



IOWA ADMINISTRATIVE BULLETIN

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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> |
|---------------------|----------------------------|-------------------|
| 20 | Friday, March 11, 1983 | March 30, 1983 |
| 21 | Friday, March 25, 1983 | April 13, 1983 |
| 22 | Friday, April 8, 1983 | April 27, 1983 |

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Iowa Administrative Bulletin

The Iowa Administrative Bulletin is sold as a separate publication and may be purchased by subscription or single copy. All subscriptions will expire on June 30 of each year. Subscriptions must be paid in advance and are prorated quarterly as follows:

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|----------------|-----------------------------------|-------------------------------|
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Iowa Administrative Code

The Iowa Administrative Code and Supplements are sold in complete sets and subscription basis only. All subscriptions for the Supplement (replacement pages) must be for the complete year and will expire on June 30 of each year.

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PUBLIC HEARINGS

| AGENCY | HEARING LOCATION | DATE AND TIME OF HEARING |
|---|---|------------------------------|
| ARTS COUNCIL[100] Policies and procedures, 2.3 IAB 3/16/83 ARC 3610 | Arts Council Office 1223 E. Court Ave. Des Moines, Iowa | April 6, 1983 10:00 a.m. |
| COMMERCE COMMISSION[250] Service supplied by electric utilities, 20.7(13) IAB 2/16/83 ARC 3555 | Hearing Room First Floor Lucas State Office Bldg. Des Moines, Iowa | March 24, 1983 10:00 a.m. |
| Rates and service by telephone utilities, 22.1(3), 22.2(5) and 22.3(14) IAB 3/16/83, ARC 3636 | Hearing Room First Floor Lucas State Office Bldg. Des Moines, Iowa | April 25, 1983 10:00 a.m. |
| CONSERVATION COMMISSION[290] Docks, 33.1(9), 33.1(10) IAB 3/2/83 ARC 3583 | Fourth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa | March 22, 1983 10:00 a.m. |
| Dock management areas, 34.3, 34.4, 34.5 IAB 3/2/83 ARC 3578 | Fourth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa | March 22, 1983 10:00 a.m. |
| ENVIRONMENTAL QUALITY DEPARTMENT[400] Emission standards for contaminants, 4.2(4) IAB 2/16/83 ARC 3544 | Conference Room Fifth Floor Wallace State Office Bldg. Des Moines, Iowa | March 18, 1983 10:30 a.m. |
| HEALTH DEPARTMENT[470] Intermediate care facility for mentally retarded, administrator qualifications, 64.9(1) IAB 3/16/83 ARC 3615 (See IAB 2/2/83 ARC 3522) | Third Floor Conference Room Lucas Bldg. Des Moines, Iowa | April 8, 1983 1:00 p.m. |
| IOWA FAMILY FARM DEVELOPMENT AUTHORITY[523] Issuance of bond, 2.12.4.4 IAB 3/16/83 ARC 3608 and ARC 3609 | Authority offices 550 Liberty Bldg. 418 Sixth Ave. Des Moines, Iowa | April 6, 1983 10:00 a.m. |
| LABOR, BUREAU OF[530] Occupational safety and health for general industry, 10.20 IAB 3/16/83 ARC 3634 | Bureau of Labor 307 East 7th Des Moines, Iowa | April 6, 1983 9:00 a.m. |
| Occupational safety and health for Agriculture, 28.1 IAB 3/16/83 ARC 3635 | Bureau of Labor 307 East 7th Des Moines, Iowa | April 6, 1983 9:00 a.m. |
| OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION[610] Procedures for hearings, amendments to ch 1 IAB 3/2/83 ARC 3574 | Second Floor Conference Room 507 Tenth Street Des Moines, Iowa | April 8, 1983 10:00 a.m. |
| PLANNING AND PROGRAMMING[630] Intergovernmental review system, ch 11 IAB 3/16/83 ARC 3629 | OPP Conference Room 523 East 12th Des Moines, Iowa | April 6, 1983 10:00 a.m. |
| Job training partnership program, ch 19 IAB 3/16/83 ARC 3638 (See IAB 3/16/83 ARC 3637) | OPP Conference Room 523 East 12th Des Moines, Iowa | April 6, 1983 9:00 a.m. |

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IAB 3/2/83 ARC 3584

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

March 22, 1983
10:00 a.m.

Motor Vehicle
impoundment, Ch 6
IAB 3/16/83 ARC 3627

State Patrol Offices
Third Floor
Wallace State Office Bldg.
Des Moines, Iowa

April 6, 1983
2:00 p.m.

REAL ESTATE COMMISSION[700]

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procedures, ch 4
IAB 3/2/83 ARC 3594

Commission Office
1223 E. Court Ave.
Suite 205
Des Moines, Iowa

April 14, 1983
9:00 a.m.

REVENUE DEPARTMENT[730]

Value and tax, freight-
line and equipment car companies
IAB 3/16/83 ARC 3617

Conference Room 1
Fourth Floor
Hoover State Office Bldg.
Des Moines, Iowa

April 5, 1983
9:00 a.m.

Determination of value of
utility companies, ch 77
IAB 3/16/83 ARC 3618

Conference Room 1
Fourth Floor
Hoover State Office Bldg.
Des Moines, Iowa

April 7, 1983
9:00 a.m.

SOCIAL SERVICES DEPARTMENT[770]

Basic needs of dependent
children, 46.5(3)
IAB 3/2/83 ARC 3582
(See IAB 1/5/83 ARC 3497)

Auditorium
Wallace State Office Bldg.
Des Moines, Iowa

March 23, 1983
1:30 p.m.

ARC 3610

ARTS COUNCIL[100]
NOTICE OF INTENDED ACTION

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

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

Pursuant to the authority of Iowa Code sections 304A.4 and 304A.6, the Arts Council hereby gives Notice of Intended Action to amend Chapter 2, "Policies and Procedures", Iowa Administrative Code.

The proposed rule amends residency requirements for Iowa based artists intending to apply to the Iowa Arts Council for grants support, further clarifies that groups and individuals applying to the year-around mini-grant program must prove that the projects were unforeseen or undeveloped at the time of the general grants program by explaining why the application could not have been made in time for that program. The rule clarifies that community arts councils applying to the community partnership incentive grants program are eligible to make applications for three successful projects over a period of five years, and not for three consecutive years as was previously misunderstood by the field. The rule pulls guidelines for the solo artists program into concurrence with the general agency guidelines for tax exemption and requiring delinquent report forms prior to releasing further funding to those organizations.

The new rules link Iowa residency to having a valid Iowa voter's registration, proof of Iowa income tax payment, or valid Iowa driver's license. The rule also re-emphasizes that the mini-grant program is for emergency grants, and thereby a small scale program which carries its own unique requirements. The rule links more closely the requirement for a dollar-for-dollar in cash match allocated directly from local government in partnership with community arts councils applying to the community partnership incentive grants program. Research has shown that a number of grant applicants felt they were ineligible to apply for second or third year funding if a period of a year or more had lapsed between their applications; the new rule clarifies that they are eligible to apply for three successful applications over a period of five years. The rule concludes with language re-emphasizing that the Iowa Arts Council has uniform grants policies covering tax-exemption and delinquent final reports which are attributable to the solo artists program.

Any interested person may make written suggestions or comments on these rules prior to April 6, 1983. Such written materials should be directed to the Director, Iowa Arts Council, State Capitol Complex, 1223 East Court Avenue, Des Moines, Iowa, 50319. Persons who want to convey their views orally should contact the director, Iowa Arts Council at (515) 281-4451, or in the council offices at 1223 East Court Avenue, Des Moines, Iowa. Also, there will be a public hearing on April 6, 1983 at 10:00 a.m. in the conference room at the Iowa Arts

Council office. Persons may present their views at the public hearing either orally or in writing. Persons who wish to make oral presentations at the public hearing should contact the director of the council at least one day prior to the date of the public hearing.

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

ITEM 1. Amend subrule 2.3(2), paragraph "a", subparagraph (3), and add the following new subparagraphs (5) and (6):

(3) Individuals applying for and receiving grant funds from the general grants-in-aid program must be *legal residents of Iowa for the duration of the grant period.*

(5) *At the sole discretion of the Iowa arts council, legal residency will be based on evidence presented by the applicant from the following: Valid Iowa voter's registration, proof of Iowa income tax payment, or valid Iowa driver's license.*

(6) *Applicant organizations must be incorporated under the Iowa nonprofit corporation Act.*

ITEM 2. Amend subrule 2.3(6) to read as follows:

2.3(6) Mini-grants. Applications may be submitted throughout the year for the mini-grant program. Groups and individuals may apply for matching funds for projects unforeseen or undeveloped at the time of the general grants program, *and must explain why the application could not have been made in time for the general grants program.* The maximum amount awarded in this program is five hundred dollars.

ITEM 3. Amend subrule 2.3(7), paragraph "a", subparagraph (1), to read as follows:

(1) Grants must be matched dollar-for-dollar (in cash) by funds ~~from~~ *allocated directly by local government.* (First-year applicants may request up to one thousand dollars, second-year applicants may request up to two thousand dollars, and third-year applicants may request up to three thousand dollars. Three years of funding is the limit for any applicant and *the applicant is eligible to apply for three successful applications over a period of five years.* ~~only~~ *Only one successful community partnership incentive application will be accepted per year from any one council).*

ITEM 4. Amend subrule 2.3(10), paragraph "a", subparagraph (1), to read as follows:

(1) Any nonprofit *tax-exempt* organization may apply for a solo artists program; however funding preference will be given organizations that might not otherwise locate funds to cover expenses of the program. The local sponsor pays one-half of the annually published fee and the Iowa arts council pays the balance.

ITEM 5. Amend subrule 2.3(10), paragraph "a", subparagraph (7), to read as follows:

(7) Sponsors must submit an evaluation form about their solo artists program immediately following the event and *will not qualify for further funding if evaluations are outstanding.* ~~Before an~~ *An artist will be paid by the Iowa arts council for a program that has taken place; this evaluation must be received by the Iowa arts council as soon as it has taken place. The local sponsor's portion of the fee is due on the day of the artist's visit.*

ARC 3636**COMMERCE COMMISSION[250]****NOTICE OF INTENDED ACTION**

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

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

The Iowa State Commerce Commission hereby gives notice, pursuant to Iowa Code section 17A.4, that on February 25, 1983 the Commission issued an order in Docket No. RMU-83-2, IN RE: NONOUTGOING TOLL LOCAL TELEPHONE SERVICE. The Commission intends to amend 250—Chapter 22 "Rates Charged and Service Supplied by Telephone Utilities" of the Iowa Administrative Code.

Pursuant to the authority of Iowa Code sections 476.1, 476.2, 476.4, 476.8, 476.15, the Commission intends to consider the attached amendment. The proposal would require telephone utilities to file rates, and provisions for the implementation of those rates, which would give a customer the opportunity to receive Nonoutgoing Toll Local Service. That is, a customer could have intra-area, or if available intraextended area, service and receive toll messages without paying for or receiving outgoing access to the toll network.

The Commission is considering this action to help protect universal service, and fulfill the statutory mandate of "reasonable and just" rates.

Any person interested in this matter may file a written statement of position on the proposed rule no later than April 18, 1983, by filing an original and six copies of the written statement of position, substantially complying with the form prescribed in subrule 2.2(2) Iowa Administrative Code.

A rulemaking oral presentation for the purpose of receiving comments on the proposed rules shall be held on April 25, 1983, in the Commerce Commission Hearing Room, First Floor, Lucas State Office Building, Des Moines, Iowa 50319 at 10:00 a.m. Persons who wish to participate in this oral presentation must file a written appearance within the deadline for written comments.

All communications shall clearly indicate the author's name and address as well as a specific reference to this docket and the rule upon which comment is submitted. All communications shall be directed to the Executive Secretary, Iowa State Commerce Commission, Lucas State Office Building, Des Moines, Iowa 50319. This rulemaking proceeding shall be conducted pursuant to Iowa Code chapter 17A, and 250—Chapter 3, Iowa Administrative Code.

ITEM 1. Amend subrule 22.1(3) by adding the following definition, to be inserted alphabetically and reletter the paragraphs accordingly:

"Nonoutgoing toll local service" means the level of service at which the customer has full intra-area, or if available intraextended area, service and the ability to receive toll messages. No access charge to the long distance network shall be assessed.

ITEM 2. Amend subrule 22.2(5) by adding to the end of the current rule the following new paragraph:

v. Separate rates or charges for local service without outgoing access to the toll network, including provisions for alerting all existing and new customers of this option, and the company's method for effectuating the option once the choice is made. No access charge to the toll network shall be assessed. Provisions for informing all customers of this option, and informing them that this choice may be reversed within sixty days of initial election without a service fee.

ITEM 3. Amend rule 250—22.3(476) by adding the following new subrule:

22.3(14) Nonoutgoing toll local service. Telephone utilities shall make available to all customers nonoutgoing toll local service. No access charge to the toll network shall be assessed. Every customer shall be informed of the availability of this type of service. After the original acceptance or refusal of NOTLS every customer shall be able to reverse this choice once without a service fee, if such reversal occurs within sixty days of the original choice.

ARC 3615**HEALTH DEPARTMENT[470]****AMENDED NOTICE OF INTENDED ACTION - HEARING**

Pursuant to the authority of Iowa Code section 135C.14, the state Department of Health proposes to amend subrule 64.9(1) relating to the qualifications of the administrator of an intermediate care facility for the mentally retarded. The substance of this amendment was previously published as ARC 3522 in the February 2, 1983, issue of the Iowa Administrative Bulletin.

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

There will be a public hearing on Friday, April 8, 1983, at 1:00 p.m. in the third floor conference room, Lucas Building, Des Moines, Iowa. Persons may present their views at this hearing either orally or in writing. Persons who wish to make oral presentations are requested to submit the substance of their comments in writing.

ARC 3606**HEALTH DEPARTMENT[470]**

BOARD OF CHIROPRACTIC EXAMINERS

NOTICE OF INTENDED ACTION

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

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

Pursuant to the authority of Iowa Code section 147.76, the Chiropractic Board of Examiners hereby proposes to amend Chapter 141 of their rules appearing in the Iowa Administrative Code.

These rule changes reflect the latest update of the standards and bylaws set by the Council on Chiropractic Education.

Any person, government agency or association may submit written comments on the proposed rules prior to April 5, 1983 to Harriett Miller, Executive Secretary, Board of Chiropractic Examiners, Lucas State Office Building, Des Moines, Iowa 50319.

These proposed changes are intended to implement Iowa Code section 151.4.

The following amendments are proposed:

ITEM 1. Subrule 141.11(1) is amended to read as follows:

141.11(1) Rules pertaining to the practice of chiropractic at a chiropractic college clinic shall be equal to the standards established by the Council on Chiropractic Education existing as of ~~May 1, 1982~~ *July 1, 1982* or one that meets equivalent standards thereof.

ITEM 2. Subrule 141.11(2) is amended to read as follows:

141.11(2) All chiropractic colleges in order to be approved by the board of chiropractic examiners shall first have status with the Commission on Accreditation of the Council on Chiropractic Education as recognized by the U.S. Office of Education existing as of ~~May 1, 1982~~ *July 1, 1982* or one that meets equivalent standards thereof.

ITEM 3. Subrule **141.11(3)** paragraph "a" is amended to read as follows:

a. Standards. The standards against which the institution will be evaluated shall be equivalent to, or exceeding those published and utilized by the Council on Chiropractic Education existing as of ~~May 1, 1982~~ *July 1, 1982*.

ITEM 4. Subrule 141.13(6) is amended to read as follows:

141.13(6) All applicants matriculating after October 1, 1975 will be a graduate from a college having status with the C.C.E. (Council on Chiropractic Education) or its successor, or from a college which meets or exceeds equivalent standards thereof existing as of ~~May 1, 1982~~ *July 1, 1982*.

ARC 3608**IOWA FAMILY FARM DEVELOPMENT AUTHORITY[523]****NOTICE OF INTENDED ACTION**

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

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

Pursuant to the authority of Iowa Code section 175.6(14), the Iowa Family Farm Development Authority hereby gives Notice of Intended Action to amend 523—Chapter 2 of the Iowa Administrative Code.

Rule 2.12(175.69GA, ch68) provides for notice and public hearing before issuance of the bonds in the Beginning Farmer Loan Program. The rule has been amended to permit the publication of the notice to be printed in a newspaper of general circulation in the county rather than in a newspaper published in the county.

Any interested persons may make written suggestions or comments on this proposed amendment on or before April 6, 1983. Such written comments should be directed to the Executive Administrator, Iowa Family Farm Development Authority, 550 Liberty Building, 418 Sixth Avenue, Des Moines, Iowa 50309.

There will also be a public hearing on April 6, 1983 at 10:00 a.m. at 550 Liberty Building, 418 Sixth Avenue, Des Moines, Iowa. Persons who wish to make oral presentations at the public hearing should contact the Executive Administrator of the Iowa Family Farm Development Authority at 515/281-6634 at least one day prior to the date of the public hearing.

This amendment is intended to implement Iowa Code section 175.12 and 1981 Iowa Acts, chapter 68.

The following amendment is proposed.

Rule 523—2.12 (175.69GA, ch68), first paragraph is amended to read as follows:

523—2.12 (175.69GA, ch68) Issuance of bond. The authority will not issue a bond for the purpose of financing a project for a specific beginning farmer unless, prior to the issuance, the authority has conducted a public hearing conforming to the applicable requirements of the United States Internal Revenue Code of 1954 and the regulations promulgated thereunder. Upon receipt of a completed application, in a form prescribed by the authority, the secretary or executive administrator of the authority may set a date, time and place for the hearing. The hearing shall be preceded by a notice thereof published at least fourteen days prior to the date of the hearing in a newspaper published and of general circulation in the county where the project is located. The notice shall include, but not be limited to, the date, time and place of the hearing, the name of the beginning farmer, a general description of the project, and the right of individuals to request a local hearing.

ARC 3609

**IOWA FAMILY FARM
DEVELOPMENT AUTHORITY[523]**

NOTICE OF INTENDED ACTION

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

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

Pursuant to the authority of Iowa Code section 175.6(14), the Iowa Family Farm Development Authority hereby gives Notice of Intended Action to amend 523—Chapter 4 of the Iowa Administrative Code.

Rule 4.4 (69GA, ch1243) provides for notice and public hearing before issuance of the bonds in the Soil Conservation Loan Program. The rule has been amended to permit the publication of the notice to be printed in a newspaper of general circulation in the county rather than in a newspaper published in the county.

Any interested persons may make written suggestions or comments on this proposed amendment on or before April 6, 1983. Such written comments should be directed to the Executive Administrator, Iowa Family Farm Development Authority, 550 Liberty Building, 418 Sixth Avenue, Des Moines, Iowa 50309.

There will also be a public hearing on April 6, 1983 at 10:00 a.m. at 550 Liberty Building, 418 Sixth Avenue, Des Moines, Iowa 50309. Persons who wish to make oral presentations at the public hearing should contact the Executive Administrator of the Iowa Family Farm Development Authority at 515/281-6634 at least one day prior to the date of the public hearing.

This amendment is intended to implement 1982 Iowa Acts, chapter 1243.

The following amendment is proposed.

Rule 523—4.4 (69GA, ch1243), first paragraph, is amended to read as follows:

523—4.4 (69GA, ch1243) Issuance of bond. The authority will not issue a bond for the purpose of financing a project for a specific landowner(s) or operator(s) unless, prior to the issuance, the authority has conducted a public hearing conforming to the applicable requirements of the United States Internal Revenue Code of 1954 and the regulations promulgated thereunder. Upon receipt of a completed application, in a form prescribed by the authority, the secretary or executive administrator of the authority may set a date, time and place for hearing. The hearing shall be preceded by a notice thereof published at least fourteen days prior to the date of the hearing in a newspaper published and of general circulation in the county where the project is located. The notice shall include, but not be limited to, the date, time and place of

the hearing, the name of the landowner(s) or operator(s), a general description of the project, and the right of individuals to request a local hearing.

ARC 3634

LABOR, BUREAU OF[530]

NOTICE OF INTENDED ACTION

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

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

The Labor Commissioner, pursuant to the authority of Iowa Code sections 88.5 and 17A.3(1), hereby gives Notice of Intended Action to amend rules relating to occupational safety and health rules for general industry. The amendments relate to respirator fit testing for lead exposure, benzene exposure, cotton dust exposure, noise exposure, electrical standards corrections, lead exposure amendments, hearing conservation amendments, latch-open devices for dispensing flammable and combustible liquids, exposure to coal tar pitch volatiles, and educational scientific diving.

In compliance with Iowa Code section 88.5(1)“b”, a public hearing will be held on April 6, 1983, at 9:00 a.m. in the offices of the Iowa Bureau of Labor, 307 East 7th, Des Moines, Iowa. Any interested person will be given the opportunity to make oral or written submissions concerning the proposed rules. Written data or arguments to be considered in adoption may be submitted by interested persons no later than April 7, 1983, to the Deputy Labor Commissioner, 307 East 7th, Des Moines, Iowa 50319.

Pursuant to the authority of Iowa Code sections 88.5 and 17A.3(1), the rule of the Iowa Bureau of Labor appearing at 530—10.20(88) is amended by adding at the end thereof the words:

- “46 Fed. Reg. 32022 (June 19, 1981)
- 46 Fed. Reg. 40185 (August 7, 1981)
- 46 Fed. Reg. 42632 (August 21, 1981)
- 46 Fed. Reg. 45333 (September 11, 1981)
- 46 Fed. Reg. 60775 (December 11, 1981)
- 47 Fed. Reg. 39161 (September 7, 1982)
- 47 Fed. Reg. 51117 (November 12, 1982)
- 47 Fed. Reg. 53365 (November 26, 1982)
- 48 Fed. Reg. 2768 (January 21, 1983)”

This rule is intended to implement Iowa Code section 88.5.

ARC 3635**LABOR, BUREAU OF[530]
NOTICE OF INTENDED ACTION**

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

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

The Labor Commissioner, pursuant to the authority of Iowa Code sections 88.5 and 17A.3(1), hereby gives Notice of Intended Action to amend rules relating to occupational safety and health rules for agriculture. The amendments relate to cotton dust in cotton gins.

In compliance with Iowa Code section 88.5(1)"b", a public hearing will be held on April 6, 1983, at 9:00 a.m. in the offices of the Iowa Bureau of Labor, 307 East 7th, Des Moines, Iowa. Any interested person will be given the opportunity to make oral or written submissions concerning the proposed rules. Written data or arguments to be considered in adoption may be submitted by interested persons no later than April 7, 1983, to the Deputy Labor Commissioner, 307 East 7th, Des Moines, Iowa 50319.

Pursuant to the authority of Iowa Code sections 88.5 and 17A.3(1), rules of the Iowa Bureau of Labor appearing at 530—28.1(88) are amended by adding at the end thereof the words:

"46 Fed. Reg. 32022 (June 19, 1981)"

This rule is intended to implement Iowa Code section 88.5.

