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CONTENTS IN THIS ISSUE

Pages 1318 to 1351 include ARC 6325 to ARC 6353

AGRICULTURE DEPARTMENT[30]

- Notice, Livestock movement, 18.4(5), 18.11
ARC 6326 1318
Notice, Test for abnormal milk, 30.26 ARC 6327 1318
Filed, Moisture measuring devices, 55.54
ARC 6325 1337

COMMERCE COMMISSION[250]

- Notice Amended, Billing procedures for large volume
gas customers, 19.3 19.4 ARC 6342 1319

EXECUTIVE DEPARTMENT

- Executive orders, numbers 20 and 21 1352

HEALTH DEPARTMENT[470]

- Notice, Speech pathology and audiology aides,
157.2 ARC 6329 1319
Filed, Psychology examiners, declaratory rulings,
140.3(7) ARC 6343 1337
Filed, Chiropractic examiners, continuing
education, 141.68 ARC 6328 1338
Filed, Funeral directors, 146.5(1), 146.5(10)
ARC 6344 1338

HIGHER EDUCATION LOAN AUTHORITY[480]

- Notice, Organization and operation, rule making
and declaratory rules, chs 1 and 2 ARC 6330 1319

HUMAN SERVICES DEPARTMENT[498]

- Notice, Medical assistance, persons covered,
75.1(2) ARC 6341 1321
Filed, Food stamps, 65.27 ARC 6335 1338
Filed, Medical and health services, nurse-midwives,
77.26, 78.29, 79.1(2), 80.2(2) ARC 6334 1339
Filed, Title XIX waiver services, 83.5(2) ARC 6336 .. 1339
Filed, County and multicounty juvenile detention
homes and shelter care homes, 105.3(3), 105.10(3),
105.15(1), 105.15(3), 105.16(4) ARC 6337 1340
Filed, Adult abuse information
disseminated, 176.10 ARC 6338 1341

INSURANCE DEPARTMENT

- Notice of published monthly average for interest rates
on life insurance policy loans — effective 2/1/86 1322
Notice of published monthly average for interest rates
on life insurance policy loans — effective 3/1/86 1322

NURSING, BOARD OF[590]

- Filed, Continuing education — providers,
5.3(6) ARC 6332 1342

NURSING HOME ADMINISTRATORS, BOARD OF EXAMINERS[600]

- Filed, Declaratory rulings, license fees, continuing
education, 1.4, 2.5(3), 2.5(5), 3.7 ARC 6331 1342

PUBLIC HEARINGS

- Summarized list 1316

PUBLIC INSTRUCTION DEPARTMENT[670]

- Notice, Certificates and endorsements, 70.19(4),
70.20; 70.21, 73.2(8), 73.2(10) ARC 6353 1322

REVENUE DEPARTMENT[730]

- Notice, Sale or rental of computers, industrial machinery
and equipment — refund of an exemption of
tax paid, 18.45 ARC 6351 1326
Notice Terminated, Assessment practices and
equalization, 71.1(6), 71.1(7), ARC 6349 1329
Notice, Assessment practices and equalization,
71.1(6), 71.1(7) ARC 6352 1329
Filed, School district surtax, setoffs against
income tax refunds and rebates, 42.1, 43.3(3) to 43.3(5)
ARC 6350 1343

SOIL CONSERVATION DEPARTMENT[780]

- Notice, Abandoned mined land program
forms, 27.190 ARC 6348 1330
Filed Emergency, Abandoned mined land
program forms, 27.190 ARC 6347 1336

TRANSPORTATION, DEPARTMENT OF[820]

- Filed, RISE program, .06(Q) ch 4 ARC 6333 1345

VOTER REGISTRATION COMMISSION[845]

- Filed, Voter registration forms, 2.1(8) ARC 6340 1351

WATER, AIR AND WASTE MANAGEMENT[900]

- Notice, Criteria for award of grants, amendments
to ch 91 ARC 6339 1330
Notice, Fees for disposal of solid waste at
sanitary landfills, 100.1, ch 109 ARC 6345 1333
Notice Terminated, Underground storage
tanks, ch 135 ARC 6346 1335

PREFACE

The Iowa Administrative Bulletin is published in pamphlet form biweekly pursuant to Iowa Code Chapter 17A 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, regulatory flexibility analyses 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 Coordinator 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 Iowa Code section 17A.6. 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 coordinator and published in the Bulletin.

PHYLLIS BARRY, Deputy Code Editor
LAVERNE SWANSON, Administrative Code Assistant
DONNA WATERS, Administrative Code Assistant

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
18	Friday, February 7, 1986	February 26, 1986
19	Friday, February 21, 1986	March 12, 1986
20	Friday, March 7, 1986	March 26, 1986

SUBSCRIPTION INFORMATION

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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Iowa Administrative Code

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Iowa State Printing Division
Grimes State Office Building
Des Moines, IA 50319
Phone: (515) 281-5231

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Schedule for Rulemaking 1986

FILING DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Jan. 10	Jan. 29	Feb. 18	Mar. 5	Mar. 26	Apr. 30	July 28
Jan. 24	Feb. 12	Mar. 4	Mar. 19	Apr. 9	May 14	Aug. 11
Feb. 7	Feb. 26	Mar. 18	Apr. 2	Apr. 23	May 28	Aug. 25
Feb. 21	Mar. 12	Apr. 1	Apr. 16	May 7	June 11	Sep. 8
Mar. 7	Mar. 26	Apr. 15	Apr. 30	May 21	June 25	Sep. 22
Mar. 21	Apr. 9	Apr. 29	May 14	June 4	July 9	Oct. 6
Apr. 4	Apr. 23	May 13	May 28	June 18	July 23	Oct. 20
Apr. 18	May 7	May 27	June 11	July 2	Aug. 6	Nov. 3
May 2	May 21	June 10	June 25	July 16	Aug. 20	Nov. 17
May 16	June 4	June 24	July 9	July 30	Sep. 3	Dec. 1
May 30	June 18	July 8	July 23	Aug. 13	Sep. 17	Dec. 15
June 13	July 2	July 22	Aug. 6	Aug. 27	Oct. 1	Dec. 29
June 27	July 16	Aug. 5	Aug. 20	Sep. 10	Oct. 15	Jan. 12 '87
July 11	July 30	Aug. 19	Sep. 3	Sep. 24	Oct. 29	Jan. 26 '87
July 25	Aug. 13	Sep. 2	Sep. 17	Oct. 8	Nov. 12	Feb. 9 '87
Aug. 8	Aug. 27	Sep. 16	Oct. 1	Oct. 22	Nov. 26	Feb. 23 '87
Aug. 22	Sep. 10	Sep. 30	Oct. 15	Nov. 5	Dec. 10	Mar. 9 '87
Sep. 5	Sep. 24	Oct. 14	Oct. 29	Nov. 19	Dec. 24	Mar. 23 '87
Sep. 19	Oct. 8	Oct. 28	Nov. 12	Dec. 3	Jan. 7 '87	Apr. 6 '87
Oct. 3	Oct. 22	Nov. 11	Nov. 26	Dec. 17	Jan. 21 '87	Apr. 20 '87
Oct. 17	Nov. 5	Nov. 25	Dec. 10	Dec. 31	Feb. 4 '87	May 4 '87
Oct. 31	Nov. 19	Dec. 9	Dec. 24	Jan. 14 '87	Feb. 18 '87	May 18 '87
Nov. 14	Dec. 3	Dec. 23	Jan. 7 '87	Jan. 28 '87	Mar. 4 '87	June 1 '87
Nov. 28	Dec. 17	Jan. 6 '87	Jan. 21 '87	Feb. 11 '87	Mar. 18 '87	June 15 '87
Dec. 12	Dec. 31	Jan. 20 '87	Feb. 4 '87	Feb. 25 '87	Apr. 1 '87	June 29 '87
Dec. 26	Jan. 14 '87	Feb. 3 '87	Feb. 18 '87	Mar. 11 '87	Apr. 15 '87	July 13 '87

20 days from the publication date is the **minimum** date for a public hearing or cutting off public comment.

35 days from the publication date is the **earliest** possible date for the agency to consider a noticed rule for adoption. It is the regular effective date for an adopted rule.

180 days See 17A.4(1)"b." If the agency does not adopt rules within this time frame, the Notice should be terminated.

NOTICE

Beginning on June 14, 1985, the deadline for filing rules with the office of the Administrative Rules Coordinator will be **12 o'clock noon** rather than 4:30 p.m.

Rules will not be accepted after 12 o'clock noon on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

To All Agencies:

At its December meeting the Administrative Rules Review Committee voted to request that Agencies comply with Iowa Code section 17A.4(1)"b" by allowing the opportunity for oral presentation (hearing) to be held at least twenty days after publication of Notice in the Iowa Administrative Bulletin.

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
AGRICULTURE DEPARTMENT[30] Livestock movement, 18.4(5), 18.11 IAB 2/12/86 ARC 6326	Conference Room Second Floor Henry A. Wallace Bldg. Des Moines, Iowa	March 4, 1986 1:00 p.m.
Tests for abnormal milk, 30.26 IAB 2/12/86 ARC 6327	Conference Room Second Floor Henry A. Wallace Bldg. Des Moines, Iowa	March 4, 1986 10:00 a.m.
COMMERCE COMMISSION[250] Billing procedure, large volume gas customers, 19.3, 19.4 IAB 2/12/86 ARC 6342 See IAB 1/15/86 ARC 6292	Hearing Room First Floor Lucas State Office Bldg. Des Moines, Iowa	March 6, 1986 10:00 a.m.
CONSERVATION COMMISSION[290] Park user fee, 51.3 IAB 1/29/86 ARC 6301	Conference Room Fourth Floor Wallace State Office Bldg. Des Moines, Iowa	February 19, 1986 10:00 a.m.
HEALTH DEPARTMENT[470] Rescind ch 97 "Reports" IAB 1/29/86 ARC 6298	Conference Room Fourth Floor Lucas State Office Bldg. Des Moines, Iowa	February 18, 1986 1:00 p.m.
HUMAN SERVICES DEPARTMENT[498] Community supervised living arrangements, ch 36 IAB 1/29/86 ARC 6303	Conference Room B Level Hoover State Office Bldg. Des Moines, Iowa	February 19, 1986 1:00 p.m.
MERIT EMPLOYMENT DEPARTMENT[570] Amendments to Definitions, ch 1; State services and its divisions, ch 2; Pay plan, ch 4; Recruitment and examination, ch 5; Eligible lists, ch 6; Certification and selection, ch 7; Appointments, ch 8; Promotion, transfer, temporary assignment and voluntary demotion, ch 10; Separations, disciplinary actions and reduction in force, ch 11 IAB 1/15/86 ARC 6278	Conference Room First Floor South Half Grimes State Office Bldg. Des Moines, Iowa	February 27, 1986 9:20 a.m.
PLANNING AND PROGRAMMING[630] Community services block grant, ch 22 IAB 1/29/86 ARC 6305	Conference Room Division of Local Government Affairs Office for Planning and Programming 523 E. 12th Street Des Moines, Iowa	February 21, 1986 10:00 a.m.

PUBLIC INSTRUCTION DEPARTMENT[670]

Issuance of teaching endorsements,
amendments to chs 70 and 73
IAB 2/12/86 ARC 6353

Auditorium
Wallace State Office Bldg.
Des Moines, Iowa

March 11, 1986
1:00 — 4:00 p.m.
7:00 — 9:00 p.m.

SOIL CONSERVATION DEPARTMENT[780]

Abandoned mined land program
forms, 27.190
IAB 2/12/86 ARC 6348
See ARC 6347. herein

Conference Room
Second Floor
North Half
Wallace State Office Bldg.
Des Moines, Iowa

March 5, 1986
10:00 a.m.

TRANSPORTATION DEPARTMENT[820]

Financial assistance, [09,B] ch 1;
Advance allocations of state transit
assistance funding, [09,B] ch 2;
Federal transit assistance,
[09,B] ch 3
IAB 1/1/86 ARC 6239

Department of
Transportation Complex
800 Lincoln Way
Ames, Iowa

February 18, 1986

WATER, AIR AND WASTE MANAGEMENT[900]

Wastewater treatment grants
priority system, amendment to
ch 100.1 and new ch 109
IAB 2/12/86 ARC 6339

Auditorium
Wallace State Office Bldg.
Des Moines, Iowa

March 4, 1986
10:30 a.m.

Fees, solid waste disposal at
sanitary landfills, ch 109
IAB 2/12/86 ARC 6345

Conference Room
Fifth Floor
Wallace State Office Bldg.
Des Moines, Iowa

March 4, 1986
10:00 a.m.

ARC 6326

AGRICULTURE DEPARTMENT[30]

NOTICE OF INTENDED ACTION

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in 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 159.5(11) and 163.1, the Iowa Department of Agriculture hereby gives Notice of Intended Action to amend Chapter 18, "Livestock Movement," Iowa Administrative Code.

These rules provide for a stamp on the bill of sale certifying veterinary inspection for livestock classes moving intrastate that do not require individual identification.

Any interested person may submit written comments on these proposed rules prior to March 4, 1986. Such written material should be directed to Secretary Robert H. Lounsberry, Iowa Department of Agriculture, Henry A. Wallace Building, Des Moines, Iowa 50319. There will be a public hearing held in the Second Floor Conference Room, Henry A. Wallace Building, East Ninth and Grand Avenue, Des Moines, Iowa at 1:00 p.m., March 4, 1986. Persons may present their views at this public hearing either orally or in writing.

These rules are intended to implement Iowa Code chapters 163, 163A, 164 and 172B and Iowa Code section 163.12.

The following amendments are proposed:

ITEM 1. Amend subrule 18.4(5) to read as follows:

18.4(5) Mail copies of all ~~official health certificates~~ *certificate of veterinary inspections* and quarantines to the division of animal industry immediately.

ITEM 2. Amend chapter 18 by rescinding rule 30—18.11(163,172B) in its entirety and inserting in lieu thereof the following:

30—18.11(163,172B) Movement of livestock within the state. With the exception of nonquarantined livestock consigned for immediate slaughter, all livestock transported within Iowa where a change of ownership is involved, must be accompanied by a standard transportation certificate or one of the following documents:

1. Certificate of Veterinary Inspection
2. Form M—Certificate of Inspection
3. Form Q-LSM — Swine Quarantine
4. Form 1-27—Quarantined Livestock Consigned for Slaughter.

All of the foregoing documents shall be properly executed by a licensed, accredited veterinarian of Iowa and shall indicate the following: Destination of the livestock, purpose of the movement, number and description of the animals, point of origin and name and address of the consignor.

Exception: Livestock classes that do not require individual identification may move intrastate on a bill of sale containing a stamped certification of veterinary inspection. The stamped certification shall contain the following statement:

"I certify as a licensed, accredited veterinarian, that these animals have been inspected by me and that they are not

showing signs of infectious, contagious or communicable diseases (except where noted)."

Signature

The stamped certification must be signed by the veterinarian or contain the veterinarian's stamped signature, applied and initialed by someone authorized by the veterinarian.

Market consignment records must be signed or initialed by the inspecting veterinarian as proof of inspection before the stamped certification can be applied to the bill of sale by an authorized person. Inspection records must be maintained by the market for at least two years.

These rules are intended to implement Iowa Code chapters 163, 163A, 164 and 172B and Iowa Code section 163.12.

ARC 6327

AGRICULTURE DEPARTMENT[30]

NOTICE OF INTENDED ACTION

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in 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 159.5(11) and 189.2(2), the Iowa Department of Agriculture proposes to amend Chapter 30, "Dairy," appearing in the Iowa Administrative Code.

The 1985 Iowa Code Supplement section 194.6 amended milk standards by lowering the maximum acceptable somatic cell count to 1,000,000/ml and by lowering the acceptable level of the Wisconsin Mastitis Test to 18 mm.

Any interested person may make written suggestions or comments on these amendments prior to March 4, 1986. Such written materials should be directed to R. H. Lounsberry, Secretary of Agriculture, Henry A. Wallace Building, Des Moines, Iowa 50319. There will be a public hearing held on March 4, 1986, at 10:00 a.m. in the Second Floor Conference Room, Henry A. Wallace Building, East Ninth and Grand Avenue, Des Moines, Iowa. Persons may present their views at this public hearing either orally or in writing.

These rule amendments are intended to implement 1985 Iowa Code Supplement section 194.6, Iowa Code sections 190.4 and 192.14 and chapter 194.

The following amendments are proposed:

Rule 30—30.26(190,192,194) is amended to read as follows:

30—30.26(190,192,194) Tests for abnormal milk.

30.26(1) At least four times in every six-month period, at irregular intervals, all creameries, cheese factories, or milk processing plants, hereafter referred to as purchasers, shall test a herd milk sample from every producer in a certified or officially designated laboratory, to determine the existence of abnormal milk.

AGRICULTURE DEPARTMENT[30] (cont'd)

30.26(2) A herd milk sample shall be deemed to be abnormal or adulterated if a screen testing is confirmed by direct microscopic examination, electronic somatic cell count, or equivalent technique, which reveals a count greater than ~~1,500,000~~ 1,000,000 somatic cells/ml.

