, The Code; the law on this matter remains as it was prior to the enactment of section 701.4 (codifying M'Naghten definition of insanity); State v. Gramenz, 256 Iowa 134, 142-43, 126 N.W.2d 295, 290 (1964), has not been undercut by later cases.

NO. 67021. BENADUM V. SCURR.

Appeal from Lee District Court, William S. Cahill, Judge. Affirmed. Considered by Reynoldson, C.J., and Harris, Allbee, McGiverin, and Schultz, JJ. Opinion by McGiverin, J.

(6 pages \$2.40)

Petitioner appeals from denial of his petition for writ of habeas corpus. OPINION HOLDS: Under the disciplinary rules of the Iowa State Penitentiary and due process, the director of adult corrections, as well as the warden, has authority on administrative appeal to order a rehearing of disciplinary complaints against a prisoner where there was a constitutional violation in the initial hearing; the disciplinary "procedure rule" prohibiting punishment for or recording of any rule violation not adjudicated in accordance with due process, does not apply where the prisoner is ultimately afforded due process protections in the administrative adjudication of the disciplinary violation.

NO. 66663. HUNTZINGER V. MOORE BUSINESS FORMS, INC.

Appeal from Johnson District Court, Ansel J. Chapman, Judge. Affirmed in part and reversed in part. Considered by LeGrand, P.J., and Uhlenhopp, McCormick, McGiverin, and Larson, JJ. Opinion by McCormick, J.

(9 pages \$3.60)

This is an appeal by employer and insurer from award of workers' compensation benefits. OPINION HOLDS: I. The deputy industrial commissioner's preliminary ruling on the motion for summary judgment filed by the employer and the insurer was not a final judgment, and the employee's appeal from the deputy's subsequent ruling was therefore timely. II. The "discovery rule" does not apply to review-reopening proceedings for disability benefits under section 85.26(2), The Code, and the employee's claim for disability benefits is therefore barred by the three-year statute of limitations set out in section 85.26(2). III. Pursuant to section 85.27, The Code 1971, and section 85.27, The Code 1973, the employee's claim for medical benefits was not subject to any statute of limitations; remanding the case to give the employee a hearing on the merits of his claim for medical benefits does not violate the insurer's due process rights.

NO. 67300. DOE V. IOWA STATE BOARD OF PHYSICAL THERAPY AND OCCUPATIONAL THERAPY EXAMINERS.

Appeal from Polk District Court, Harry Perkins, Judge. Affirmed. Considered by LeGrand, P.J., and Uhlenhopp, McCormick, McGiverin, and Larson, JJ. Opinion by McCormick, J.

(9 pages \$3.60)

A licensed physical therapist appeals from the district court judgment dismissing her petition for judicial review of agency action and mandamus seeking disclosure of the identity of the person who complained about her to respondent board. OPINION HOLDS: Agency investigative information is confidential under section 258A.6(4), The Code, and disclosure to a licensee under investigation is barred unless or until a disciplinary proceeding against the licensee is initiated; the board's refusal of disclosure was not an interpretation of section 258A.6(4) that was required to be adopted in conformity with section 17A.3, The Code.

NO. 66107. IN RE MARRIAGE OF SCHNECKLOTH.

Appeal from Scott District Court, Nathan Grant, Judge. Reversed on the appeal; cross-appeal dismissed. Considered by LeGrand, P.J., and Uhlenhopp, McCormick, McGiverin, and Larson, JJ. Opinion by McCormick, J. (9 pages \$3.60)

Respondent husband appeals from the paternity provision and petitioner wife cross-appeals from the child support provision of a dissolution decree. OPINION HOLDS: I. This court will no longer adhere to the rule that a spouse will not be permitted to deny having had access to the other spouse in order to establish nonpaternity of a child born in wedlock; the husband's testimony concerning nonaccess was admissible. II. Without deciding whether exclusionary blood grouping test results are conclusive as a matter of law, such results in combination with the other evidence in this case are sufficient to rebut the presumption of legitimacy; the wife did not meet her burden to prove paternity by a preponderance of the evidence; because this moots the cross-appeal from the support award, we do not reach that issue.

NO. 67005. MILHOLIN V. VORHIES.