ARC 3638**PLANNING AND
PROGRAMMING[630]
NOTICE OF INTENDED ACTION**

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

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

Pursuant to the authority of Iowa Code section 7A.3, chapter 17A and Executive Order 47 (1982), the Office for Planning and Programming hereby gives Notice of Intended Action to adopt a new Chapter 19, "Iowa Job Training Partnership Act Program", Iowa Administrative Code.

The substance of these rules has been submitted as emergency rule, ARC 3637. The purpose of this notice is to provide opportunity for public comment on that sub-

mission, the subject matter of which is incorporated by reference.

Any interested persons may make written suggestions or comments on this proposed rule to the Division for Human Resource Coordination, Office for Planning and Programming, 523 East 12th Street, Des Moines, Iowa, 50319, no later than Wednesday, April 6, 1983. A public hearing on these rules will be held Wednesday, April 6, 1983 at 9:00 a.m. in the Office for Planning and Programming conference room. Any person wishing to be placed on the agenda should notify the Office for Planning and Programming of their name, organization, if applicable, and the area of their intended comment at the above address or phone 515/281-6888 by the close of business Wednesday, March 30, 1983.

This rule is intended to implement Iowa Code section 7A.3 and Executive Order 47 (1982).

ARC 3629**PLANNING AND
PROGRAMMING[630]
NOTICE OF INTENDED ACTION**

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

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

The Office for Planning and Programming, pursuant to the authority of Iowa Code section 7A.3(8), proposes rescinding Chapter 11, Federal Funds Clearinghouse, Iowa Administrative Code and adopting these proposed rules in lieu thereof.

The President signed Executive Order 12372 on July 14, 1982 (47 Federal Register 30959, July 16, 1982). This order allows states, in consultation with local governments, to develop their own process or refine existing processes for state and local elected officials to review and co-ordinate proposed federal financial assistance and direct federal development. Formerly, this process was referred to as the "A-95 Process", (OMB Circular A-95). The Office for Planning and Programming is the A-95 clearinghouse at the state level and the areawide planning organizations perform the A-95 clearinghouse functions at the local level. This Presidential order abolishes the old A-95 process, effective April 30, 1983, and gives the state increased discretion in establishing a review system that best serves the needs of the public.

The purpose of these rules is to revise the existing federal financial and direct development review procedures that currently exist under the present chapter 11, Iowa Administrative Code. The new system is basically an extension of the old system and is designed to provide a mechanism whereby the governor, legislature, state

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agencies and local units of government are notified of any application for federal funds and are also notified of federal direct development decisions such as U.S. Corps of Engineers proposals, federal office building construction, federal land acquisition and other federal decisions that impact Iowa. The state and local federal funds clearinghouses are, under the proposed rules, given the opportunity to comment on these projects and the federal agency involved is required by federal law to consider the comments. The new system shall be referred to as the Iowa Intergovernmental Review.

It is significant to note that these rules are similar to those found in the present chapter 11. The proposed rules streamline the present system and provide the state and local clearinghouses with more flexibility and discretion in conducting reviews. The proposed rules continue to provide for a system of review that will prevent duplication of effort and inefficient use of federal funds received by the state and local units of government in Iowa. These rules are intended to implement Iowa Code sections 7A.3(8), 7A.4, 7A.5 and 7A.6 which form the basis for review of federal activities.

Through questionnaires sent to each areawide planning organization in the state, the Office for Planning and Programming solicited the comments of local governments relative to a proposed intergovernmental review system. In addition, nine public hearings were held throughout the state at which comments on the form of the proposed system were received. The major comments received and the manner in which these comments are addressed in these proposed rules follow.

Many of the responses indicated that all state and federal projects should be subject to state and areawide clearinghouse review. This suggestion was not incorporated into these rules for several reasons. First, almost all "state" grants to local governments and private entities originate from a federal funding source. Thus the initial grant to the state is reviewed by the state clearinghouse and all subgrants are reviewed by the areawide clearinghouses. Secondly, because reviews are required where federal funds are involved it is duplicative and costly to perform a second review when the funds are administered at the state level. One of the main purposes of these rules is to streamline the process and avoid needless paperwork. Third, most state agencies that conduct state funded projects have adequate mechanisms in place to inform local governments and the public of the project's impact. Notable examples are the advance notice and opportunity for public comments that accompany major Iowa DOT projects and state conservation commission projects.

The comments were unanimous in support of a system similar to the present A-95 system. The major reasons given for support of such a system are two-fold. First, such a system allows local governments an opportunity to receive information about federal projects and programs. This informational aspect is important to co-ordination of projects and is also important in that it makes local government aware of prospective funding sources and future projects. Secondly, the respondents unanimously stated that the opportunity for review and comment on federal funding proposals is very important. The main concern expressed was the feeling that without a strong Intergovernmental Review System federal agencies would not pay attention to local government needs. The new system attempts to remedy this by requiring federal

funding agencies to explain in writing why a project was funded despite adverse comments.

The projects subject to review and the types of projects not to be reviewed were developed based on the survey responses and upon state clearinghouse past experience. Several comments indicated there should be increased emphasis on review of federally funded social programs. We believe the list of projects adequately addresses this concern as the vast majority of social programs are included.

Two respondents felt that local units of government should be allowed to submit comments along with the clearinghouse when a project affects the local government. These rules allow for and encourage local comments.

Several comments indicated that only substantive written findings be submitted. The rules encourage use of only substantive written findings and discourage irrelevant and immaterial comments.

Two comments were received indicating there is lack of funding support for "mandatory" reviews. These rules clearly state that the system is designed to provide only the opportunity to review projects. No clearinghouse or local government is required to perform any review. The rules provide for alternatives when review is not completed by a clearinghouse. Requiring payment of fees as a means of support for reviews is unacceptable because it is not in keeping with the purposes of the review system.

One response indicated the state should perform all reviews. Another response said the state should do no reviews. The state clearinghouse must review certain state applications and plans pursuant to Iowa Code chapter 7A. In addition the state has an overriding interest in performing a limited number of reviews. It would be counter to the Iowa "home rule" philosophy for the state to review all projects.

One comment stated that all liquor license applications should be reviewed by the clearinghouse. We note that state law requires applicants for liquor licenses to seek prior approval from local law enforcement officials, therefore clearinghouse review is unnecessary.

Any interested persons may submit written data, views or arguments covering the rules proposed for adoption to the Division of Local Government Affairs, Office for Planning and Programming, Capitol Annex, 523 East 12th Street, Des Moines, Iowa 50319, no later than 10:00 a.m., Wednesday, April 6, 1983. Public hearing on the proposed rules will be held at 10:00 a.m. Wednesday, April 6, 1983 in the OPP conference room, 523 East 12th Street, Des Moines, Iowa 50319.

Any person wishing to be placed on the agenda should notify the Office for Planning and Programming of their name, organization, if applicable and the subject of their intended comment at the above address or telephone (515) 281-3982 by the close of business Tuesday, April 5, 1983.

These rules are intended to implement Iowa Code section 7A.3, and 47 Federal Register 30959.

The following rules are proposed.

CHAPTER 11

IOWA INTERGOVERNMENTAL REVIEW SYSTEM

630—11.1(7A) Purpose. These rules are designed to establish an intergovernmental review system to be followed by federal agencies pursuant to federal Executive Order 12372 and by federal grant applicants. The intergovernmental review system shall be referred to as

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the Iowa Intergovernmental Review System. The purpose of the intergovernmental review system is to allow state and local government co-ordination and review of proposed federal financial assistance and federal direct development in order to avoid duplication and conflicts.

It is contemplated the intergovernmental review process will proceed along a well defined process as laid out in these rules. This general summary is expanded upon by the other rules herein. Below is a generalized summary of the process that shall be followed by the state and areawide clearinghouses with respect to review of applications for federal funds.

Step 1: A potential applicant for federal funds is informed by the federal agency that it must notify both state and regional clearinghouses about the project for which it intends to apply for assistance.

Step 2: Applicant notifies clearinghouses, including a summary description of the project.

Step 3: The state clearinghouse notifies state agencies which may be affected by the proposed project; regional and metropolitan clearinghouses do the same for local government agencies. Clearinghouses may also waive the right to review a project.

Step 4: State and local agencies notify clearinghouses of interest, if any, in conferring with applicant about the project.

Step 5: Clearinghouses notify applicant of their interest or the interest of state and local agencies in holding a conference to explore the project in greater detail. This must be done within thirty days of Step 2. If there is no interest on the part of the clearinghouses or state and local agencies in holding a conference, the applicant's obligations under the system are satisfied at this stage. Applicant then proceeds in accord with Step 10.

Step 6: A conference is held between the applicant and the appropriate agencies to explore the project in greater detail and identify and resolve possible conflicts.

Step 7: If conflicts are not resolved, the clearinghouses must notify the applicant that they will have comments that will accompany the application submitted in Step 8.

Step 8: Applicant submits application (or adequate project description) to clearinghouses, which have thirty days for comment.

Step 9: The clearinghouse submits their comments, as well as those of state and local agencies, to the federal grantor agency, and to applicant within the thirty-day period, prescribed in Step 8.

Step 10: Applicant submits application to federal agency, with all clearinghouse comments also attached. If there are no comments, applicant submits a statement that requirement for review and comment has been followed.

Step 11: Federal agency considers application and comments and informs clearinghouse of actions taken.

Similar processes are incorporated into these rules for review of federal direct development proposals and state plans required by federal agencies.

630—11.2(7A) Definitions.

11.2(1) "Areawide clearinghouse" is any entity which has been designated as an areawide clearinghouse by the director.

11.2(2) "Clearinghouse" refers to both the state and areawide clearinghouses.

11.2(3) "Governing authority" is the council, commission or executive with authority to make rules concerning a clearinghouse's activities.

11.2(4) "Local agency" means any department, office, commission or board of a county or city government or any entity exclusive of state agencies, making application for federal financial assistance.

11.2(5) "Project" includes federally assisted projects and programs, direct federal development, federally controlled programs within the state, environmental assessments and environmental impact statements required by law to be developed in consultation with state or local environmental agencies, and state plans required by federal agencies.

11.2(6) "State agency" includes any departments, boards, commissions, or agencies of state government except legislative and judicial departments and agencies.

11.2(7) "State clearinghouse" is the clearinghouse within the office for planning and programming established for the purpose of administering the intergovernmental review system.

11.2(8) "Intergovernmental review system" is defined as the system consisting of areawide clearinghouses and the state clearinghouse.

11.2(9) "Director" means the director of the office for planning and programming.

11.2(10) "Federal financial assistance" means any federal grant, loan or loan guarantee.

11.2(11) "Iowa intergovernmental review system" means the clearinghouses operating under these rules.

11.2(12) "Official comments" means written comments of any clearinghouse which are supported by reasoned conclusions and properly executed.

630—11.3(7A) Activities of the state clearinghouse. The state clearinghouse shall administer the intergovernmental review system at the state level to facilitate reviews of project proposals within the state. The areas subject to state clearinghouse review are:

1. Applications for federal grants-in-aid, loans or loan guarantees from state agencies subject to the requirements of Iowa Code section 7A.4 that require state agencies to file copies of grant applications with OPP.

2. State plans or proposed use statements as referred to in Iowa Code section 7A.4 to meet federal requirements for grants-in-aid, loans or loan guarantees to be administered by the state.

3. Draft and final environmental impact statements or environmental assessments required by federal law to be developed in co-operation with state environmental agencies.

4. Direct federal development.

11.3(1) Appendix A to this chapter 11 of the IAC lists projects and programs that require clearinghouse review. Appendix A may be changed or updated from time to time. The most recent Appendix A is on file for public inspection at Office for Planning and Programming, 523 E. 12th, Des Moines, Iowa, and is incorporated by this reference as Appendix A to these rules.

11.3(2) Programs not considered appropriate for state or areawide review are programs of the following types:

a. Direct financial assistance to individuals or families for housing, welfare, health care services, education, training, economic improvement, and other direct assistance for individual and family enhancement.

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b. Incentive payments or insurance for private sector activities not involving real property development or land use and development.

c. Agricultural crop supports or payments.

d. Assistance to organizations and institutions for the provision of education or training not designed to meet the needs of specific individual states or localities.

e. Research, not involving capital construction, which is national in scope or is not designed to meet the needs or to address problems of a particular state, area, or locality (except in the case of demonstration or pilot research programs where projects may have an impact on the community or area in which they are being conducted).

f. Assistance to educational, medical, or similar service institutions or agencies for internal staff development or management improvement purposes.

g. Assistance to educational institutions for activities that are part of a school's regular academic program and are not related to local programs of health, welfare, employment, or other social services.

h. Assistance for construction involving only routine maintenance, repair, or minor construction which does not change the use or the scale or intensity of use of the structure or facility.

11.3(3) The state clearinghouse will consider federal agency requests for exemption of certain classes of projects or activities under programs otherwise subject to state or areawide review which:

a. Meet any of the above characteristics of programs inappropriate for coverage;

b. Are of small scale or size or are highly localized as to impact; or

c. Display other characteristics which might make review impractical.

11.3(4) The state clearinghouse may enter into a written memorandum of understanding with federal or state agencies concerning the scope of review of projects where special conditions exist.

11.3(5) The state clearinghouse may periodically distribute a list of all projects received for review. Distribution may be to state agencies and areawide clearinghouses. As appropriate the state clearinghouse may invite state agency or areawide clearinghouse comments on specific projects.

630—11.4(7A) Areawide clearinghouses. The state clearinghouse, at its discretion, may allow any properly designated areawide clearinghouse to review the following activities on behalf of local units of government and other affected entities located within the designated jurisdiction of the areawide clearinghouse:

1. Applications for federal grants-in-aid, loans or loan guarantees originated by local government or private agencies within its designated jurisdictions;

2. Draft and final environmental impact statements or environmental assessments directly affecting local units of government within its designated jurisdiction;

3. Notifications of direct federal development or controlled projects within the areawide clearinghouses' designated jurisdictions;

4. As explained in subrule 11.3(1) the most recent Appendix A contains a listing of all items referred to in rule 11.4(7A), paragraphs "1" to "3".

11.4(1) An areawide clearinghouse may enter into written memoranda of understanding with federal, state or local agencies concerning the scope of reviews of projects where special conditions exist.

11.4(2) Every thirty days each areawide clearinghouse shall send to the state clearinghouse a list of projects received and a list of projects reviewed and action taken (waiver, full review, conference, etc.) within the previous thirty-day period.

630—11.5(7A, 28E and 473A) Designation. Upon receipt of written request for designation and receipt of a resolution of the governing body assenting to perform intergovernmental reviews in accord with these rules the director may officially designate any areawide planning commission, council of governments, or metropolitan planning agency as an areawide clearinghouse.

In the event that any planning commission, council of governments or similar organization fails to request designation as an areawide clearinghouse then the director may, upon receipt of a proper written request and governing body resolution, designate another entity as the local clearinghouse, or if the director finds it appropriate, the director may direct the state clearinghouse to perform the review of items set out in rules 11.4(7A), paragraphs 1-4 and 11.8(7A).

11.5(1) No clearinghouse shall charge applicants fees for the clearinghouse's review. Applicants are under no obligation to pay a fee for a review. The only obligation of the applicant is to give the clearinghouse the opportunity to review the application. No clearinghouse is required to carry out any review. If the clearinghouse does not take advantage of the review opportunity within the allotted time, the applicant is free to submit the application to the federal agency along with proof of submission to the clearinghouse for review in the manner described in subrule 11.6(9).

11.5(2) If the director determines that any clearinghouse is performing reviews in an unreasonable, arbitrary, or capricious manner, or is abusing its discretion, or is acting in excess of its authority, or in violation of these rules, or is acting upon unlawful procedure then the director may suspend or revoke the clearinghouse's designation and give notice of any suspension or revocation to all parties affected.

630—11.6(7A) Review procedures - federal financial assistance. General procedures for both state and areawide clearinghouses. An entity (state or local) applying for federal financial assistance shall notify the appropriate clearinghouses at the earliest possible date but not later than thirty days before filing with the federal grantor agency by submitting two copies of the following items to the clearinghouse.

1. A completed Clearinghouse Form 13 or federal Standard Form 424 and a brief narrative describing the project and explaining the need for it. A letter containing the information requested on Clearinghouse Form 13 (CH-13) or federal Standard Form 424 (SF424) may be substituted. Clearinghouse Form 13 is available from the state clearinghouse.

2. A map locating construction projects where pertinent.

3. Reference to an environmental impact statement or environmental assessment shall accompany the notification of intent to apply for federal assistance when such statement or assessment is required by the federal grantor agency or state statute or rule.

4. At any time during the review period upon request of the clearinghouse, the applicant shall submit a copy of the full application to the requesting clearinghouse.

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11.6(1) An applicant for federal assistance shall attach to the application a copy of the clearinghouse's written clearance and any comments and forward the same together with the grant application to the federal grantor agency.

11.6(2) A federal grantor agency receiving an application subject to the Iowa intergovernmental review system which does not contain evidence that opportunity for review has been given shall not process the application and shall inform the applicant of the review requirement.

11.6(3) The period permitted the state and areawide clearinghouses for processing reviews shall be thirty days. Except that if an objection to the proposed project arises, or if there is a need to review the full application, the clearinghouse may extend the review period for an additional thirty days in order to resolve the problem.

11.6(4) The review period begins on the date the applicant mails by first class mail or personally delivers to the clearinghouse a completed form CH-13 or SF424 or their equivalent. The clearinghouse review and comments or waiver of review shall be deposited for first class delivery at a U.S. Post Office depository or personally delivered to applicant by the last day of the review period. The applicant shall include the official comments or waiver with the application to be submitted to the federal agency.

11.6(5) If, in the course of review, an issue is detected that can be resolved without the necessity of submitting negative clearinghouse comments then a conference shall be held within ten days in order to resolve the issue. The conference shall be presided over by the director or his designee. Notice of the time, place and purpose of the conference shall be given to all affected parties.

11.6(6) All clearinghouse comments are official comments if in writing and supported by reasoned conclusions. Official comments shall be confined to matters relevant to the impact of the project. Areawide clearinghouse official comments shall be signed by the chairperson of the organization designated as the areawide clearinghouse. Official comments of the state clearinghouse shall be transmitted under signature of the director or his designee. Nothing in these rules shall prevent the reviewing clearinghouse from submitting a copy of its official comments directly to the federal agency. The governing body of any local unit of government affected by a clearinghouse review may submit its own comments relative to the project to the federal agency. Prior to the end of the period of review the clearinghouse shall send the applicant that submitted the project for review notice that the review has been completed or waived and any official comments shall be included with said notice.

11.6(7) If a project is required to be reviewed by both an areawide clearinghouse and the state clearinghouse it may be submitted to both clearinghouses simultaneously.

11.6(8) If any federal agency proceeds with a project after a clearinghouse has submitted negative official comments relative to that project then the federal agency shall present to the clearinghouse that made the negative comments an explanation which contains the basis for the decision allowing the project to proceed. Said explanation shall be given to the clearinghouse at least ten days prior to the federal agency's decision to proceed with a project.

11.6(9) Applicants are only required to present clearinghouses an opportunity to review a project. In the event a clearinghouse fails to perform a review within the review period of subrule 11.6(3), the applicant may

submit to the federal agency proof of submission of form CH-13 or SF424 or their equivalent. Proof of submission shall be the signed and attested assurance of the applicant stating a completed CH-13 or SF424 or their equivalent was submitted to the clearinghouse in the manner prescribed by rule 11.6(7A).

630—11.7(7A) Housing programs. For housing programs of the Department of Housing and Urban Development (HUD), and the Farmers Home Administration of the Department of Agriculture (USDA/FHA) the following procedures will be followed, except as provided in subrule 11.7(4):

11.7(1) The appropriate HUD or USDA/FHA office will transmit to the areawide clearinghouses a copy of the initial application for project approval.

11.7(2) Clearinghouses shall have thirty days from receipt to review the applications, and to forward to the HUD or USDA/FHA office any comments which they may have, including observations concerning the consistency of the proposed project with the provision of housing opportunities for all segments of the community and identification of major environmental concerns, including impact on energy resource supply and demand. Processing of applications in the HUD or USDA/FHA office may proceed concurrently with the clearinghouse review.

11.7(3) This procedure shall include only applications specified in Appendix A.

11.7(4) As an alternative to the above procedure, the developer may submit his application directly to the appropriate clearinghouses prior to submitting it to the federal agency. In such cases, the application, when submitted to the federal agency, will be accompanied by the comments or waiver of the clearinghouses.

630—11.8(7A) Direct development. Prior to the commencement of the federal direct development activities described in Appendix A, Part IV, federal agencies shall notify the appropriate clearinghouse by submitting to the clearinghouse a completed form CH-13a or its equivalent in accord with the process set out in rule 11.6(7A).

630—11.9(7A) Board of regents. Review of grant applications for federal funds listed in Appendix A Parts I, II and III developed by institutions under the jurisdiction of the state board of regents shall be exempt from the provisions of Iowa Code sections 7A.4 and 7A.5 and rule 11.6 in so far as grant-in-aid applications are concerned, and said institutions shall be required to submit to the state clearinghouse only a copy of the grant application's cover page and budget sheet or form CH-13 or SF424 or their equivalent at the time of submission to the federal agency.

630—11.10(7A) Internal process. An areawide clearinghouse may develop its own internal review process within the scope of these rules and may waive its rights of review.

630—11.11(7A, 68A) Information. The state clearinghouse will maintain liaison with the local metropolitan and areawide clearinghouses in Iowa, provide them with information received from the federal government, and cooperate as needed when matters of mutual interest are being reviewed. The review material and notifications of grant-in-aid notices are public information and will be made available to agencies or persons upon

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request by contacting the Office for Planning and Programming, 523 East 12th Street, Des Moines, Iowa 50319, telephone (515)281-3864.

These rules are intended to implement Iowa Code sections 7A.3(8), 7A.4, 7A.5 and 7A.6.

ARC 3627

**PUBLIC SAFETY
DEPARTMENT[680]
NOTICE OF INTENDED ACTION**

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

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

Pursuant to the authority of Iowa Code section 321.4, the Iowa Department of Public Safety hereby gives Notice of Intended Action to amend Chapter 6, "Motor Vehicle Impoundment," Iowa Administrative Code.

The present rules of the department are in conflict with statutory time limits for notification of impoundment, and prohibit effective police practice. These rules are to bring the department's rules into compliance with current statute, ensure protection of the motoring public and comply with effective police practice.

Any interested person may make written suggestions or comments on these proposed rules prior to April 6, 1983. Such written materials should be directed to the Assistant Administrative Operations Officer, Iowa State Patrol, Iowa Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319. Persons who want to convey their views orally should contact the Assistant Administrative Operations Officer, Iowa State Patrol at 515/281-8389 or in the Iowa State Patrol offices on the third floor of the Wallace State Office Building. Also, there will be a public hearing on April 6, 1983 at 2:00 p.m. in the east half of the conference room on the third floor of the Wallace State Office Building. Persons may present their views at this public hearing either orally or in writing.