30.26(3) Acceptable screening tests and values indicative of mastitis shall be:

California Mastitis Test - Weak-Positive (cmt 1 plus)

Modified Whiteside Test - Positive 1 Plus

Wisconsin Mastitis Test - Grade "A" milk WMT value exceeding 21 mm. Manufacturing Grade Milk WMT value exceeding 27 mm. (WMT) exceeding 21 mm after July 1, 1980; or as an alternative, each laboratory will establish its own WMT score above which confirmatory testing will be done. The WMT is not to be below 21 mm.) For both grade "A" and manufacturing grade milk, the WMT value is not to exceed 18 mm.

30.26(4) A notice shall be sent to the producer by the purchaser, warning of the excessive somatic cell count in violation of Iowa Code chapters 190, 192, and 194 of the Code. (Copies of suggested notices are available.) Whenever two of the last four consecutive somatic cell counts exceed ~~1,500,000~~ 1,000,000 cells/ml, the purchaser or appropriate regulatory authority shall give a written notice to the producer and inspect the farm facility. A milking time inspection is advisable. An additional third herd milk sample shall be taken no sooner than three days after, but within fourteen days of the inspection. If this sample indicates abnormal milk, the purchaser shall not accept further milk for human consumption from the producer, and shall notify the department, in writing, of the producer's test record.

30.26(5) Within one week following receipt of a written application from the producer, an inspection shall be made by the appropriate regulatory authority or an approved field person, and a herd milk sample taken. If the test indicates a count of ~~1,500,000~~ 1,000,000 or less somatic cells/ml, the producer's milk may be purchased for human consumption provided additional samples of herd milk are tested at a rate of not more than two per week. The producer shall be reinstated under the normal testing program when three out of four consecutive tests have counts of ~~1,500,000~~ 1,000,000 or less somatic cell/ml.

This rule is intended to implement 1985 Iowa Code Supplement section 194.6, Iowa Code sections 190.4 and 192.14 and Iowa Code chapter 194, and becomes effective July 1, 1986.

ARC 6342

COMMERCE COMMISSION[250]

NOTICE AMENDED—HEARING

The Iowa State Commerce Commission gives notice that on December 17, 1985, the Commission issued an order in Docket No. RMU-85-34, In Re: Billing Procedures For Large Volume Gas Customers, "Order Commencing Rule Making." In that order the Commission granted a petition for rule making filed by Peoples Natural Gas Company. The Notice of Intended Action [proposal to amend Chapter 19] was published in the Iowa Administrative Bulletin on January 15, 1986, as ARC 6292.

On January 16, 1986, Peoples filed a request for oral presentation in this docket. Although Peoples is not entitled to an oral presentation as a matter of right, Iowa

Code section 17A.4(1)"b," the Commission will exercise its discretion and grant the request for oral presentation. The oral presentation is scheduled for March 6, 1986, 10:00 a.m., in the Commission's Hearing Room on the First Floor of the Lucas State Office Building, Des Moines, Iowa.

ARC 6329

HEALTH DEPARTMENT[470]

BOARD OF SPEECH PATHOLOGY AND AUDIOLOGY 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 Board of Speech Pathology and Audiology Examiners gives Notice of Intended Action to amend Chapter 157, "Speech Pathology and Audiology Aides," of the Iowa Administrative Code.

The proposed amendment prohibits a person who meets the requirements to be licensed as a speech pathologist or as an audiologist from serving as a speech pathology or audiology aide.

Any interested person may make written comments concerning the proposed rule not later than March 4, 1986, addressed to Irene G. Howard, Director, Professional Licensure, Iowa State Department of Health, Lucas State Office Building, Des Moines, Iowa 50319.

The proposed rule is intended to implement Iowa Code subsection 147.152(4).

Rule 470—157.2(147) is amended to read as follows:

470—157.2(147) **Definition.** An aide is a person who works under the supervision of a licensed speech pathologist or audiologist, *does not meet the requirements to be licensed as a speech pathologist or audiologist*, and meets the minimum requirements set forth in these rules.

ARC 6330

HIGHER EDUCATION LOAN
AUTHORITY[480]

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 261A.7(1), the Iowa Higher Education Loan Authority ("the Authority") gives Notice of Intended Action to adopt rules for the regulation of its affairs and the conduct of its business.

The proposed rules are limited to describing the operations of the authority, and include its location and business hours; its composition; meetings; submission of

HIGHER EDUCATION LOAN AUTHORITY[480] (cont'd)

inquiries and requests for records from the public; and rule making, declaratory ruling and contested case procedures.

Any interested person may make written comments concerning the proposed rules not later than March 19, 1986, addressed to Willis Ann Wolff, Executive Director, Iowa Higher Education Loan Authority, 307 Equitable Building, 6th and Locust, Des Moines, Iowa 50309.

These rules are intended to implement Iowa Code chapter 261A.

**CHAPTER 1
ORGANIZATION AND OPERATION**

480—1.1(261A) Purpose. This chapter describes the organization and operation of the Iowa Higher Education Loan Authority (hereinafter referred to as the authority), including the offices where and the means by which any interested person may obtain information and make submittals or requests.

480—1.2(261A) Organization and operations.

1.2(1) Location. The office of the authority is located at 307 Equitable Building, 6th and Locust, Des Moines, Iowa 50309. Office hours are 8:30 a.m. to 4:30 p.m., Monday through Friday. Offices are closed on Saturdays, Sundays and holidays as designated by the authority.

1.2(2) The authority. The authority consists of five members and functions under the leadership of a chairperson elected annually by the membership. Each member is appointed by the governor, subject to confirmation by the senate, to serve a term of six years. The powers of the authority are vested in and exercised by the members of the authority. Each member of the authority shall be a resident of the state and not more than three members shall be members of the same political party. The members of the authority may appoint an executive director, an assistant executive director, and other officers as the members of the authority determine. The officers shall not be members of the authority, shall serve at the pleasure of the authority, and shall receive compensation as fixed by the authority.

1.2(3) Meetings. The authority shall meet at the discretion of the chairperson or at the request of two members.

a. The chairperson of the authority presides at each meeting. Members of the public may be recognized at the discretion of the chairperson. All meetings are open to the public in accordance with the open meetings law, Iowa Code chapter 21.

b. The authority shall give advance public notice of the time and place of each authority meeting. The notice will include the specific date, time and place of the meeting.

c. Three members of the authority constitute a quorum. The affirmative vote of a majority of the members of the authority is necessary for any action taken by the authority. The majority shall not include a member who has a conflict of interest and a statement by a member of a conflict of interest is conclusive for this purpose. A vacancy in the membership of the authority does not impair the right of a quorum to exercise the rights and perform the duties of the authority.

1.2(4) Minutes. The minutes of all authority meetings are recorded by the secretary and kept in the authority office.

1.2(5) Records. The records of all of the business transacted and other information with respect to the operation of the authority are public records and are on

file in the authority's office. All records except statements specified as confidential under these rules are available for inspection and photocopying at reasonable cost during regular business hours.

1.2(6) Submissions and requests. Inquiries, submissions, petitions, and other requests directed to the authority may be made by letter addressed to the authority's office at the address listed in subrule 1.2(1). Any person may petition for a written or oral hearing before the authority. All requests for a hearing must be in writing and must state the specific subject to be discussed and the reasons why a personal appearance is necessary if one is requested.

1.2(7) Administration of programs. The authority may adopt manuals, instructions, or other statements as necessary to assist its employees in administering its programs and to permit individuals and organizations to participate in programs administered by the authority. Copies of all such manuals, instructions, and other statements shall be kept in the authority's office and shall be available for public inspection except for those portions which are excluded from the definition of "rule" by Iowa Code section 17A.2(7)"f," or which must be kept confidential under applicable statutes or these rules. Members of the public may inspect the materials adopted pursuant to this rule, subject to the exceptions set out above, during regular business hours and may obtain a reasonable number of copies of the materials upon payment of a fee not to exceed the cost of providing such copies.

These rules are intended to implement Iowa Code section 17A.3(1) and chapter 261A.

**CHAPTER 2
RULE MAKING AND DECLARATORY RULES**

480—2.1(261A) Initiation of rule-making procedures.

2.1(1) Any person may request the authority to adopt, amend, or rescind a rule by making the request in writing to the authority's office clearly stating the intent, purposes, and general language of the desired rules.

2.1(2) The authority shall act upon the request within sixty days after its submission in accordance with Iowa Code section 17A.7.

2.1(3) The authority may initiate rule-making procedures upon its own motion in accordance with Iowa Code section 17A.4.

480—2.2(261A) Procedures for oral or written presentations.

2.2(1) Except where oral or written presentations are deemed unnecessary by the authority in accordance with Iowa Code section 17A.4(2), the authority shall allow for the submission of oral or written presentations or both prior to its adoption of any rules.

2.2(2) Interested persons shall have at least twenty days from the date of publication of notice in the Iowa Administrative Bulletin (IAB) to submit written requests for oral presentations or to submit written presentations.

2.2(3) Notice of date, time and place of oral presentations by requesting parties will be published in the Iowa Administrative Bulletin at least twenty days in advance of the hearing.

2.2(4) Interested parties may be requested to supplement oral presentations with written presentations at the discretion of the authority.

480—2.3(261A) Certain rules exempted from public participation. The authority finds that certain rules should be exempted from notice and public participation

HIGHER EDUCATION LOAN AUTHORITY[480] (cont'd)

as being in a very narrowly tailored category of rules for which notice and public participation is unnecessary as provided in Iowa Code section 17A.4(2). Such rules shall be those that are mandated by federal law as regulation where the authority has no option but to adopt the rule as specified; where federal funding is contingent upon the adoption of the rule; and those rules that are promulgated in accordance with Title IV, Part B, of the Higher Education Act of 1965, as amended.

Notice and public participation would be unnecessary since the provisions of the law or regulation must be adopted in order to obtain federal funding and the authority would have no option concerning the rule which was adopted.

480—2.4(261A) Declaratory rulings. The authority shall provide declaratory rulings as to applicability of any statutory provision, rule or other written statement of law or policy, decision or order when petitioned to do so by the public where, in the judgment of the authority, such rulings are necessary or helpful to the authority in conducting its affairs in accordance with the law.

Requests for declaratory rulings shall be made to the authority's office in writing.

Within thirty days after submission of a request for declaratory ruling, the authority shall issue a ruling on the rule, statute, or policy in question. The ruling shall be in writing.

The authority may decline to rule when in the judgment of the authority the ruling would be beyond the authority's realm of authority, when no clear answer is determinable, or when the issue presented is pending resolution by a court of Iowa or by the attorney general.

480—2.5(261A) Procedure for informal settlements in contested cases. Unless precluded by statute, informal settlement of disputes over rules of the authority that may otherwise result in contested case proceedings as prescribed in Iowa Code section 17A.12 shall be encouraged.

All informal settlements shall be made by the executive director subject to ratification by the authority and by the parties contesting the rule in question. The settlement shall be expressed in a written stipulation representing an informed mutual consent.

These rules are intended to implement Iowa Code sections 17A.4, 17A.9 and chapter 261A.

ARC 6341**HUMAN SERVICES
DEPARTMENT[498]****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 249A.4, the Department of Human Services proposes to amend Chapter 75, "Conditions of Eligibility," appearing in the Iowa Administrative Code.

Federal regulations require states to provide Medicaid coverage for certain groups and permit states to provide coverage for other groups. Persons who are ineligible for Aid to Dependent Children (ADC) because of requirements that do not apply under Title XIX are in a mandatory coverage group.

In the past the only requirement that did not apply to both ADC and Title XIX was the ADC requirement that all persons must have social security numbers. The Department, therefore, had a rule which extended Title XIX coverage to persons who were ineligible for ADC because of failure to provide a social security number. This rule was rescinded April 1, 1985, when Title XIX regulations were changed to also require social security numbers.

New rules were not promulgated at that time adding the coverage group for persons who are ineligible for ADC because of requirements that do not apply under Title XIX because no such requirements were known.

The passage of the Deficit Reduction Act (DEFRA) of 1984 eliminated the option of excluding the income of certain in-home siblings, legal guardians of minor caretakers, and self-supporting parents of minor caretakers for purposes of calculating ADC eligibility. The Department received a verbal interpretation from the Health Care Financing Administration (HCFA) that this requirement also applied to Title XIX.

At the present time, however, the Department and HCFA are involved in lawsuits regarding whether the filing unit requirement is applicable to Title XIX. The court has not yet ruled in the case involving the Department. If a court does, two hundred and forty-nine cases who were canceled from ADC due to the DEFRA changes could regain Medicaid eligibility.

The Department has chosen to use the broad description utilized in the federal regulations and add a Medicaid coverage group for persons who are ineligible for ADC because of requirements that do not apply under Title XIX. By adding the coverage group in this manner, this group need not be altered each time an ADC or Medicaid requirement changes. The Department will also be prepared for any possible court decision on the filing unit issue.

Consideration will be given to all written data, views or arguments thereto, received by the Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114 on or before March 5, 1986.

This rule is intended to implement Iowa Code section 249A.4.

Amend rule 498—75.1(249A) by adding the following new subrule:

75.1(2) Persons who are ineligible for aid to dependent children (ADC) because of requirements that do not apply under Title XIX of the Social Security Act. Medical assistance shall be available to persons who would be eligible for ADC except for an eligibility requirement used in that program which is specifically prohibited under Title XIX.

NOTICE — INSURANCE

NOTICE OF PUBLISHED MONTHLY AVERAGE FOR INTEREST RATES ON LIFE INSURANCE POLICY LOANS

Pursuant to Iowa Code section 511.36, notice is hereby given that the Commissioner of Insurance has determined the "published monthly average" for November of 1985 is 11.29%. This rate corresponds to Moody's corporate bond yield average-monthly average corporates as published in Moody's Investors Services, Inc. This rate was effective February 1, 1986.

NOTICE — INSURANCE

NOTICE OF PUBLISHED MONTHLY AVERAGE FOR INTEREST RATES ON LIFE INSURANCE POLICY LOANS

Pursuant to Iowa Code section 511.36, notice is hereby given that the Commissioner of Insurance has determined the "published monthly average" for December of 1985 is 10.89%. This rate corresponds to Moody's corporate bond yield average-monthly average corporates as published in Moody's Investors Services, Inc. This rate will be effective March 1, 1986.

ARC 6353

PUBLIC INSTRUCTION, DEPARTMENT OF[670] NOTICE OF INTENDED ACTION

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

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

Pursuant to the authority of Iowa Code section 257.10(11), the Iowa State Board of Public Instruction hereby gives Notice of Intended Action to adopt rules relative to the issuance of teaching endorsements, Chapter 70, "Issuance of Certificates and Endorsements," and Chapter 73, "Requirements for Special Education Endorsements."

These proposed rules include requirements for elementary and secondary teaching endorsement areas and special education endorsement areas and amendments to rules submitted under Notice in the Iowa Administrative Bulletin on November 6, 1985, **ARC 6122**.

Chapter 70 was placed under Notice in the Iowa Administrative Bulletin on November 6, 1985, as **ARC 6122**, and Chapter 73 was placed under Notice in the Iowa Administrative Bulletin on November 20, 1985, as **ARC 6147**. Each Notice included a notation that portions of the proposed rules were yet to be developed, and these portions were so identified in the body of the proposed rules. It was further noted that when the developmental work on these proposed rules was completed the rules would be placed under Notice. The rules proposed in this Notice complete this work.

Proposed rule 70.20(257) (**ARC 6122**) will be renumbered as 70.19(257) and further amended by this Notice.

Any interested person may make written suggestions or comments on these proposed rules prior to March 21, 1986. Such written material should be directed to the Director, Teacher Education and Certification Division, Iowa Department of Public Instruction, Grimes State Office Building, Des Moines, Iowa 50319-0146. Persons who wish to convey their views orally should contact the Director, Teacher Education and Certification Division at 515/281-3245 or in the office of Teacher Education and Certification on the third floor of the Grimes State Office Building.

There will be two public hearings on the proposed rules on March 11, 1986, from 1:00 to 4:00 p.m. and from 7:00 to 9:00 p.m. in the Auditorium of the Wallace State Office Building, corner of East 9th and Grand, Des Moines, Iowa. Persons may present their views either orally or in writing at these public hearings.

These rules are intended to implement Iowa Code section 257.10(11).

The following new rules are proposed.

ITEM 1. Proposed rule 70.20(257), paragraph "4," is amended and renumbered as follows:

70.19(4) Content.

a. Completion of a thirty-semester hour teaching major which must minimally include the requirements for at least one of the endorsement areas listed in rule 70.18(257), or

b. Successful completion of a national competency test in the subject area desired with a minimum score as established by the department of public instruction, or

c. Successful completion of a competency test in the subject area desired in a state which accepts this completion as being sufficient for meeting the certification requirements in that state.

These rules are intended to implement Iowa Code section 257.10(11).

ITEM 2. The following new rules are proposed:

670-70.20(257) Requirements for other teaching endorsements.

70.20(1) Athletic coach K-12. Complete the following courses:

a. One semester hour college or university course in the structure and function of the human body in relation to physical activity.

b. One semester hour college or university course in human growth and development of children and youth as related to physical activity.

c. Two semester hour college or university course in athletic conditioning, care and prevention of injuries and first aid as related to physical activity.

d. One semester hour college or university course in the theory of coaching interscholastic athletics.