Appeal from Jefferson District Court, James D. Jenkins, Judge. Reversed. Considered en banc. Opinion by McCormick, J. Dissents by Uhlenhopp, J., and McGiverin, J. (14 pages \$5.60)

This is an appeal by defendant from judgment for plaintiff real estate broker in action for real estate commission based upon an alleged oral listing agreement. OPINION HOLDS: The Iowa Real Estate Commission rule (700 I.A.C. § 1.23) requiring all real estate listing agreements to be in a writing containing all essential terms is valid and precluded enforcement of the alleged oral listing; the rule is within the commission's statutory authority under chapter 117, The Code. DISSENT BY UHLENHOPP, J., ASSERTS: I think the commission's rule is invalid because it is beyond the scope of the legislatively delegated rulemaking power. DISSENT BY MCGIVERIN, J., ASSERTS: I. I join the dissent of Justice Uhlenhopp for the reasons stated therein. II. The result reached by the majority (reversal of the judgment for the broker and the end of his claim) is incompatible with the result reached in Wunschel Law Firm, P.C. v. Clabaugh, 291 N.W.2d 331, 337 (Iowa 1980), involving an attorney; assuming the case should be reversed for the reasons stated by the majority, I would do so without prejudice to plaintiff's right to amend his petition to seek recovery for his services on a quantum meruit basis.

NO. 66701. STATE V. BASS.

Discretionary review from Polk District Court, Dale S. Missildine, Judge. Affirmed. Considered by Reynoldson, C.J., and Harris, Allbee, McGiverin, and Schultz, JJ. Opinion by McGiverin, J. (17 pages \$6.80)

We granted discretionary review of trial court's denial of defendant's pre-trial motion to dismiss a charge of first-degree murder pending against him. OPINION HOLDS: I. The defendant's September 29, 1980, motion to dismiss did not invoke the 180-day limit of Article III, of section 821.1, The Code (Agreement on Detainers Compact) because the defendant failed to comply with Article III(b) in giving or sending a written notice and request for final disposition of the Iowa charge to the warden of his California prison; and accordingly, that warden had no reason to and did not prepare and process a certificate as to defendant's California prison status to the Iowa authorities as required by sections (a) and (b) of Article III; there was no error in overruling defendant's April 10, 1981, motion to dismiss on the grounds of the Interstate Agreement on Detainers Act. II. Under the four-factor analysis of Barker v. Wingo, 407 U.S. 514, 92 S. Ct. 2182, 33 L. Ed. 2d 101 (1972), giving consideration to the fact that defendant is responsible for most of the delay in this case, we find no denial of defendant's constitutional right to a speedy trial even though he was prejudiced by the delay by the loss of the possibility of serving time for any Iowa conviction concurrently with the time he was serving in California.

NO. 66301. IN RE MARRIAGE OF CORBIN.

Appeal from Lee District Court, William S. Cahill, Judge. Affirmed. Considered by LeGrand, P.J., and Uhlenhopp, McCormick, McGiverin, and Larson, JJ. Opinion by McGiverin, J. (15 pages \$6.00)

Husband appeals from dissolution decree awarding custody of his three minor children to intervenors, the couple who served as foster parents to the children while the action was pending. OPINION HOLDS: I. The trial court had subject matter jurisdiction to give temporary custody of the children to the Department of Social Services for foster home placement and to award permanent custody to intervenors; In re Marriage of Snyder, 276 N.W.2d 402 (Iowa 1979), allows the trial court to exercise its section 598.21, The Code (orders for disposition and support), jurisdiction "to assure that the child receives proper care." II. The trial court did not err in entertaining intervenors' application for temporary and permanent custody because it was under an obligation to join them, as physical custodians of the children, as parties to the action. III. Our de novo review of the record convinces us that it is in the best interests of the three minor children that they not be placed in the custody of their father; the dissolution decree awarding custody to intervenors is affirmed.

No. 66929. IN RE MARRIAGE OF GIBSON.

Appeal from Polk District Court, Rodney J. Ryan, Judge. Reversed. Considered by Reynoldson, C.J., and Harris, Allbee, McGiverin, and Schultz, JJ. Opinion by Harris, J. Dissent by McGiverin, J. (7 pages \$2.80)

Petitioner wife appeals from an interpretation of a provision in the decree dissolving the marriage. This appeal turns on the meaning of the term "cohabitation" as it appears in a dissolution of marriage decree. OPINION HOLDS: We take it from the ordinary meaning of the term, and gather from the obvious thrust of the dissolution decree, that a sexual relationship was a part of the intended definition but the evidence was insufficient to show that the unrelated male with whom petitioner has a relationship lived or resided with her to the extent necessary to constitute "cohabitation." DISSENT ASSERTS: The evidence was sufficient to show that the unrelated male with whom petitioner has a relationship lived or resided with her to the extent necessary to constitute "cohabitation."