Persons who wish to make oral presentations at the public hearing should contact the Assistant Administrative Operations Officer at the Iowa State Patrol at least one day prior to the date of the public hearing.

This rule is intended to implement Iowa Code chapter 321.

The following amendments are proposed.

ITEM 1. The title of Chapter 6, Motor Vehicle Impoundment shall be amended as follows: ~~Motor~~ Vehicle Impoundment.

ITEM 2. 680—6.1(17A, 321) shall be amended as follows:

680—6.1(17A, 321) Motor Vehicle impoundment. The patrol division and other peace officer members of the department may impound any vehicle determined to be "abandoned" as defined in Iowa Code section 321.89(1)"b" of the Iowa Code, provided that:

1. The officer shall first attempt to determine the owner through department of transportation records and request communications division advise an owner found thereby that the motor vehicle must be moved within a reasonable time or it will be impounded, and
2. Either the owner cannot be found or the owner fails to remove the vehicle within a reasonable time.

ITEM 3. 680—6.2(17A, 321) shall be amended as follows:

680—6.2(17A, 321) Motor Vehicles which may be impounded immediately:

6.2(1) Vehicles which an officer has reason to believe are wrongfully possessed by the person then having control of such vehicles and or on which the vehicle identification number or the identification numbers of any component part have been altered or defaced, or on which an attempt to alter or deface has been made.

6.2(2) Vehicles which are involved in an accident when immediate impoundment is necessary:

- a. To preserve evidence which will be used in an administrative or judicial proceeding; or
- b. To protect the vehicle from theft or further damage when the owner cannot be found the legal custodian is unavailable or incapable to or give consent to such impoundment; or
- c. To prevent further accidents when the vehicle is so situated as to appear to constitute a hazard to traffic.

6.2(3) Vehicles which an officer has reason to believe are being used to transport contraband.

6.2(4) Vehicles involved in a person's death when the medical examiners or a peace officer determines:

- a. That seizure is necessary to secure evidence needed in the investigation of the cause and manner of death, and
- b. That circumstances indicate the car may be removed or tampered with before written authorization for its impoundment can be obtained.
- c. That the vehicle is situated on a public highway in such a manner that it may constitute a hazard to traffic.

6.2(5) Vehicles under the control of a person at the time of his or her arrest, if:

- a. The person arrested is the owner of the vehicle and gives his or her consent to the impoundment; or
- b. a. The arrested person's vehicle reasonably appears to a peace officer to constitute a traffic hazard if it remains where it is situated at the time of arrest and the arrested person is unwilling or unable to have it moved; or
- c. Some other provision of rule 680—6.2(17A, 321) would authorize its immediate impoundment.

b. To preserve evidence which will be used in an administrative or judicial proceeding.

c. To protect the vehicle from theft or further damage when the legal custodian is unavailable or incapable to give consent to such impoundment.

6.2(6) Vehicles positioned upon a public highway in such a location as to indicate that they constitute a hazard to traffic.

ITEM 4. 680—6.3(17A, 321) shall be amended as follows:

680—6.3(17A, 321) Vehicles which need not be impounded immediately.

PUBLIC SAFETY DEPARTMENT[680] (cont'd)

6.3(1) A vehicle under the control of a person arrested does not have to be towed if the foregoing conditions involving prisoner's property do not make towing necessary. With the consent of the person in control of the vehicle, an officer may park and secure the vehicle temporarily.

6.3(2)(1) If a motor vehicle is unattended, an officer shall tag it with Form 680—6.3. A record is kept by the officer at the district to which the officer is assigned. After the period of time prescribed in *Iowa Code* section 321.89 of the Code, the unattended vehicle shall be declared an abandoned vehicle.

6.3(3)(2) If the vehicle is thought to be abandoned, the officer shall attempt to determine the owner through department of transportation records, and request that patrol communications division advise the owner that the motor vehicle must be moved within a reasonable time or it will be impounded. If the owner cannot be contacted, or if the owner does not remove the vehicle, the vehicle may be impounded.

ITEM 5. 680—6.4(17A, 321) shall be amended as follows:

680—6.4(17A, 321) Towing Impoundment procedure. If the vehicle is to be towed, the officer must:

6.4(1) Request that a tow truck be dispatched to remove the vehicle.

6.4(2) Complete the vehicle tow-in and recovery report which requires but is not limited to the following information:

- a. Reason for towing.
- b. The license number and description of the vehicle, including its condition at the time of impoundment.
- c. Vehicle identification number and registration information, when readily accessible.
- d. ~~If the car is unlocked, an inventory of accessible, removable personal property, including a notation of any parts of the vehicle which appear to be missing. If the car is locked, an inventory of only visible personal property and missing parts until proper authority is obtained by entering the vehicle.~~

d. *An inventory of all property in the vehicle and a notation of any parts of the vehicle which appear to be missing or damaged.*

ITEM 6. Subrule 6.5(1) first paragraph shall be amended as follows:

6.5(1) The district officer in charge of abandoned vehicles shall notify within ~~ten~~ *twenty* days of impoundment, by certified mail, the last known registered owner of the vehicle and all lienholders of record, addressed to their last known address of record, that the abandoned vehicle has been impounded. Such notice shall state:

ITEM 7. Subrule 6.5(4) shall be amended as follows:

6.5(4) The registered owner and any lienholders of record have twenty-one days in which to reclaim the vehicle after ~~receipt of publication mailing or date of publication~~ of notice as prescribed in subrules 6.5(1) and 6.5(2), except where written objection to impoundment has been made in accordance with subrule 6.5(3), in which case the twenty-one-day period shall begin when notice of the district officer's response to the objection is ~~received mailed~~. An additional fourteen days will be allowed if the owner or any lienholder submits a written request for an extension of the twenty-one-day reclamation period.

ARC 3616

REVENUE DEPARTMENT[730]
AMENDED NOTICE OF INTENDED ACTION

Pursuant to the authority of Iowa Code sections 421.14 and 422.68(1), the Iowa Department of Revenue hereby gives Notice of Intended Action to amend Chapter 14, "Computation of Tax", Chapter 15, "Determination of a Sale and Sale Price", Chapter 18, "Taxable and Exempt Sales Determined by Method of Transaction or Usage", Chapter 19, "Sales and Use Tax on Construction Activities", Chapter 26, "Sales and Use Tax on Services", and Chapter 34, "Vehicles Subject to Registration", Iowa Administrative Code. These rules were also submitted as Emergency Adopted and Implemented, and were published in the Iowa Administrative Bulletin on March 2, 1983, as ARC 3580.

An amended notice is filed to make additional amendments to the department's sales and use tax rules which were published under notice on March 2, 1983, as ARC 3581. Specific items amended are rules 19.2(422, 423) and 34.5(423).

Rule 19.2(422,423) was amended by adding a new paragraph to the rule. If a general contractor executes a contract prior to March 1, 1983, and then sublets work to a subcontractor, the amendment provides that the subcontractor is also entitled to a refund of the additional one percent sales tax on materials incorporated into real estate in performance of the contract with the general contractor. Previously, the Department restricted refunds to contracts executed prior to March 1, 1983 and did not consider the contractor-subcontractor relationship. The statutory language would allow refunds to subcontractors. The amendment is consistent with the administration of the sales tax when the rate changed in 1967.

Rule 19.2(422, 423) was further amended at the second example. The example is amended to clarify that subcontractors can be eligible for a refund of the additional one percent sales tax on materials purchased by the subcontractor in performance of a contract with a general contractor.

A new third example is also added to rule 19.2(422, 423) to clarify that refunds to a governmental body are limited to the three percent tax rate if the construction contract was entered into prior to March 1, 1983. The Department has received several inquiries as to the effect of the sales tax rate increase on these contracts.

New Item 9 is added as the Department overlooked the reference to the three percent tax rate contained in subrule 34.5(8).

All amendments contained herein are made to implement 1983 Iowa Acts, Senate File 184.

The rule amendments in Chapters 14, 15, 18 and 26 provide for the sales and use tax rate increase from three percent to four percent, provide a bracket system for computing the sales or use tax at four percent, and correct examples using a sales tax rate of three percent. The rule amendments also list special transition rules to determine whether sales, use and service tax is payable at the three percent or four percent rate. The rule amendment to Chapter 19 allows construction contractors to apply to the department for a refund of the additional one percent sales or use tax paid on goods, wares or merchandise incorporated into real estate in the fulfillment of a written contract fully executed prior to March 1, 1983,

REVENUE DEPARTMENT[730] (cont'd)

and provides the method and information needed to secure a refund.

Any interested person may make written suggestions or comment on these proposed amendments on or before April 15, 1983. 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 April 8, 1983.

These rules are intended to implement Iowa Code sections 421.14, 422.43, 422.47 and 423.2, as amended by 1983 Iowa Acts, Senate File 184.

The following rules are proposed.

ITEM 1. Amend rule 730—14.1(422) to read as follows:

730—14.1(422) Tax not to be included in price. When a retailer price-marks an article for retail sale and displays or advertises the same to the public with such price-mark, the price so marked or advertised shall include only the sale price of such article unless it is stated on the price-mark that the price includes tax.

For taxable transactions prior to March 1, 1983.

EXAMPLE: The advertised or marked price is \$1.00. When sale is made, the purchaser pays or agrees to pay \$1.03, which represents the purchase price plus tax, which when added becomes a part of the sale price or charge.

This rule does not prohibit advertising or displaying the sale price plus tax or the price including tax, as shown in the following examples:

“This dress-\$10.00 plus tax”, or “This dress-\$10.00 plus 30 cents tax”, or “This dress-\$10.30 including tax”.

When a retailer conspicuously advertises in such manner and position so that it may be readily seen and read by the public, that the price “includes tax”, the retailer will be allowed to determine gross receipts by dividing the total of such receipts which included tax by one hundred three percent.

For periods after February 28, 1983.

EXAMPLE: The advertised or marked price is \$1.00. When sale is made, the purchaser pays or agrees to pay \$1.04 which represents the purchase price plus tax, which when added becomes a part of the sale price or charge.

This rule does not prohibit advertising or displaying the sale price plus tax or the price including tax, as shown in the following examples:

“This dress-\$10.00 plus tax”, or “This dress-\$10.00 plus 40 cents tax”, or “This dress-\$10.40 including tax”.

When a retailer conspicuously advertises in such manner and position so that it may be readily seen and read by the public, that the price “includes tax”, the retailer will be allowed to determine gross receipts by dividing the total of such receipts which included tax by one hundred four percent.

However, where an invoice is sent to the purchaser as a part of the sale, such invoice must either show the tax separate from the purchase price or it must be stated on each invoice that tax is included in the purchase price. If the invoices state “tax included” the seller may determine gross receipts by the one hundred three percent or one hundred four percent method described above. It shall be

the responsibility of the retailer who uses or has used the one hundred three percent or one hundred four percent method for reporting to provide proof that it has complied with the method of advertising or displaying the sale price, as described above.

This rule is intended to implement Iowa Code chapters 422 and 423, as amended by 1983 Iowa Acts, Senate File 184.

ITEM 2. Amend rule 14.2(422,423) the second and third unnumbered paragraphs to read as follows:

Pursuant to the foregoing provisions, the department has adopted the following bracket system for the application of tax:

SALES TAX SCHEDULE

| | |
|-------------------|--------|
| \$0.00 - \$0.14 = | \$0.00 |
| 0.15 - 0.44 = | 0.01 |
| 0.45 - 0.74 = | 0.02 |
| 0.75 - 1.14 = | 0.03 |
| 1.15 - 1.44 = | 0.04 |
| 1.45 - 1.74 = | 0.05 |
| 1.75 - 2.14 = | 0.06 |
| 2.15 - 2.44 = | 0.07 |
| 2.45 - 2.74 = | 0.08 |
| 2.75 - 3.14 = | 0.09 |
| 3.15 - 3.44 = | 0.10 |
| 3.45 - 3.74 = | 0.11 |
| 3.75 - 4.14 = | 0.12 |
| 4.15 - 4.44 = | 0.13 |
| 4.45 - 4.74 = | 0.14 |
| 4.75 - 5.14 = | 0.15 |
| 5.15 - 5.44 = | 0.16 |
| 5.45 - 5.74 = | 0.17 |

TAX SCHEDULE

| | |
|-------------------|--------|
| \$0.00 - \$0.12 = | \$0.00 |
| 0.13 - 0.37 = | 0.01 |
| 0.38 - 0.62 = | 0.02 |
| 0.63 - 0.87 = | 0.03 |
| 0.88 - 1.12 = | 0.04 |
| 1.13 - 1.37 = | 0.05 |
| 1.38 - 1.62 = | 0.06 |
| 1.63 - 1.87 = | 0.07 |
| 1.88 - 2.12 = | 0.08 |
| 2.13 - 2.37 = | 0.09 |
| 2.38 - 2.62 = | 0.10 |
| 2.63 - 2.87 = | 0.11 |
| 2.88 - 3.12 = | 0.12 |
| 3.13 - 3.37 = | 0.13 |
| 3.38 - 3.62 = | 0.14 |
| 3.63 - 3.87 = | 0.15 |
| 3.88 - 4.12 = | 0.16 |
| 4.13 - 4.37 = | 0.17 |
| 4.38 - 4.62 = | 0.18 |
| 4.63 - 4.87 = | 0.19 |
| 4.88 - 5.12 = | 0.20 |
| 5.13 - 5.37 = | 0.21 |
| 5.38 - 5.62 = | 0.22 |
| 5.63 - 5.87 = | 0.23 |

For sales larger than \$5.74 87 tax shall be computed at straight ~~three~~ four percent; one-half cent or more shall be treated as one cent.

When practicable, the department shall co-operate with retailers in applying the tax schedule; but in no event shall the same be administered in any manner that will result in the collection of substantially more than

REVENUE DEPARTMENT[730] (cont'd)

three four percent of the amount on which tax shall be computed.

This rule is intended to implement Iowa Code chapters 422 and 423 as amended by 1983 Acts, Senate File 184.

ITEM 3. Amend 730—chapter 14 of the rules by adding the following new rule at 14.3 now marked "Rescinded."

730—14.3(422,423) Taxation of transactions due to rate change. The following transition provisions shall apply in determining whether or not the transaction is subject to the three percent or four percent sales, services, or use tax rate.

1. The four percent sales tax rate applies to sales of tangible personal property where the sales contract is entered into on or after March 1, 1983. Jones v. Gordy, 169 Md. 173, 180 Atl. 272 (1935).

EXAMPLE: A enters into a sales contract with B to purchase a tractor from B. This contract (offer and acceptance) is made on February 28, 1983. The tractor is delivered to A on March 3, 1983 and A pays B on March 10, 1983. Since the contract was entered into prior to March 1, 1983, the sales tax in this example is on the three percent rate.

EXAMPLE: A desires to purchase a computer from B. On February 28, 1983, A orders the computer from B and the parties agree that the contract of sale is made when B makes delivery of the computer to A. B delivers the computer on March 10, 1983. In this example, the sales tax is at the rate of four percent because the sales contract was not made until March 10, 1983, when B made delivery. Prior to that time, there was no binding sales contract.

EXAMPLE: On December 23, 1982, A enters into an installment sale contract with B to purchase a television set. The contract allows A to make monthly payments for 36 months. Since sales tax is due at the time of a conditional sale agreement, under these circumstances the tax is payable at the three percent rate of the sales price. The installment payments made on and after March 1, 1983, do not accrue any further tax. In this example, if A had made a credit card purchase prior to March 1, 1983, tax would accrue at the rate of three percent at the time of sale.

2. The four percent use tax rate applies to the use of tangible personal property in this state where the first taxable use occurs on or after March 1, 1983.

EXAMPLE: On January 24, 1983, A and B enter into a sales contract outside of Iowa for the purchase by A from B of a machine. The machine is not delivered to A until March 16, 1983. The delivery to A constitutes a use by A in Iowa for the first time of the machine. Under these circumstances, the machine is subject to the four percent rate since the tax rate in effect at the time of use (March 16, 1983) governs where property is purchased outside of Iowa. See City of Ames v. State Tax Commission, 246 Iowa 1016, 71 N.W.2d 15 (1955).

3. The four percent services tax rate applies to the rendering, furnishing, or performing of services where the service contract is entered into on or after March 1, 1983.

EXAMPLE: On February 1, 1983, A enters into a service contract with B to provide test laboratory services. The services are performed by B on March 4, 1983 and the results of such services are forwarded to A on March 8,

1983. Under these circumstances, the test laboratory services are subject to services tax at the three percent rate because the service contract was made on February 1, 1983, which is prior to March 1, 1983.

EXAMPLE: On February 1, 1983, B offers to perform test laboratory services for A. A and B agree that the offer is not accepted until B actually performs the test laboratory services. The services are performed on March 4, 1983 and the results forwarded to A on March 8, 1983. Under these circumstances, the test laboratory services are subject to tax at the four percent rate because the contract was not made until the services were performed on March 4, 1983.

EXAMPLE: On February 26, 1983, A contacts B, a plumber, to perform some plumbing services in A's home. B replies that the services cannot be performed until March 2, 1983. On March 2, 1983, the plumbing services are performed by B who then presents a bill to A. Under these circumstances, the service contract was not made until B performed the plumbing services on March 2, 1983. Therefore, service tax is payable at the four percent rate.

EXAMPLE: On February 7, 1983, A enters into a service contract with B to repair A's automobile. The contract provides that A may make installment payments for 12 months. B completes repairs on the automobile on March 7, 1983. Since sales tax is due at the time of the installment service agreement, under these circumstances the tax is three percent of the contract price. Installment payments made on and after March 1, 1983, do not accrue any further tax. This situation is different from a service contract entered into prior to March 1, 1983 which requires periodic payments for continuous services, as set forth under transition provision No. 6.

EXAMPLE: A, a civic center, contracts with B, an orchestra, to perform on March 10, 1983. The contract is made on January 26, 1983. A sells tickets of admission for B's March 10, 1983 concert. The tickets are sold in the month of February and from March 1 to and including March 9, 1983. Under these circumstances, all ticket sales in February 1983 are subject to tax at the three percent rate and all ticket sales in March 1983 are subject to tax at the four percent rate. In this example, the contract between A and B is not a taxable service contract. The taxable service contracts are the sales of admission tickets between A and the purchasers of the tickets. The date when the taxable service contracts are made controls whether the tax rate is three percent or four percent.

4. If a service contract is made in this state, the four percent use tax rate applies when the service contract is entered into on or after March 1, 1983.

See examples under transition provision No. 3 for application of services use tax where service contract is made in this state.

5. If the product or result of a taxable service contract which is consummated outside of this state is first used in this state on or after March 1, 1983, the four percent use tax rate applies.

EXAMPLE: On February 14, 1983, A and B enter into a machine repair contract outside of Iowa for repair of A's machine outside of this state. On February 28, 1983, the machine is delivered to B who makes the repair and returns the machine to A in Iowa on March 1, 1983. Under these circumstances, the product or result of the taxable

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machine repair service is first used by A on March 1, 1983. Therefore, the four percent tax rate applies.

6. If a service contract is entered into prior to March 1, 1983 and the contract requires periodic payments, payments made or due on or after March 1, 1983 under the contract are subject to the four percent sales, services, or use tax rate. Broadacre Dairies v. Evans, 193 Tenn. 441 246 S.W.2d 78 (1952).

EXAMPLE: A and B enter into an agreement for lease of equipment on April 1, 1981. The lease is for a term of five years and requires monthly payments. A is the lessee and B is the lessor. For all rental payments made on or after March 1, 1983, the tax rate is four percent.

EXAMPLE: On May 1, 1980, A joined a private club and pays membership fees for the privilege of participating in athletic sports provided club members. A is required to make periodic payments every three months, such payments to be made in January, April, July, and October of each year. Under these circumstances, A's April 1, 1983 payment and periodic payments made thereafter are subject to tax at the four percent rate.

7. Gross receipts from the sales, furnishing, or service of gas, electricity, water, heat, and communication service are subject to the sales, services, and use tax at the four percent rate when the date of billing the customer falls on or after March 1, 1983.

EXAMPLE: A is the customer of the B water utility. A receives a bill from the B water company on March 1, 1983, but the billing date on the bill states that it is February 28, 1983, for the months of January 1983, December 1982, and November 1982. Under these circumstances, the billing date is February 28, 1983, and the sales tax should be billed at the rate of three percent.

EXAMPLE: A is the customer of the B electric utility company. A receives a bill from the B company on March 2, 1983. There is no billing date set forth on the bill. The bill was mailed by the B company to A on February 28, 1983. Under these circumstances, the billing date is February 28, 1983, and the sales tax should be billed at the rate of three percent. Had B listed a billing date in its books and records as a receivable different than the mailing date, i.e. February 26, 1983, this latter date (February 26, 1983) would be considered the billing date.

EXAMPLE: A is the customer of the B rural electric cooperative (REA). A is responsible for reading its meter and remitting the proper amount for electricity and sales tax to B. B, in its tariff filed with the Interstate Commerce Commission (ICC), has set forth the first date of each month as the last day for its customers to read their meters. B does not send a bill to A. Under these circumstances of customer self-billing where no bill is sent by B to A, the first date of each month is the billing date and where that date falls on March 1, 1983, and the first date of each month thereafter, the sales tax should be paid at the rate of four percent.

If the date set forth in the tariff had been the last day of the month, then a self-billing attributable to February 28, 1983, would require payment of sales tax at the three percent rate.

EXAMPLE: A is the customer of B telephone company. A receives a bill from B company on March 3, 1983, covering intrastate long distance telephone calls in February 1983, and local service in March 1983. The billing date on the face of the bill is February 28, 1983. Under these circumstances, all telephone services, local

and intrastate long distance, should be billed sales tax at the rate of three percent.

If, in this example, the billing date on the bill had been March 1, 1983, the sales tax should be billed at the rate of four percent for all telephone services, local and intrastate long distance.

8. The four percent use tax rate applies to motor vehicles subject to registration when the purchaser of the vehicle does not exercise an Iowa use of the vehicle prior to March 1, 1983.

EXAMPLE: A purchases a motor vehicle from B and takes possession of the vehicle in Iowa on February 28, 1983. On March 1, 1983, A attends the office of the county treasurer, applies for registration of the vehicle, and tenders the amount of Iowa use tax. Under these circumstances, because A "used" the vehicle prior to March 1, 1983, the use tax rate is three percent.

EXAMPLE: A and B motor vehicle dealer enter into a binding contract for A to purchase from B a motor vehicle on February 26, 1983. The vehicle cannot be delivered to A until March 3, 1983, and A applies to the county treasurer for registration of the vehicle on March 4, 1983. Under these circumstances, A first used the vehicle in Iowa on March 3, 1983 (the date when the vehicle was delivered to A) and Iowa use tax is imposed at the four percent rate.

This rule is intended to implement *Iowa Code* chapters 422 and 423 of the Code as amended by 1983 Iowa Acts, Senate File 184.

ITEM 4. Amend subrule 15.19(3) to read as follows:

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 \$2,000.00. John and his neighbor Bill Jones who has an automobile valued at \$3,500.00 decide to trade automobiles. John pays Bill \$1,500.00 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 \$1,500.00; ~~or \$45.00 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 \$5,000.00. Joe and his friend Jim who has a Chevrolet automobile also valued at \$5,000.00 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.