NOTE: An applicant for the coaching endorsement must hold a teacher's certificate with one of the teaching endorsements.

70.20(2) Teacher—elementary classroom.

a. Authorization. The holder of this endorsement is authorized to teach in kindergarten and grades one to six.

b. Program requirements.

(1) Degree—baccalaureate.

(2) Content:

1. Child growth and development with emphasis on the emotional, physical and mental characteristics of elementary age children, unless completed as part of the professional education core. See 70.19(3).

PUBLIC INSTRUCTION, DEPARTMENT OF [670] (cont'd)

2. Language arts.
 3. Methods of teaching reading.
 4. Elementary curriculum (methods and materials).
 5. Methods of teaching mathematics.
 6. Methods of teaching science.
 7. Children's literature.
 8. Exceptional child in the elementary classroom.
 9. Methods of teaching social studies.
 10. At least two of the following methods courses.
Teaching of health.
Teaching of physical education.
Teaching of art.
Teaching of music.
 11. Prestudent teaching field experience in at least two different grades.
 12. A field of specialization in a single discipline or a formal interdisciplinary program of at least twelve semester hours.
- 70.20(3) Teacher—prekindergarten-kindergarten.**
- a. Authorization. The holder of this endorsement is authorized to teach at the prekindergarten-kindergarten level.
 - b. Program requirements.
 - (1) Degree—baccalaureate.
 - (2) Content:
 1. Human growth and development: Infancy and early childhood, unless completed as part of the professional education core. See 70.19(3).
 2. Curriculum development and methodology for young children.
 3. Child-family-school-community relationships (community agencies).
 4. Guidance of young children three to six years of age.
 5. Organization of prekindergarten-kindergarten programs.
 6. Child and family nutrition.
 7. Language development and learning.
 8. Kindergarten: Programs and curriculum development.
 9. Field experiences.
- 70.20(4) ESL. K-12.**
- a. Authorization. The holder of this endorsement is authorized to teach English as a second language in kindergarten and grades one to twelve.
 - b. Content. Completion of twenty-four semester hours in course work in English as a second language to include the following:
 - (1) Teaching English as a second language.
 - (2) Applied linguistics.
 - (3) Language in culture.
 - (4) Bilingual education.
 - (5) Contrastive analysis.
- 70.20(5) Elementary counselor.**
- a. Authorization. The holder of this endorsement is authorized to serve as a counselor in kindergarten and grades one to six.
 - b. Program requirements.
 - (1) Degree—master's.
 - (2) Content: Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements. This sequence is to be at least twenty-seven semester hours to include the following:
 1. Human development (career, personal and social development of children and youth).
 2. Elementary school guidance.
 3. Theory of counseling.
 4. Individual and group appraisal.
 5. Group methods in guidance and counseling.
 6. Educational psychology/learning theory/elementary curriculum.
 7. Social, philosophical, or psychological foundations.
 8. Early adolescent developmental studies or early adolescent psychology.
 9. Practicum in elementary school counseling.
- 70.20(6) Secondary counselor.**
- a. Authorization. The holder of this endorsement is authorized to serve as a counselor in grades seven to twelve.
 - b. Program requirements.
 - (1) Degree—master's.
 - (2) Content: Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements. This sequence is to be at least twenty-seven semester hours to include the following:
 1. Human development (career, personal and social development of children and youth).
 2. Secondary school guidance.
 3. Theory of counseling.
 4. Individual and group appraisal.
 5. Group methods in guidance and counseling.
 6. Educational psychology/learning theory/secondary curriculum.
 7. Social, philosophical, or psychological foundations.
 8. Early adolescent developmental studies or early adolescent psychology.
 9. Practicum in secondary school counseling.
 - c. Other.
 - (1) Have had one year of successful teaching experience.
 - (2) Graduates from institutions in other states seeking initial Iowa certification and the elementary counselor's endorsement must meet the requirements for the educational certificate.
- 70.20(7) Reading specialist. K-12.**
- a. Authorization. The holder of the authorization is authorized to serve as a reading specialist in kindergarten and grades one to twelve.
 - b. Program requirements.
 - (1) Degree—master's.
 - (2) Content: Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements. This sequence is to be at least twenty-seven semester hours to include the following:
 1. Educational psychology/human growth and development.
 2. Educational measurement and evaluation.
 3. Foundations of reading.
 4. Diagnosis of reading problems.
 5. Remedial reading.
 6. Psychology of reading.
 7. Language learning and reading disabilities.
 8. Practicum in reading.
 9. Administration and supervision of reading programs at the elementary and secondary levels.
- NOTE: The applicant must have met the requirements for the educational certificate and a teaching endorsement, and present evidence of at least one year of experience which included the teaching of reading as a significant part of the responsibility.

PUBLIC INSTRUCTION, DEPARTMENT OF[670] (cont'd)

70.20(8) School media specialist.**a. Elementary K-6.**

Specialized requirements—twenty semester hours in school media course work to include the following:

- (1) Knowledge of literature for elementary children.
- (2) Course work in the selection and utilization of media.
- (3) Course work in media production.
- (4) Course work in cataloging all materials (print and nonprint).

(5) School media administration.**b. Secondary 7-12.**

Specialized requirements—twenty semester hours in school media course work to include the following:

- (1) Knowledge of literature for adolescents.
- (2) Course work in the selection and utilization of media.
- (3) Course work in media production.
- (4) Course work in cataloging all materials (print and nonprint).

(5) School media administration.

c. School media specialist K-12. The holder of this endorsement is authorized to serve as a school media specialist in kindergarten and grades one to twelve.

Program requirements:

- (1) Degree—master's.
- (2) Content. Completion of a sequence of courses and experiences which may have been part of, or in addition to, the degree requirements. This sequence is to be at least thirty semester hours in school media course work, to include the following:
 1. Planning and administration of media programs.
 2. Curriculum development and teaching and learning strategies.
 3. Instructional development and communication theory.
 4. Selection, evaluation and utilization of materials and equipment.
 5. Acquisition and cataloging of materials and organization of equipment.
 6. Design and production of instructional materials, including photography, graphics, audio, video and interactive media.
 7. Methods for instruction and integration of media skills into the school curriculum.
 8. Information retrieval and reference services.
 9. Survey of fiction and nonfiction materials in all formats for children, early adolescents and adolescents.
 10. Reading, listening and viewing guidance.
 11. Utilization and application of computer technology.
 12. Practicum at both the elementary and secondary levels.

70.20(9) School nurse.

a. Authorization. The holder of this endorsement is authorized to provide service as a school nurse at the prekindergarten and kindergarten levels and in grades one to twelve.

b. Program requirements.

- (1) Degree—baccalaureate.
- (2) Specialized.
 1. Organization and administration of school nurse services including the appraisal of the health needs of children and youth.
 2. School-community relationships and resources/co-ordination of school and community resources to serve the health needs of children and youth.

3. Knowledge and understanding of the health needs of exceptional children.

4. Health education.

c. Other. Hold a license as a registered nurse issued by the board of nursing.

NOTE: Although the school nurse endorsement does not authorize general classroom teaching, it does authorize the holder to teach health at all grade levels.

670—70.21(257) Minimum requirements for adding teaching endorsements.

70.21(1) Agriculture. 7-12. Completion of twenty-four semester hours in agriculture to include course work in agronomy, animal science, agricultural mechanics and agricultural economics.

70.21(2) Art. K-6 or 7-12. Completion of twenty-four semester hours in art to include course work in art history, studio art, and two and three dimensional art.

70.21(3) Business—general. 7-12. Completion of twenty-four semester hours in business education to include six semester hours in accounting, six semester hours in business law, and course work in computer applications, and course work in economics.

70.21(4) Business—secretarial. 7-12. Completion of twenty-four semester hours in business education to include advanced course work in both shorthand and typewriting, computer applications or word processing, and office management.

70.21(5) Distributive education/marketing. 7-12. Completion of twenty-four semester hours in the area of distributive education/marketing to include course work in principles of marketing, consumer behavior, marketing research, marketing management, merchandising, advertising and sales management. The program must also provide for 3,000 hours or one and one-half years of part-time or full-time work experience earned after high school; this experience should have been gained in situations where the distribution of goods or services was the prime function.

70.21(6) Driver and safety education. 7-12. Completion of fifteen semester hours in driver and safety education to include course work in accident prevention, vehicle safety and a course in behind-the-wheel driving.

70.21(7) English/language arts.

a. K-6. Completion of twenty-four semester hours in English and language arts to include course work in oral communication and written communication (grammar and composition), language development, children's literature, creative drama or oral interpretation of literature, and American literature.

b. English/language arts. 7-12. Completion of twenty-four semester hours in English to include course work in oral communication and written communication (grammar and composition), language development, American literature and English literature.

70.21(8) Foreign language. K-6 and 7-12. Completion of twenty-four semester hours in each foreign language.

70.21(9) Health. K-6 and 7-12. Completion of twenty-four semester hours in health to include course work in public or community health, consumer health, substance abuse, family life education and mental/emotional health.

70.21(10) History. K-6 and 7-12. Completion of twenty-four semester hours in history to include at least nine semester hours in American history and nine semester hours in world history.

70.21(11) Home economics. 7-12. Completion of twenty-four semester hours in home economics to include

PUBLIC INSTRUCTION, DEPARTMENT OF [670] (cont'd)

course work in family life development, clothing and textiles, housing, and foods and nutrition.

70.21(12) Industrial technology. 7-12. Completion of twenty-four semester hours in industrial technology to include course work in manufacturing, construction, energy and power, graphic communications and transportation.

70.21(13) Journalism. 7-12. Completion of fifteen semester hours in journalism courses to include course work in writing, editing, production and visual communications.

70.21(14) Mathematics.

a. K-6. Completion of twenty-four semester hours in mathematics.

b. 7-12. Completion of twenty-four semester hours in mathematics to include course work in algebra, geometry, calculus and computer programming.

70.21(15) Music.

a. K-6. Completion of twenty-four semester hours in music to include course work in music theory (at least two courses), music history, and applied music.

b. 7-12. Completion of twenty-four semester hours in music to include course work in music theory (at least two courses), music history (at least two courses), applied music, and conducting.

70.21(16) Office education. 7-12. Completion of twenty-four semester hours in office education to include course work in accounting, data processing or word processing, office machines, shorthand and typewriting. The program must also provide for 3,000 hours or one and one-half years of part-time or full-time work experience earned after high school; this experience should have been gained in an office setting where recent business practices, equipment and processes have been encountered.

70.21(17) Physical education.

a. K-6. Completion of twenty-four semester hours in physical education to include anatomy, physiology, movement education, physical education in the elementary school, growth and development of children related to physical education, and first aid and emergency care.

b. 7-12. Completion of twenty-four semester hours in physical education to include course work in anatomy, kinesiology, physiology, human growth and development related to maturational and motor learning, adapted physical education, curriculum and administration of physical education, assessment processes in physical education and first aid and emergency care.

70.21(18) Reading. K-6 and 7-12. Completion of twenty semester hours in the area of reading with twelve semester hours specifically in reading by course title.

70.21(19) Science—basic. K-6. Completion of twenty-four semester hours in science to include course work in both biological and physical science.

70.21(20) Science—biological. 7-12. Completion of twenty-four semester hours in biological science.

70.21(21) Science—general. 7-12. Completion of twenty-four semester hours to include course work in both biological and physical science.

70.21(22) Science—physical. 7-12. Completion of thirty semester hours in physical science to include ten semester hours each in physics, chemistry and earth science.

70.21(23) Social studies.

a. K-6. Completion of twenty-four semester hours in social studies, exclusive of history courses, to include course work from sociology, economics, American government, psychology and geography.

b. 7-12. Completion of thirty-six semester hours in social studies, exclusive of history courses, to include course work in American government, economics, psychology, sociology or anthropology, and geography.

70.21(24) Speech communication/theatre.

a. K-6. Completion of twenty semester hours in speech communication/theatre to include course work in speech communication, creative drama or theatre, oral interpretation and children's literature.

b. 7-12. Completion of twenty-four semester hours in speech communication/theatre to include course work in speech communication, oral interpretation, creative drama or theatre, argumentation and debate and mass media communication.

These rules are intended to implement Iowa Code section 257.10(11).

ITEM 3. Proposed rule 73.2(257) is amended by adding the following new subrules.

73.2(8) Multidisability resource room teacher—mildly handicapped.

a. K-6 multidisability. The holder of this endorsement must meet the requirements to serve as an elementary classroom teacher. See 70.20(5).

(1) Introduction/characteristics of mildly disabled youngsters K-12.

(2) A course in instructional strategies for the multidisability classroom K-6.

(3) Two strategy courses chosen from the following list:

1. A methods course for mental disabilities.
2. A methods course for learning disabilities.
3. A methods course for behavioral disorders.
4. A course in remedial reading.
5. A course in remedial mathematics.

(4) Student teaching in a K-6 multidisability resource room.

(5) A course in the area of educational diagnosis, assessment, and evaluation specific to special education to include:

1. Norm-referenced instruments.
2. Criterion-referenced instruments.
3. Ecological assessment techniques.
4. Systematic observation.

(6) A course in individual behavior management and behavioral change strategies.

(7) A methods and strategies course for working with parents, support services personnel, paraprofessionals, and other individuals involved in the educational program.

(8) A course in consultation processes in special education.

(9) A course of a general survey nature in the area of exceptional children.

b. 7-12 multidisability.

(1) The holder of this endorsement must meet the requirements to serve as a teacher of the nonhandicapped at the 7-12 grade level. See 70.20(257) and 70.21(257).

(2) Same as K-6 except student teaching and the instructional strategies course for the multidisability classroom must be 7-12 instead of K-6.

(3) A course in career-vocational programming for special education students.

73.2(10) Multicategorical special class with integration.

a. Prekindergarten-kindergarten multicategorical special class with integration.

Meet the requirements for the following endorsement: Early childhood—special education. See 73.2(9).

PUBLIC INSTRUCTION, DEPARTMENT OF[670] (cont'd)

b. K-6 multicategorical special class with integration. Meet the requirements for two of the following endorsements:

- (1) K-6 behavioral disorders.
- (2) K-6 mental disabilities: Mild/moderate.
- (3) K-6 mental disabilities: Moderate/severe/profound.
- (4) K-6 learning disabilities.
- (5) K-6 physically handicapped.
- (6) K-6 hearing impaired.
- (7) K-6 visually impaired.

c. 7-12 multicategorical special class with integration. Same as K-6 except the grade level must be 7-12.

These rules are intended to implement Iowa Code section 257.10(11).

March 14, 1986. Such written comments should be directed to the Policy Section, Technical Services Division, Iowa Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to orally convey their views should contact Clair R. Cramer, Policy Section, Technical Services Division, Iowa Department of Revenue, at 515/281-4250 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 March 7, 1986.

The rule is intended to implement Iowa Code chapter 422, as amended by 1985 Iowa Acts, chapter 32 (1985 Iowa Code Supplement sections 422.45(27), 422.45(29), and 422.47A).

The following new rule is proposed:

Amend 730—chapter 18, Iowa Administrative Code, by adding the following new rule:

730—18.45(422,423) Sale or rental of computers, industrial machinery and equipment; refund of and exemption from tax paid. The sale or rental of computers, industrial machinery and equipment, including pollution control equipment, used in manufacturing, in research and development, or in the processing or storage of data or information by an insurance company, financial institution, or commercial enterprise is, under certain circumstances, exempt from tax and under other circumstances, is subject to refund of sales or use tax paid. For purposes of the organization of this rule items that may be exempt or subject to refund of tax are referred to as specified property unless the context of the rule indicates otherwise. See subrule 18.45(1) for definition of what constitutes specified property. Also, for purposes of organization of this rule the rule refers only to an exemption from tax but the tax paid may be refundable as is discussed in subrule 18.45(6).

18.45(1) Definitions. The following words are defined for the purposes of this rule in the manner set out below.

“Commercial enterprise” includes businesses and manufacturers conducted for profit and includes centers for data processing services to insurance companies, financial institutions, businesses, and manufacturers, but excludes professions and occupations and nonprofit organizations. A hospital that is a not-for-profit organization would not be a “commercial enterprise.” The term “professions” means a vocation or employment requiring specialized knowledge and often long and intensive academic preparation. The term “occupations” means the principal business of an individual. Included within the meaning of “occupations” is the business of farming. A professional corporation which carries on any business which is a “profession” or “occupation” is not a commercial enterprise.

“Computer” means stored program processing equipment and all devices fastened to any such equipment by means of signal cables or any communication medium that serves the function of a signal cable. Nonexclusive examples of devices fastened by a signal cable or other communication medium are: Terminals, printers, display units, card readers, tape readers, document sorters, optical readers, and card or tape punchers. Excluded from the definition of “computer” is point-of-sale equipment. For a characterization of “point-of-sale equipment” see subrule 71.1(7)[Subrule 71.1(7) proposed in **ARC 6352** herein].

ARC 6351**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 sections 421.14 and 422.68(1), the Iowa Department of Revenue hereby gives Notice of Intended Action to amend Chapter 18, “Taxable and Exempt Sales Determined by Method of Transaction or Usage,” Iowa Administrative Code.