No. 65904. STATE EX REL. IOWA DEPARTMENT OF HEALTH V. VAN WYK.

Appeal from Marion District Court, Robert O. Frederick, Judge. Affirmed. Considered en banc. Opinion by Harris, J. Dissent by McCormick, J. (21 pages \$8.40)

Defendant appeals from an order enjoining him from performing acupuncture, withdrawing, or ordering withdrawal of, his patient's blood for analysis, and prescribing or recommending a dietary course of treatment. The Iowa Board of Chiropractic Examiners appeals from the denial of its petition for intervention. OPINION HOLDS: I. This litigation is fundamentally a dispute between plaintiff department and the board and falls within the statutory prohibition against litigation between state departments and boards; trial court did not err in denying the board's petition for intervention. II. Acupuncture, drawing of blood, and advice on diet and nutrition based on blood analysis are outside the statutory scope of chiropractic. III. The scheme under chapter 151, The Code, does not violate defendant's rights as a chiropractor, and his rights as a patient of a chiropractor, to due process, equal protection, and privacy under the state and federal constitutions; trial court did not err in issuing the injunction. DISSENT ASSERTS: I would overrule State v. Boston, 226 Iowa 429, 278 N.W. 291 (1938), aff'd on rehearing 284 N.W. 143 (1939), and hold that acupuncture, drawing of blood, and advice on diet and nutrition based on blood analysis are not outside the statutory scope of chiropractic.

No. 66615. BUSS v. GRUIS.

Appeal from Cerro Gordo District Court, John F. Stone, Judge. Reversed. Considered by LeGrand, P.J., and Uhlenhopp, McCormick, McGiverin, and Larson, JJ. Opinion by Uhlenhopp, J. (8 pages \$3.20)

Tenant appeals from judgment that landlord properly terminated farm tenancy. OPINION HOLDS: The provisions of sections 562.6 and 562.7 (service of notice of termination of farm tenancy) are mandatory; when service of such a notice is by mail, it is not enough that it be sent "certified"; it must be sent "restricted certified mail."

No. 65447. ROEDER v. NOLAN.

Appeal from Johnson District Court, August F. Honsell, Jr., Judge. Reversed and Remanded. Considered by LeGrand, P.J., and Uhlenhopp, McCormick, McGiverin, and Larson, JJ. Opinion by Uhlenhopp, J. (10 pages \$4.00)

This court granted plaintiff discretionary review of adverse judgment by district judge entered on appeal of magistrate's decision in plaintiff's small claim action against defendant landlord for return of her security deposit, punitive damages for bad-faith retention of the deposit, refund of rental overpayment, and damages for breach of warranty of habitability, for a total of \$529.25. OPINION HOLDS: I. On appeal from a magistrate's decision in a small claims action the district judge reviews the record de novo; since the district judge erred on his standard of review by basing its judgment on whether the magistrate's decision was supported by substantial evidence, we must return the case to district court for a new hearing of the whole case de novo before a district judge, for reception of additional evidence should the judge deem the record inadequate for rendition of judgment, and for entry of a new judgment. II. Chapter 631, The Code, on small claims gives the judicial officer no authority to condition a continuance on payment of expenses, as an alternative to the statutory authority to default the nonappearing defendant. III. Under the 1977 Code, when a landlord withholds a deposit in whole or in part, he has the burden of persuasion of showing the right to withhold, but if he fails to carry that burden and is thus liable for the deposit, the tenant has the burden of persuasion that the landlord withheld in bad faith, before punitive damages may be awarded the tenant. IV. On remand the district judge will have to decide de novo whether plaintiff proved by a preponderance of the evidence that the warranty of habitability was breached because of the inadequate heating system; if the judge finds affirmatively, he will have to find whether defendant proved by a preponderance of the evidence that plaintiff "voluntarily, knowingly and intelligently" waived the breach; if the judge finds that plaintiff sustained her burden to prove breach but defendant did not sustain his burden to prove waiver, the judge will have to find whether plaintiff proved by a preponderance of the evidence that she sustained damages and their amount.

No. 66838. GROVE v. IOWA COMMISSION FOR THE BLIND.