ITEM 5. Amend rule 730—16.1(422) to read as follows:

730—16.1(422) Tax imposed. The Iowa Retail Sales Tax is imposed for periods prior to March 1, 1983 at the rate of three percent and for periods after February 28, 1983 at the rate of four percent of the gross receipts from the sale at retail of tangible personal property and certain

REVENUE DEPARTMENT[730] (cont'd)

enumerated services. However, see rule 14.3(422, 423) for transition provisions to determine whether the three percent or four percent rate applies.

The remaining rules under this chapter deal with certain specific attributes of the Iowa Retail Sales Tax, but such rules are by no means exclusive in explaining what are taxable sales and are not exclusive in explaining which transactions constitute taxable sales. There are other transactions which constitute taxable sales under the law and which are not specifically dealt with in these rules.

This rule is intended to implement *Iowa Code* sections 422.42 and 422.43, the Code as amended by 1983 Iowa Acts, Senate File 184.

ITEM 6. Amend subrule 18.31(2) the last four unnumbered paragraphs to read as follows:

Therefore, as long as body shops separately itemize on their invoices to their customers the amounts for labor, parts, and for "materials", body shops should collect sales tax on the labor and the parts, but not on the "materials" as enumerated in this rule.

EXAMPLE: A body shop repairs a motor vehicle by replacing a fender and painting the vehicle. In doing the repair work, the body shop uses rags, sealer and primer, paint, solder, thinner, bolts, nuts and washers, masking tape, sandpaper, waxes, buffing pads, chamois, solder and polishes. In its invoice to the customer, the labor is separately listed at \$300, the part (fender) is separately listed at \$300, and the category of "materials" is separately listed for a lump sum of \$100, for a total billing of \$700. The Iowa sales tax which computed by the body shop should be on \$600 charge its customer is \$18 ($3\% \times \600) which is the tax amount attributable to the labor and the parts. The materials consumed by the body shop were separately listed and would not be included in the tax base for "gross taxable services" as defined in *Iowa Code* section 422.42(16); The Code which is taxable in *Iowa Code* section 422.43; The Code.

In this example, if the "materials" were not separately listed on the invoice, but had been included in either or both of the labor or part charges by marking up such charges, the body shop would have to collect sales tax on the full charges for parts or labor even though tax was paid on materials by the body shops to its supplier at time of purchase. Thus, if the labor charge was listed at \$400 instead of \$300, sales tax of \$12 ($3\% \times \400) would have to be collected by the body shop on such labor charge. The tax on parts would equal \$9 (3% of \$300) for a total tax of \$21.00 ($\$9 + \12) which would be charged to the customer.

This rule is intended to implement *Iowa Code* sections 422.42(3), 422.43 and 423.2; The Code as amended by 1983 Iowa Acts, Senate File 184.

ITEM 7. Amend rule 730—19.2(422,423) by adding the following at the end of the existing rule.

Effective March 1, 1983, the sales and use tax rate increased from three percent to four percent.

Construction contractors may make application to the department for a refund of the additional one percent sales or use tax paid on goods, wares or merchandise incorporated into an improvement to real estate in the fulfillment of a written contract fully executed prior to March 1, 1983.

Where a written construction contract is fully executed prior to March 1, 1983, and the general contractor sublets work to other contractors under a written agreement

signed on or after March 1, 1983, the respective subcontractors may make application for a refund of the additional one percent sales or use tax paid on goods, wares or merchandise incorporated into real estate in the performance of their subcontracts with the general contractor.

The claim for refund is to be filed on forms provided by the department within one year of the date the tax was paid, and shall contain the following information.

Documentation that a written contract existed prior to March 1, 1983.

Copies of invoices or other information required by the department showing that the four percent sales or use tax has been paid to a retailer or directly to the department.

Any other information required by the department to support the claim for refund.

The refund shall not apply to equipment transferred in fulfillment of a mixed construction contract. (See rules 19.9(422, 423) and 19.10(422, 423).)

EXAMPLE: A and B enter into a written contract on December 10, 1982, whereby B is to build a manufacturing plant for A and also to furnish the plant equipment for a lump sum fee. B, as the contractor, is the consumer of the building materials incorporated into the manufacturing plant. B is the retailer of the equipment which is sold to A. Under these circumstances, B should pay tax at the rate of four percent on purchase of building materials purchased on and after March 1, 1983. B would then be eligible to claim a refund on the additional one percent tax attributed to such building material purchases because the written contract was executed prior to March 1, 1983. The sale of the equipment from B to A is subject to three percent sales tax if the December 10, 1982, contract was executed in Iowa and constitutes the sale of the equipment. See transition provision No. 1 under rule 14.3(422, 423).

If the sale of the equipment from B to A occurred outside of Iowa, and the equipment is delivered to the plant, installed, and is first used by A on or after March 1, 1983, the Iowa use tax applies at the rate of four percent. See transition provision No. 2 under rule 14.3(422, 423). If such equipment, purchased outside of Iowa, is so delivered, installed, and first used by A prior to March 1, 1983, Iowa use tax is imposed at the rate of three percent.

EXAMPLE: A and B enter into a written construction contract on January 12, 1983 whereby B, the general contractor is to build an office building for A. On March 4, 1983, B enters into a written subcontract with C, a subcontractor, to install a cement foundation. Under these circumstances B, because B's contract was executed prior to March 1, 1983, is eligible to claim a refund of the additional one percent tax attributable to building materials purchased by B on or after March 1, 1983. C is also eligible to claim such refund upon such purchases because B's written construction contract was executed before March 1, 1983.

EXAMPLE: A and B enter into a written construction contract on February 10, 1983. A, the sponsor is a governmental body and B is the general contractor. B is the consumer of the building materials incorporated into the construction project. A is entitled to a refund of the sales or use tax paid by the contractor on building materials incorporated into the construction project. Under these circumstances, B should pay tax at the rate of four percent on purchases of building materials purchased on or after March 1, 1983. B would then be

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eligible to claim a refund on the additional one percent attributed to building materials purchased because the written contract was executed prior to March 1, 1983. A would be eligible to apply for a refund of only the three percent sales or use tax paid since the written contract was executed prior to March 1, 1983 and only three percent tax was included in the contract between A and B.

ITEM 8. Amend rule 730—26.1(422) to read as follows:

730—26.1(422) Definition. The phrase "persons engaged in the business of" as used herein shall mean persons who offer the named service to the public or to others for a consideration whether such person offers the service continuously, part-time, seasonally or for short periods. The Iowa sales tax law imposes for periods prior to March 1, 1983 a tax of three percent, and for periods after February 28, 1983 at the rate of four percent upon the gross receipts from the rendering, furnishing or performing at retail of certain enumerated services, hereinafter described in more detail in this chapter.

ITEM 9. Amend subrule 34.5(8) the first unnumbered paragraph to read as follows:

Should a "use" as defined in Iowa Code section 423.1(1), of the Code of Iowa occur in Iowa, subsequent to the leasing to a lessee outside the flow of interstate transportation or interstate commerce, use tax would be owing. The tax, if found to be due, shall be computed at the rate of three percent of on the purchase price.

ARC 3617

REVENUE DEPARTMENT[730]

NOTICE OF INTENDED ACTION

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

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

Pursuant to the authority of Iowa Code section 421.14 the Iowa Department of Revenue gives Notice of Intended Action to amend Chapter 75, "Determination of Value and Tax for Freight-line and Equipment Car Companies," Iowa Administrative Code.

These rules are amended in order to implement Iowa Code chapter 435.

The existing Chapter 75 rules, "Determination of Value and Tax for Freight-line and Equipment Car Companies," are rescinded and new Chapter 75 rules, "Determination of Tax for Freight-line and Equipment Car Companies", are proposed.

Any interested person may make written suggestions or comments on these proposed rules on or before April

15, 1983. Such written comments should be directed to the Deputy Director for Property Tax, Iowa Department of Revenue, Hoover State Office Building, Des Moines, Iowa 50319.

Persons who want to orally convey their views should contact the Deputy Director of Property Tax at (515) 281-3346 or at Department of Revenue offices on the fourth floor of the Hoover State Office Building.

There will be a public hearing on Tuesday, April 5, 1983 at 9:00 a.m., in conference room 1 on the fourth 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 Deputy Director of Property Tax at least one day prior to the date of the public hearing.

These rules are intended to implement Iowa Code chapter 435.

The following amendments are proposed.

Chapter 75 is rescinded and inserted in lieu thereof, the following new chapter 75:

CHAPTER 75
DETERMINATION OF TAX FOR
FREIGHT-LINE AND EQUIPMENT CAR
COMPANIES

730—75.1(435) Filing of return. The annual return for the freight-line and equipment car tax, as required by Iowa Code section 435.3, shall be made on the form provided by the director of revenue.

The responsibility of obtaining the form and timely filing the form is with the car company. Additional information filed by taxpayer, but not required by the director, shall be on separate schedules and will be considered part of the annual return.

The annual return shall be filed with the department of revenue, property tax division, on or before the first Monday in June of each year and shall be examined and if the return is deemed insufficient or if the return fails to fully set out the matters required to be reported, the taxpayer shall be required to make such other and further information available as required by the return or the rules of this chapter.

This rule is intended to implement Iowa Code section 435.3.

730—75.2(435) Penalty and interest. For tax periods after December 31, 1981, see subrule 44.3(3) for computation.

This rule is intended to implement Iowa Code chapter 435.

730—75.3(435) Definition of loaded miles/loaded mileage. The term "loaded mile" or "loaded mileage" shall mean the actual distance via the route of movement from a station to another station, as recorded by the moving carrier, based on freight mileage tables of the moving carrier, legally on file with the Interstate Commerce Commission (ICC) or the state railroad commission when a car is not empty. The loaded miles reported by the moving carrier shall include mileage of cars carrying loaded or empty containers under revenue or nonrevenue billing and without regard to the method of compensation or lease arrangements.

This rule is intended to implement Iowa Code chapter 435.

ARC 3618**REVENUE DEPARTMENT[730]****NOTICE OF INTENDED ACTION**

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

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

Pursuant to the authority of Iowa Code section 421.14, the Iowa Department of Revenue hereby gives Notice of Intended Action to file Chapter 77, "Determination of Value of Utility Companies", Iowa Administrative Code.

These rules are amended in order to implement Iowa Code chapters 428, 433, 437 and 438.

The existing chapter 77 rules are rescinded and replaced by new chapter 77 rules.

Any interested person or company may make written suggestions or comment on these proposed rules on or before April 15, 1983. Such written comments should be directed to the Deputy Director for Property Tax, Iowa Department of Revenue, Hoover State Office Building, Des Moines, Iowa 50319.

Persons who want to orally convey their views should contact the Deputy Director of Property Tax at (515) 281-3346 or at Department of Revenue offices on the fourth floor of the Hoover State Office Building.

There will be a public hearing on Thursday, April 7, 1983 at 9:00 a.m., in conference room 1 on the fourth 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 Deputy Director of Property Tax at least one day prior to the date of the public hearing.

These rules are intended to implement Iowa Code chapters 428, 433, 437 and 438.

The following rules are proposed.

Chapter 77 is rescinded and inserted in lieu thereof, the following new chapter 77:

**CHAPTER 77
DETERMINATION OF VALUE OF
UTILITY COMPANIES**

730—77.1(428,433,437,438) Definition of terms.

77.1(1) The term "utility company" shall mean and include all persons engaged in the operating of gasworks, waterworks, telephones, pipelines, electric transmission lines, and electric light or power plants, as set forth in Iowa Code chapters 428, 433, 437, and 438.

77.1(2) The term "unit value" or "unit market value" shall mean the market value arrived at by using the appraisal method of valuing an entire operating property, considered as a whole and capable of performing the function for which it was created, such as (by way of illustration and not limitation) (1)generating, transmitting and distributing electricity; or (2)transporting or distributing natural gas.

77.1(3) The term "operating property" shall mean all property owned by or leased to a utility company which is necessary to and without which the utility could not perform the activities for which the utility is formed, such as (by way of illustration and not limitation) (1)generating, transmitting and distributing electricity; or (2)transporting or distributing natural gas. With regard to

property whose identity as "operating" or "nonoperating" property is not clearly ascertainable, the property shall be considered operating property if the utility could not reasonably be expected to perform the referenced activities in the absence of such property.

77.1(4) The term "nonoperating property" shall mean all property owned by a utility not defined by subrule 77.1(3) as "operating property."

77.1(5) The term "comparable sales" shall mean actual sales transactions, between willing buyers and willing sellers, neither being under any compulsion to buy or sell, of property which is similar in purpose, function and design to the property to which the comparison is being made. Where the determination of a unit value is being made, the sale of a portion of a unit which is nominally similar in purpose and function to the unit being valued shall not be considered a comparable sale, absent proof by evidence other than the terms of the sale itself, that the sales price was based on some unit of measurement which is common both to the property sold and the property being valued and which is not affected by the fact that less than the entire unit is being sold, such as (by way of illustration and not limitation) the price per square foot of the property.

77.1(6) The term "income approach to unit value" shall mean the estimate of unit market value obtained by dividing an appropriate income stream by an appropriate discount rate.

77.1(7) The term "stock and debt approach to unit value" shall mean the estimate of unit market value determined by combining the estimate of market value of the stock, debt, current liabilities, other liabilities, including leases, and deferred credits associated with the operating property of a utility company.

77.1(8) The term "cost approach to unit value" shall mean the estimate of value determined by combining the original cost less a depreciation allowance for the operating property of a utility company.

77.1(9) The term "respondent" shall include the utility company whose property is to be valued.

77.1(10) The term "leased assets" shall mean both operational and capital leases.

This rule is intended to implement Iowa Code chapters 428, 433, 437 and 438.

730—77.2(428,433,437,438) Filing of annual reports.

77.2(1) Annual reports required to be filed by the reporting utility company shall be on forms prescribed and supplied by the department. It shall be the responsibility of the utility company to obtain the forms supplied by the department.

77.2(2) Additional schedules or attachments submitted by respondent shall be identified as to subject matter, shall be typed on paper of similar size to that used in the annual report, and all data contained in the schedules or attachments shall be adequately explained and documented as to source. When such additional schedules or attachments are submitted, they shall be considered part of the annual report.

77.2(3) The director may require the filing of additional information if deemed necessary. The request for additional information shall be answered completely and in accordance with instructions therein specified. Additional information required shall be considered part of the annual report.

REVENUE DEPARTMENT[730] (cont'd)

This rule is intended to implement Iowa Code sections 428.28, 433.1, 433.2, 437.2, 437.4, 437.14, 438.3, 438.4, 438.5 and 438.6.

730—77.3(428,433,437,438) Stock and debt approach to unit value.

77.3(1) The stock and debt approach to unit value estimates the market value of the operating property by combining the market values of the common stock, preferred stock, debt, current liabilities, other liabilities, leases, and deferred credits associated with the operating property of the utility company, on the basis that the market value of these items may be used as a surrogate for the market value of the operating property itself.

77.3(2) The market value of the long-term debt associated with the operating property shall be calculated by first determining a ratio, based on book values, whose numerator shall be the operating assets and whose denominator shall be the total assets of the utility company. This ratio shall then be multiplied times the gross market value of the long-term debt and the result obtained shall be the market value of the long-term debt associated with the operating property.

The market value of publicly traded debt shall be determined by utilizing an average of the monthly high and low value of the debt for the twelve months preceding the valuation date. The values to be utilized shall be obtained by reference to any acceptable reporter of the market on which the securities are traded. If all or some of the securities are not publicly traded, the value of the securities shall be determined by appropriate comparable securities. The comparable securities shall be publicly traded and shall have a similar maturity date and coupon rate, as well as other risk indicators similar to the untraded security. In each instance, the utility company shall provide the department a statement of the market value of all securities and an explanation of how that market value was derived, including the identity of any comparable securities utilized.

77.3(3) The market value of the preferred stock associated with the operating property shall be calculated by first determining a ratio, based on book values, whose numerator shall be the operating assets and whose denominator shall be the total assets of the utility company. This ratio shall then be multiplied times the gross market value of the preferred stock and the result obtained shall be the market value of the preferred stock associated with the operating property.

The market value of publicly traded shares of preferred stock shall be determined by utilizing an average of the monthly high and low value of the preferred stock for the twelve months preceding the valuation date. The values to be utilized shall be obtained by reference to any acceptable reporter of the market on which the preferred stock is traded. If all or some series of the preferred stock are not publicly traded, the value of such preferred stock shall be determined by appropriate comparable securities. The comparable securities shall be publicly traded and shall have the same or a similar dividend rate, as well as other risk indicators similar to the untraded preferred stock. In each instance, the utility company shall provide the department a statement of the market value of its preferred stock and explanation of how that market value was derived, including the identity of any comparable securities utilized.

77.3(4) The market value of the common equity of a utility company associated with the company's operating property shall be determined by capitalizing the income

available to the common equity holders from the operating property, by an appropriate common equity return rate, all of which shall be determined as follows:

a. The calculation of the income to be capitalized shall begin with the utility company's net income after taxes but before interest charges and preferred dividends for the twelve-month period preceding the valuation date. The net income after taxes, but before interest charges and preferred dividends shall be determined from the utility company's regulatory report, or if no regulatory report is filed, from the audited financial statements of the utility company.

b. The income determined in 77.3(4)"a" shall be adjusted by deducting any net income included therein received from nonoperating property and, conversely, the referenced income shall be increased to account for any net loss created by any nonoperating property.

c. The income determined in 77.3(4)"a" shall be further reduced by that portion of the preferred dividends serviced by the income generated by the operating property, which shall be calculated by multiplying the total preferred dividend requirement by the ratio determined in 77.3(3).

d. The income determined in 77.3(4)"a" shall be further reduced by that portion of the debt service provided by the income generated by the operating property, which shall be calculated by multiplying the total debt service by the ratio determined in 77.3(2).

e. If there are any other interest payments required, a determination shall be made as to whether the underlying obligation was used to purchase operating or nonoperating assets. If no direct determination can be made, the interest payment shall be allocated in the same fashion as the debt service and preferred dividends. If the underlying obligation can be shown to be associated particularly, or in some specific proportion, to operating or nonoperating property, the interest payment shall be allocated either entirely or in such proportion to operating or nonoperating property. It shall be the obligation of the utility company, in its reports to the department, to identify and detail any interest payments which are particularly associated with operating or nonoperating property, and if the utility company fails to do so, the department may determine that all such payments may be allocated between operating and nonoperating property in the same ratio as is the debt service and preferred stock dividends (see subrules 77.3(2) and 77.3(3)).

f. For rate base regulated companies the income determined in subrule 77.3(4) shall be increased by the amount of income associated with construction-work-in-progress. The income associated with construction-work-in-progress shall be determined by multiplying the cost of said construction by the latest overall cost of service as determined by the regulatory agency.

g. Any extraordinary item affecting the income determined herein shall be eliminated in the calculation of the income shown under this rule.

h. The equity rate of return for the utility company shall be determined by the use of the capital asset pricing model although where appropriate discounted cash-flow models may be utilized as an alternative. Only in circumstances where these models are not able to be utilized will reliance be placed on a risk premium model or upon an earnings-price ratio, or other similar model, for determining the expected market rate of return on equity.

i. The income attributable to operating property available to the common equity holder as determined in sub-

REVENUE DEPARTMENT[730] (cont'd)

rule 77.3(4), paragraphs "a" to "g", shall then be divided by the equity rate as determined in 77.3(4)"h", and the result shall be the market value of the common equity associated with the operating property.

77.3(5) In the event the utility company has entered into leases of operating property, the market value of the property leased shall be determined by calculating the net present value of the leases, which shall be accomplished by discounting the future lease payments for each lease. The following is offered as an illustration of the calculation of such market value:

| Length of Lease | Annual Lease Payments |
|---|-----------------------|
| 1. Lease (a) 5 years | \$1,500,000 |
| 2. Lease (b) 7 years | \$ 800,000 |
| 3. Lease (c) 3 years | \$ 120,000 |
| Net present value of leases (assuming 8 percent rate) | |
| Lease (a) = $1,500,000 \div (1.08)^1 + 1,500,000 \div (1.08)^2 + 1,500,000 \div (1.08)^3 + 1,500,000 \div (1.08)^4 + 1,500,000 \div (1.08)^5$ | |
| Lease (b) = $800,000 \div (1.08)^1 + 800,000 \div (1.08)^2 + 800,000 \div (1.08)^3 + 800,000 \div (1.08)^4 + 800,000 \div (1.08)^5 + 800,000 \div (1.08)^6 + 800,000 \div (1.08)^7$ | |
| Lease (c) = $120,000 \div (1.08)^1 + 120,000 \div (1.08)^2 + 120,000 \div (1.08)^3$ | |
| Net Present Value of Lease (a) = | \$ 5,989,065 |
| Net Present Value of Lease (b) = | \$ 4,165,096 |
| Net Present Value of Lease (c) = | \$ 309,251 |
| Total Lease Values | \$10,463,412 |

The discount rate shall be equal to the utility company's overall market debt rate of return.

77.3(6) In the event the utility company has other sources of capital, such as, by way of illustration and not limitation, current liabilities, accumulated deferred income taxes and accumulated investment tax credits which cannot be identified as having been utilized to purchase specific assets, the market value of such sources of capital shall be allocated between operating and nonoperating assets in the same manner as long-term debt or preferred stock (see subrules 77.3(2) and 77.3(3)). If any such source of capital was created specifically for the purchase of property which can be identified as operating property or nonoperating property, the utility company must identify such sources of capital in their annual report to the department, together with the appropriate evidence of such. If the utility company fails to provide such information, the department may determine that such sources of capital may be allocated in the same manner as long-term debt or preferred stock (see subrules 77.3(2) and 77.3(3)). The market value of any such source of capital, in the absence of evidence to the contrary submitted by the utility with its annual report, shall be the book value.

77.3(7) The value determined by summing the portions of the enumerated sources of capital associated with the operating property of the utility company provided in subrules 77.3(2) to 77.3(6) shall be the unit value of the operating properties determined by the stock and debt approach to unit value.

This rule is intended to implement Iowa Code sections 428.29, 433.4, 437.6, 437.7, 437.14 and 438.14.

730—77.4(428,433,437,438) Income capitalization approach to unit value.

77.4(1) The income capitalization approach to unit value estimates the market value of the operating property by dividing the income stream generated by the operating assets by a market derived capitalization rate based on the costs of the various sources of capital utilized

or available for use to purchase the assets generating the income stream. The purpose and intent of the income indicator of value is to match income with sources of capital and therefore every source of capital utilized or available to be utilized to purchase assets should be reflected in the capitalization rate determination as well as all operating income.