The Chapter is amended to reflect certain changes in the law mandated by 1985 Iowa Acts, chapter 32. The Chapter allows, for a two-year period, a refund of tax paid on the sale, rental or use of certain industrial machinery, equipment and computers, and, subsequent to that two-year period, an exemption from tax upon the sale, rental or use of this machinery, equipment, or computers. The rule clarifies certain questions which have arisen regarding this new right to refund and exemption.

The proposed rule will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

The Department has determined that this proposed rule may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.31(4). The Department will issue a regulatory flexibility analysis as provided in Iowa Code sections 17A.31 to 17A.33 if a written request is filed by delivery or by mailing postmarked no later than March 4, 1986, to the Policy Section, Technical Services Division, Iowa Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the governor, a political subdivision, at least 25 persons who qualify as a small business under Iowa Code sections 17A.31 to 17A.33, or an organization of small businesses representing at least 25 persons which is registered with this agency under Iowa Code sections 17A.31 to 17A.33.

Any interested person may make written suggestions or comments on this proposed amendment on or before

REVENUE DEPARTMENT [730] (cont'd)

"Directly used." Property is "directly used" only if it is used to initiate, sustain, or terminate the transformation of any activity. In determining whether any property is "directly used," consideration should be given to the following factors:

1. The physical proximity of the property in question to the activity in which it is used;

2. The proximity of the time of use of the property in question to the time of use of other property used before and after it in the activity involved; and

3. The active causal relationship between the use of the property in question and the activity involved. The fact that a particular piece of property may be essential to the conduct of the activity because its use is required either by law or practical necessity does not, of itself, mean that the property is directly used.

"Financial institution" is a bank incorporated under Iowa Code chapter 524 or federal law; a savings and loan association incorporated under Iowa Code chapter 534 or federal law; a credit union organized under Iowa Code chapter 533 or federal law; or any corporation licensed as an industrial loan company under Iowa Code chapter 536A. Excluded from the meaning of the term are loan brokers governed by Iowa Code chapter 535C and production credit associations.

"Industrial machinery and equipment" means machinery and equipment used by a manufacturer in a manufacturing establishment. Machinery is any mechanical, electrical or electronic device designed and used to perform some function and to produce a certain effect or result. The word includes not only the basic unit of the machinery but also any adjunct or attachment necessary for the basic unit to accomplish its intended function. The word also includes all devices used or required to control, regulate or operate a piece of machinery, provided such devices are directly connected with or are an integral part of the machinery and are used primarily for control, regulation or operation of machinery. Jigs, dies, tools, and other devices necessary to the operation of or used in conjunction with the operation of what would ordinarily be thought of as machinery are also considered to be "machinery." See *Deere Manufacturing Co. v. Zeiner*, 247 Iowa 1264 78 N.W.2d 527 (1956). Machinery does not include buildings designed specifically to house or support machinery. Equipment is any tangible personal property used in an operation or activity. Nonexclusive examples of equipment are: Tables on which property is assembled on an assembly line and chairs used by assembly line workers.

"Insurance company" means an insurer organized under Iowa Code chapters 508, 515, 518, 519, or 520 or authorized to do business in Iowa as an insurer. An insurance company must have fifty or more persons employed in Iowa, excluding licensed insurance agents. Excluded from the definition of "insurance company" are fraternal and beneficial societies governed by Iowa Code chapter 512; nonprofit health service corporations governed by Iowa Code chapter 514, and health maintenance organizations governed by Iowa Code chapter 514B. This list of exclusions is not intended to be exclusive.

"Manufacturer" means any person, firm, or corporation who purchases, receives, or holds personal property for the purpose of adding to its value by any process of manufacturing, refining, purifying, combining of different materials, or by packing of meats with an intent to sell at a gain or profit. Those who are in the business of

printing, newspaper publication, book binding, lumber milling, and production of drugs and agricultural supplies are illustrative, nonexclusive examples of manufacturers. Construction contracting; quarrying; remanufacture or rebuilding of tangible personal property (such as automobile engines); provision of health care; farming; transportation for hire; mining; and the activities of restaurateurs, hospitals, and medical doctors are illustrative, nonexclusive examples of businesses which are not manufacturers. See, *Associated General Contractors of Iowa v. State Tax Commission*, 255 Iowa 673, 123 N.W.2d 922 (1963) and *River Products Co. v. Board of Review of Washington County*, 332 N.W.2d 116 (Iowa Ct. App. 1982).

"Pollution control equipment" means any disposal system or apparatus used or placed in operation primarily for the purpose of reducing, controlling or eliminating air or water pollution. The term does not include any apparatus used to eliminate "noise pollution." Liquid, solid, and gaseous wastes are included within the meaning of the word "pollution."

"Processing" means an operation or series of operations whereby tangible personal property is subjected to some special treatment by artificial or natural means which changes its form, context, or condition, and results in marketable tangible personal property. See rule 18.29(422, 423).

"Processing or storage of data or information." Not only a computer, but machinery or equipment may be used in the processing or storage of data or information. All computers store and process information. However, only if the "final output" for a user or consumer is stored or processed data will the computer be subject to refund or exemption of tax.

"Research and development" means experimental or laboratory activity which has as its ultimate goal the development of new products, processes of manufacturing, refining, purifying, combining of different materials, or meat packing. The ultimate goal of research and development must be that of adding value to products. The term "research and development" does not include testing or inspection for quality control purposes, efficiency surveys, management studies, consumer surveys, advertising, promotions, or research in connection with literary, historical, or similar projects. Machinery, equipment, and computers are used "directly" in research and development only if they are used in actual experimental or laboratory activity that qualifies as research and development under this subrule.

"Specified property" means property that is a computer or industrial machinery and equipment including pollution control equipment and depreciable replacement parts for that property.

18.45(2) Requirements. The sale or rental of specified property is exempt from tax if:

a. The property is real property within the scope of Iowa Code section 427A.1(1)"e" or "j" and subject to taxation as real property (However, see subrule 18.45(4); and

b. The property is directly and primarily used in one of the following:

1. By a manufacturer in processing tangible personal property; or

2. In research and development of new products or processes of manufacturing, refining, purifying, combining of different materials or packing of meats to be used for the purposes of adding value to products; or

REVENUE DEPARTMENT[730] (cont'd)

3. In processing or storage of data or information by an insurance company, financial institution, or commercial enterprise.

c. To qualify for refund or exemption, a computer may be taxable as either commercial or industrial real estate. Machinery and equipment must be taxable as industrial real estate only to be similarly qualified. Research and development machinery and equipment that is not taxable as industrial real estate does not qualify for refund or exemption. See subrules 71.1(5) and 71.1(6) for characterizations of "commercial" and "industrial" real estate. However, see subrule 18.45(4) for an exception to the requirement that certain property be taxable as real property.

d. The following are examples of machinery which is not directly used in manufacturing:

1. Electrical machinery used directly in the operation of other machinery which is used directly in the manufacturing process.

2. Machinery used exclusively for the efficient use of other machinery. Examples are: Air cooling, air conditioning, and exhaust systems.

3. Machinery used in support operations, such as a machine shop, in which production machinery is assembled, maintained or repaired.

4. Machinery used by administrative, accounting, and personnel departments.

5. Machinery used by plant security, fire prevention, first aid, and hospital stations.

6. Machinery used in plant cleaning, disposal of scrap and waste, plant communications, lighting, safety, or heating.

e. The following is an example of property directly used in research and development: Frontier Hybrid, Inc. maintains a research and development laboratory for use in developing a corn plant which is a perennial. It purchases the following items for use in its research and development laboratory: A computer which will process data relating to the genetic structure of the various corn plants which Frontier Hybrid is testing, an electron microscope for examining the structure of corn plant genes, a "steam cleaner" for cleaning rugs in the laboratory offices, and a typewriter for use by the laboratory director's secretary. The computer and the microscope are "directly" used in the research in which the laboratory is engaged; the steam cleaner and the typewriter only indirectly used. Therefore, purchase of the computer and microscope would be exempt from tax; purchase of the steam cleaner and typewriter would be subject to tax.

f. The following is an example of property used in processing or storage of information of data: A health insurance company has three computers. Computer A is used to monitor the temperature within the insurance company's building. The computer transmits messages to the building's heating and cooling systems telling them when to raise or lower the level of heating or air conditioning as needed. Computer B is used to store patient records and will recall those records on demand. Computer C is used to tabulate statistics regarding the amount of premiums paid in and the amount of benefit paid out for various classes of insured. The "final output" of Computer A is neither stored nor processed information. The final output of Computer B is stored information. The final output of Computer C is processed information. The sale, lease, or use of Computers B and C would qualify for exemption or refund.

g. The following is an example of property not used in manufacturing: A manufacturing plant located in Warren County which manufactures widgets fabricates its own patterns used in manufacturing the widgets on a metal press machine in its machine shop located in Story County. The machine shop does not sell the patterns and the metal press machine is used for no other purpose than to fabricate the patterns. The metal press machine is not used in manufacturing because there is no intent to sell the patterns used by the machine shop at a gain or profit.

18.45(3) Exceptions. The following specified property is not exempt:

a. Property assessed by the department of revenue pursuant to Iowa Code chapters 428, 433, 434 and 436 to 438, inclusive. For electric, gas, water, and other companies assessed under Iowa Code chapter 428, only property owned by the company is assessed by the department. For railroad, telephone, pipeline, and electric transmission line companies, property leased to as well as owned by the company is assessed by the department. See 730—chapters 71 and 77.

b. Hand tools.

c. Point-of-sale equipment. See subrule 71.1(7)[Subrule 71.1(7) proposed in ARC 6352 herein].

18.45(4) Inclusions. Property exempt from taxation for property tax purposes under the provisions of Iowa Code chapters 404 and 427B relating to urban revitalization property and industrial machinery receiving partial exemption by ordinance is also eligible for exemption from sales and use taxes even though the property is not subject to taxation as real property. Urban revitalization property and industrial machinery receiving partial exemption by ordinance are discussed in rules 80.8(404) and 80.6(427B), respectively. This property must meet the other requirements in subrule 18.45(2) in order to be exempt from sales and use taxes.

18.45(5) Replacement parts and lessor purchases of specified property. The analysis contained in rule 18.44(422, 423) regarding farm machinery and equipment is applicable to explain those same problems regarding specified property. See the following subrules for analysis of the following matters:

1. Replacement parts - subrule 18.44(2)"g."

2. Lessor purchases - subrule 18.44(3)"a."

18.45(6) Rights of refund and exemption. Sales and service tax paid on purchases or rentals of specified property exempt under this rule is eligible for refund if the purchase or the rental period occurred during the period July 1, 1985, and ending June 30, 1987. Purchases and leases by certain persons who have entered into agreements under Iowa Code chapter 280B will be exempt from tax during the same period (see the following paragraph). The gross receipts from sales and service tax paid on all purchases or rental of specified property exempt under this rule occurring on or after July 1, 1987, will be exempt from tax. See subrule 18.44(4) which explains how to determine when a sale occurs and, for a long-term lease, how to decide which payments are taxable, which are taxable subject to refund, and which are exempt.

The sale or rental of specified property which occurs during the period beginning July 1, 1985, and ending June 30, 1987, is exempt from tax if the purchaser or renter is an industry which has entered into an agreement under Iowa Code chapter 280B prior to the sale or lease. See subrules 42.2(7)"a"(4) and 42.2(7)"a"(7) for definitions

REVENUE DEPARTMENT[730] (cont'd)

of the words 280B "agreement" and "industry" respectively. It is not necessary to utilize the specified property in connection with any 280B agreements to qualify its purchase or lease for exemption from tax. Exemption is allowed if prior to the sale or lease, the purchaser or lessor has entered into an agreement under chapter 280B.

18.45(7) On and after July 1, 1985, the gross receipts from the services of designing or installing new industrial machinery or equipment shall be exempt from tax. The enumerated services of electrical or electronic installation are included in this exemption. To qualify for the exemption, the sale or rental of the machinery or equipment must be subject to refund or exemption under this rule. In addition, the machinery or equipment must be "new." For purposes of this subrule, "new" means never having been used or consumed by anyone. The exemption is not applicable to reconstructed, rebuilt or repaired or previously owned machinery or equipment. The exemption is applicable to new machinery and equipment designed or installed for rental as well as for sale. The gross receipts from design or installation must be separately identified, charged separately, and reasonable in amount for the exemption to apply. A "computer" is not considered to be machinery or equipment, and its installation or design is not eligible for this exemption.

ARC 6349**REVENUE DEPARTMENT[730]****TERMINATION OF NOTICE**

Pursuant to the authority of Iowa Code section 421.14, the Iowa Department of Revenue hereby terminates the proposed amendments to Chapter 71 "Assessment Practices and Equalization," Iowa Administrative Code.

These amendments were intended to implement 1985 Iowa Code Supplement subsection 427A.1(1)"j," as it pertains to the definition of "computer" and to clarify the type of machinery and equipment to be assessed as industrial real estate.

The proposed amendments are being terminated so that new rules can be proposed that will provide for a more thorough clarification of what constitutes computers and industrial machinery and equipment.

The Notice of Intended Action was published on July 31, 1985, as ARC 5788.

ARC 6352**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 amend Chapter 71, "Assessment Practices and Equalization," Iowa Administrative Code.

These proposed amendments define industrial machinery assessed as real estate and point-of-sale computer equipment.

The proposed rule will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

The Department has determined that this proposed rule may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.31(4). The Department will issue a regulatory flexibility analysis as provided in Iowa Code sections 17A.31 to 17A.33 if a written request is filed by delivery or by mailing postmarked no later than March 4, 1986, to the Policy Section, Technical Services Division, Iowa Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the administrative rules review committee, the governor, a political subdivision, at least 25 persons who qualify as a small business under Iowa Code sections 17A.31 to 17A.33, or an organization of small businesses representing at least 25 persons which is registered with this agency under Iowa Code sections 17A.31 to 17A.33.

Any interested person may make written suggestions or comments on this proposed amendment on or before March 14, 1986. Such written comments should be directed to the Property Tax Division, Iowa Department of Revenue, Hoover State Office Building, Des Moines, Iowa 50319.

Persons who want to orally convey their views should contact Gene Eich, Property Tax Division, Iowa Department of Revenue, at 515/281-5731 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 March 7, 1986.

The amendments are intended to implement Iowa Code subsection 427A.1(1).

The following is proposed.

ITEM 1. Subrule 71.1(6), Iowa Administrative Code, is rescinded and the following inserted in lieu thereof:

71.1(6) Industrial real estate.

a. Land and buildings.

(1) Industrial real estate includes land, buildings, structures, and improvements used primarily as a manufacturing establishment. A manufacturing establishment is a business entity in which the primary activity consists of adding to the value of personal property by any process of manufacturing, refining, purifying, the packing of meats, or the combination of different materials with the intent of selling the product for gain or profit. Industrial real estate includes land and buildings used for the storage of raw materials or finished products and which are an integral part of the manufacturing establishment, and also includes office space used as part of a manufacturing establishment.

(2) Whether property is used primarily as a manufacturing establishment and, therefore, assessed as industrial real estate depends upon the extent to which the property is used for the activities enumerated in 71.1(6)"a"(1). Property in which the performance of such activities is only incidental to the property's primary use for another purpose is not a manufacturing establishment. For example, a grocery store in which bakery goods are prepared would be assessed as commercial real estate since the primary use of the grocery store premises is for the sale of goods not manufactured by the grocery and the

REVENUE DEPARTMENT[730] (cont'd)

industrial activity, i.e., baking, is only incidental to the store premises' primary use. However, property which is used primarily as a bakery would be assessed as industrial real estate even if baked goods are sold at retail on the premises since the bakery premises' primary use would be for an industrial activity to which the retail sale of baked goods is merely incidental. See *Lichty v. Board of Review of Waterloo*, 230 Iowa 750, 298 N.W. 654 (1941).

Similarly, a facility which has as its primary use the mixing and blending of products to manufacture feed would be assessed as industrial real estate even though a portion of the facility is used solely for the storage of grain, if such use for storage is merely incidental to the property's primary use as a manufacturing establishment. Conversely, a facility used primarily for the storage of grain would be assessed as commercial real estate even though a part of the facility is used to manufacture feed. In the latter situation, the industrial use of the property — the manufacture of feed — is merely incidental to the property's primary use for commercial purposes — the storage of grain.

(3) Property used primarily for the extraction of rock or mineral substances from the earth is not a manufacturing establishment if the only processing performed on the substance is to change its size by crushing or pulverizing. See *River Products Company v. Board of Review of Washington County*, 332 N.W.2d 116 (Iowa Ct. App. 1982).

b. Machinery

(1) Machinery. Machinery includes equipment and devices, both automated and nonautomated, which is used in manufacturing as defined in Iowa Code section 428.20. See *Deere Manufacturing Co. v. Beiner*, 247 Iowa 1264, 78 N.W.2d 527 (1956).

(2) Machinery owned or used by a manufacturer but not used within the manufacturing establishment is not assessed as industrial real estate. For example, "X" operates a factory which manufactures building materials for sale. In addition, "X" uses some of these building materials in construction contracts. The machinery which "X" would primarily use at the construction site would not be used in a manufacturing establishment and, therefore, would not be assessed as industrial real estate.