Appeal from Polk District Court, James P. Denato, Judge. Reversed and remanded. Considered by Reynoldson, C.J., and Harris, Allbee, McGiverin, and Schultz, JJ. Per curiam. (4 pages \$1.60)

Plaintiff appeals from an order dismissing her action against defendants seeking enforcement of chapter 28A, The Code (open meetings law), and chapter 68A, The Code (public records law). OPINION HOLDS: The district court incorrectly relied on what it determined to be plaintiff's purpose or motive for bringing the law suit, rather than on whether the pleadings stated a claim on which relief could be granted; the motive in filing the suit is not determinative in ruling on a motion to dismiss; the sole inquiry is whether plaintiff has stated a cause of action on which any relief can be granted; plaintiff has stated such a claim pursuant to chapter 28A; the motion to dismiss should have been overruled.

No. 66320. STATE v. WEST.

Appeal from Pottawattamie District Court considered as petition for writ of certiorari, Gordon C. Abel, District Associate Judge. Writ denied. Considered by Reynoldson, C.J., and Harris, Allbee, McGiverin, and Schultz, JJ. Opinion by Schultz, J. (11 pages \$4.40)

Appellants, unsuccessful claimants to share of the \$100,000 restitution fund paid by defendant Frank R. West, appeal from a sentencing order approving the restitution plan. Appellees are successful claimants to shares of the fund. OPINION HOLDS: I. We take appellants' failure to address the issue of the propriety of their appeal as a concession that certiorari is the only means by which we may review the district court's denial of their claims to share in the restitution fund; we therefore examine appellants' contentions to determine whether review is proper under Iowa R. App. P. 304; appellants contend the district court exceeded its jurisdiction in approving a restitution plan which excluded them; appellants have standing to obtain certiorari because they claim to have suffered pecuniary damages as a result of West's criminal activities, an injury different from that sustained by the general public; we thus treat the appeal as a petition for writ of certiorari. II. The district court did not err as a matter of law in concluding that appellants failed to present sufficient evidence that they were victims of West's criminal activities within the meaning of section 907.12, The Code; the judgment of conviction by guilty plea against West was rendered on the basis of his actions involving one of the appellees, not on the basis of his actions involving appellants, and there is no evidence that West admitted or did not contest committing a crime against appellants; the district court properly approved the restitution plan.

No. 66469. ARMSTRONG'S, INC. v. IOWA DEPARTMENT OF REVENUE.

Appeal from Linn District Court. Larry Conmey, Judge. Affirmed.

Considered en banc. Opinion by Schultz, J. Special concurrence by Uhlenhopp, J. Dissent by McGiverin, J. (18 pages \$7.20)

The Iowa Department of Revenue appeals from a district court judgment on judicial review reversing an agency decision imposing a penalty pursuant to section 422.25(2), The Code, for filing an untimely corporate income tax return. OPINION HOLDS: I. We refuse to adopt a per se rule that a taxpayer has a nondelegable duty to file a tax return when due. II. The department's hearing officer erred as a matter of law in concluding that the plaintiff's reliance on its accountant did not constitute reasonable cause within the meaning of section 422.25(2), thereby excusing the plaintiff from the payment of a penalty for the late filing of its tax return. SPECIAL CONCURRENCE ASSERTS: I. I agree with the result but not with the basis on which the majority arrives at it; the defense of delegability contains two flaws; first, it permits a tax return preparer to commit malpractice without suffering the consequences; second, the delegability doctrine will drive a hole in the tax collection process. II. I would treat the delay by a preparer the same as delay by an in-house tax preparer, under the basic rule that a principal must respond for the act of his agent; I would hold on this record, treating the outside tax preparer with the same consequences as an in-house preparer, that reasonable cause for the delay appears and willful neglect does not appear. DISSENT ASSERTS: I respectfully dissent from the opinion and result reached by the majority; I agree with the reasoning in division I of the special concurrence; however, I would hold on this record that reasonable cause for the delay does not appear and that willful neglect does; I would reverse the district court and affirm the Department of Revenue decision.

No. 66553. LENNOX INDUSTRIES, INC. v. CITY OF DAVENPORT.

Appeal from Scott District Court, C. H. Pelton, Judge. Reversed and remanded. Considered by Reynoldson, C.J., and Harris, Allbee, McGiverin, and Schultz, JJ. Opinion by Reynoldson, C.J.