If the utility company is one which is not allowed to earn a return on assets purchased with sources of capital such as the company's deferred income taxes, the income will not reflect the earnings on those assets, and as a consequence, a separate adjustment to the income indicator of value must be made to account for the value of those assets. In such instances, the income indicator of value shall be increased by an amount equal to the book value of the source of capital involved, such as the accumulated deferred income taxes. If any other operating property is clearly not income producing, therefore, not reflected in the income stream, the value of that asset shall be determined separately and added to the value of the other operating property as determined using the income indicator of value. The capitalization rate shall be adjusted, if necessary, for the market rate of return for the sources of capital utilized to purchase such nonincome producing properties where the sources can be clearly identified, otherwise the cost of the sources of capital shall be presumed to be equal to the overall market weighted costs of the other sources of capital.

77.4(2) If the utility company is one which can earn a return on assets purchased with sources of capital such as the company's deferred income taxes, the income will reflect the earnings on those assets, and as a consequence, a separate adjustment to the capitalization rate is required. The capitalization rate shall be determined by utilizing, where appropriate, market rates of return weighted according to a market determined capital structure, with the exception of deferred credits whose market value shall be equal to its value on the company's books and whose cost shall be zero. All sources of capital shall be considered in the capital structure as well as market costs associated with each source of capital. The following is an example of the application of this rule.

| | (1) Market Value | (2) Market Rate of Return | (3) % to Total | Component (Col. 2 x Col. 3) |
|------------------|------------------------|------------------------------------|----------------------|-----------------------------------|
| Common Stock | 60,000 | 15% | 62.50 | 9.38 |
| Preferred Stock | 5,000 | 13% | 5.21 | .68 |
| Debt | 25,000 | 12% | 26.04 | 3.12 |
| Deferred Credits | 6,000 | -0- | 6.25 | -0- |
| | <u>96,000</u> | | <u>100.00</u> | <u>13.18</u> |

This rule is intended to implement Iowa Code sections 428.29, 433.4, 437.6, 437.7, 437.14 and 438.14.

730—77.5(428,433,437,438) The cost approach to unit value.

77.5(1) The cost approach to unit value shall be determined by combining the cost of the operating properties of the utility and deducting therefrom an allowance for depreciation calculated on a straight-line basis.

77.5(2) Reserved.

This rule is intended to implement Iowa Code sections 428.29, 433.4, 437.6, 437.7, 437.14 and 438.14.

730—77.6(428,433,437,438) Correlation.

77.6(1) In making a final determination of value the director shall give consideration to each of the metho-

REVENUE DEPARTMENT[730] (cont'd)

dologies described in these rules, the use of which will result in the determination of the fair and reasonable market value of the utility company's entire operating property. If circumstances dictate that a particular method is inappropriate for a specific company, that method shall not be given any weight in final correlation of value.

77.6(2) Reserved.

This rule is intended to implement Iowa Code sections 428.29, 433.4, 437.6, 437.7, 437.14 and 438.14.

730—77.7(428,433,437,438) Allocation of unit value to state.

77.7(1) The director shall allocate that portion of the total unit value of the utility company's operating property to the state of Iowa based on factors which are representative of the ratio that the utility company's property and activity in the state of Iowa bear to the utility company's total property and activity. These factors are:

- a. Gross operating property weighted 75 percent and,
- b. Gross operating revenues, or MCF miles, or barrel miles weighted 25 percent. The selection of the property and use factor to be utilized shall depend on the type of utility being valued.

77.7(2) Alternative methods. In the event that the allocation prescribed by subrule 77.7(1) does not fairly and reasonably allocate unit value of the utility company's operating property to the state of Iowa, the director shall consider such other factors as he deems appropriate by the exercise of sound appraisal judgment.

This rule is intended to implement Iowa Code sections 428.29, 433.4, 437.6, 437.7, 437.14 and 438.14.

ARC 3620

**SOCIAL SERVICES
DEPARTMENT[770]
TERMINATION OF NOTICE**

Pursuant to the authority of Iowa Code section 217.6 the Department of Social Services hereby terminates proposed amendments to the Iowa State Penitentiary (Chapter 17) of the IAC relating to furlough eligibility 17.6(1)"f".

The proposed amendment would have specified the conditions required before a person serving a class "A" felony could be eligible for parole. Notice of Intended Action was published as ARC 3547 in the February 16, 1983, Iowa Administrative Bulletin. This rulemaking is being terminated because a revision of all furlough rules is in process and this rule will be incorporated with this revision.

ARC 3633

**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 Iowa Code §17A.4(1)"b".

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

Pursuant to the authority of Iowa Code section 239.18, the Department of Social Services has filed an emergency adopted and implemented rule relating to aid to dependent children (chapter 41) ARC 3632. These rules will allow for the reduction of a recipient's ineligibility period by reducing countable earned and unearned income by allowing recipients receiving nonrecurring lump sum income to expend moneys for necessary expenses in life threatening circumstances.

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 April 7, 1983.

These rules are intended to implement Iowa Code section 239.5.

ARC 3619

**SOCIAL SERVICES
DEPARTMENT[770]
TERMINATION OF NOTICE**

Pursuant to the authority of Iowa Code section 217.6 the Department of Social Services hereby terminates proposed amendments to the social services block grant (Chapter 131) of the IAC relating to the local planning process 131.6.

The proposed amendment would have required that county boards of supervisors must make every effort to fund services for an entire year and if there are remaining funds they may have time limited one service. Notice of Intended Action was published as ARC 3561 in the February 16, 1983, Iowa Administrative Bulletin. This rulemaking is being terminated because of substantial opposition.

ARC 3631**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 Iowa Code §17A.4(1)"b".

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

Pursuant to the authority of Iowa Code section 217.6, the Department of Social Services proposes adding a new chapter 166 relating to juvenile community-based grants. The juvenile community-based grant program awards grants of state appropriated funds to private agencies or units of local government to develop or improve selected services to children and their families.

These rules include definitions of terms used in the rule, provide for district administrators and the commissioner to designate grant review committees, identifies that amount of funds available depends upon the legislative appropriation, specifies who can apply for funds, establish methods for the distribution of the requests for proposals, outline information required from the applicants, the submission process, selection process, applicant notification, contracting procedures, records and reporting requirements, time frame for evaluations, method of contract termination and provide for reallocation of unexpended funds.

Consideration will be given to written data, reviews 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 April 7, 1983.

These rules are intended to implement 1981 Iowa Acts, chapter 7, section 3, subsection 10, paragraph "a", and chapter 11, section 2, subsection (2).

CHAPTER 166**JUVENILE COMMUNITY-BASED GRANTS****770—166.1 (69 GA,chs7,11) Definitions.**

166.1(1) Commissioner. Commissioner shall mean the commissioner of the department of social services.

166.1(2) District. District shall mean one of the department of social services districts.

166.1(3) District review committee. The district review committee shall mean the group of individuals designated by the district administrator to review juvenile community-based grant applications. The juvenile court, juvenile probation, public schools, consumer groups, local service providers, and other relevant groups shall be represented on this committee. No individual employed by an agency applying for a grant or on the board of directors of such agency shall serve on the district advisory committee. The district administrator may choose to designate a subgroup of the district's human service planning council or representatives of regional human service planning councils.

166.1(4) District administrator. District administrator shall mean administrator of the district office.

166.1(5) District office. District office shall mean one of department of social services district offices.

166.1(6) Grantee. Grantee shall mean the recipient of a juvenile community-based grant.

166.1(7) Juvenile community-based grants. Juvenile community-based grants shall mean those grants of state appropriated funds to private agencies or units of local government to develop or improve selected services to children and their families.

166.1(8) State review committee. The state review committee shall mean a group of individuals with knowledge and experience in the development and delivery of services to juveniles who are designated by the commissioner to review juvenile community-based grant applications.

770—166.2 (69 GA,chs7,11) Availability of grants

166.2(1) In any year in which the legislature appropriates funds for juvenile community-based grants, the department shall provide start-up and continuation moneys for selected services. The amount of the money granted shall be contingent upon the funds available. The type of services selected for funding shall be in compliance with the legislative appropriation and intent language.

166.2(2) The department shall utilize these funds to develop or expand direct services provided by the department only when private agencies and units of local government are unwilling or unable to develop the selected services in the targeted areas.

770—166.3 (69 GA,chs7,11) Who can apply. Applicants must be an incorporated agency or a unit of local government.

770—166.4 (69 GA,chs7,11) Request for proposals. The department shall distribute "request for proposals" (R.F.P.s) no later than April 1 prior to the fiscal year for which state appropriated funds are available or are anticipated to become available for juvenile community-based grants.

166.4(1) The department shall distribute these RFPs through the following individuals, groups and agencies:

- a. Iowa department of public instruction
- b. Iowa juvenile laws committee
- c. Iowa juvenile probation officers association
- d. Iowa state association of county governments
- e. Juvenile justice advisory council
- f. Office of planning and programming
- g. Youth services advisory council
- h. Relevant public and private provider associations
- i. Community mental health centers
- j. Department district and local offices
- k. All applicants for funding from the previous year

166.4(2) The request for proposal shall:

- a. Specify the geographical area(s) of the state that are being targeted.
- b. Specify the service(s) which are being targeted for development or provision.
- c. Explain where and how application materials may be obtained.
- d. Inform potential applicants that district offices of the department will provide consultation regarding the following:
 - (1) Determination of the need for particular services.
 - (2) Definition of service components, measurable impacts and evaluation techniques.
 - (3) Completion of the application form.

770—166.5 (69 GA,chs7,11) Application materials. Application for Juvenile Community-Based Grants, Form SS-1116-0, shall be available through the district offices

SOCIAL SERVICES DEPARTMENT[770] (cont'd)

of the department by April 1 and shall require at least the following information:

166.5(1) A brief narrative describing the agency or unit of local government requesting funding.

166.5(2) If an agency, a brief description of other services provided by the agency.

166.5(3) A statement of the unmet needs to be addressed by the services, including supporting statistics as available.

166.5(4) A description of the targeted services for which department funding is being requested which includes but is not limited to the following:

- a. The geographical area to be served.
 - b. The target population to be served.
 - c. Eligibility requirements.
 - d. The anticipated source of referrals for the services.
 - e. The anticipated number of clients to be served.
 - f. A description of the components of the service(s).
- g. A discussion of how the components of service(s) will meet the unmet need identified in 166.5(3).

166.5(5) A statement of the anticipated measurable outcomes of the service provision and the means of determining these outcomes.

166.5(6) Job descriptions and requirements for any new positions.

166.5(7) The proposed budget for the services, results of previous efforts to secure funding for this service, other sources of income, plans for future funding of the service, including written commitments if possible, and anticipated request for department grant funding beyond the first year.

166.5(8) The applicant's statement of co-operation and co-ordination with existing service programs to avoid duplication and share resources. Similar statements from the existing service programs.

166.5(9) Letters of local support, especially from relevant professionals, such as juvenile judges, juvenile probation officers, department staff, other providers of service, consumers, etc. to demonstrate community support, involvement and utilization of the program.

166.5(10) The table of organization and articles of incorporation, if a newly formed agency.

770—166.6 (69 GA,chs7,11) Submission process.

166.6(1) All applicants shall submit three copies of the completed application form, SS-1116-0, as discussed in 166.5 (69 GA,chs7,11) to the department. One copy of the application shall be supplied to the district office in the geographical area to be served and two copies supplied to the commissioner or designee. Applications shall be postmarked or received by the department by midnight May 10 in order to be included in the review process and considered for possible funding.

166.6(2) If proposed projects will serve more than one district, a copy of the application shall be submitted to each district to be served.

166.6(3) Applications for second and third year funding of programs shall follow the same procedures as for new applications except they shall also submit the information discussed in 166.13 (69 GA,chs7,11).

166.6(4) Applicants for waiver of the three-year limitation of grant awards or annual percentage reductions shall also submit the information discussed in 166.7(4).

770—166.7 (69 GA,chs7,11) Second and third year funding.

166.7(1) Programs may be approved for funding up to three years with the second year not exceeding sixty-seven percent and the third year not exceeding thirty-three percent of the funding level for the first year. In cases in which the funding for the first year was for less than twelve months, the average monthly funding shall be multiplied by twelve to obtain the funding level to be used in calculating the second and third year funding levels. Each program shall be supported entirely by other funds after thirty-six months of operation.

166.7(2) Applicants for second and third year funding of programs shall submit applications following the guidelines outlined in 166.5 (69 GA,chs7,11) of this chapter as well as a copy of the department evaluation discussed in 166.13 (69 GA,chs7,11) of this chapter.

166.7(3) Applications for second and third year funding of a project may be for the purposes of adding a new component of service to an existing program, or maintaining the programs developed during the first year of funding.

166.7(4) An applicant may apply for a waiver of the three-year limitation of grant awards or annual percentage reductions specified herein. Application for such waiver shall be in writing and submitted as part of a grant application. Waiver applications shall include:

- a. Substantiation of the need for waived funds.
- b. Documentation of efforts made to secure the needed funds and the results of such efforts.
- c. A description of the probable impact on the grantee's program if a waiver is not granted.

166.7(5) The district advisory committee shall review all waiver requests and make recommendations to the district administrator, who in turn shall make recommendations to the commissioner. The recommendations shall be based upon determination of the need for waived funds, the availability of program funds and requests for new services.

770—166.8 (69 GA,chs7,11) Selection process.

166.8(1) All proposals submitted to a district shall be reviewed by the district review committee who shall make funding recommendations to the district administrator.

166.8(2) The district administrator or designees shall review all proposals submitted to the district and the recommendations of the district review committee. The district administrator shall make funding recommendations to the commissioner. The district administrator shall also forward the district review committee's recommendations to the commissioner.

166.8(3) The state review committee shall review all proposals and submit funding recommendations to the commissioner.

166.8(4) The commissioner or designees shall review all proposals and the recommendations of the district review committee, the district administrators and the state review committee. The commissioner shall make the final funding decisions.

166.8(5) The following factors will be considered in selecting proposals:

- a. The demonstrated need for the service in the geographical area served.
- b. The community support demonstrated and the co-operation and co-ordination with existing agencies.
- c. The efforts of the program to secure other funding.

SOCIAL SERVICES DEPARTMENT[770] (cont'd)

d. The general program structure including but not limited to, how well goals can be met, how realistic the objectives are, the administration of funds, stability of the organization, the overall quality in comparison to other proposals and services offered.

e. The extent to which the utilization of the funds will expand or improve the continuum of services available to children in the district and meet the unmet need.

166.8(6) Agencies or units of local government submitting applications for second and third year funding services which have demonstrated both a need for the service and the ability to deliver the service shall be given first consideration for funds.

770—166.9 (69GA,chs7,11) Notification of applicants. Applicants shall be notified no later than June 10 as to whether their application has been denied or that the department is interested in negotiating a contract regarding their proposal. The only exception would be if the legislative appropriation for this program is adopted after May 10 and resulted in a delay in the selection process. In such cases all applicants shall be informed by June 10 of the delay and date funding decisions will be announced.

770—166.10 (69GA,chs7,11) Contracts. The contract shall be negotiated by the district and the applicant.

166.10(1) The applicant may be requested to modify the proposal in the negotiation process.

166.10(2) The applicant or the department may request a modification of the contract. Both parties must agree to any modification of the contract.

166.10(3) Funds are to be spent to meet the program goals as provided in the contract.

166.10(4) Expenditures will be reimbursed monthly pursuant to regular reimbursement procedures of the state of Iowa.

770—166.11 (69 GA,chs7,11) Records. Grantees shall keep statistical records of services provided and any other records as required by the department and specified in the contract.

770—166.12 (69 GA,chs7,11) Quarterly progress reports. All grantees shall supply the department with quarterly progress reports that include but are not limited to the following information:

1. The state grant dollars expended as they relate to each line item in the budget.

2. A list of goals and activities completed on schedule.

3. Any goals or activities not completed on schedule and the reason for the delay.

4. The number of clients served and the services provided.

5. The major goals for the next quarter.

6. Any general comments on the progress of the project.

770—166.13 (69 GA,chs7,11) Evaluation. The department shall complete an evaluation of the grantee's program by April 15 to determine how well the purposes and goals of the program are being met.

770—166.14 (69 GA,chs7,11) Termination of contract.

166.14(1) The contract may be terminated by the grantee at any time during contract period by giving thirty days notice to the department.

166.14(2) The department may terminate a contract upon ten days' notice when the grantee or any of its subcontractors fail to comply with the grant award stipulations, standards, or conditions. The department may terminate a contract upon thirty days' notice when there is a reduction of funds by executive order.

166.14(3) Within forty-five days of the termination, the grantee shall supply the department with a financial statement detailing all costs up to the effective date of the termination.

770—166.15 (69 GA,chs7,11) Reallocation of funds.

166.15(1) Grantees shall immediately notify the appropriate district administrator in writing when the grantee determines that at least \$500 of the grant will not be expended.

166.15(2) The district administrator and the grantee may negotiate a revision to the contract to allow for expansion or modification of the services but shall not increase the total amount of the grant.

166.15(3) The department may request grantees to free anticipated unexpended funds so that they may be used for other projects.

166.15(4) Grantees may free anticipated unexpended funds by submitting in writing a request to the commissioner to reduce the amount of the contract.

166.15(5) Anticipated unexpended funds which have been freed may be granted to other applicants who were only partially funded or did not receive any funding. These funds may also be used to increase the contracts of grantees whose proposals were fully funded when additional funds would improve the quality or increase the quantity of services being provided. The commissioner or designee shall determine how unexpended funds are reallocated.

ARC 3614

AGING, COMMISSION ON THE[20]

Pursuant to the authority of Iowa Code section 17A.3, the Iowa Commission on the Aging emergency amends and implements portions of rule 20—8.23(249B), Iowa Administrative Code, "Length of use of an acquired or constructed facility". This rule contains criteria for recipients of funds for renovating, constructing or acquiring senior citizen centers regarding the length of time the facility must be used for the purpose in relation to the amount of funds awarded.

It has been brought to the attention of the agency that the current subrule imposes an unintended hardship on the public by requiring a building lease of an unrealistic length of time when funds awarded under this subrule exceed \$10,000.

Requirements that are included in rule 10—8.23(249B) state that an acquired facility must be used for at least ten years for the purpose of the award, and that a constructed facility must be used for the purpose for twenty years. Subrule 8.23(3) was intended to address the use of lesser amounts of funds, but in reality, the subrule is overly restrictive for award amounts from \$10,000 to \$20,000 when compared to requirements in subrules 8.23(1) and 8.23(2).

The Commission on the Aging adopted this rule amendment on February 22, 1982.

In compliance with Iowa Code section 17A.4(2), the commission finds good cause to believe that public participation is impracticable as the agency wishes to immediately reflect its sensitivity to the unintended burden imposed by current rules.

The commission also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of this rule thirty-five days after publication should be waived and the amendment be made effective upon filing with the Administrative Rules Coordinator on February 25, 1983, to remove unrealistic restrictions from local groups currently applying for funds.

These rules are intended to implement Iowa Code chapter 249B.

The following amendments are proposed.

ITEM 1. Amend subrule 8.23(3) Altered or renovated facility as follows:

8.23(3) Altered or renovated facility. A recipient of an award for altering or renovating a facility to be used as a multipurpose senior center must assure the facility will be leased for that purpose for at least one year for every \$1,000 of nonremovable improvements *for a maximum lease period of ten years.*

ITEM 2. Amend subrule 8.23(4) to correct a typographical error in a reference as follows:

8.23(4) Waiver. The commissioners may request the administration on aging to waive the requirements of subrules 8.23(1) and 8.23(3)(2) in unusual circumstances.

[Filed emergency 2/25/83, effective 2/25/83]

[Published 3/16/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 3/16/83.

ARC 3611

ARTS COUNCIL[100]

Pursuant to the authority of Iowa Code sections 304A.4 and 304A.6, the Arts Council emergency adopts rules amending Chapter 1, "Description of Organization," Chapter 2, "Policies and Procedures," and Chapter 3, "Forms," Iowa Administrative Code.

The rules amend the meeting dates and listing of responsibilities for two staff members, corrects an outdated list of agency programs conducted, corrects information about the number of advisory panels used by the Council, contains numerous references to the routine culling of grant or program forms and subsequent reassignment of form numbers.

In compliance with Iowa Code section 17A.4(2), the department finds that public notice and participation is impracticable and unnecessary due to the noncontroversial nature of the rules. The emergency rules are designed to update general facts about the agency, the responsibility of its staff, and revised form numbers which must be reported as soon as possible to the more than 400 arts organizations receiving Iowa Arts Council support. Such action avoids any unforeseen hardship involved in the act of application for funds from the Council. Also, the rules pass on a federal statutory requirement leveled on the Iowa Arts Council which requires that the National Endowment for the Arts be given a credit line for all federal regrant projects. The rule also avoids confusion of the field about rescinded and renumbered report forms previously promulgated in the Arts Council's administrative code.

The department also finds, pursuant to section 17A.5(2)"b"(2) that the normal effective date of these rules thirty-five days after publication should be waived and the rules be made effective upon filing with the Administrative Rules Coordinator on February 25, 1983 as it confers a benefit upon the public to ensure compliance with a new federal requirement, speedy and uniform compliance with agency application and report forms, and totally accurate information about the responsibilities of Iowa Arts Council staff members.

The Arts Council adopted these rules at a regular meeting on January 20, 1983.

These rules are intended to implement Iowa Code sections 304A.4 and 304A.6.

ITEM 1. Rule 100—1.2(304A), last two sentences, is amended to read as follows:

The council holds business meetings in the following months: ~~February~~ March, April, June, August, September, and November. These meetings are *generally* held on the third Friday of the month.

ITEM 2. Amend subrule 2.1(1), paragraph "c", to read as follows:

c. ~~Grants community arts coordinator~~ *officer*. The ~~grants community arts coordinator officer~~ reports to the executive director and generally administers the council's financial aid programs, ~~coordinates the which generally involves the~~ application and review procedure for the grants-in-aid program; ~~facilitates as the principle liaison between the state arts council and the community~~

ARTS COUNCIL[100] (cont'd)

arts councils, and manages program development of the community arts councils:

ITEM 3. Amend rule 100—2.3(304A) to read as follows:
100—2.3(304A) Programs. The director administers grants-in-aid programs, and artists-in-schools, solo artists, touring arts team, arts and older Americans arts for special constituencies, arts in county care, arts and the handicapped, technical assistance, touring exhibitions, and art in the state buildings programs, faces of Iowa, youth arts alternative program, and other formally adopted programs as may be identified.

ITEM 4. Subrule 2.3(1), paragraph "c", is amended to read as follows:

c. Recipients must agree to include in all promotions, publicity, advertising, and in any printed materials pertaining to the programs, the following credit line: This program is supported, in part, by a grant from the Iowa arts council and the national endowment for the arts.

ITEM 5. Subrule 2.3(5), paragraph "b", subparagraph (1), is amended to read as follows:

(1) Panels. There are ~~five~~ four panels: Theatre/dance, community arts, ~~education~~, music, and visual arts. Each panel consists of no less than eleven members, nine chosen at large and two Iowa arts council members. One Iowa arts council member chairs the panel, the other is a voting member.