(3) Machinery used in manufacturing but not used in or by a manufacturing establishment is not assessed as industrial real estate. See *Associated General Contractors of Iowa v. State Tax Commission*, 255 Iowa 673, 123 N.W.2d 922 (1963).

(4) Where the primary function of a manufacturing establishment is to manufacture personal property that is consumed by the manufacturer rather than sold, the machinery so used in the manufacturing establishment is not assessed as industrial real estate. See *Associated General Contractors of Iowa v. State Tax Commission*, 255 Iowa 673, 123 N.W.2d 922 (1963).

ITEM 2. Rule 730—71.1(428, 441), Iowa Administrative Code, is amended by adding the following new subrule:

71.1(7) Point-of-sale equipment. As used in Iowa Code section 427A.1(1)"j," the term point-of-sale equipment means input, output, and processing equipment used to consummate a sale and to record or process information pertaining to a sale transaction at the time the sale takes place and which is located at the counter, desk, or other specific point at which the transaction occurs. As used in

this subrule, the term "sale" means the sale or rental of goods or services and includes both retail and wholesale transactions. Point-of-sale equipment does not include equipment used primarily for depositing or withdrawing funds from financial institution accounts.

ARC 6348

SOIL CONSERVATION DEPARTMENT[780] NOTICE OF INTENDED ACTION

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

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

Pursuant to the authority of Iowa Code section 467A.4(1), the State Soil Conservation Committee gives Notice of Intended Action to amend Chapter 27, "Iowa Abandoned Mined Land (AML) Reclamation Program."

This rule describes forms to be utilized in conjunction with the AML Program. Availability of forms is also addressed.

This rule was also emergency implemented and adopted, **ARC 6347**, by the State Soil Conservation Committee on January 20, 1986. The rule is incorporated herein by reference.

Any interested person may submit written suggestions or comments on the rules proposed in this Notice of Intended Action. Comments conveyed by mail should be forwarded to the Director, Iowa Department of Soil Conservation, Wallace State Office Building, Des Moines, Iowa 50319, and must be received by the Department no later than 4:30 p.m., Tuesday, March 4, 1986.

A public hearing will be held on Wednesday, March 5, 1986, at 10:00 a.m. in the north half of the Second Floor Conference Room of the Wallace State Office Building, East 9th and Grand Avenue, Des Moines, Iowa. Comments presented at the hearing may be offered either orally or in writing.

This rule is intended to implement Iowa Code section 83.21.

ARC 6339

WATER, AIR AND WASTE MANAGEMENT DEPARTMENT[900] NOTICE OF INTENDED ACTION

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

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

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.245, the Water, Air and Waste Management Commission intends to amend 900—Chapter 91, "Criteria for Award of Grants," Iowa Administrative Code, governing the state's Priority System for municipal wastewater treatment construction grants.

WATER, AIR AND WASTE MANAGEMENT DEPARTMENT[900] (cont'd)

The "Priority System for Administration of Federal Wastewater Treatment Works Construction Grants Under the Authority of Federal Water Pollution Control as Amended" (Priority System) is required by federal regulation to be reviewed annually. The Priority System is used to generate the list of projects that will be funded with Iowa's annual federal allotment of funds for municipal wastewater treatment construction grants. The Priority System must be approved by the United States Environmental Protection Agency.

Attention is called to the amendment under rule 91.1(455B), which indicates that application procedures and award of federal grants are governed by Federal Regulation 40 CFR, parts 30, 33, and 35, subparts C, E, and I, as amended through March 1, 1986. The Federal Regulation amendment under subsection I which becomes effective February 10, 1986, will have the effect of putting a 5 percent limit on grant increases over the original bid price in the construction project.

The proposed changes to the Priority System include an expansion subrule 91.5(4), paragraph "a," subparagraph (1), to provide deadlines on project submittals pursuant to commission directives. The proposed addition to this subrule will involve certain other needed changes to subrule 91.9(1) discussed later and also the last sentence of this subrule is proposed to be deleted because it is now redundant.

Subrule 91.6(2), paragraph "c," is proposed to be changed by dividing Categories IIIA and IIIB into separate lettered paragraph categories within this subrule because it has never been Department philosophy to fund Category IIIB projects as are the eligible Category IIIA projects. Also, there are no IIIB projects identified on the construction grant needs survey. It is also proposed to delete subparagraphs (4) and (5) for interceptor sewer qualifiers in the old paragraph "e" (new proposed paragraph "f"). These two item qualifiers would apply to very few, if any, interceptor sewer projects today and are redundant. New subrule 91.8(3), paragraph "c," clearly provides when grant increases can be made and in what order. This is important in cases where the depletion of funds is occurring.

Subrule 91.6(4), paragraph "g," is proposed to be changed to reflect the change in the commission's policy on the 60 percent cap per year on allotment of grant funds. Grants could now be made over a period longer than a year. For instance, the Department could grant FY85 funds to projects FY86 so long as the recipient did not receive more than 60 percent of FY85 funds. The current rule says that the grants made in a particular year cannot exceed 60 percent of the allotment. Under these current circumstances, if grant decreases occur, the total might end up being less than 60 percent and if grant increases occur, the total could exceed 60 percent under the present rules. These changes will make receiving of grant funds more equitable.

Subrule 91.8(5) is expanded by the addition of paragraph "c" to clarify how small community innovative and alternative projects are added to the fundable list during the year. Subrule 91.9(1) is amended to bring it into harmony with previously amended subrule 91.5(4) concerning project submittal deadlines. Subrule 91.9(7) is amended by clarification that segmented projects must be fully fundable with current or succeeding projects grant allotments, or be fully funded from other sources, to assure project completeness.

Federal regulations and Iowa Code chapter 17A require a public hearing on the Priority System.

Any interested person may file written comments on the above referenced rule changes through March 14, 1986, with the Executive Director of the Department of Water, Air and Waste Management, Henry A. Wallace Building, 900 East Grand Avenue, Des Moines, Iowa 50319-0120. Persons are also invited to present oral or written comments at a public hearing which will be held on the Priority System. The Water, Air and Waste Management Commission will hold a public hearing to allow for public comment on the proposed amendments on March 4, 1986, at 10:30 a.m. in the auditorium of the Henry A. Wallace Building, 900 E. Grand Avenue, Des Moines, Iowa 50319-0120.

These rules are intended to implement Iowa Code sections 455B.242 to 455B.246.

ITEM 1. Amend rule 900—91.1(455B) as follows:

900—91.1(455B) Financial assistance. Federal and state financial assistance for construction of municipal sewage works may be available pursuant to the Clean Water Act of 1977, Title II (33 U.S.C. §§1281-1297) and Iowa Code chapter 455B, division III, part 3, subject to the following:

91.1(1) a. Application procedures and award of federal grants are governed by federal regulations, 40 CFR, Parts 30, 33, 35, subparts C, and E and I, as amended through July 1, 1980 March 1, 1986.

91.1(2) * b.** (no change)

91.1(3) * c.** (no change)

***These provisions will become effective July 1, 1981.

ITEM 2. Amend subrule 91.5(4), paragraph "a," subparagraph (1), as follows:

91.5(4) State project priority list. The Priority System is used to derive a listing of projects in priority order which qualify for federal grant assistance, including both a Fundable and a Planning List.

a. Fundable List — Includes project steps scheduled for award of grant assistance from funds available for obligation during the fiscal year. The Fundable List is determined by the following factors:

(1) Project schedules — Schedules for project steps are based on their present status and anticipated progress. Readiness is not a factor in priority ranking; however, it may determine if a project can be placed on the Fundable List. Only projects considered capable of readiness within the fiscal year can be placed on the Fundable List. It is the grantee's responsibility to complete work necessary as a prerequisite to the step appearing on the State Project Priority List. *Criteria for Fundable List consideration:*

1. *An applicant for grant funding must have a complete facility plan on file with the department by June 1, 1986, or thereafter in succeeding years by April 1 of the year prior to the fiscal year funding is requested (i.e., Example — Facility plan must be submitted by June 1, 1986, in order for the project to be considered for the FY87 Priority List. Facility plans must be submitted by April 1, 1987, to be considered for the FY88 Priority List).*

2. *In addition, applicants applying for Step 3 grant funding must be projected to have final plans and specifications on file for departmental review by April 1 during the fiscal year of requested funding.*

WATER, AIR AND WASTE MANAGEMENT DEPARTMENT[900] (cont'd)

Projects included on the Fundable List which cannot attain readiness within the fiscal year may be removed and placed on the Planning List in accordance with 91.9(455B), State Project Priority List Revisions. ~~Effective September 1, 1983, a project which is not certified for grant award prior to September 1 will be removed from the Fundable List if it can be replaced with a project that can be certified.~~

The remaining parts of subrule 91.5(4) would remain unchanged.

ITEM 3. Amend subrule 91.6(2) as follows:

91.6(2) Eligibility of project categories. The state has authority to determine the priority for each category of need defined by the Federal Water Pollution Control Act. These policies will be used to determine the circumstances under which each category will be endorsed by the state for federal grant funding. Projects will be placed on the State Project Priority List and, if necessary, removed from the State Project Priority List in accordance with these policies. Starting October 1, 1984, grants are to be made only on projects for secondary treatment or more stringent treatment, or any cost-effective alternatives such as new interceptors and appurtenances, and infiltration-in-flow correction. Funding can be provided to other types of projects, such as related sewers, so long as no more than 20 percent of the state's allocation (percentage to be determined by the governor) is spent on those other types of projects. The technical review of projects prior to endorsement will determine the project categories and which portions will be grant funded. Inclusion or omission of a project category on the State Project Priority List will be adjusted as necessary.

a. Category I — This wastewater treatment category represents a basic water pollution control need for which federal grant assistance is intended. Category I needs are funded according to priority and eligibility limitations of EPA and 91.6(3), Additional Considerations.

b. Category II — In cases where discharges must be treated to levels considered more stringent than secondary treatment in order to meet water quality standards, the additional facilities and their incremental costs will be fundable at the same priority as Category I needs. Treatment facilities will be endorsed for grant funding only when they can be expected to meet wasteload allocations determined by the department of water, air and waste management as necessary to meet water quality standards.

c. ~~Categories Category IIIA and HIB~~ — In the evaluation of alternatives available to meet a Category I or II need, cost-effective proposals may include infiltration-in-flow correction (Category IIIA). ~~or major sewer system rehabilitation (Category HIB). Categories Category IIIA and HIB will be fundable at the same priority as the Category I or Category II need where they are it is cost-effectively justified as part of the overall project. Categories Category IIIA and HIB work, without the documentation of planning undertaken to address a Category I or Category II need, will not be considered for federal funding under this program.~~

d. ~~Category IIIB — Major sewer system rehabilitation (Category IIIB) work will not be considered for federal funding under this program.~~

e. Category IVA — Collector sewers will not be considered for federal funding even though they are eligible under federal law. An exception is Category IVA, construction for unsewered communities on the Funda-

ble List which cannot qualify for grant funds or financing through other available programs in sufficient amounts to enable the community to meet their financial obligation for the project. In such cases, unsewered communities will be considered eligible for grant funding of treatment facilities, interceptor sewers and collection systems to the extent they are not funded by other grant and loan programs and as necessary to reduce the user charges to an acceptable level. Sewage collection systems for new communities, subdivisions and urban areas will not be funded under any circumstances since the sewer utility costs are considered a part of the development cost of new construction. Alternative technology collection sewers may qualify for funding under 91.7(2)"b," Small Community Alternative Reserve.

e f. Category IVB — Interceptors will be endorsed for federal funding at the same priority as a Category I or Category II need if they meet any of the following criteria:

(1) They terminate at the treatment plant. These will be funded from the treatment plant to the point where the design peak hourly flow is diminished to half of the design peak hourly flow of the interceptor at the plant.

(2) They are needed in lieu of grant eligible treatment works. This would allow funding of interceptors from existing treatment plants to another treatment site. This would also allow the funding of an interceptor from another jurisdiction if the interceptor is in lieu of a new treatment facility.

(3) Interceptors that connect to a new or existing interceptor which is in lieu of treatment will qualify for funding the same as if they terminated at a treatment facility.

(4) They were certified for a Step 2 grant prior to FY 1981.

(5) Projects for sewer works not otherwise eligible under this section will be endorsed for funding if they meet all of the following conditions:

1. The project appeared on the FY 1980 Fundable List.

2. Other portions of the project were certified for grant funds during FY 1980.

3. A completed application and all related documents necessary for state certification were submitted on or before September 30, 1980, and they were adequate for certification on that date.

(4) Relief sewers will not be endorsed for federal funding except as they qualify above.

f g. Category V — Correction of combined sewer overflows will be funded only in cases where it is shown that all alternatives to protect the beneficial uses of the receiving stream have been explored and there is documentation (including cost-effective analysis) that correction of combined sewers is needed in lieu of, or to supplement a Category I or Category II need in order to protect the receiving stream.

ITEM 4. Amend subrule 91.6(4), paragraph "g," as follows:

g. Maximum federal grant amount — The maximum federal grant amount an applicant, or a combination of applicants who received a priority rating pursuant to 91.5(2)"b," Combined Facility Priority Ratings, may receive in one fiscal year shall not exceed 60 percent of Iowa's federal construction grant allotment for that year. *is 60 percent of each year's total state allotment. This amount may be received over the two-year period that a*

WATER, AIR AND WASTE MANAGEMENT DEPARTMENT[900] (cont'd)

particular year's allotment is available. However, the above this provision shall not prevent any grantee from receiving allowable grant increases from funds set aside pursuant to subsections subrules 91.7(2)"a," Innovative and Alternative Reserve, and 91.7(3)"a," Reserve for Grant Increases.

ITEM 5. Amend subrule 91.8(3) by adding a new paragraph "c" as follows:

c. After the initial grant offer to a project, grant increases will be considered at the following times:

(1) Following the bidding of each construction contract in the project. The grant will be adjusted, based on all actual contract bids, estimated administrative costs, service contracts, allowable contingencies, and estimated costs of any other contracts not yet bid.

(2) Upon completion and final grant payment for the construction of a project.

(3) Upon the significant increase in the approved scope of a project.

Grant increases will be provided to projects at the above times based on the chronological order of one of the above events, an amended application and the availability of grant increase funds.

ITEM 6. Amend subrule 91.8(5) as follows:

91.8(5) Innovative and alternative project management.

a. Innovative and alternative grants — The state will certify funding of innovative and alternative technology to the extent they qualify by federal regulations if Innovative and Alternative Reserve funds are available. A specific process may be considered innovative and qualified for a grant increase from the Innovative and Alternative Reserve only for the first three projects using that specific process.

b. Special priority consideration for small community alternative projects — When projects on the Fundable List do not utilize all of the Small Community Alternative Reserves, additional projects may be placed on the Fundable List. Qualifying projects on the Planning List will be considered in priority order for placement on the Fundable List. ~~Should more than one project qualify on the same day, they will be considered for placement on the Fundable List in priority order.~~ *If additional projects are necessary to utilize the reserve during the fiscal year, projects will be considered in priority order in quarterly updates of the Fundable List. These projects will qualify by having submitted complete facility plans thirty days prior to the quarterly update.* In order to be considered for this priority adjustment, 50 percent or more of the project's allowable costs must be alternative technology.

ITEM 7. Amend subrule 91.9(1) as follows:

900—91.9(455B) State project priority list revisions.

91.9(1) Project bypass procedures. Since the Fundable List is based on the predicted readiness of projects, it is possible that projects included on the Fundable List may not actually achieve readiness within the funding period. Projects which cannot attain readiness within the fiscal year may be removed and placed on the Planning List. A project which is not certified for grant award prior to September 1 will be removed from the Fundable List if it can be replaced with a project that can be certified. *Step 4 projects which are certifiable may replace a project on the Fundable List after September 1, if their facility plan was submitted by June 1, 1986, and thereafter in succeeding years by April 1, and Step 3 projects which*

are certifiable may replace a project on the Fundable List after September 1, if their plans and specifications were submitted by June 1, 1986, and thereafter in succeeding years by April 1.

Beginning September 1, projects from the Planning List will be considered for placement on the Fundable List as they are ready to be certified. Should more than one project qualify on the same day, they will be considered for placement on the Fundable List in priority order. Any project so removed may be placed on a future Fundable List in accordance with the Priority System in effect at that time.

ITEM 8. Rule 900—91.9(455B) is amended by adding new subrule 91.9(7) as follows:

91.9(7) Segmented projects. Any project added to the Fundable List under rule 91.9(455B) must be fully fundable with currently available grant allotments, or be fully funded with grant allotments projected from the next fiscal year, or have remaining segments fully funded from other sources.

ARC 6345

WATER, AIR AND WASTE
MANAGEMENT DEPARTMENT[900]

WATER, AIR AND WASTE MANAGEMENT COMMISSION

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 Iowa Code section 455B.304, the Water, Air and Waste Management Commission proposes to amend Chapter 100 and to adopt a new Chapter 109. These rules may impact small businesses.