(7 pages \$2.80)

Manufacturer of air conditioning equipment appeals from holding that its public improvement lien, chapter 573, The Code, was not valid because the distributor to which plaintiff supplied the equipment was not a "subcontractor" under chapter 573. OPINION HOLDS: I. The fighting issue in this case is whether the firm to which plaintiff supplied equipment was a "subcontractor" as that word appears in section 573.7, The Code; the subsection 572.1(2) (mechanic's lien) definition of "subcontractor" is not applicable to chapter 573 (public improvements). II. A subcontractor is an entity that performs for and takes from the prime contractor a specific part of the labor or material requirements of the original contract; the substantiality and importance of the entity's relationship with the prime contractor is critical; ordinarily a contract with a prime contractor is a prerequisite to being a subcontractor; the firm to which plaintiff supplied equipment was a subcontractor within the meaning and intent of section 573.7, The Code.

No. 65621. SMITH v. BOARD OF SUPERVISORS.

Appeal from Des Moines District Court, Harlan Bainter, Judge. Affirmed in part, reversed in part, and remanded. Considered by LeGrand, P.J., and Harris, Allbee, Larson, and Schultz, JJ. Opinion by Larson, J. (8 pages \$3.20)

County officers appeal from judgment of district court holding county purchasing ordinance to be constitutional; county supervisors cross-appeal from allowance of attorney's fees for challengers. OPINION HOLDS: I. The former clerk of district court, who left office during the pendency of this appeal, has no continued interest in the validity of the ordinance, except that shared by every other citizen, and therefore lacks standing to assert a continued challenge to the validity of the ordinance; however, the former clerk's lack of standing does not preclude the intervenor-appellant, the county auditor, from continuing the action. II. Article III, section 39A (1978) of the Iowa Constitution (the "home rule" amendment) was lawfully enacted under article X (amendment procedure) of the Iowa Constitution; the "home rule" amendment also does not violate the supremacy clause of the Iowa Constitution (article XII, section 1); consequently the ordinance in question, which has passed under authority granted by the "home rule" amendment, cannot be challenged on the ground of defects in that amendment. III. The trial court erred by allowing the plaintiff to recover attorney's fees from the county; attorney's fees may be awarded only if the award is authorized by statute or by agreement of the parties.

No. 65911. TRECKER v. STATE.

Appeal from Carroll District Court, R. K. Richardson, Judge. Affirmed. Considered by LeGrand, P.J., and Harris, McCormick, Larson, and Schultz, JJ. Opinion by Larson, J. (5 pages \$2.00)

Petitioner appeals from denial of postconviction relief, ch. 663A, The Code 1979. OPINION HOLDS: I. Under section 907.3(2), The Code, a probationer is not entitled to credit on his sentence for time spent on probation. II. The Iowa Security Medical Facility at Oakdale is not an "alternate jail facility" or a "community correctional residential treatment facility" within the meaning of section 907.3(2); therefore petitioner is not entitled to credit on his sentence for time spent at Oakdale for psychiatric examination.

No. 66496. MEREDITH CORP. v. IOWA DEPARTMENT OF JOB SERVICE.

Appeal from Polk District Court, Luther T. Glanton, Judge. Reversed and remanded. Considered by LeGrand, P.J., and Harris, McCormick, Larson, and Schultz, JJ. Opinion by Larson, J. (6 pages \$2.40)

Employer appeals from judgment in district court concerning private retirement benefits paid to an employee. OPINION HOLDS: I. The preliminary question of whether there was substantial evidence in the record to support the finding that claimant received her lump-sum payment before filing for unemployment benefits was not previously asserted and cannot now be considered by this court. II. Under chapter 96, The Code 1977, private retirement benefits paid to a retired employee in a lump sum must offset unemployment benefits for each month for which it was paid, not just the month the lump-sum payment was received.

No. 66224. STATE v. McFADDEN.