ITEM 6. Subrule 2.3(5), paragraph "h", first two sentences, is amended to read as follows:

h. Reporting. All grantees must submit financial form G-5 and narrative report from G-6 (and photographs, if available) which indicate the project was completed. Touring grantees are required to have each sponsor fill out either a performance evaluation form G-7 or an exhibition evaluation form G-12.

ITEM 7. Subrule 2.3(7) is amended to read as follows:

2.3(7) Community arts development. The following ~~two grant categories~~ category ~~were~~ was designed specifically for community arts councils (local arts agencies working across discipline lines to produce or sponsor arts activities or to serve a co-ordinating role with the arts agencies existing within the community).

ITEM 8. Subrule 2.3(9), paragraph "b", subparagraph (5), is amended as follows, and a new subparagraph (6) is added:

(5) Fill out and return ~~evaluation budget~~ AIS evaluation form P-3.

(6) Fill out and return final financial report form P-36.

ITEM 9. Amend subrule 2.3(15), paragraph "e", subparagraph (2), to read as follows:

(2) Sponsors are required to fill out and return touring exhibit ~~evaluation and final~~ financial report form ~~P-34~~ P-36, within ~~ten~~ thirty days of after the end of the exhibit.

ITEM 10. Amend subrule 3.2(3) to read as follows:

3.2(3) AIS report evaluation form P-3. At the end of the program the sponsor is required to fill out a narrative report which includes information about program operation and response. ~~and detailed fiscal information.~~

ITEM 11. Subrule 3.4(2) is amended as follows:

3.4(2) Touring arts team community commitment letter of agreement form P-12 commits the community to a

specific date for hosting the TAT and to payment of a specified fee to the Iowa arts council by a specified date.

ITEM 12. Insert new subrule 3.4(6) which reads as follows:

3.4(6) Touring arts team final financial report form P-36 requires detailed fiscal accounting of how project funds were spent.

ITEM 13. Subrule 3.8(4) is rescinded in its entirety, and the following inserted in lieu thereof:

3.8(4) Touring exhibit final financial report form P-36 requires detailed fiscal accounting of how project funds were spent.

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 [Published 3/16/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 3/16/83.

ARC 3613

ARTS COUNCIL[100]

Pursuant to the authority of Iowa Code sections 304A.4 and 304A.6, the Iowa Arts Council adopts and emergency implements rules amending Chapter 2, "Policies and Procedures" and Chapter 3, "Forms", Iowa Administrative Code. These rules were adopted by the Director of the Iowa Arts Council on February 18, 1983.

Notice of Intended Action was published in IAB, January 5, 1983, as ARC 3466.

This rule is identical to that published as Notice of Intended Action with the exception of unintentional misnumbering of certain forms being introduced. The corrections have been made in the text which follows.

The rule allows the Iowa Arts Council to clarify further projects which will not be funded within the general grants-in-aid program, introduces a new grants category (creative artists grants), introduces a revised program for special constituencies, introduces new rules for a student photography exhibition (faces of Iowa), and introduces new forms to implement the rules as stated.

A public hearing was held on Tuesday, January 25, 1983, at 10:00 a.m. in the conference room of the Iowa Arts Council office. Written suggestions or comments on the rules were accepted by the agency director through January 25, 1983.

In compliance with section 17A.5(2)"b"(2), the department seeks to waive the normal effective date of this rule thirty-five days after publication, said rule to be made effective upon filing with the Administrative Rules Coordinator on February 25, 1983 to avoid delays in 190 grant applications pending before the Iowa Arts Council at its regularly scheduled meeting of March 4 and 5, 1983, to notify the public applying to the year-around mini-grant program about new binding restrictions as soon as possible into the month of March, and to correct erroneous form numbers as previously published.

ARTS COUNCIL[100] (cont'd)

These rules are intended to implement Iowa Code sections 304A.4 and 304A.6.

ITEM 1. Subrule 2.3(2), paragraph "b", subparagraph (1), is amended as follows:

(1) The Iowa arts council will not consider applications for capital improvements or construction, purchase of equipment, funding a previous year's deficit, out-of-state travel, tuition assistance for academic study, ticket subsidy programs, reception expenses, or projects excluding the general public, *projects which occur prior to the grant review process, or projects which may be characterized as needlessly free of admission or participation fees. Organizations having negotiated indirect costs with the federal government may neither list indirect costs as a project expense, nor use them as cash match on an application. Applications from colleges and universities requesting assistance for events which take place on campus will be considered only if the proposal involves people from the community in planning and implementation of the project.*

ITEM 2. Subrule 2.3(2), paragraph "b", subparagraph (2), is amended as follows:

(2) The Iowa arts council will generally not fund conservation of art works or projects which take place outside of Iowa.

ITEM 3. Subrule 2.3(3) is amended by adding paragraph "e" (a new subcategory of general grants) which reads as follows:

e. Creative artists grants. Starting in January 1983, the Iowa arts council will conduct a pilot project for professional creative writers (poets, playwrights, and fiction authors), musical composers or arrangers, dance choreographers, and film or video artists. Creative artists may apply for matching grants to prepare works-in-progress for circulation to potential publishers, agents, sponsors or performers. Eligible projects may include: Hiring musicians to produce a demonstration tape of a new composition, studio recording fees, hiring a music copyist to prepare a score or parts, hiring dancers to produce a video tape of a new choreography, typist fees to finalize the manuscript of a novel, hiring consultants to prepare publications or other preparatory expenses. Creative artists grants are not fellowships. After June 30, 1983, this program will be evaluated. Individuals interested in applying for creative artists grants after that date should contact the agency grants officer.

ITEM 4. Subrule 2.3(12) is rescinded in its entirety. A new program category is inserted in its place which reads as follows. Two incorrect references to form numbers in the proposed subrule have been corrected in the text:

2.3(12) Arts for special constituencies. Programs for the physically, mentally, and emotionally handicapped, programs for the elderly, and programs for the institutionalized may be individually designed by sponsors to fulfill the needs of special groups. Special constituencies are defined as groups and individuals removed from society's mainstream by virtue of physical or mental handicaps, geographic or socioeconomic conditions, detention, or the process of aging.

a. Program guidelines. The mission of the Iowa arts council's special constituents program is to employ artists to initiate, guide, and document quality programs or projects in special settings. Quality is defined as seriousness of intention, validity of purpose, and potential for creative development of the individual involved. Programs or pro-

jects are individually tailored to meet the needs or concerns of the applicant. Usually, the applicant will provide half of the program or project costs with cash or in-kind services. Groups and individuals interested in special constituents programs should contact the Iowa arts council for application forms.

b. Procedures for sponsors. The following procedures apply to sponsors involved with programs for special constituents.

(1) The applicant must submit for arts council approval the résumé of any artist or artists proposed for residency.

(2) The applicant should fill out and return application P-26. The applicant will be notified in writing within thirty days of receipt of the application by the Iowa arts council of the status of the application.

(3) A successful application will receive contract P-16A or P-16B. The contract should be signed and returned within seven days of the date of receipt.

(4) Sponsors must complete and return programs final report form P-36 within thirty days of the completion of the final project as granted.

ITEM 5. Subrule 2.3(14) is rescinded in its entirety and reserved for future use.

ITEM 6. Amend rule 2.3(304A) by adding the following new subrule and renumbering subrules 2.3(15), 2.3(16) and 2.3(17) accordingly:

2.3(15) Faces of Iowa. Faces of Iowa is an all-Iowa student photography exhibition.

a. Program guidelines and description. The exhibition is open to students in public and private schools, grades six through twelve. Students need not enter through their schools, but administrators and teachers are encouraged to assist in the project. The purpose of the exhibition is to capture Iowa's faces, places, landscapes, buildings and terrain, to stimulate and reward quality in student photography, and to emphasize the power of visual communication.

b. Official rules and guidelines. Students wishing to enter the exhibition must do the following:

(1) Entries must be black and white photographs conforming to the following photographic dimensions: Four inches by five inches, five inches by seven inches, eight inches by ten inches, or eleven inches by fourteen inches. Each photograph must be mounted on eleven-by-fourteen-inch black matboard for durability.

(2) The maximum number of entries per student is five. Each entry must be accompanied by an official entry form P-17. The entry form gives permission for photographs to be published in publications of the Iowa arts council or another publication so designated, and displayed as part of a touring exhibition should they be selected by the judges. The students must also retain negatives of all works submitted.

(3) Students or schools must bear the expense in postage to submit entries. Entries will be returned to students only if accompanied by stamped, self-addressed envelopes.

(4) Entries will be judged on the basis of impact, imagination and unity, composition, balance, and contrast, camera techniques, and darkroom skills.

(5) Photographs, entry forms, and a photo of the entrant must be postmarked or hand-delivered by an annual deadline during the month of May, such date to be designated and published annually.

ARTS COUNCIL[100] (cont'd)

ITEM 7. Rule 3.1(304A) is amended by adding a new subrule which reads as follows:

3.1(12) Touring exhibitions evaluation form G-12. Visual artists receiving funds to tour exhibitions are required to complete this form which describes how the event was financed, information about the people served, and rates the artistic quality of the exhibition.

ITEM 8. Rule 3.2(304A) is amended by adding a new subrule which reads as follows:

3.2(7) AIS final financial report form P-36 requires detailed fiscal accounting of how project funds were spent.

ITEM 9. Rule 3.5(304A) is rescinded due to the discontinuance of the arts and older Americans program in its previous form. A new rule is inserted which reads as follows. Incorrect references to form numbers in the proposed rules have been altered to indicate the correct form numbers and two new subrules added:

100—3.5(304A) Arts for special constituents (ASC) forms. The following are forms used in carrying out ASC.

3.5(1) Arts for special constituencies application P-26 requires basic information from the applicant, program choices, and the signature of an authorized official.

3.5(2) Arts for special constituencies contract P-16A and P-16B legally commits the sponsor and the Iowa arts council to fulfill their individual responsibilities as stated in the program guidelines. Contract P-16A is used for two-party contracts between the sponsor and the Iowa arts council. Contract P-16B is used for three-party contracts in which the artist is a party along with the sponsor and the Iowa arts council.

3.5(3) Arts for special constituencies final report form P-36 requires detailed fiscal accounting of how project funds were expended.

3.5(4) Arts for special constituencies evaluation form P-29 requires information about the success or failure of ASC programs.

3.5(5) Arts for special constituencies photo release form P-30 authorizes the Iowa arts council to use program photographs in publicity.

ITEM 10. Chapter 3 is amended by adding the following new rule: (Note to ARC editor: An emergency filed and adopted rule January 28, 1983—published February 16, 1983, effective January 28, 1983, designates 100-3.10(304A) for Youth arts alternative forms. Faces of Iowa forms have been assigned the next vacant number, which is 3.11).

100—3.11(304A) Faces of Iowa forms. The following are forms used in carrying out faces of Iowa, an all-Iowa student photography exhibition.

3.11(1) Faces of Iowa official entry form P-17 gives permission for photographs to be published in publications of the arts council or other publications so designated, and permission to display the works in an exhibition should they be selected by the judges.

3.11(2) Reserved.

[Filed emergency after notice 2/25/83, effective 2/25/83]

[Published 3/16/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 3/16/83.

ARC 3612

ARTS COUNCIL[100]

Pursuant to the authority of Iowa Code sections 304A.4 and 304A.6, the Arts Council emergency adopts rules amending Chapter 3, "Forms", Iowa Administrative Code.

The rules rescind forms for the outdated program arts and the handicapped, and the rules introduce minor photographic consent forms.

In compliance with Iowa Code section 17A.4(2), the department finds that public notice and participation is impracticable and unnecessary due to the fact that the current rules contain erroneous information, and the newly introduced forms are for use with a fully promulgated program which must be introduced no later than March 15, 1983. The agency introduced many of the forms by name in its Chapter 2, "Policies and Procedures," but failed to co-link action to the forms in Chapter 3.

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 upon filing with the Administrative Rules Coordinator on February 25, 1983, as it confers a benefit upon the public to ensure that they have forms in place to apply to the youth arts alternative programs. The programs are scheduled to begin on March 15, 1983, causing the need to request emergency implementation.

The Arts Council adopted this rule at a regular meeting on January 20, 1983. These rules are intended to implement Iowa Code sections 304A.4 and 304A.6.

ITEM 1. Subrule **3.6(2)** is rescinded in its entirety and reserved for future use.

ITEM 2. Rule **3.7(304A)** Arts and the handicapped (AH) forms is rescinded in its entirety and reserved for future use.

ITEM 3. Rule 100—3.1(304A) Grants-in-aid forms is amended by adding the following new subrule, the text of which follows:

3.1(13) Photographic consent or release form G-13. This form lists photographic materials or subjects which the public consents the Iowa arts council to use or reproduce for noncommercial uses. The consent form remains in effect in perpetuity unless so noted, waives financial compensation unless so noted, allows the public to retain all rights to copyrighted materials assigned to them unless so noted, orients the consent form and agreement to the laws of the state of Iowa, and requires a signature of the legal guardian if the consentor is not of legal age.

[Filed emergency 2/25/83, effective 2/25/83]

[Published 3/16/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 3/16/83.

ARC 3605

INSURANCE DEPARTMENT[510]

Pursuant to the authority of 1982 Iowa Acts, chapter 1249, section 1, the Iowa Insurance Department hereby adopts rules adding Chapter 19, "Prearranged Funeral Plans."

Notice of Intended Action was published in IAB, Volume V, Number 15, January 19, 1983, as ARC 3514.

1982 Iowa Acts, chapter 1249 (now part of Iowa Code ch 523A) requires sellers of funeral services or funeral merchandise depositing funds with financial institutions pursuant to funeral trust agreements to give certain notices relating to the funds to the appropriate county officials. The Department is obligated to specify by rule the forms for these notices and this rule does so.

The department finds pursuant to Iowa Code section 17A.5(2)"b"(2) that the normal effective date of this rule thirty-five days after publication should be waived and the rule be made effective upon filing with the Admin-

istrative Rules Coordinator on February 23, 1983, as it confers a benefit upon the public in that under 1982 Iowa Acts, chapter 1249, section 1, sellers of funeral services or funeral merchandise are required to commence reporting on March 1 of this year.

As a result of public comment, certain changes were made in the forms from the manner in which they were published in the Notice of Intended Action in order to conform to the apparent legislative intent.

This rule is intended to implement 1982 Iowa Acts, chapter 1249, section 1.

The following new chapter is added:

CHAPTER 19
PREARRANGED FUNERAL PLANS

510-19.1(523A) Forms. The following forms shall be utilized by sellers of funeral services or funeral merchandise and by financial institutions in complying with Iowa Code chapter 523A relating to sales of prearranged funeral plans:

FORM 1E-1

ANNUAL NOTICE BY SELLER OF FUNERAL SERVICES OR FUNERAL MERCHANDISE TO COUNTY RECORDER

To the County Recorder of _____ County:

Pursuant to Iowa Code ch. 523A, you are hereby notified of the following information relative to funds paid towards prearranged funeral plans entered into by the seller of funeral services or funeral merchandise in the previous calendar year as set forth below:

Names/s, address/es and telephone numbers of financial institution/s holding funds
Name/s on Account/s, Trust Agreement/s or fund/s (if a common trust, so state)
Account Number/s
Date/s Funds Received
Amount/s of Fund/s Received
Interest earned as of the date of this filing

Officer or Employee

Seller of Funeral Services or Funeral Merchandise

Address

DATE

This report is confidential and should not be made available for inspection or copying by any person except the county attorney or a representative of the county attorney.

FORM 1E-2

ANNUAL NOTICE BY FINANCIAL INSTITUTION TO COUNTY RECORDER

To the County Recorder of _____ County:

Pursuant to Iowa Code ch. 523A, you are hereby notified of the following information relative to funds paid toward prearranged funeral plan/s deposited in the previous calendar year with the financial institutions set forth below.

Name of Seller of Funeral Services or Funeral Merchandise
Name on Account/s or Trust Agreement/s (if a common trust, so state)
Account Number/s
Date/s Funds Deposited
Amount/s of Fund/s Deposited
Interest earned as of the date of this filing

Officer or Employee

Financial Institution

Address

Date

This report is confidential and should not be made available for inspection or copying by any person except the county attorney or a representative of the county attorney.

INSURANCE DEPARTMENT[510] (cont'd)

FORM 1E-3

ANNUAL STATEMENT BY SELLER OF FUNERAL SERVICES OR FUNERAL MERCHANDISE TO COUNTY ATTORNEY

To the County Attorney of _____ County:

Pursuant to Iowa Code ch. 523A, as County Attorney, you, or your designee, is hereby authorized by the undersigned to investigate, audit, and verify all funds, accounts, safety deposit boxes, and other evidence of accounts or trusts held by or in the following financial institutions pursuant to prepaid funeral plans:

Financial institution/s holding funds _____

Name on Account/s or Trust Agreement/s (if a common trust, so state _____

Account number/s _____

Date Agreement/s filed with County Recorder _____

Officer

Seller of Funeral Services or Funeral Merchandise

Address

Date

Subscribed and sworn to before

me this _____ day of

_____, 19 _____.

Notary Public

County and State

This rule is intended to implement 1982 Iowa Acts, chapter 1249, section 1.

[Filed emergency after notice 2/23/83, effective 2/23/83] [Published 3/16/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 3/16/83.

ARC 3637

PLANNING AND PROGRAMMING[630]

Pursuant to the authority of Iowa Code section 7A.3, Chapter 17A, and Executive Order 47 (1982), the Office for Planning and Programming adopts and implements by emergency a new Chapter 19, "Iowa Job Training

Partnership Act", establishing programs to prepare youth and unskilled adults and others for entry into the labor force in accordance with the Job Training Partnership Act (P.L. 97-300, 29 USC 1501 et seq.).

In compliance with Iowa Code section 17A.4(2) the Office for Planning and Programming finds that public notice and participation is impracticable and contrary to the public interest because the normal delay in implementing the rules would cause greater public harm than is caused by denying public participation before the rules are put into effect in that Public Law 97-300, the Job Training Partnership Act requires several steps be taken by local units of government and others prior to August 31, 1983, to ensure timely establishment of a new job training program and delivery system to replace the Comprehensive Employment and Training Act, Public Law 95-524, on October 1, 1983. While final federal regulations have not yet been published, these emergency rules provide Iowa officials and others a framework in which to plan for utilization of funds available under the Act. Notice and public participation on these rules will be provided in Notice of Intended Action, filed concurrently as ARC 3638.

The Office for Planning and Programming also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these rules thirty-five days after publication should be waived and these rules be effective upon filing with the Administrative Rules Coordinator on February 28, 1983, as it confers a benefit upon the public to ensure a smooth transition from the Comprehensive Employment and Training Act to the Job Training Partnership Act, (JTPA) and allow local officials and others adequate time to establish a JTPA delivery system.

The Office for Planning and Programming adopted these rules on February 2, 1983.

These rules implement Iowa Code section 7A.3 and Executive Order 47 (1982).

The following new Chapter 19, "Iowa Job Training Partnership Act Program" is added.

CHAPTER 19

IOWA JOB TRAINING PARTNERSHIP PROGRAM

630—19.1(7A,29 U.S.C. 1501 et seq.) Assumption of responsibility. Pursuant to Executive Order 47, signed on December 29, 1982, by the Honorable Governor Robert D. Ray, the office for planning and programming is the administering state agency for the Job Training Partnership Act (JTPA, P.L. 97-300) empowered to act on the governor's behalf in applying for and receiving JTPA funds; to establish by administrative rule such procedures and policies in accordance with state and federal law as are reasonable and necessary to administer JTPA and transition from the Comprehensive Employment and Training Act (CETA) to JTPA; and to establish by administrative rule such policies and procedures applicable to the state job training co-ordinating council as are necessary to conform to JTPA and provide efficient council operations.

This rule is intended to implement Executive Order 47 and 29 U.S.C. 1501 et seq.

630—19.2(7A,29 U.S.C. 1501 et seq.) Purpose. The purpose of the Iowa Job Training Partnership Act program is to establish programs to prepare youth and unskilled adults for entry into the labor force and afford job training to those economically disadvantaged individuals and others facing serious barriers to employment

PLANNING AND PROGRAMMING[630] (cont'd)

who are in special need of such training, and will benefit therefrom, to obtain productive employment.

This rule is intended to implement Executive Order 47 and 29 U.S.C. 1501 et seq.

630—19.3(7A, 29 U.S.C. 1501 et seq.) Definitions. (reserved)

630—19.4(7A, 29 U.S.C. 1501 et seq.) State job training co-ordinating council. Pursuant to Executive Order 47, there is created, within the executive offices of the state, the State Job Training Co-ordinating Council (SJTCC). Laws, regulations and orders governing the composition, functions, powers and purpose of the SJTCC are found in Section 122 of JTPA (29 U.S.C. 1532), 20 CFR Parts 627 and 628, and Executive Order 47. By-laws, minutes of meetings, meeting agenda and other matters of public information are available on written request at the council's address, Office for Planning and Programming, 523 East 12th Street, Des Moines, Iowa 50319.

This rule is intended to implement Executive Order 47 and 29 U.S.C. 1501 et seq.

630—19.5(7A, 29 U.S.C. 1501 et seq.) Service delivery area designations.

19.5(1) Governor's proposed service delivery areas. After receiving the recommendations of the state job training co-ordinating council the office for planning and programming shall publish in a daily newspaper of general circulation in the state the governor's proposed designation of service delivery areas.

19.5(2) Public comment. Units of local government, business organizations, and other affected persons or organizations may make written comments on the proposed service delivery areas to the Director, Division for Human Resource Coordination, Office for Planning and Programming, 523 East 12th Street, Des Moines, Iowa 50319, no later than thirty days from the date of publication under 19.5(1) above.

19.5(3) Petitions for alternative service delivery area designation. No later than thirty days from the date of publication of the governor's proposed designation of service delivery areas any unit of general local government, or consortium of contiguous units of general local government which serves a substantial portion of a labor market area, may petition for alternative service delivery area designation. Petitions under this subrule shall be submitted to the Director, Division for Human Resource Coordination, Office for Planning and Programming, 523 East 12th Street, Des Moines, Iowa 50319, and shall include:

a. The name or names of the unit or units of general local government in the proposed alternative service delivery area.

b. The aggregate population of those unit or units according to the 1980 U.S. Census data.

c. In the case where the proposed alternative service delivery area contains more than one unit of general local government or less than 200,000 aggregate population, a statement describing how the proposed alternative service delivery area serves a substantial portion of a labor market area.

d. A statement indicating how the proposed alternative service delivery area will promote effective delivery of job training services.

e. In the case where the proposed alternative service delivery area represents a consortium of units of general

local government, a letter of intent executed pursuant to law by each unit of general local government in the proposed alternative service delivery area which indicates that each such unit:

(1) Endorses the petition.

(2) Will timely amend its consortium agreement, to conform to Iowa Code chapter 28E and these rules.

19.5(4) Appeal of petition for alternative service delivery area designation. Where the governor denies a petition for alternative service delivery area designation, which alleges—

a. The petitioning unit of general local government has a population of 200,000 or more, or

b. The petitioning consortium of contiguous units of general local government has an aggregate population of 200,000 or more and serves a substantial part of a labor market area,

the petitioning entity may appeal the denial to the Secretary, U.S. Department of Labor, Washington, D.C. 20210. To be heard, the appeal must be filed within thirty days of receipt of such denial.