This new Chapter 109, Item 2, pertains to the assessment and collection of fees for each ton or equivalent volume of solid waste received and disposed of at a sanitary disposal project. This chapter is intended to implement 1985 Iowa Code Supplement section 455B.309 which creates a groundwater fund within the state treasury. The fund shall consist of moneys received from the tonnage fee and from other sources designated for purposes related to groundwater monitoring and groundwater quality standards. This fund is to be used by the Department for administering a groundwater monitoring program, development of groundwater quality standards research in alternative methods of solid waste disposal and abatement and cleanup of threats to the public safety and environment resulting from a sanitary landfill.

Pursuant to 1985 Iowa Code Supplement section 455B.310, a fee of twenty-five cents per ton or equivalent volume of solid waste is to be assessed. The fees are to be

WATER, AIR AND WASTE MANAGEMENT DEPARTMENT[900] (cont'd)

paid on an annual basis and are due on April 15 for fees due for the previous year. Forms, which must be completed and submitted with the fees, are available from the Department.

Chapter 100, specifically Item 1, rule 900—100.1(455B) is proposed to be amended to describe the contents of Chapter 109.

Any interested person may file written comments on these proposed rules through March 14, 1986, with the Executive Director of the Department of Water, Air and Waste Management, Henry A. Wallace Building, 900 E. Grand Ave., Des Moines, Iowa 50319. Persons are also invited to present oral or written comments at a public hearing which will be held March 4, 1986, at 10:00 a.m. in the Fifth Floor Conference Room, Henry A. Wallace Building, 900 E. Grand Ave., Des Moines, Iowa 50319.

These rules are intended to implement Iowa Code chapter 455B.

The following amendments are proposed.

ITEM 1. Amend the third unnumbered paragraph of rule **900—100.1(455B)** to read as follows:

Chapter 101 contains the general requirements relating to solid waste disposal. Chapter 102 pertains to the permits which must be obtained in order to construct and operate a sanitary disposal project. Chapter 103 details the plan and operating requirements for all sanitary disposal landfills. Chapter 104 details the requirements for sanitary disposal projects with processing facilities. Chapter 105 sets forth the requirements for the planning and operation of all composting facilities. Chapter 106 pertains to design and operating requirements for recycling operations. Chapter 107 sets forth the rules and regulations pertaining to beverage container deposits and approval of redemption centers. Chapter 108 pertains to the reuse of solid waste. *Chapter 109 contains the procedure for the assessment and collection of fees for the disposal of solid waste at sanitary disposal projects.*

ITEM 2. Adopt a new chapter 109 as follows:

CHAPTER 109

FEEES FOR DISPOSAL OF SOLID WASTE AT SANITARY LANDFILLS

900—109.1(455B) Authority, purpose and applicability.

109.1(1) Authority. Pursuant to Iowa Code sections 455B.309 and 455B.310, the department has authority to collect fees for the disposal of solid waste at sanitary landfills. Moneys collected or received by the department shall be deposited in the state treasury to the credit of the groundwater fund.

109.1(2) Purpose. The purpose of these rules is to provide an orderly and efficient process for the assessment and collection of fees for the disposal of solid waste at a sanitary landfill. These rules clarify the applicability of the fees and set forth a fee schedule, means of filing, and recordkeeping requirements.

109.1(3) Applicability. Except as provided in rule 109.3(455B), operators of all sanitary landfills located within Iowa and subject to the permitting requirements of the department shall pay a fee for each ton of solid waste received and disposed of.

900—109.2(455B) Definitions. In addition to the definitions in Iowa Code section 455B.301 and in rule 100.2(455B), the following terms have the meaning indicated in this chapter.

“Municipal solid waste” means solid waste, excluding sewage sludge and liquid wastes, which are primarily generated by residential activities but may include minor amounts of commercial and industrial wastes that are in the total waste stream and are not hazardous.

“Commercial and industrial solid waste” means solid waste excluding sludge and liquid waste, which are generated by commercial or industrial activities and are not hazardous.

900—109.3(455B) Exclusions. The fees specified in rule 109.4(455B) shall not apply to solid waste meeting any of the following criteria:

1. The waste consists only of construction and demolition waste and disposal occurs in a solid waste disposal facility which receives and disposes of only construction and demolition waste.

2. The waste consists only of construction and demolition waste and disposal occurs in an area of a sanitary landfill which has been designated exclusively for the disposal of construction and demolition waste on plans and specifications approved by the department.

3. The waste consists only of materials which have been approved by the department for lining or capping or for the construction of berms or roads in a sanitary disposal project or sanitary landfill and the wastes are used for these purposes at the sanitary disposal project or sanitary landfill.

900—109.4(455B) Fee schedule.

109.4(1) Effective date. On and after April 1, 1986, fees shall begin to accrue for the disposal of solid waste in sanitary landfills within Iowa.

109.4(2) Fee.

a. For solid waste disposed of in sanitary landfills located within the state of Iowa, the landfill operator shall be responsible for a fee of 25 cents for each ton.

b. For purposes of assessing this fee, sanitary landfills which utilize scales shall base the assessment on the net scale weight of solid wastes disposed of at the landfill during the reporting period.

c. Sanitary landfills which do not utilize scales shall assess this fee by determining the volume of solid wastes disposed of at the landfill during the reporting period and converting this volume to an equivalent weight basis, using the following conversion factors:

Type of Waste	Volume/Weight Conversion
Municipal Solid Waste	
As delivered-compacted	1 cubic yard = 500 pounds
As delivered-loose	1 cubic yard = 200 pounds
Commercial & Industrial	
Solid Waste	1 cubic yard = 500 pounds
Sludge and Liquid Waste	1 cubic yard = 1,700 pounds
Construction &	
Demolition Waste	1 cubic yard = 1,250 pounds
Tree and Brush	1 cubic yard = 300 pounds
Other	1 cubic yard = 500 pounds

900—109.5(455B) Form, manner, time and place of filing.

109.5(1) Form. Any person to whom this chapter applies shall file a completed WAWM Form _____.

109.5(2) Manner, time and place. Fees and forms are due on April 15 for the previous calendar year. The person shall present or mail the completed form with the appropriate fees to: Accounting, Department of Water, Air and Waste Management, Henry A. Wallace Building, 900 East Grand, Des Moines, Iowa 50319.

WATER, AIR AND WASTE MANAGEMENT DEPARTMENT[900] (cont'd)**900—109.6(455B) Reporting and recordkeeping.**

109.6(1) Operating records. Those sanitary landfill operators who are subject to the fee assessment requirements of these rules shall maintain daily records showing all solid waste received at and disposed of in the sanitary landfill. As a minimum, these records shall contain all of the following:

a. The source of each load of solid waste received at the sanitary landfill. Waste sources may be identified either by identifying the original waste source or by identifying the person or firm transporting the waste to the sanitary landfill.

b. The net weight of each load of solid waste received at the sanitary landfill, provided scale weights are available. If scale weights are not available, the record must list the volume of each load of solid waste received.

c. The type of waste contained in each load of solid waste received using the waste types listed in paragraph 109.4(2)"c."

d. For each load of solid waste received at sanitary landfill, the records shall indicate whether the solid waste is subject to the fee assessment requirements of these rules.

109.6(2) All records required under this chapter must be kept for a period of at least three years from the end of the calendar year which the records represent.

109.6(3) A copy of WAWM Form _____ must be kept for a period of at least three years from the due date of the form.

109.6(4) All records required under this chapter must be furnished upon request, and made available at all reasonable times for inspection to any officer, employee, or representative of the department who is duly designated by the executive director.

900—109.7(455B) Failure to pay fees. If it is found that a person has failed to pay the fees assessed by this chapter, the executive director will enforce the collection of the delinquent fees. A person required to pay fees as required by Iowa Code section 455B.310 who fails or refuses to pay the fees shall be assessed a penalty of fifteen percent of the fee due.

These rules are intended to implement Iowa Code sections 455B.309 and 455B.310.

ARC 6346**WATER, AIR AND WASTE
MANAGEMENT DEPARTMENT [900]**

WATER, AIR AND WASTE MANAGEMENT COMMISSION

NOTICE OF TERMINATION

Pursuant to the authority of Iowa Code section 455B.105, and 1985 Iowa Acts, chapter 162, section 4, the Water, Air and Waste Management Commission gives Notice of Termination of **ARC 6031**, published in the October 9, 1985, Iowa Administrative Bulletin relating to the regulation of underground storage tanks, Chapter 135. The Commission adopted these rules, **ARC 6030**, and published the Notice of Intended Action in order to obtain further public comment. As a result of the limited comments, no changes in the adopted rules will be made, and thus the Notice of Intended Action is terminated.

ARC 6347

**SOIL CONSERVATION
DEPARTMENT[780]**

Pursuant to the authority of Iowa Code section 467A.4(1), the State Soil Conservation Committee emergency adopts and implements rules to amend Chapter 27, "Iowa Abandoned Mined Land (AML) Reclamation Program."

This rule describes forms to be utilized in conjunction with the AML Program. Availability of forms is also addressed.

Pursuant to Iowa Code section 17A.4(2), the Department is emergency adopting this rule, but is simultaneously putting them under notice, **ARC 6348**, to allow for public participation and review.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Department is also emergency implementing this rule. A benefit is bestowed on the public by encouraging more bidders to compete for construction projects. This package of bid forms is also expected to improve the quality of individual bids.

This rule will become effective January 24, 1986.

The State Soil Conservation Committee adopted this rule January 20, 1986.

This rule implements Iowa Code section 83.21.

The following rule is adopted:

ITEM 1. Chapter 27 is amended by adding the following new rule:

27.181 to 27.189 Reserved.

780—27.190(83) Abandoned mined land (AML) program forms.

27.190(1) Availability of forms. Copies of forms utilized in the AML program are available at the following address: Iowa Department of Soil Conservation, Wallace State Office Building, Des Moines, Iowa 50319.

27.190(2) Bidding forms for construction projects.

Form
Number

Description

AML-001 Proposal. This form is used to document bid proposals from potential contractors for conducting reclamation work on abandoned mined lands. The form also includes a noncollusion affidavit. 2 pages.

- AML-002 Proposal Guarantee Bond. This form identifies the bidder and the surety, lists the amount of the bid guarantee bond and provides for notarization of the signatures of the bound parties. 1 page.
- AML-003 Nondiscrimination Clause. This form is used to document that the contractor is morally and legally committed to non-discrimination in employment. 1 page.
- AML-004 Minority and Women Business Enterprise Solicitation Reporting Form. This form is used to document the contractor's solicitation of subcontract or sub-subcontract bids from minority or women business enterprises. 1 page.
- AML-005 Certificate of Nonsegregated Facilities. This form is used to certify that the construction contractor does not maintain or provide employees any segregated facilities at any of the contractor's establishments. 1 page.
- AML-006 Contract. This form documents the agreement between the contractor and the department for the fulfillment of work in accordance with performance set forth and the payment therefore in accordance with the agreed upon price. 2 pages.
- AML-007 Performance Bond. This form identifies the contractor and the surety and binds them to the state of Iowa for performing the contract in accordance with the plans, specifications and contract documents. The form lists the amount of the bond and provides for notarization of the signatures of the contractor and surety. 2 pages.

[Filed emergency 1/24/86, effective 1/24/86]

[Published 2/12/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 2/12/86.

ARC 6325**AGRICULTURE DEPARTMENT[30]**

Pursuant to the authority of Iowa Code section 215A.3, the Iowa Department of Agriculture hereby adopts a rule amending Chapter 55, "Weights and Measures," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin, Volume VIII, Number 12, December 4, 1985, as **ARC 6165**. Public comments were solicited until December 24, 1985, and no comments or suggestions were received. This rule is identical to that published under Notice.

This rule is intended to implement Iowa Code section 215A.3 and will become effective March 19, 1986.

The following amendment is adopted:

Chapter 55 is amended by adding a new rule 30—55.54(215,215A) as follows:

30—55.54(215,215A) Specifications and standards for moisture measuring devices. The specifications and tolerances for moisture measuring devices are those established by the United States Department of Agriculture as of November 15, 1971, in chapter XII of GR instruction 916-6, equipment manual, used by the federal grain inspection service; and those recommended by National Bureau of Standards and published in National Bureau of Standards Handbook 44 as of July 1, 1985.

This rule is intended to implement Iowa Code section 215A.3.

[Filed 1/15/86, effective 3/19/86]

[Published 2/12/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 2/12/86.

ARC 6343**HEALTH DEPARTMENT[470]****BOARD OF PSYCHOLOGY EXAMINERS**

Pursuant to the authority of Iowa Code section 17A.9, the Board of Psychology Examiners hereby adopts an amendment to Chapter 140 of the Iowa Administrative Code.

The rule was adopted at a regular Board meeting January 17, 1986.

Notice of Intended Action was published in the Iowa Administrative Bulletin August 28, 1985, as **ARC 5859**.

The rule provides a procedure for declaratory rulings. The rule is identical to that published under the Notice of Intended Action.

The rule is intended to implement Iowa Code section 17A.9.

The rule shall become effective March 21, 1986.

Subrule 140.3(7) is rescinded and the following adopted in lieu thereof:

140.3(7) Upon petition filed by any individual, partnership, corporation, association, governmental subdivision, private or public organization, or state agency, the board may issue a declaratory ruling as to the applicability of statutes and rules, policy statements, decisions, and orders under its jurisdiction.

a. A petition for a declaratory ruling shall be typewritten or printed and at the top of the first page shall appear in capitals the words: **PETITION FOR DECLARATORY RULING BEFORE THE IOWA BOARD OF PSYCHOLOGY EXAMINERS.**

b. The petition shall include the name and official title, if any, address and phone number of each petitioner. If the request is at the behest of any entity mentioned in subrule 140.3(7), it shall name the entity.

c. The body of the petition shall contain:

(1) A detailed statement of facts upon which petitioner requests the board to issue its declaratory ruling.

(2) The statute, rule, policy statement, decision, or order for which a ruling is sought.

(3) The exact words, passages, sentences, or paragraphs which are the subject of inquiry.

(4) The specific questions presented for declaratory ruling.

(5) A consecutive numbering of each multiple issue presented for declaratory ruling.

(6) A brief may be attached thereto.

d. The petition shall be filed either by serving it personally to the Director, Professional Licensure, or by mailing it to the Director, Professional Licensure, State Department of Health, Lucas State Office Building, Des Moines, Iowa 50319.

e. The director shall acknowledge receipt of petitions or return petitions not in substantial conformity with the above rules.

f. The board may decline to issue a declaratory ruling for the following reasons:

(1) A lack of jurisdiction.

(2) A lack of clarity of the issue and facts presented.

(3) The issue or issues presented are pending resolution by a court of Iowa or by the attorney general.

(4) The issue or issues presented have been resolved by a change in circumstances or by other means.

(5) The issue or issues are under investigation for purposes of formal adjudication.

(6) The petition does not comply with the requirements imposed by this subrule.

(7) Where a ruling would necessarily determine the legal rights of other parties not represented in the proceeding.

g. In the event the board declines to make a ruling, the director shall notify the petitioners of this fact and the reasons for the refusal.

h. When the petition is in proper form and has not been declined, the board shall issue a ruling disposing of the petition within a reasonable time after its filing.

i. Rulings shall be mailed to petitioners and to other parties at the discretion of the director. Rulings shall be indexed and available for public inspection.

j. A declaratory ruling by the board shall have a binding effect upon subsequent board decisions and orders which pertain to the party requesting the ruling and in which the factual situation and applicable law are indistinguishable from that presented in the petition for declaratory ruling. To all other parties and in factual situations which are distinguishable from that presented in the petition, a declaratory ruling shall serve merely as precedent.

[Filed 1/24/86, effective 3/21/86]

[Published 2/12/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 2/12/86.

ARC 6328**HEALTH DEPARTMENT[470]****BOARD OF CHIROPRACTIC EXAMINERS**

Pursuant to the authority of Iowa Code section 258A.2, the Board of Chiropractic Examiners hereby adopts an amendment to Chapter 141 of the Iowa Administrative Code.

This rule change requires the accredited continuing education sponsor to include the license number in their report of programs and hours.

This rule is identical to that proposed in the Notice of Intended Action.

Notice of Intended Action was published in the Iowa Administrative Bulletin, Volume VIII, Number 7, September 25, 1985, as **ARC 5948** and the rule was adopted at the January 11, 1986, board meeting.

This rule is intended to implement Iowa Code section 258A.2.

This rule becomes effective March 19, 1986.

Rule 141.68(258A) is amended to read as follows:

470—141.68(258A) Attendance report. The person or organization sponsoring continuing education activities shall make a written record of the Iowa licensees in attendance at each activity and send a signed copy of the attendance record to the executive secretary of the board upon completion of the educational activity, but in no case later than February 1 of the following calendar year. *The attendance record shall include the licensee's certificate of license number.*

[Filed 1/17/86, effective 3/19/86]

[Published 2/12/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 2/12/86.

ARC 6344**HEALTH DEPARTMENT[470]****BOARD OF MORTUARY SCIENCE EXAMINERS**

Pursuant to the authority of Iowa Code section 147.76, the Board of Mortuary Science Examiners hereby adopts amendments to Chapter 146, "Funeral Directors," of the Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin December 18, 1985, as **ARC 6204**.

The amendments remove the reference to "transportation of bodies to educational institutions" and remove the requirement to handle cremated remains in the same manner as noncremated bodies.

The rules are identical to those published in the Notice of Intended Action.