Appeal from Polk District Court, Van Wifvat, Judge. Affirmed in part; sentences vacated; remanded for resentencing. Considered by Reynoldson, C.J., and LeGrand, Harris, McCormick, and Allbee, JJ. Opinion by Allbee, J. (20 pages \$8.00)

No. 66224. STATE v. McFADDEN (Cont'd)

Defendant appeals from two convictions of involuntary manslaughter in violation of section 707.5(1), The Code 1979. The charges stemmed from a drag race in which defendant and another driver, Matthew Sulgrove, competed. Sulgrove's car collided with a van, killing Sulgrove and a child in the van. OPINION HOLDS: I. Aiding and abetting and joint criminal conduct, the theories under which defendant is vicariously liable for Sulgrove's commission of involuntary manslaughter, would be inadequate to convict defendant for Sulgrove's death; we thus consider only the theory that defendant himself committed involuntary manslaughter by recklessly engaging in a drag race which proximately caused the collision and deaths. II. The fact that defendant's car did not physically contact either of the other two vehicles does not, standing alone, preclude his conviction; Sulgrove's voluntary and reckless participation in the drag race does not of itself bar defendant's conviction of involuntary manslaughter for Sulgrove's death; the trial court did not err in applying ordinary proximate cause principles to determine whether the causation element of the section 707.5(1), The Code, definition of involuntary manslaughter had been met, and in declining to adopt a more stringent "direct causal connection" standard; under the theory of liability we are considering, a defendant's asserted withdrawal should not be viewed as an absolute defense, but only as a factor affecting the determination of proximate cause. III. Defendant has shown no good reason why this court should adopt a "strict scrutiny" standard in reviewing the sufficiency of the evidence in a criminal bench trial; accordingly, we apply the usual rules for reviewing sufficiency; viewing the evidence in the light most favorable to the State, we hold the record contains substantial evidence that defendant's participation in a drag race with Sulgrove was a concurring proximate cause of the collision in which Sulgrove and the child were killed; we therefore affirm defendant's convictions. IV. We hold that a separate and distinct offense arises from each death caused by a single act of vehicular involuntary manslaughter; State v. Wheelock, 216 Iowa 1428, 250 N.W.2d 617 (Iowa 1933), and other decisions holding to the contrary are overruled to the extent that they conflict herewith; the trial court correctly imposed a separate sentence on each of the two counts of involuntary manslaughter. V. The State concedes the trial court erred in failing to state on the record its reasons for selecting the particular sentences imposed, as required by Iowa R. Crim. P. 22(3)(d); consequently, the sentences imposed are vacated and this case is remanded for resentencing.

No. 66360. GROUT v. STATE.

Appeal from Polk District Court, C. Edwin Moore, Senior Judge. Affirmed. Considered en banc. Opinion by Allbee, J. Dissent by McCormick, J.

(11 pages \$4.40)

Petitioner appeals from denial of postconviction relief. OPINION HOLDS: I. Grout's contention that Iowa law requires defendants with prior forcible felony convictions to be informed of the section 906.5 restrictions on parole before they plead guilty is foreclosed by this court's recent decision in Boge v. State, 309 N.W.2d 428, 430-31 (Iowa 1981); we are unable to pursue Grout's claim that she was affirmatively misled to believe she would be eligible for parole after five years, because she raises this issue for the first time on appeal. II. The due process clause of the federal constitution does not require that a defendant with a prior forcible felony conviction be informed of the period of parole ineligibility prescribed by section 906.5 before his or her guilty plea may be accepted. DISSENT ASSERTS: I. I am unable to agree that the question of the court's duty to inform Grout of the parole limitation in section 906.5 is controlled by Boge; I would hold that when a defendant is subject to more than one statutory provision establishing a mandatory minimum period of incarceration the court must advise the defendant of each as a matter of due process under the fourteenth amendment of the United States Constitution. II. I would also reverse because the plea-taking judge actually gave misleading advice regarding Grout's eligibility for parole; the court's holding ignores our duty in exceptional cases like this one to forgive a failure to preserve error in the court below.

No. 65140. STATE v. DELAY

Appeal from Washington District Court, Ira Morrison, Judge. On review from Iowa Court of Appeals. Decision of court of appeals vacated; judgment of district court affirmed. Considered by Uhlenhopp, P.J., and Allbee, McGiverin, Larson, and Schultz, JJ. Opinion by Allbee, J. (7 pages \$2.80)

The State was granted further review of the court of appeals decision reversing defendant's conviction of assault with intent to inflict serious injury, a violation of sections 708.1 and .2, The Code 1979. OPINION HOLDS: I. Justification is an affirmative defense to assault, as defined in section 708.1, rather than an element of that crime; there was no evidence in the record to generate a jury question on the justification of self-defense. II. There was sufficient circumstantial evidence in the record to permit a rational fact-finder to conclude beyond a reasonable doubt that defendant had the requisite specific intent. III. Defendant failed to preserve error on the assigned error relating to alleged prosecutorial misconduct.

No. 66694. CASEY v. CONNOLLY.