19.5(5) Publication of final service delivery area designations. After the governor makes a final designation of service delivery areas in the state, the office for planning and programming shall cause to be published notice of the same in a daily newspaper of general circulation in the state.

This rule is intended to implement Executive Order 47 and 29 U.S.C. 1501 et seq.

630—19.6(7A, 29 U.S.C. 1501 et seq.) Consortium agreements.

19.6(1) Submission date. Subject to subrules 19.6(2) and 19.6(3), units of general local government in a final service delivery area shall, jointly with all other such units in the final service delivery area, submit within thirty days from the date of publication of the final service delivery area designation a consortium agreement which satisfies Iowa Code chapter 28E and these rules.

19.6(2) Extension. Where the units of general local government provide evidence of just cause, the governor may, in the governor's discretion, extend the thirty day consortium agreement submission date.

19.6(3) Election not to participate. Where a unit of general local government in a service delivery area does not wish to participate in the Iowa Job Training Partnership Act program by entering a consortium agreement such unit shall by board resolution or other appropriate legal action indicate its election to not so participate. Proof of adoption of a resolution electing not to participate shall be submitted within thirty days of the publication of the final service delivery area designation to the governor. During the program year October 1, 1983, to June 30, 1984, such an election shall act as a bar to that unit's participation in the Iowa Job Training Partnership Act program for four months. Thereafter, such election shall be effective for one year.

19.6(4) Elements of consortium agreement. In addition to conforming to Iowa Code chapter 28E, each consortium agreement shall designate:

a. The person or persons who will appoint that service delivery area's private industry council.

(1) Where there exists only one unit of general local government with prior experience in administering job training programs within the service delivery area, the

PLANNING AND PROGRAMMING[630] (cont'd)

chief elected official of that unit shall appoint the members of the private industry council.

(2) Where there exists more than one unit of general local government in the service delivery area with such prior experience, the chief elected officials of those units of general local government shall reach an agreement among themselves as to which official or officials shall appoint members to the private industry council.

(3) Where there exists no unit of general local government with prior experience in administering job training programs within the service delivery area, the person or persons designated by the Iowa Code chapter 28E agreement executed by all participating units of general local government in the service delivery area shall appoint the private industry council.

b. The person or persons who will represent all participating units of general local government in the consortium in:

(1) Negotiating and approving an agreement with the private industry council as required by 29 U.S.C. 1513;

(2) Approving that service delivery area's job training plan; and

(3) Submitting, jointly with the private industry council that service delivery area's job training plan.

19.6(5) Consortium agreement approval. Before a consortium agreement required by this rule shall be operational, it shall be submitted to and approved by the Director, Office for Planning and Programming, 523 East 12th Street, Des Moines, Iowa 50319.

These rules are intended to implement Iowa Code section 7A.3, and Governor's Executive Order 47 (1982).

[Filed emergency 2/28 83, effective 2/28/83]
[Published 3/16/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 3/16/83.

ARC 3632**SOCIAL SERVICES
DEPARTMENT[770]**

Pursuant to the authority of Iowa Code section 239.18, rules of the Department of Social Services appearing in the IAC relating to aid to dependent children (chapter 41) are hereby amended. These rules will allow for the reduction of a recipient's ineligibility period by reducing countable earned and unearned income and by allowing recipients receiving nonrecurring lump sum income to expend moneys for necessary expenses in life threatening circumstances. [See also Notice of Intended Action, ARC 3633 herein].

The Department of Social Services finds that notice and public participation would be contrary to the public interest. These rules reduce countable income and will reduce the period of ineligibility for recipients of lump sum income by allowing expenses for life threatening circumstances. It would be a hardship on recipients to continue to be ineligible for assistance when they could qualify under these rules. Therefore these rules are filed pursuant to Iowa Code section 17A.4(2).

The Department of Social Services finds that these rules confer a benefit on the public. By reducing countable income and by allowing for expenses in life threatening circumstances, recipients may regain eligibility for aid to dependent children. They will be able to meet necessary expenses while not jeopardizing their basic needs. Therefore, this rule is filed pursuant to Iowa Code section 17A.5(2)"b"(2).

The Council on Social Services adopted these rules February 24, 1983. These rules are intended to implement Iowa Code section 239.5. These rules shall become effective March 1, 1983.

ITEM 1. Subrule **41.6(1)**, paragraph "j", is amended to read as follows:

j. ~~Insurance settlements~~ *Settlements* for payment of medical expenses.

ITEM 2. Subrule 41.6(4) is amended to read as follows:

41.6(4) Liquidation. When proceeds from the sale of resources or conversion of a resource to cash, together with other nonexempted resources, exceed the property limitations, the recipient is ineligible to receive assistance until the amount in excess of the ~~maximum exemption~~ *resource limitation* has been expended unless immediately used to purchase a homestead, or reduce the mortgage on a homestead. *Property settlements which are part of a legal action in a dissolution of marriage or palimony suit are considered as resources upon receipt.*

ITEM 3. 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 and *nonrecurring lump sum payments*, 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 4. Subrule 41.7(7), paragraph "c", subparagraph (3), is amended to read as follows and new subparagraph (5) added:

(3) ~~Insurance settlements~~ *Settlements* for the payment of medical expenses.

(5) *That part of a lump sum received and expended for funeral and burial expenses.*

ITEM 5. Subrule 41.7(9), paragraph "c", subparagraphs (1) and (2), are amended to read as follows:

(1) ~~Recurring lump~~ *Lump sum* income other than *nonrecurring*. 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. ~~except~~ *Periodic* or intermittent income from self-employment shall be treated as described in 41.7(9)"i". *When the lump sum*

SOCIAL SERVICES DEPARTMENT[770] (cont'd)

income is earned income, appropriate disregards, deductions and diversions shall be applied to the monthly prorated income. Income is prorated when a lump sum is received before the month of decision and is anticipated to recur; or a lump sum is received during the month of decision or anytime during the receipt of assistance.

(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 unearned income is defined as a payment which is a one-time distribution of funds from a single source such as ~~an property settlement, inheritance~~ *inheritance, certain insurance settlement settlements, 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 a nonrecurring lump sum payment of earned income. When countable income, exclusive of the aid-to-dependent-children grant; but including ~~the countable~~ 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 standard of need for the eligible group. Any ~~excess income remaining after this calculation~~ shall be applied as income to the first month following the period of in which eligibility ~~ineligibility may be re-established~~ and disregarded as income thereafter.

The period of ineligibility shall be shortened when it is established that a life-threatening circumstance exists and the countable lump sum income causing the period of ineligibility has been or will be expended in connection with the life-threatening circumstance. Furthermore, until that time, the nonrecurring income must have been used to meet those needs as defined in subrules 41.8(2) and 41.8(3). The former eligible group must have no other income or resources sufficient or available to meet the life-threatening circumstance. Expenditure of funds for the following are to be considered as life-threatening: Payments made on medical services for the former eligible group or their dependents for services listed in 770—chapters 78, 81, 82, and 85 at time of claiming relief under this provision; the cost of necessary repairs to maintain habitability of the homestead requiring the spending of over twenty-five dollars per incident; cost of replacement of exempt resources as defined in subrule 41.6(1) due to fire, tornado, or other natural disaster; or funeral and burial expenses of a member or dependent of the former eligible group. The cost of the life-threatening circumstance shall be verified. A dependent is an individual who is claimed or could be claimed by another individual as a dependent for federal income tax purposes.

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~~ *is defined* as 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.

[Filed emergency 2/25/83, effective 3/1/83]

[Published 3/16/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 3/16/83.

ARC 3603**TRANSPORTATION,
DEPARTMENT OF[820]****07 MOTOR VEHICLE DIVISION**

Pursuant to the authority of Iowa Code section 307.10, the Transportation Commission on February 15, 1983, emergency adopted amendments to rules 820—[07,D] entitled "Vehicle Registration".

The Transportation Commission amended the rules adopted on January 18, 1983, by rescinding two rule amendments to allow further study of administrative concerns and any legal problems that may be involved. Item 1 of ARC 3543 which defines regular business hours and Item 10 of ARC 3542 which establishes orderly procedures for the cancellation of certificates of title are rescinded.

Under the provisions of Iowa Code subsection 17A.4(2), the Department of Transportation finds that it is impracticable to delay the rescissions because the previously adopted amendments are scheduled to become effective on March 23, 1983. The department also finds that it would be contrary to the public interest to delay the rescissions because this would result in the procedures being implemented for a few months and subsequently rescinded, and would cause confusion and misunderstanding on the part of the public.

Under Iowa Code subparagraph 17A.5(2)"b"(2), the Department of Transportation finds that these rescissions will confer a benefit on the public because their enactment will assure the development of equitable and effective administrative procedures.

These rescissions shall become effective on March 23, 1983, after filing with the administrative rules coordinator. These rescissions are intended to implement Iowa Code chapter 321.

07 MOTOR VEHICLE DIVISION

Pursuant to the authority of Iowa Code section 307.10, the Transportation Commission, on February 15, 1983, emergency adopted amendments to 820—[07,D] entitled "Vehicle Registration".

ITEM 1. Rescind Item 1 of ARC 3543 which amends 820—[07,D] subrule 10.1(6), a definition of "designated location".

ITEM 2. Rescind Item 10 of ARC 3542 which amends rule 820—[07,D]11.15(321), concerning cancellation of a certificate of title.

[Filed emergency 2/17/83, effective 3/23/83]

[Published 3/16/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 3/16/83.

ARC 3630**COMMERCE COMMISSION[250]**

The Iowa State Commerce Commission hereby gives notice, pursuant to Iowa Code section 17A.4 that on February 24, 1983, the Commission issued an order in Docket No. RMU-82-19, In Re Reporting of Management Meeting Expenses, "Order Adopting Rule," amending Iowa Administrative Code 250—chapters 19, 20, 21, and 22. Notice of Intended Action was published in the December 22, 1982, Iowa Administrative Bulletin as ARC 3457.

The adopted rules contain several changes from the rules published in the Notice of Intended Action which were made in response to comments filed by several utilities and the Iowa State Commerce Commission staff. In the finally adopted rules, a utility must report expenses charged or to be charged to Iowa ratepayers, resulting from an assembly of directors or officers outside of any state in which the utility provides service. Utilities are also required to list only its directors or officers in attendance at the assembly and any spouse or guests of those directors or officers whose expenses will be borne by ratepayers. Utilities may request that the Commission keep specific information filed in its annual report confidential for good cause shown. Other changes in the finally adopted rules are discussed in the Commission's "Order Adopting Rules" issued in Docket No. RMU-82-19 on February 24, 1983.

The amendments to Iowa Administrative Code 250—chapters 19, 20, 21, and 22 are intended to implement Iowa Code section 476.2. The rule will become effective April 20, 1983, pursuant to Iowa Code section 17A.4.

ITEM 1. Amend subrule 19.2(5), paragraph "k" by relettering it as paragraph "l", and inserting the following as paragraph "k":

k. By July 1, 1983, and by April 1 of each year thereafter, each rate-regulated utility shall report to the commission in writing all expenses, charged or to be charged to Iowa ratepayers, incurred in the previous calendar year resulting from any assembly of all or part of its board of directors, principal officers, or both outside of any state in which the utility provides service. All expenses required to be reported under this subrule should be itemized according to the following classifications for each assembly:

- (1) Transportation costs.
- (2) Lodging (including meeting rooms).
- (3) Food.
- (4) Itemized miscellaneous.

The utility also shall provide the following information about each assembly in the filing with the commission: Location of assembly (including city, state) and hotel(s) or motel(s) accommodations; purpose of the assembly and meeting agenda; travel information (including whether public or private mode and dates of departure, arrival, and return); and its directors or officers in attendance (including spouses and guests if any of their expenses have been or will be charged to ratepayers).

Upon good cause shown, the commission, pursuant to Iowa Code section 68A.7, may keep confidential specific information concerning any assembly required to be filed with the utility's annual report under this subrule. The utility shall specifically identify the information it deems confidential and must specifically explain why the in-

formation is confidential. The utility shall be under a continuous duty to inform the commission of any change in circumstances affecting the confidential nature of any information the commission has kept confidential.

ITEM 2. Amend subrule 20.2(5) by adding a new paragraph "j" to read as follows:

j. By July 1, 1983, and by April 1 of each year thereafter, each rate-regulated utility shall report to the commission in writing all expenses, charged or to be charged to Iowa ratepayers, incurred in the previous calendar year resulting from any assembly of all or part of its board of directors, principal officers, or both outside of any state in which the utility provides service. All expenses required to be reported under this subrule should be itemized according to the following classifications for each assembly:

- (1) Transportation costs.
- (2) Lodging (including meeting rooms).
- (3) Food.
- (4) Itemized miscellaneous.

The utility also shall provide the following information about each assembly in the filing with the commission: Location of assembly (including city, state) and hotel(s) or motel(s) accommodations; purpose of the assembly and meeting agenda; travel information (including whether public or private mode and dates of departure, arrival, and return); and its directors or officers in attendance (including spouses and guests if any of their expenses have been or will be charged to ratepayers).

Upon good cause shown, the commission, pursuant to Iowa Code section 68A.7, may keep confidential specific information concerning any assembly required to be filed with the utility's annual report under this subrule. The utility shall specifically identify the information it deems confidential and must specifically explain why the information is confidential. The utility shall be under a continuous duty to inform the commission of any change in circumstances affecting the confidential nature of any information the commission has kept confidential.

ITEM 3. Amend subrule 21.2(14) by renumbering it to subrule 21.2(15), and inserting the following as subrule 21.2(14):

21.2(14) By July 1, 1983, and by April 1 of each year thereafter, each rate-regulated utility shall report to the commission in writing all expenses, charged or to be charged to Iowa ratepayers, incurred in the previous calendar year resulting from any assembly of all or part of its board of directors, principal officers, or both outside of any state in which the utility provides service. All expenses required to be reported under this subrule should be itemized according to the following classifications for each assembly:

- a. Transportation costs.
- b. Lodging (including meeting rooms).
- c. Food.
- d. Itemized miscellaneous.

The utility also shall provide the following information about each assembly in the filing with the commission: Location of assembly (including city, state) and hotel(s) or motel(s) accommodations; purpose of the assembly and meeting agenda; travel information (including whether public or private mode and dates of departure, arrival, and return); and its directors or officers in attendance (including spouses and guests if any of their expenses have been or will be charged to ratepayers).

COMMERCE COMMISSION[250] (cont'd)

Upon good cause shown, the commission, pursuant to Iowa Code section 68A.7, may keep confidential specific information concerning any assembly required to be filed with the utility's annual report under this subrule. The utility shall specifically identify the information it deems confidential and must specifically explain why the information is confidential. The utility shall be under a continuous duty to inform the commission of any change in circumstances affecting the confidential nature of any information the commission has kept confidential.

ITEM 4. Amend subrule 22.2(6) by adding a new paragraph "l" to read as follows:

1. By July 1, 1983, and by April 1 of each year thereafter, each rate-regulated utility shall report to the commission in writing all expenses, charged or to be charged to Iowa ratepayers, incurred in the previous calendar year resulting from any assembly of all or part of its board of directors, principal officers, or both outside of any state in which the utility provides service. All expenses required to be reported under this subrule should be itemized according to the following classifications for each assembly:

- (1) Transportation costs.
- (2) Lodging (including meeting rooms).
- (3) Food.
- (4) Itemized miscellaneous.

The utility also shall provide the following information about each assembly in the filing with the commission: Location of assembly (including city, state) and hotel(s) or motel(s) accommodations; purpose of the assembly and meeting agenda; travel information (including whether public or private mode and dates of departure, arrival, and return); and its directors or officers in attendance (including spouses and guests if any of their expenses have been or will be charged to ratepayers).

Upon good cause shown, the commission, pursuant to Iowa Code section 68A.7, may keep confidential specific information concerning any assembly required to be filed with the utility's annual report under this subrule. The utility shall specifically identify the information it deems confidential and must specifically explain why the information is confidential. The utility shall be under a continuous duty to inform the commission of any change in circumstances affecting the confidential nature of any information the commission has kept confidential.

This rule is intended to implement Iowa Code section 476.2.

[Filed 2/25/83, effective 4/20/83]
[Published 3/16/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 3/16/83.

ARC 3607

ENVIRONMENTAL QUALITY
DEPARTMENT[400]

ENVIRONMENTAL QUALITY COMMISSION

Pursuant to the authority of Iowa Code section 455B.32, the Environmental Quality Commission amends Chapter 19, "Waste Water Construction and Operation Permits", Iowa Administrative Code. The Commission adopted these rules on February 23, 1983.

Notice of Intended Action on these rules was published on November 10, 1982, in the Iowa Administrative Bulletin, ARC 3352.

The amendments establish a specific policy for requiring the owners of municipal waste water treatment facilities to achieve and maintain compliance with applicable standards for the discharge of pollutants into waters of the state. The policy will require publicly owned waste water facilities to have a plan of action to achieve and/or maintain compliance with final effluent limitations, irrespective of their status in the grant program. The plan of action will be developed by the municipality in cooperation with the department, and will be geared to the specific needs and financial situation of that municipality. Measures to achieve interim levels of compliance will be allowed where major reconstruction to meet final limitations is necessary, and the city is unable to finance such reconstruction in a single stage. A major goal of the plan of action requirement is to get municipalities to manage waste water facilities more like they would other utilities. These adopted rules are identical to those published under notice, except the word "each" was changed to "a" in 19.6(6), introductory paragraph and paragraph "a".

These rules are intended to implement Iowa Code chapter 455B, part 1, division III (455B.171 to 455B.187). These rules will become effective on April 20, 1983.

ITEM 1. Amend 400—15.1(455B) by adding the following new definition at 15.1(22) and renumbering existing subrules 15.1(22) to 15.1(29) as 15.1(23) to 15.1(30) respectively:

15.1(22) "POTW" or "publicly owned treatment works" means any device or system used in the treatment of municipal sewage or industrial wastes of a liquid nature which is owned by a municipal corporation or other public body created by or under Iowa law and having jurisdiction over disposal of sewage, industrial wastes or other wastes, or a designated and approved management agency under section 208 of the Act.

ITEM 2. Amend 400—19.6(455B) by adding the following new subrule:

ENVIRONMENTAL QUALITY DEPARTMENT[400] (cont'd)

19.6(6) POTW compliance—plan of action required. The owner of a publicly owned treatment works (POTW) must prepare and implement a plan of action to achieve and maintain compliance with final effluent limitations in its NPDES permit, as specified below:

a. The executive director shall notify the owner of a POTW of the plan of action requirement, and of an opportunity to meet with department staff to discuss the plan of action requirements. The POTW owner shall submit a plan of action within six months of such notice, unless a longer time is needed and is authorized in writing by the executive director.

b. The plan of action will vary in length and complexity depending on the compliance history and physical status of the particular POTW. It must identify the deficiencies and needs of the system, describe the causes of such deficiencies or needs, propose specific measures (including an implementation schedule) that will be taken to correct the deficiencies or meet the needs, and discuss the method of financing the improvements proposed in the plan of action.

The plan may provide for a phased construction approach to meet interim and final limitations, where financing is such that a long-term project is necessary to meet final limitations, and shorter-term projects may provide incremental benefits to water quality in the interim.

Information on the purpose and preparation of the plan can be found in the departmental document entitled "Guidance on Preparing a Plan of Action", available through the records center of the department.

c. Upon submission of a complete plan of action to the department, the plan should be reviewed and approved or disapproved within sixty days unless a longer time is required and the POTW owner is so notified.

d. The NPDES permit for the facility shall be amended to include the implementation schedule or other actions developed through the plan to achieve and maintain compliance.

[Filed 2/24/83, effective 4/20/83]
[Published 3/16/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 3/16/83.

ARC 3604**INSURANCE DEPARTMENT[510]**

Pursuant to the authority of Iowa Code sections 258A.4(1)"i", 512A.2, and 521A.8, the Iowa Department of Insurance hereby adopts rules amending Chapter 8,

"Benevolent Associations," Chapter 9, "Reporting Requirements on Licensees," Chapter 45, "Insurance Holding Company Systems."

Notice of Intended Action was published in IAB, Volume V, Number 15, January 19, 1983, as ARC 3513.

These rules would remove the limitation upon the total assessments of a member of a benevolent association by the association. Presently, the total assessments may not exceed the maximum benefits payable to the member by the association. This change is needed because benevolent associations do not create reserves to meet payment of benefits to their members and therefore cannot be subject to an artificial limit on the total assessments of a member and yet remain financially sound.

These rules also remove the reference to shareholders in the department's rules relating to insurance holding company systems, inasmuch as after 1982 Iowa Acts, chapter 1051, sections 4 and 5, Iowa Code section 521A.3(4) no longer makes the impact on the shareholders of a domestic insurance company a criterion for departmental review of an acquisition of such a company. Federal Court decisions have held state insurance holding company laws to be pre-empted by federal securities statutes to the extent that the state laws regulated the fairness of tender offers made to shareholders of insurance companies; review must now be confined to protection of the policyholders of such companies.

Editorial changes in the rules relating to reporting requirements on licensees are made.

These rules are identical to those published under Notice of Intended Action and will become effective April 20, 1983.

These rules implement Iowa Code sections 258A.4(1)"i", 512A.2, and 521A.8.

The following amendments are adopted:

ITEM 1. Subrule 8.4(2) is deleted.

ITEM 2. In chapter 9 (67GA, ch 95), whenever reference is made to "1977 Iowa Acts, chapter 95", substitute "Iowa Code chapter 258A".

ITEM 3. Rule 510—45.1(521A) is amended to read as follows:

510—45.1(521A) Purpose. The purpose of these rules is to set forth rules and procedural requirements which the commissioner deems necessary to carry out the provisions of Iowa Code chapter 521A of the Code. The information called for by these rules is hereby declared to be necessary and appropriate in the public interest and for the protection of policyholders and shareholders in this state.

These rules implement Iowa Code sections 258A.4(1)"i", 512A.2, and 521A.8.

[Filed 2/23/83, effective 4/20/83]
[Published 3/16/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 3/16/83.

ARC 3628

PUBLIC SAFETY DEPARTMENT[680]

Pursuant to the authority of Iowa Code section 101.1, the Iowa Department of Public Safety, State Fire Marshal Division adopts amendments to Chapter 5, regarding Oil Burning Equipment.

Notice of Intended Action was published in IAB 15, January 19, 1983, as ARC 3516. A public hearing was held February 9, 1983. Representatives from the Waste Oil Heating Manufacturers' Association and businesses appeared at the hearing in support of the amendments. There were no dissenting opinions regarding the amendments.

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

This rule will become effective on April 20, 1983.

The following amendments are adopted:

ITEM 1. Rule 680—5.350(101) shall be amended as follows:

680—5.350(101) Rules generally. "The Standard for the Installation of Oil Burning Equipment", No. 31, 1978 edition of the National Fire Protection Association *with the exception of section 1-10.1*, together with its reference to other specific standards referred to and contained within the volumes of the National Fire Code 1982 edition of the National Fire Protection Association published in 1982 shall be the rules governing oil burners burning equipment in the state of Iowa.