The rules are intended to implement Iowa Code section 156.1.

The rules shall become effective March 20, 1986.

ITEM 1. Subrule 146.5(1) is amended to read as follows:

146.5(1) Transportation of bodies to educational institutions: All dead bodies transported by common carrier shall be embalmed before shipment if the condition of the body permits embalming. Embalming is not required if the body is transported by an Iowa licensed funeral director or the next of kin. If embalming is not possible, or

if the body is in a state of decomposition, it shall be shipped only after enclosure in a strong, tightly sealed outer receptacle.

ITEM 2. Subrule **146.5(10)** is rescinded.

[Filed 1/24/86, effective 3/20/86]

[Published 2/12/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 2/12/86.

ARC 6335**HUMAN SERVICES
DEPARTMENT[498]**

Pursuant to the authority of Iowa Code section 234.6(7), the Department of Human Services hereby amends Chapter 65, "Administration," appearing in the Iowa Administrative Code.

The Council on Human Services adopted this rule on January 15, 1986. Notice of Intended Action regarding this rule was published in the Iowa Administrative Bulletin on December 4, 1985, as **ARC 6186**.

Under current food stamp program policy if the primary wage earner of a household voluntarily quits employment without good cause, the household containing that person is disqualified for three months. Once the disqualification period is imposed on a household, that household is ineligible for the entire period of disqualification, regardless of whether the primary wage earner remains in the household.

This amendment establishes that when the primary wage earner leaves the household, the sanction will remain with the person who quit.

A paragraph was added to the rule to clarify that in order for eligibility to be re-established for the household which the primary wage earner left, it will be necessary for the household to reapply.

This rule is intended to implement Iowa Code section 234.12.

This rule shall become effective April 1, 1986.

Amend rule 498—65.27(234) as follows:

498—65.27(234) Voluntary quit. Participating households subject to sanction because the primary wage earner voluntarily quit employment shall be subject to a disqualification period of three calendar months beginning with the month following the adverse notice period.

When the primary wage earner who caused the disqualification leaves the household, the disqualification shall remain with the primary wage earner. Any other household containing this member shall be subject to the disqualification for the remainder of the disqualification period.

In order for eligibility to be re-established for the household which the primary wage earner left, it will be necessary for the household to reapply.

[Filed 1/22/86, effective 4/1/86]

[Published 2/12/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 2/12/86.

ARC 6334**HUMAN SERVICES
DEPARTMENT[498]**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services hereby amends Chapter 77, "Conditions of Participation for Providers of Medical and Remedial Care," Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," and Chapter 80, "Procedure and Method of Payment," appearing in the Iowa Administrative Code. The Department has the authority to make rules to determine the method and level of reimbursement of medical and health services.

The Council on Human Services adopted these rules on January 15, 1986. Notice of Intended Action regarding these rules was published in the Iowa Administrative Bulletin on December 4, 1985, as **ARC 6187**.

These amendments add nurse-midwives to the Medicaid program. The payment of nurse-midwives is required by federal regulations. Conditions for participation, scope of service and payment method are established.

The Medicaid program currently pays for the services of nurse-midwives as auxiliary personnel through provider agreements with physicians and nurse-midwives employed by hospitals. Federal regulations, Title 42, Parts 440.210 and 440.220, require that a state plan provides for nurse-midwife services to the extent that nurse-midwives are legally authorized under state law or rules to practice.

The Iowa Board of Nursing requires that nurse-midwives be a part of a health care system which provides for medical consultation, collaborative management or referral.

These rules allow for the payment of independently practicing nurse-midwives but limit the settings in which nurse-midwives may practice.

The cost of services provided by nurse-midwives will be less than the reimbursement for physician services.

The Department recently added genetic consultation clinics to the Medicaid program and neglected to stipulate the procedure for the clinics to submit their claims. These rules include that procedure.

These rules are identical to those published under Notice.

These rules are intended to implement Iowa Code section 249A.4.

These rules shall become effective April 1, 1986.

ITEM 1. Amend 498—chapter 77 by adding the following new rule:

498—77.26(249A) Nurse-midwives. Nurse-midwives are eligible to participate in the Medicaid program if they have a current active license as a registered nurse and if they possess evidence of certification by the American College of Nurse-Midwives. Nurse-midwives must meet any additional standards imposed by their state for nurse-midwifery practice.

ITEM 2. Amend 498—chapter 78 by adding the following new rule:

498—78.29(249A) Nurse-midwives. Payment will be made for services provided by nurse-midwives contingent upon the following criteria being met:

78.29(1) The services are performed in a system that allows for consultation, collaboration, and referral between certified nurse-midwives and physicians. The collaborating physician is not required to be on the premises.

78.29(2) The women served by a nurse-midwife must be examined by a physician on at least two occasions during the pregnancy: An initial screening review of the women to determine the appropriateness for nurse-midwife care and during the last month of the pregnancy. A joint determination must be made by the nurse-midwife and the physician that the women are obstetrically low-risk and eligible for care by a nurse-midwife.

78.29(3) The nurse-midwife shall provide for referral for the infant's neonatal examination.

78.29(4) The nurse-midwife shall have promptly available the necessary equipment and personnel to handle emergencies.

78.29(5) The services of the nurse-midwife are provided in birth centers, hospitals, or clinics.

78.29(6) The nurse-midwife providing services in other than a hospital shall negotiate a written agreement with one or more hospitals for the prompt transfer of patients requiring care. The patient record information shall be transmitted with the patient at the time of transfer.

78.29(7) The nurse-midwife shall maintain a current and complete medical record for each patient and shall have the record available for reference.

The record shall have at least the following: Admitting diagnosis, physical examination, report of medical history, record of medical consultation where indicated, laboratory tests, X rays, delivery reports, anesthesia record and discharge summary.

78.29(8) Payment will be made to nurse-midwives directly only if they are not auxiliary personnel as defined in subrule 78.1(13) or if they are not hospital employees.

ITEM 3. Amend subrule **79.1(2)**, Basis of reimbursement of specific provider categories by adding the following new category.

	Basis of	Upper Limit
<u>Noninstitutional</u>	<u>Reimbursement</u>	<u>Reimbursement</u>
21. Nurse-midwives	Fixed fee less 7.86%	rate in effect 4/1/86

ITEM 4. Amend subrule **80.2(2)** by adding the following new paragraphs:

y. Genetic consultation clinics shall submit claims on Form HCFA-1500, Health Insurance Claim Form.

z. Nurse-midwives shall submit claims on Form HCFA-1500, Health Insurance Claim Form.

[Filed 1/22/86, effective 4/1/86]

[Published 2/12/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 2/12/86.

ARC 6336**HUMAN SERVICES
DEPARTMENT[498]**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services hereby amends Chapter 83, "Title XIX Waiver Services," appearing in the Iowa Administrative Code.

HUMAN SERVICES DEPARTMENT[498] (cont'd)

The Council on Human Services adopted this rule on January 15, 1986. Notice of Intended Action regarding this rule was published in the Iowa Administrative Bulletin on December 4, 1985, as ARC 6188.

Under current rules in order to be eligible for waiver services, a person must be ineligible for medical assistance under other Title XIX programs or coverage groups with the exception of the cases approved by the Intradepartmental Board for Supplemental Security Income Deeming Determinations.

This amendment provides for another exception for persons who may be eligible for medical assistance under the medically needy program. Persons who may be eligible for either the medically needy or the Title XIX waiver program may choose the program which best meets their needs.

Both the Title XIX waiver program and the medically needy program are programs for which an individual can be eligible only if the individual is eligible for no other programs. Unlike other noninstitutional Medicaid programs, both the waiver program and medically needy program require a contribution from the recipient in the form of client participation in service costs and spend-down for medical costs, respectively.

There are advantages and disadvantages to both programs based on the individual situation of each applicant. Therefore, the Department felt that the applicant should have the choice of programs. The federal financial participation is the same to the state for both programs.

The name of the federal board was capitalized to show it is the name of a specific board.

This rule is intended to implement Iowa Code section 249A.4.

This rule shall become effective April 1, 1986.

Amend subrule 83.5(2) as follows:

83.5(2) The individual must be ineligible for medical assistance under other Title XIX programs or coverage groups, with the exception of the medically needy program and the cases approved by the ~~intradepartmental board for supplemental security income deeming determinations~~ *Intradepartmental Board for Supplemental Security Income Deeming Determinations*.

[Filed 1/22/86, effective 4/1/86]

[Published 2/12/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 2/12/86.

This amendment makes the following changes in the standards for juvenile detention and shelter care homes to provide for better supervision of the children in care. The changes were recommended by the Shelter/Detention Association and Department licensing staff.

1. Facilities are prohibited from employing individuals convicted of crimes involving mistreatment or exploitation of a child.

2. Current rules require the child's parents, referring worker, and the child's attorney to be notified in all cases when the control room is used. Notifying these persons anytime a child was placed in a control room was difficult for detention facilities. These rules require notification in the event that the child is in the control room for over thirty minutes in any twenty-four-hour period. Each instance must still be documented in the child's case record.

3. Currently the child and the child's parents or guardian are to be given a copy of the facility's policies and procedures upon the child's admission to the facility. Some children are only held for a few hours or a few days and it is hard to provide the policies and procedures to the parents or guardian. Under these rules, the child continues to receive a copy, but the parents or guardian receive the information only if the child remains over four days unless they request the information.

4. The previous rule regarding the monitoring of family visits was vague. This change allows monitoring of the visit only to the extent necessary to assure the child's safety and facility security. The reason for monitoring the visit must be documented in the child's case record.

5. Communication between the child and legal counsel or the referring worker shall not be monitored.

6. Telephone conversations may be monitored only to the extent necessary to assure the child's well-being and facility security. The reason must be documented in the child's case record.

7. Current rules allow a child to be confined to the child's room for illness, upon the child's request, or for discipline. These rules also allow detention homes to confine children to their rooms during normal sleeping hours.

The word "time" was removed in subrule 105.10(3), paragraph "h," as it was superfluous. The word "such" was replaced by the word "the" in subrule 105.16(4).

These rules are intended to implement Iowa Code section 232.142.

These rules shall become effective April 1, 1986.

ITEM 1. Amend subrule 105.3(3), paragraph "i," as follows:

i. Documentation of a check with the Iowa department of public safety on all new applicants for employment asking only whether the applicant has been convicted of a crime involving the mistreatment or exploitation of a child prior to permanently employing the individual. Department Form SS-2203, "Department of Public Safety Check," shall be used.

Any individual convicted of a crime involving the mistreatment or exploitation of a child shall not be employed by the facility.

ITEM 2. Amend subrule 105.10(3), paragraph "h," as follows:

h. The child's parents, referring worker, and the child's attorney shall be notified in all cases when the control room is used for more than a total of thirty minutes in any twenty-four-hour period.

ARC 6337

HUMAN SERVICES DEPARTMENT[498]

Pursuant to the authority of Iowa Code sections 234.6 and 232.142, the Department of Human Services hereby amends Chapter 105, "County and Multicounty Juvenile Detention Homes and County and Multicounty Juvenile Shelter Care Homes," appearing in the Iowa Administrative Code.

The Council on Human Services adopted these rules on January 15, 1986. Notice of Intended Action regarding these rules was published in the Iowa Administrative Bulletin on December 4, 1985, as ARC 6189.

HUMAN SERVICES DEPARTMENT[498] (cont'd)

ITEM 3. Amend rule 498—105.15(232) as follows:

Amend subrule 105.15(1) as follows:

105.15(1) Policies in writing. All policies and procedures covered in this rule shall be in writing and provided to the child and parents or guardian upon the child's admission to the facility and made available to the child's parent or guardian upon request. If the child remains in care over four days, the policies and procedures shall be provided to the parent or guardian. The rationale and circumstances of any deviation from these policies shall be discussed with the child's parents or guardian and the referring worker, documented, and placed in the child's case record.

Rescind subrule 105.15(3), paragraph "b," and adopt the following in lieu thereof:

b. Family visits shall be monitored only to the extent necessary to assure the child's safety and facility security. Rationale for monitoring shall be documented in the child's record.

Amend subrule 105.15(3), paragraphs "c" and "d," as follows:

c. The child shall be permitted to communicate privately with legal counsel and the referring worker.

d. The child shall be allowed to conduct private telephone conversations with family members. Phone calls shall be monitored only to the extent necessary to assure the child's well-being and facility security. Rationale for monitoring a child's conversation shall be documented in the child's record. Incoming calls may be screened by staff to verify the identity of the caller before approval is given.

ITEM 4. Amend subrule 105.16(4) as follows:

105.16(4) Room confinement. Facilities shall provide sufficient programming and staff coverage to enable children to be involved in group activities during the day and evening hours. A child shall only be confined to such the child's room for illness, at the child's own request, or for disciplinary reasons. A juvenile detention home may confine a child to the child's room during normal sleeping hours if the facility has written policies and procedures which are approved by the department regarding this confinement.

[Filed 1/22/86, effective 4/1/86]

[Published 2/12/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 2/12/86.

ARC 6338

**HUMAN SERVICES
DEPARTMENT[498]**

Pursuant to the authority of Iowa Code section 235A.14, the Department of Human Services hereby amends Chapter 176, "Dependent-Adult Abuse," appearing in the Iowa Administrative Code. The Department shall adopt rules for operation of the Central Abuse Registry.

The Council on Human Services adopted this rule on January 15, 1986. Notice of Intended Action regarding this rule was published in the Iowa Administrative Bulletin on November 20, 1985, as **ARC 6139**.

This amendment reorganizes the rule relating to dissemination of adult abuse information from the Central Registry for clarity.

Child abuse rules have contained the authority for Department operated facilities which provide direct client care to check on child abuse information by employees. Reports are released by the Registry only to the personnel office of the Department. The personnel office releases information to the hiring authority only upon a finding that the information has a direct bearing on employability of the person involved.

This amendment also adds the same provision for checking adult abuse information.

This rule is identical to that published under Notice.

This rule is intended to implement Iowa Code sections 235A.15 to 235A.19.

This rule shall become effective April 1, 1986.

Rescind rule 498—176.10(235A) and insert the following in lieu thereof:

498—176.10(235A) Adult abuse information disseminated.

176.10(1) Requests for information. Written requests for adult abuse information shall be submitted to the local or district office of the department on Form SS-1114, Request for Dependent Adult Abuse Information except as provided in subrule 176.10(3), paragraph "c."

Requests may be made by telephone to the central registry pursuant to the requirements of Iowa Code subsection 235A.16(2). Oral requests must be followed by a written request to the central registry within seventy-two hours on Form SS-1114.

176.10(2) Verification of identity. The local or district office shall verify the identity of the person making the request on Form SS-1114, Request for Dependent Adult Abuse Information. Upon verification of the identity of the person making the request, the local or district office shall transmit the request to the central registry.

176.10(3) Approval of requests. Upon receipt of a request for information, the central registry shall approve dissemination of information to persons authorized in Iowa Code subsection 235A.15(2).

a. Method of dissemination. Except as provided in paragraph "c" below, the central registry shall notify the local or district office of the decision made regarding the request. If the request is denied by the central registry, the local or district office shall inform the person making the request of the denial. If the request is approved by the central registry, the local or district office shall disseminate to the person making the request the information specified by the central registry on Form SS-1114, Request for Dependent Adult Abuse Information.

b. Dissemination of undetermined reports. A report which cannot be determined by a preponderance of the evidence to be founded or unfounded may be disseminated and redisseminated in accordance with Iowa Code sections 235A.15 and 235A.17 until the report is expunged. Information referred to in the report may be referred to in subsequent reports and evaluations.

c. Requests concerning employees of department facilities. When a request is made by the hiring authority of a department operated facility which provides direct client care and the request is made for the purpose of determining continued employability of a person employed, with or without compensation, by the facility, the information shall be requested directly from the central registry. The information requested shall be disseminated

HUMAN SERVICES DEPARTMENT[498] (cont'd)

to the personnel office of the department. The personnel office shall disseminate the information to the hiring authority for the person involved only upon a finding that the information has a direct bearing on employability of the person involved.

When the personnel office determines that the information has no direct bearing on employability, the hiring authority shall be notified that no job-related dependent adult abuse information is available. If the central registry and local office files contain no information, the hiring authority shall be so informed.

176.10(4) Required notification. The department shall notify orally the subject of a report of the results of the investigation. The department shall subsequently transmit a written notice to the subject which will include information regarding the results, the confidentiality provisions of Iowa Code sections 235A.15 and 235A.21, and the procedures for correction or expungement and appeal of dependent adult abuse information as provided in Iowa Code section 235A.19.

[Filed 1/22/86, effective 4/1/86]
[Published 2/12/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 2/12/86.

ARC 6332**NURSING, BOARD OF[590]**

Pursuant to the authority of Iowa Code section 147.76, the Iowa Board of Nursing hereby adopts an amendment to Chapter 5, "Continuing Education," appearing in the Iowa Administrative Code.

The amendment allows the Board to consider the approved status of a provider as having been relinquished if the Board, after reasonable search, is unable to locate the provider.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 23, 1985, as **ARC 6045**. This amendment is identical to that published under Notice of Intended Action.

This rule amendment implements Iowa Code section 258A.2.

This amendment will become effective on March 19, 1986.