Appeal from Sac District Court, Albert Habhab, Judge. Affirmed. Considered by Uhlenhopp, P.J., and Allbee, McGiverin, Larson, and Schultz, JJ. Opinion by Larson, J. (3 pages \$1.20)

Defendant physician, by way of interlocutory appeal, challenges order of the district court permitting plaintiff limited discovery. OPINION HOLDS: The sustention of a special appearance, Iowa R. Civ. P. 166, does not terminate the proceedings, subject only to the right of appeal or proceeding to vacate, Iowa R. Civ. P. 252; Iowa R. Civ. P. 48 has been amended so that an action is commenced by the filing of a petition, not by service of notice; thus, statutes of limitations no longer pose the risk to a plaintiff who has unsuccessfully resisted a special appearance; the defendant may simply be re-served; the district court did not lose jurisdiction to enter the order for discovery by the sustention of earlier special appearance.

No. 66757. GIBSON v. DEPARTMENT OF TRANSPORTATION.

Appeal from Polk District Court, Thomas S. Bown, Judge. Affirmed. Considered by LeGrand, P.J., and Uhlenhopp, McCormick, McGiverin, and Larson, JJ. Per curiam. (3 pages \$1.20)

Petitioner appeals from an order of the district court affirming the suspension of his driver's license on the ground he was a habitual offender under section 321.120(3), The Code. OPINION HOLDS: Petitioner exhausted his administrative remedies when the department of transportation had erroneously advised him, following the ruling on his last hearing, that he had no further right of review, while in fact he did; despite the lack of authority cited in appellant's brief we have examined all of the arguments raised and conclude there is no merit in any of them.

No. 66127. WENCK v. STATE.

Appeal from Sac District Court, Truman Reida, Magistrate. Affirmed. Considered by Reynoldson, C.J., and Harris, Allbee, McGiverin, and Schultz, JJ. Opinion by Allbee, J. (5 pages \$2.00)

No. 66127. WENCK v. STATE (Cont'd)

Petitioner Wenck appeals a magistrate's dismissal of his application seeking postconviction relief from a simple misdemeanor conviction. OPINION HOLDS: I. No problem of mootness is created by the fact that Wenck's sentence expired before he filed his postconviction application. II. Chapter 663A is applicable to simple misdemeanor convictions. III. A magistrate's jurisdiction does not extend to postconviction proceedings; Wenck's application for postconviction relief, under the terms of section 663A.3, should have been filed with the clerk of Sac District Court. IV. Therefore, we affirm the dismissal for lack of jurisdiction in the magistrate, and reserve Wenck's right to refile his petition with the clerk of the district court.

No. 67218. WALKER V. CLARK EQUIPMENT CO.

Certified question of law from United States District Court, Harold D. Vietor, Judge. Certified questions answered. Considered en banc. Opinion by Harris, J. Dissent by Allbee, J. (6 pages \$2.40)

Pursuant to section 684A.1, The Code 1981, the United States District Court certified legal questions involving tort liability. OPINION HOLDS: I. A bystander, whose allegations satisfy the five elements set forth in Barnhill v. Davis, 300 N.W.2d 104, 108 (Iowa 1981), may maintain a claim of strict liability in tort against the manufacturer of a product for emotional distress caused by witnessing peril to a victim proximately caused by a defect in design or manufacture of the product. II. A bystander, whose allegations satisfy the five elements set forth in Barnhill v. Davis, 300 N.W.2d at 108, may maintain a claim based upon the breach of implied warranties of fitness and merchantability against a manufacturer of a product for emotional distress caused by witnessing peril to a victim proximately caused by defects in the product that rendered it unmerchantable or unfit for its intended purposes. DISSENT ASSERTS: I dissent for the reasons stated in my dissent in Barnhill v. Davis.

No. 67969. COMMITTEE ON PROFESSIONAL ETHICS AND CONDUCT V. G. GIFFORD MORRISON.

On review of the Report of the Grievance Commission. Attorney reprimanded. Considered en banc. Opinion by Harris, J. (5 pages \$2.00)

This is a review of report of the grievance commission recommending lawyer be reprimanded. OPINION HOLDS: Attorney Morrison violated Iowa Code of Professional Responsibility EC 5-5 by drafting for a client a will and codicil which granted special bequests to Morrison's wife and awarded Morrison a 5% commission on real estate sold, in addition to ordinary and extraordinary probate fees; for these violations respondent is reprimanded.

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