ITEM 2. The following new subrules shall be added:

5.350(1) Grade of fuel oil. The grade of fuel oil used in a burner shall be that for which the burner is approved and as stipulated by the manufacturer. For use of oil fuels other than those approved and stipulated by the manufacturer see section 1-2.3 of "The Standard for the Installation of Oil Burning Equipment", No. 31, 1978 edition of the National Fire Protection Association.

Exception: When acceptable to the authority having jurisdiction, burners designed to burn crankcase oil may be used in commercial or industrial occupancies. Such burners shall be listed for use with crankcase oils and shall be installed in accordance with the manufacturer's instructions and the terms of their listing.

5.350(2) Crankcase oil. When storing, handling, or burning crankcase oils which may have flash points below 100°F (Class I liquids as defined in NFPA 321 Basis Classification of Flammable and Combustible Liquids) or which may be heated above their flash points, attention must be given to electrical installations in areas where flammable vapors or gases may be present in the atmosphere. Typical locations are burner fuel handling equipment areas, fuel storage areas, pits, sumps, and low spots where fuel leakage or vapors may accumulate. Article 500 of the National Electrical Code (NFPA 70) provides for classifying such areas and defining requirements for electrical installations in the areas so classified.

5.350(3) Crankcase oil properties may vary considerably, and light volatile materials may be released during storage, handling, or upon heating. Because of this characteristic, appropriate and adequate provisions shall be made to safely handle, store and burn crankcase oil. It is desirable that flexibility be built into the facility to accommodate the expected range of properties. Failure

to observe the necessary design, installation and operating and maintenance procedures can result in fire, explosion, or personal injury.

5.350(4) When a supply tank is used, provisions shall be made to prevent stratification of fuel in the tank.

5.350(5) Adequate ventilation is essential in areas where oil leakage may occur, as at pumps, heaters, strainers and burners, or where maintenance may be performed. Confined fuel handling areas and burner sites shall be adequately ventilated, and forced air ventilation used where necessary. Provisions to safely dispose of spills in these areas are necessary.

5.350(6) Installation shall conform to National Fire Protection Association 70, 1981 edition, National Electrical Code and National Fire Protection Association 30, 1981 edition, Flammable and Combustible Liquids Code.

[Filed 2/25/83, effective 4/20/83]

[Published 3/16/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 3/16/83.

ARC 3621

SOCIAL SERVICES DEPARTMENT[770]

Pursuant to the authority of Iowa Code section 239.18, rules of the Department of Social Services appearing in the IAC relating to aid to dependent children (Chapter 41) are hereby amended. The Council on Social Services adopted this rule February 24, 1983.

Notice of Intended Action regarding this rule was published in the IAB October 27, 1982 as ARC 3323. This change requires suspension to be based on income and circumstances in the budget month.

This rule is identical to that published under notice.

This rule is intended to implement Iowa Code section 239.5. This rule shall become effective May 1, 1983.

Subrule **41.7(9)**, paragraph "f", is amended to read as follows:

f. Suspension. The local office shall suspend assistance *retrospectively* when income or circumstances *in the budget month* 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 *the* purposes of child support collections.

[Filed 2/25/83, effective 5/1/83]

[Published 3/16/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 3/16/83.

ARC 3622**SOCIAL SERVICES
DEPARTMENT[770]**

Pursuant to the authority of Iowa Code section 239.18, rules of the Department of Social Services appearing in the IAC relating to aid to dependent children (Chapter 41) are hereby amended. The Council on Social Services adopted this rule February 24, 1983.

Notice of Intended Action regarding this rule was published in the IAB July 7, 1982 as ARC 3013 and September 1, 1982 as ARC 3167. These rules define the components that make up the basic need. Definitions are needed so it is clear what is included in the standard.

The chart for determining income in kind remains the same as is currently in the rules and the definitions were changed to correspond. The definitions are also the same as have been interpreted for many years. These rules are intended to implement Iowa Code section 239.5. These rules shall become effective May 1, 1983.

Subrule 41.8(2) is amended by adding new paragraphs "a" and "b" and renumbering current paragraphs "a" to "d" as subparagraphs (1) to (4) under new paragraph "b".

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

- (1) Shelter: Rental, taxes, upkeep, insurance, amortization.
- (2) Utilities: Fuel, water, lights, water heating, refrigeration, garbage.
- (3) Household supplies and replacements: Essentials associated with housekeeping and meal preparation.
- (4) Food: Including school lunches.
- (5) Clothing: Including layette, laundry, dry cleaning.
- (6) Personal care and supplies: Including regular school supplies.
- (7) Medicine chest items.
- (8) Communications: Bus fares, telephone, newspapers, magazines.

b. Special situations in determining eligible group:

[Filed 2/25/83, effective 5/1/83]
[Published 3/16/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 3/16/83.

Item 2 in subparagraph (1) was corrected to "residential care facility" and item 1 in subparagraph (2) was corrected to show the increased personal needs allowance.

This rule is intended to implement Iowa Code section 249.3.

This rule shall become effective May 1, 1983.

Subrule 52.1(3), paragraph "a", is amended to read as follows:

a. All available income of a recipient after *applicable* disregards shall be applied to meet the cost of care before payment is made through the state supplementary assistance program; ~~except during the month of approval. Income for the month of approval is considered exempt.~~

(1) *Residents in the following situations shall apply income toward the cost of care beginning with the month of approval in the following circumstances:*

1. *Persons eligible for state supplementary assistance transferring from an intermediate care facility to a residential care facility or from one residential care facility to another.*

2. *Residents changing from private payment status to state supplementary assistance status while residing in a residential care facility.*

3. *Residents moving from an independent living arrangement to a residential care facility may retain enough of the first month's income to meet the maintenance or living expenses connected with the previous living arrangement. In such cases the department shall determine how much of the resident's income is available for first month client participation.*

(2) The income of the ~~recipient~~ resident shall have the following monthly disregards:

- (1) ~~1. \$39.00 \$42.00~~ allowance to meet personal expenses.
- (2) 2. When income is earned, \$65.00 plus one-half of any remaining earned income.
- (3) 3. Established unmet medical needs, excluding private health insurance.
- (4) 4. Funds to meet the basic needs of dependents living in the home of the recipient according to subrule 51.3(4).

[Filed 2/25/83, effective 5/1/83]

[Published 3/16/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 3/16/83.

ARC 3623**SOCIAL SERVICES
DEPARTMENT[770]**

Pursuant to the authority of Iowa Code section 217.6 and chapter 249, rules of the Department of Social Services appearing in the IAC relating to state supplementary assistance (chapter 52) are hereby amended. The Council on Social Services adopted this rule February 24, 1983.

Notice of Intended Action regarding this rule was published in the IAB January 5, 1983 as ARC 3498. This rule changes the policy on first month client participation for persons in residential care facilities to that in effect for intermediate care facilities. This brings about consistency between the programs and produces a savings in residential care expenditures.

ARC 3624**SOCIAL SERVICES
DEPARTMENT[770]**

Pursuant to the authority of Iowa Code section 249A.4, rules of the Department of Social Services appearing in the IAC relating to medical assistance (chapter 78) are hereby amended. The Council on Social Services adopted this rule February 24, 1983.

Notice of Intended Action regarding this rule was published in the IAB January 5, 1983 as ARC 3499. This rule will allow for payment of medically necessary hysterectomies without an acknowledgment of sterilization when the recipient is already sterile or in emergency cases. Federal regulations now provide for this reasonable exception to the informed consent and it relieves the recipient of unnecessary forms.

SOCIAL SERVICES DEPARTMENT[770] (cont'd)

This rule is identical to that published under notice. This rule is intended to implement Iowa Code section 249A.4. This rule shall become effective May 1, 1983.

Subrule 78.1(16), paragraph "j", is rescinded and the following inserted in lieu thereof:

j. Payment will be made for a medically necessary hysterectomy only when it is performed for a purpose other than sterilization and only when one or more of the following conditions are met:

(1) The individual or representative has signed an acknowledgment that she has been informed orally and in writing from the person authorized to perform the hysterectomy that the hysterectomy will make the individual permanently incapable of reproducing, or

(2) The individual was already sterile before the hysterectomy, the physician has certified in writing that the individual was already sterile at the time of the hysterectomy and has stated the cause of the sterility, or

(3) The hysterectomy was performed as a result of a life-threatening emergency situation in which the physician determined that prior acknowledgment was not possible and the physician includes a description of the nature of the emergency.

[Filed 2/25/83, effective 5/1/83]

[Published 3/16/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 3/16/83.

ARC 3625

SOCIAL SERVICES
DEPARTMENT[770]

Pursuant to the authority of Iowa Code section 249A.4, rules of the Department of Social Services appearing in the IAC relating to medical assistance (chapter 79) are hereby amended. The Council on Social Services adopted this rule February 24, 1983.

Notice of Intended Action regarding this rule was published in the IAB January 5, 1983 as ARC 3500. This change removes procedures relating to provider appeals and makes reference to the chapter on fair hearings and appeals. This will avoid duplication in the rules.

This rule is identical to that published under notice. This rule is intended to implement Iowa Code section 249A.4. This rule shall become effective May 1, 1983.

Rule 770—79.4(249A) is rescinded and the following inserted in lieu thereof:

770—79.4(249A) Appeal by provider of care. Providers may appeal decisions of the department according to rules in 770—chapter 7.

This rule is intended to implement Iowa Code section 249A.4.

[Filed 2/25/83, effective 5/1/83]

[Published 3/16/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 3/16/83.

ARC 3626

SOCIAL SERVICES
DEPARTMENT[770]

Pursuant to the authority of Iowa Code sections 217.6 and 234.6, rules of the Department of Social Services appearing in the IAC relating to payments for foster care (chapter 137) are hereby amended. The Council on Social Services adopted this rule February 24, 1983.

Notice of Intended Action regarding this rule was published in the IAB December 22, 1982 as ARC 3438. This rule gives out-of-state group foster care facilities the choice of being paid at Iowa rates or the rates in their own state. The change is being made to reduce the chance out-of-state facilities will refuse to accept Iowa children.

This rule is identical to that published under notice. This rule is intended to implement Iowa Code section 234.38. This rule shall become effective May 1, 1983.


Subrule 137.9(2) is amended to read as follows:

137.9(2) The payment rate for public or private agency group care licensed or approved in another state shall be ~~the agency's unit cost as determined by the accounting and reporting procedure recognized by that~~ either the payment rate established by the other state, subject to the limitations in effect in that state, or the agency's unit cost as determined by the department's accounting and reporting procedure for purchase of service contracts, subject to the limitations in 137.9(1). For states in which local agencies negotiate individual contracts with each facility, the state payment rate shall be the payment rate established by the local contracting agency in that area of the state. The rate determination method shall be at the option of the agency. Children who were placed in out-of-state group care prior to May 1, 1983 at payment rates higher than those allowed by this rule may continue to be paid at the higher rate for the duration of those placements.

[Filed 2/25/83, effective 5/1/83]

[Published 3/16/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 3/16/83.



State of Iowa

Executive Department

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

EXECUTIVE ORDER NUMBER 47

- WHEREAS, on October 13, 1982, President Reagan signed into law the "Job Training Partnership Act" (JTPA), P. L. 97-300, replacing the "Comprehensive Employment and Training Act" (CETA), 29 USC 801; and
- WHEREAS, states seeking financial assistance under JTPA must submit a Governor's coordination and special services plan and establish a State Job Training Coordinating Council; and
- WHEREAS, time is of the essence to ensure a smooth transition from CETA and JTPA and to ensure all mandated activities and plans are operational by October 1, 1983; and
- WHEREAS, the Office for Planning and Programming, as the state planning agency and as the administering state agency for CETA, is a qualified and capable executive office for administering JTPA on the Governor's behalf;
- NOW, THEREFORE, I, Robert D. Ray, Governor of the state of Iowa, by the power and authority vested in me by the Constitution, by the laws of Iowa and by JTPA, do hereby designate the Office for Planning and Programming as my administrative agent for JTPA and create within the executive offices of the state, the State Job Training Coordinating Council.

SECTION ONE

As the administering state agency for JTPA, the Office for Planning and Programming shall:

1. act on the Governor's behalf in applying for and receiving JTPA funds; and
2. establish by administrative rule such procedures and policies in accordance with state and federal law as are necessary to administer JTPA and transition from CETA to JTPA; and
3. provide such staff support to the State Job Training Coordinating Council and technical assistance to such other groups seeking funds under JTPA as may be required, subject to the Office's time and budget constraints.

SECTION TWO

The purpose and structure of the State Job Training Coordinating Council (SJTCC) shall be as follows:

1. The Council shall, subject to the approval of the Governor, plan, coordinate and monitor the provisions of services directed to eligible participants, perform all functions mandated by JTPA and perform such other duties as directed by the Governor, but in no event shall the SJTCC directly operate such programs and services.
2. Initial composition of the Council shall be fifteen members, appointed by the Governor, eight of whom shall be appointed to a one-year term and seven of whom shall be appointed to a two-year term. Thereafter, appointments shall be for two years unless otherwise indicated by the Governor in the letters of appointment.
3. The Chairperson of the Council shall be designated by the Governor. The Chairperson shall call the first meeting of the Council within ten days of issuance of the letters of appointment of members.
4. The Council shall not procure support personnel in addition to the support provided by the Office for Planning and Programming unless prior approval is granted by the Governor.

5. All functions of the Council which result in the formation of plans or decisions shall be advisory to the Governor and submitted in writing to the Governor or his designee for the Governor's approval.
6. The Office for Planning and Programming shall by administrative rule establish such additional Council rules as is necessary to conform to JTPA and to provide efficient Council operations.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Iowa to be affixed. Done at Des Moines, Iowa, this 29th day of December, 1982.


GOVERNOR

Attest:


SEC




State of Iowa

Executive Department

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

Executive Order Number 48

- WHEREAS, Iowa's natural resources are both finite and sensitive to human impacts; and
- WHEREAS, without wise use and prudent management, our basic resources of land, minerals, water, and air, as well as the diverse systems they support, may be damaged or lost; and
- WHEREAS, an adequate and self-renewing ecological resources system is required to secure for future generations a productive and quality living environment; and
- WHEREAS, the need for and importance of land use planning has been recognized in Iowa by enactment of Chapter 1245, 1982 Iowa Acts; and
- WHEREAS, Chapter 1245, 1982 Iowa Acts establishes a land use policy for the state which provides for the orderly use and development of land and related natural resources in Iowa; and
- WHEREAS, agencies of the Executive Branch administer numerous programs which determine land use and affect our environment; and
- WHEREAS, many state agency actions can affect the use of Iowa's resources and those impacts should be properly considered.
- NOW, THEREFORE, I, Robert D. Ray, Governor of the State of Iowa, by virtue of the authority vested in me by the laws and Constitution of the State of Iowa do hereby order that:
- I. Pursuant to Chapter 1245, 1982 Iowa Acts, it shall be the policy of the State of Iowa and its agencies to provide for the orderly use and development of land and related natural resources in Iowa for residential, commercial, industrial, and recreational purposes to preserve private property rights, to protect natural and historic resources and fragile ecosystems of this state including forests, wetlands, rivers, streams, lakes, and their shorelines, aquifers, prairies, and recreational areas, to promote the efficient use and conservation of energy resources, to promote the creation and maintenance of wildlife habitat, to consider the protection of soil from wind and water erosion and to preserve the availability and use of agricultural land for agricultural production.
 - II. All state agencies shall by October 1, 1983, provide to the Interagency Resources Council for review a draft agency land use policy statement which will enable the agencies to administer their programs consistent with the above state policy.

- III. All state agencies shall, where practical and feasible, include within their programs and administrative rules such measures as will contribute to the improvement of both the quantity and quality of Iowa's natural and historic resources.
- IV. The Interagency Resources Council shall assist state agencies in complying with this Executive Order and shall review state agency land use policy statements and shall report to the Governor on the extent to which the statements conform to the state land use policy.

IN TESTIMONY WHEREOF, I have here unto subscribed my name, and caused the Great Seal of the State of Iowa to be affixed. Done at Des Moines this 3rd day of January in the year of our Lord one thousand nine hundred eighty-three.



Robert D. Ray
GOVERNOR

Attest:

Mary Jane Odell
SECRETARY OF STATE

State of Iowa
Executive Department

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

Executive Order Number 50

- WHEREAS, it is the responsibility of each state department to perform its assigned functions as efficiently as possible, including the procurement of services when necessary; and
- WHEREAS, specialized services contracting has become a major category of expenditure as the operations of state government have become more complex; and
- WHEREAS, to maintain public confidence every reasonable effort must be made to insure that commitments of public funds for contracts and services be done professionally so as to get the most value for the money spent; and
- WHEREAS, the Governor's Economy Committee of 1979 recommended that a variety of state agencies cooperate to increase efficiency of service contract procurement by individual agencies;

NOW, THEREFORE, I, Robert D. Ray, Governor of the state of Iowa, by the power and authority vested in me by the Constitution and by the laws of Iowa, do hereby proclaim that state agencies shall have the following responsibilities in order to insure the procurement of professional services is done in an orderly manner so as to maintain the public confidence and that state government will obtain good value for funds spent on contract services.

1. The State Comptroller through that office's procedures manual shall adopt rules to be used by state agencies in the solicitation and selection of professional service providers and execution and monitoring of state professional service contracts. These rules shall be developed in consultation with a representative group of state agencies and selected by the State Comptroller. The State Comptroller's rules shall include necessary and recommended internal controls or guidelines for rulemaking by each agency executing professional service contracts. Agencies not operating under the Comptroller's pre-audit rules shall adopt comparable rules or procedures.
2. All State Agencies which procure professional services shall make available training on procurement, contract negotiation, contract monitoring, and internal control measures to administrative and supervisory employees given responsibility for service contracting. The Iowa Management Training System in conjunction with the Iowa Merit Employment Department shall provide formal courses to aid in meeting this requirement.
3. The Auditor of State is requested to review during agency financial audits the administrative rules and internal control procedures of each state agency procuring services.
4. The Department of General Services shall, as specified in the Comptroller's procedures manual, assist state agencies in procuring professional services through technical assistance, participation on selection committees, and by maintenance of a list of professional service contractors, with a history of the contractor's performance.
5. For the purposes of this Executive Order, professional services shall be those services provided by persons or organizations which are generally considered to have knowledge and special abilities which are not generally available within Iowa state government. They do not include services provided through a grant or subgrant to a not-for-profit service provider organization such as a city, county, or Community Action Agency.

State of Iowa
Executive Department

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

Executive Order Number 49

There is hereby created within the Executive Offices of the state, the Iowa Economic Forecasting Council.

SECTION ONE

It shall be the general function of the Iowa Economic Forecasting Council to review and advise on all matters related to economic forecasting for the state of Iowa.

Specific functions of the Iowa Economic Forecasting Council shall include but not be limited to:

- a. assessing the reasonableness of forecasting assumptions.
- b. evaluating the quality of various forecasting tools in use, including the state's econometric model.
- c. suggesting additional or alternative forecasting methodologies that may yield improved results.
- d. advising on the dissemination of forecasts to assure widespread availability.

SECTION TWO

The Council shall initially consist of seven members appointed by the Governor. The members of the Council shall serve at the pleasure of the Governor with designated one-year terms. The Governor shall appoint the Chairman for a designated one-year term.

SECTION THREE

The Iowa Economic Forecasting Council shall meet quarterly, or as frequently as necessary to discharge its responsibilities. Members shall be compensated for actual expenses incurred in performing their duties.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the state of Iowa to be affixed. Done at Des Moines this 7th day of January in the year of our Lord one thousand nine hundred eighty-three.

Robert D. Ray
GOVERNOR



Attest:

Mary Jane Odell
SECRETARY OF STATE



Attest:

Mary Jane Odell
SECRETARY OF STATE

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Iowa to be affixed. Done at Des Moines this 12th day of January in the year of our Lord one thousand nine hundred eighty-three.

Robert D. Ray
GOVERNOR



IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

Executive Order Number 51

WHEREAS, the nation's high rate of unemployment and sluggish economy require more effective use of scientific and engineering resources to generate economic growth; and

WHEREAS, economic projections indicate a high potential for growth in high technology industries in the future; and

WHEREAS, the state of Iowa has many of the attributes and capabilities needed to encourage the development of high technology industries and significant gains have already been achieved; and

WHEREAS, the economic future of Iowa would be made more secure by a greater diversification of the economy into high technology industries; and

WHEREAS, such diversification can be achieved by directing existing resources into high technology development; and

WHEREAS, Iowa's High Technology Task Force has recommended that Iowa strengthen its efforts to attract and develop high technology industries and that this effort be coordinated by the appointment of a High Technology Commission.

NOW, THEREFORE, I, Robert D. Ray, Governor of the state of Iowa, by the power and authority vested in me by the Constitution and the laws of Iowa, do hereby establish the Iowa High Technology Commission.

SECTION ONE

The Commission shall be administratively integrated into the Iowa Development Commission with use of IDC staff support and assistance.

SECTION TWO

The Commission shall be composed of no more than 17 members all of whom shall be appointed by the Governor. The Governor shall appoint one of the members as Chairperson. Initially, one-third of the members shall be appointed for a term of two years, one-third for a term of three years, and the remaining one-third of the members for a term of four years. Thereafter, as the terms of the members so appointed expire, their successors shall be appointed, each for a term of four years; provided, however, that upon a member's death, disability, resignation, or removal by the Governor for good cause, the Governor shall appoint a person to serve for the unexpired term.

SECTION THREE

The Commission shall meet once each quarter and shall hold special meetings on call of the Chairperson. Five members present at a meeting shall constitute a quorum. The Commission may adopt such rules as it may deem necessary to govern its procedures.

SECTION FOUR

It shall be the duty of the Commission to:

1. promote the planning, coordination, and evaluation of Iowa's efforts to develop high technology capabilities and employment.
2. provide leadership in the establishment of research and development centers for high technology.
3. encourage the private development of properties for the development of high technology companies.
4. coordinate and stimulate with the Iowa Development Commission promotional efforts to attract and expand high technology enterprises.
5. ensure the proper development of an effective mechanism to transfer information on technology and research to Iowa's existing industry.
6. promote legislation that will stimulate the development and growth of high technology in Iowa.
7. aid in identifying the research needs of industry, universities, government and others.
8. encourage the funding of technology and research from business and government sources.
9. work to increase the public awareness of technology and the attractiveness of Iowa as a location for related industries.
10. work to form a broad-based, long-term commitment to build up Iowa's research base through promotion, human resource development and capital investment.
11. authorized to receive and disburse funds from public or private sources to be used to further the overall development of high technology in Iowa.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the state of Iowa to be affixed. Done at Des Moines this 13th day of January in the year of our Lord one thousand nine hundred eighty-three.



Attest:

SECRETARY OF STATE

Robert D. Ray
GOVERNOR

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