Amend subrule 5.3(6) to read as follows:

5.3(6) Voluntary relinquishment of an approved providership. An approved provider may voluntarily relinquish its provider number. *If an approved provider does not submit the required materials for reapproval or is unable to be located by the board, by certified mail, the board will consider that the provider voluntarily relinquished its approved provider status effective with the return of the certified mail or as determined by the executive director. When the approved providership has been voluntarily relinquished, in doing so the provider shall discontinue providing continuing education that is acceptable for license renewal in Iowa.*

a. The provider shall maintain the records required in subrule 5.3(2) until four years after the last credit was granted or transfer the records to the custody of the board.

b. The provider may apply no sooner than one year after the relinquishment to become an approved provider by starting the initial approval process specified in subrule 5.3(3).

[Filed 1/21/86, effective 3/19/86]
[Published 2/12/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 2/12/86.

ARC 6331**NURSING HOME
ADMINISTRATORS
BOARD OF EXAMINERS[600]**

Pursuant to the authority of Iowa Code sections 17A.9 and 147.76, the Iowa Board of Examiners for Nursing Home Administrators adopts amendments to Chapters 1, 2, and 3, Iowa Administrative Code.

The rules were adopted at a regular Board meeting on January 14, 1986.

Notice of Intended Action was published in the Iowa Administrative Bulletin August 14, 1985 as **ARC 5804**.

The rules provide a procedure for declaratory rulings, provide for duplicate licenses for additional facilities, and require reports by providers of continuing education to be submitted within thirty days.

The rules are identical to the Notice of Intended Action.

The rules are intended to implement Iowa Code sections 17A.9, 147.80, and 258A.2.

The rules shall become effective March 21, 1986.

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

600—1.4(147) Declaratory rulings.

1.4(1) Upon petition filed by any individual, partnership, corporation, association, governmental subdivision, private or public organization, or state agency, the board may issue a declaratory ruling as to the applicability of statutes and rules, policy statements, decisions, and orders under its jurisdiction.

1.4(2) A petition for a declaratory ruling shall be typewritten or printed and at the top of the first page shall appear in capitals the words: PETITION FOR DECLARATORY RULING BEFORE THE IOWA BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS.

1.4(3) The petition shall include the name and official title, if any, address and phone number of each petitioner. If the request is at the behest of any entity mentioned in subrule 1.4(1) it shall name the entity.

1.4(4) The body of the petition shall contain:

a. A detailed statement of facts upon which petitioner requests the board to issue its declaratory ruling.

b. The statute, rule, policy statement, decision, or order for which a ruling is sought.

c. The exact words, passages, sentences, or paragraphs which are the subject of inquiry.

d. The specific questions presented for declaratory ruling.

NURSING HOME ADMINISTRATORS BOARD OF EXAMINERS[600] (cont'd)

e. A consecutive numbering of each multiple issue presented for declaratory ruling.

f. A brief may be attached thereto.

1.4(5) The petition shall be filed either by serving it personally to the Director, Professional Licensure, or by mailing it to the Director, Professional Licensure, State Department of Health, Lucas State Office Building, Des Moines, Iowa 50319.

1.4(6) The director shall acknowledge receipt of petitions or return petitions not in substantial conformity with the above rules.

1.4(7) The board may decline to issue a declaratory ruling for the following reasons:

- a. A lack of jurisdiction.
- b. A lack of clarity of the issue and facts presented.
- c. The issue or issues presented are pending resolution by a court of Iowa or by the attorney general.
- d. The issue or issues presented have been resolved by a change in circumstances or by other means.

e. The issue or issues are under investigation for purposes of formal adjudication.

f. The petition does not comply with the requirements imposed by subrules 1.4(1) to 1.4(5).

g. Where a ruling would necessarily determine the legal rights of other parties not represented in the proceeding.

1.4(8) In the event the board declines to make a ruling, the director shall notify the petitioners of this fact and the reasons for the refusal.

1.4(9) When the petition is in proper form and has not been declined, the board shall issue a ruling disposing of the petition within a reasonable time after its filing.

1.4(10) Rulings shall be mailed to petitioners and to other parties at the discretion of the director. Rulings shall be indexed and available for public inspection.

1.4(11) A declaratory ruling by the board shall have a binding effect upon subsequent board decisions and orders which pertain to the party requesting the ruling and in which the factual situation and applicable law are indistinguishable from that presented in the petition for declaratory ruling. To all other parties and in factual situations which are distinguishable from that presented

ITEM 2. Subrule 2.5(3) is amended to read as follows:

2.5(3) The fee for biennial renewal of all licenses *except for additional facilities* is ninety dollars payable on or before December 31 of each odd-numbered biennium. *The biennial renewal fee for a duplicate license to practice as a nursing home administrator is twenty dollars. A duplicate license to practice as a nursing home administrator shall be renewed at the same time as the original license.*

ITEM 3. Subrule 2.5(5) is amended to read as follows:

2.5(5) The fee for a duplicate license if the original is lost or stolen is ten dollars. *Fee for a duplicate license for additional facilities is ten dollars.*

ITEM 4. Rule 600—3.7(258A) is amended to read as follows:

600—3.7(258A) Attendance record report. The person or organization sponsoring continuing education activities shall make a written record of the Iowa licensees in attendance and send a signed copy of such the attendance record to the Board of Examiners for Nursing Home Administrators upon completion of the educational activity, but in no case later than thirty days after the program not later than thirty days after the completion of the continuing education activity to the Iowa State

Department of Health, Professional Licensure, Lucas State Office Building, Des Moines, Iowa 50319. The report shall be sent to the Iowa State Department of Health, Licensing and Certification Section, Lucas State Office Building, Des Moines, Iowa 50319.

[Filed 1/17/86, effective 3/21/86]

[Published 2/12/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 2/12/86.

ARC 6350

REVENUE DEPARTMENT[730]

Pursuant to the authority of Iowa Code sections 421.14 and 422.68(1), the Iowa Department of Revenue hereby adopts amendments to Chapter 42 "Adjustments to Computed Tax" and Chapter 43 "Assessments and Refunds," Iowa Administrative Code.

Notice of Intended Action was published in Iowa Administrative Bulletin, Volume VIII, Number 13, on December 18, 1985, as ARC 6229.

Chapter 42 is amended to correct erroneous references to the Code sections the rule is designed to implement. This rule is also revised to clarify that the school district surtax is imposed on all taxpayers living in a district with the surtax on the last day of the tax year.

Chapter 43 is amended to include setoffs against income tax refunds and rebates which are authorized in the Iowa Code. Iowa Code subsection 421.17(21) provides that income tax refunds and rebates could be set off against foster care debts and public assistance overpayments which are collected by units or offices of the Department of Human Services.

Chapter 43 is also amended to reflect a setoff which was authorized in 1985 Iowa Acts, chapter 197. 1985 Iowa Acts, chapter 197, provided that district court debts were to be set off against income tax refunds and rebates.

These rules are identical to those published under Notice of Intended Action. The amendments will become effective March 19, 1986, after filing with the administrative rules coordinator and publication in the Iowa Administrative Bulletin.

The following amendments are adopted:

ITEM 1. Amend rule 42.1(422) as follows:

730—42.1(442) School district surtax. Iowa law provides for the implementation of an income surtax for increasing local school district budgets. The surtax must be approved by the voters of a school district in a special election. ~~and The surtax rate shall be~~ is determined by the state comptroller on the basis of the revenue to be raised by the surtax for the particular school district with the surtax.

The school district surtax is imposed on the income tax liabilities of all taxpayers residing in the school district on the last day of the taxpayers' tax years. For purposes of the school district surtax, income tax liability is the tax computed under Iowa Code section 422.5, less the deductions against computed tax which are authorized in Iowa Code sections 422.11 and 422.12 and 1985 Iowa Code Supplement sections 422.10 and 422.11A.

This rule is intended to implement Iowa Code sections 442.15, 442.16 ~~422.16~~ and 442.17 ~~422.17~~.

REVENUE DEPARTMENT[730] (cont'd)

ITEM 2. Rescind subrule 43.3(3) and insert the following in lieu of that subrule:

43.3(3) Setoffs administered by the department of human services, including the child support setoff. Before any refund or rebate from a taxpayer's individual income tax return is considered for purposes of setoff, the refund or rebate must be applied first to any outstanding tax liability of that taxpayer with the department of revenue. After all outstanding tax liabilities are satisfied, any remaining balance of refund or rebate will be set off by the department against any debts of the taxpayer which are assigned to the department of human services for collection. Examples of debts assigned to the department of human services for collection are: (a) Delinquent child support payments which the child support recovery unit of the department of human services is attempting to collect, (b) debts relating to foster care provided by the department of human services which the foster care recovery unit of that department is trying to collect, and (c) other amounts owed to the state for public assistance overpayments which the office of investigations of the department of human services is attempting to collect. For purposes of this rule, "public assistance" means aid to dependent children, medical assistance, food stamps, foster care, and state supplementary assistance.

The child support recovery unit, the foster care recovery unit, and the office of investigations of the department of human services will submit, at least on an annual basis, a listing which includes the full name and social security number of each individual that has a debt of fifty dollars or more which is to be collected by the department of human services. Upon receipt of this listing, the revenue department will notify the department of human services of the persons on the listing that have refunds, the addresses of those individuals, and the refund amounts.

After the department of human services has been notified of a taxpayer's entitlement to a refund or a rebate, the department is to send written notification to the taxpayer and a copy of the notification to the revenue department. The written notification advises the taxpayers of the human services department's assertion of its right to setoff of the refund, the taxpayer's right to contest the setoff action, and the taxpayer's opportunity to request that a joint income tax refund be divided between spouses.

If the department of revenue has been advised by the department of human services that the taxpayer has requested that a joint income tax refund is to be divided before setoff, the refund will be divided between the debtor and the debtor's spouse in proportion to each spouse's net income. The portion of the refund which is determined to be attributable to the debtor will be set off and the portion of the refund which is determined to be attributable to the debtor's spouse will be refunded:

In instances where the debtor gives timely notice to contest the setoff of the refund by the department of revenue, the department will hold the refund in abeyance until final disposition of the contested claim.

In cases where either the taxpayer has failed to contest the setoff or the contested claim for the setoff was resolved in favor of the department of human services, the revenue department shall set off the refund against the department of human services' liability and refund any balance to the taxpayer. The department of human services shall notify the debtor in writing when the setoff is completed. The revenue department shall periodically transfer the amounts set off to the department of human services.

In the case of multiple claims for setoff of the refund or rebate of a taxpayer, the highest priority will be given to claims filed by either the child support recovery unit or the foster care recovery unit of the department of human services, next priority will be given claims filed by the college aid commission and the next lower priority will be given to claims filed by the office of investigations of the department of human services. However, in the case of multiple claims for setoff where one of the claims is for the district court debts setoff, the claim for district court debts will have a lower priority than the other claim.

ITEM 3. Amend subrule 43.3(4) as follows:

43.3(4) College loan setoff. Once all outstanding tax liabilities collectible by the department are satisfied and any claim for child support *and any claim for foster care* received from the department of ~~social~~ human services ~~has~~ *have* been satisfied, the balance of an overpayment or rebate ~~shall~~ *will* be set off by the department to be applied against an amount due because of default on a guaranteed student or parental loan made under Iowa Code chapter 261 if the department has been properly notified by the college aid commission pursuant to Iowa Code section 421.17.

Upon receipt of a list of defaulters from the college aid commission, the department of revenue ~~shall~~ *will* notify the college aid commission of the amount of refund or rebate and the defaulter's address on the income tax return if the refund or rebate equals or exceeds fifty dollars.

Unless the college aid commission is notified by a timely request by the defaulter or the defaulter's spouse to divide a joint refund or rebate, the department of revenue ~~shall~~ *will* set off the ~~above mentioned~~ debt against the defaulter's income tax refund or rebate if both the debt and the refund or rebate are at least fifty dollars and the department shall periodically transfer the amount set off to the college aid commission.

If the department of revenue is notified by the college aid commission of a timely request to divide a joint refund resulting from a return using the filing status for married filing jointly, the refund will be divided based upon the net income of each spouse to the total net income as determined under Iowa Code section 422.7. If a timely request is received to divide a joint refund resulting from a return using the filing status for married filing separately on a combined return, the refund will be divided ~~as if separate returns had been filed in the proportion of each spouse's net income to the net income of both spouses.~~ The ~~portion of the refund of attributable to the defaulter~~ will be set off while the ~~portion of the refund of attributable to the defaulter's spouse~~ will be refunded by the department of revenue.

ITEM 4. Amend rule 730—43.3(422) by adding new subrule 43.3(5) and renumbering all subsequent subrules:

43.3(5) District court debts setoff. Effective on or after July 1, 1986, once all outstanding tax liabilities collectible by the department of revenue are satisfied; any claims received from the department of human services for delinquent child support, or for debts related to a child receiving foster care, or for amounts owed the state for public assistance overpayments are satisfied; and any claims for defaulted college loans which the college aid commission has been trying to collect have been satisfied; the balance of an overpayment or rebate from an individual's income tax return will be set off against the individ-

REVENUE DEPARTMENT[730] (cont'd)

ual's debt to the Iowa district court, if the department has been properly notified by the clerk of district court pursuant to Iowa Code section 421.17.

Upon receipt of a list of names and social security numbers of debtors with debts of fifty dollars or more from the clerk of district court, the department will notify the clerk of the amounts of refunds or rebates of those debtors as well as the home addresses of the debtors.

The clerk will advise those debtors with refunds or rebates of the court's right to all or a portion of the refund through setoff, the debtor's right to contest the setoff and the opportunity for the debtor to request that a refund from a joint return or a combined return be divided between the spouses so that only the portion of the overpayment attributable to the debtor spouse will be set off.

If the debtor timely contests the setoff, the department will hold the refund or rebate in abeyance until all questions concerning the propriety of the setoff are resolved.

In any situation where the clerk transmits a request received in a timely manner from a debtor or debtor's spouse to divide the refund between the spouses, the refund will be divided in the ratio of each spouse's net income to the total net income of both spouses. After the setoff of a debtor's refund to the district court debt is made, the clerk of court is to notify the debtor in writing that the setoff was made. The department is to transfer amounts that have been set off to the district court clerk at least quarterly and monthly if it is deemed practicable.

[Filed 1/24/86, effective 3/19/86]

[Published 2/12/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 2/12/86.

ARC 6333

TRANSPORTATION, DEPARTMENT OF[820]

06 HIGHWAYS

Pursuant to the authority of Iowa Code section 307.10 and 1985 Iowa Code Supplement section 315.10, the Transportation Commission, on January 21, 1986, adopted 820-[06,Q] Chapter 4 entitled "RISE Program." The Commission also rescinded an identically numbered chapter which was adopted on October 8, 1985, under emergency rule making provisions.

A Notice of Intended Action for this chapter was published in the November 6, 1985, Iowa Administrative Bulletin as ARC 6086. Also, the chapter adopted under emergency rule making procedures was published as ARC 6085 in the November 6, 1985, Iowa Administrative Bulletin and was effective on October 11, 1985.

These rules implement 1985 Iowa Code Supplement section 312.2(16, 17) and chapter 315, which, beginning August 1, 1985, credit certain motor and special fuel tax revenues to the revitalize Iowa's sound economy (RISE)

fund for use on road or street projects which promote economic development in the state. These rules list activities which are eligible and ineligible for RISE funding and describe application procedures and requirements, project evaluation procedures, and administrative procedures for funded projects.

The rules have been rewritten because there was confusion about the various types of projects which may be funded under the RISE program. In the emergency rules and the rules under notice, there were two project types: Local development and regional development. Within the local development category, there were two programming procedures: Immediate opportunity and semiannual competitive rating. In the rules adopted on January 21, 1986, the former local development-immediate opportunity procedure projects have been renamed "immediate opportunity" projects; the former local-development-semiannual competitive rating procedure projects have been renamed "local development" projects. Therefore, the adopted rules contain three project types: Immediate opportunity, local development, and regional development.

Following are other changes which were made; many of these changes were made because it was evident from the applications for RISE funding received to date that some local governments are misinterpreting the rules:

The definition for "economic development" was revised to clarify the point that both jobs and income are important.

The definition for "regional development project" was revised to provide a clearer definition of the broad nature of regional development projects.

Items which are eligible to be counted as local participation or match for a RISE roadway project are limited to those items which are listed as eligible for RISE funding.

The amount of storm drainage and storm sewer costs eligible for RISE funding has been clarified.

Sanitary sewers and water mains are ineligible for RISE funding.

The need for specific cost information, as well as specific cost breakdowns, in applications for immediate opportunity and local development projects has been clarified.

The need for cross-section information as part of the sketch plan for a roadway project has been clarified.

The point that immediate opportunity funding is available for the purpose of influencing a job location or retention decision has been clarified.

The time requirement that the staff of the department must meet when processing immediate opportunity applications has been revised. The staff has ten working days to review an application.

The items the commission will consider when evaluating immediate opportunity projects have been added.

Applicants for local development projects are encouraged to submit applications in advance of the deadline.

This chapter of rules is to be published as adopted in the February 12, 1986, Iowa Administrative Bulletin and Supplement to the Iowa Administrative Code to be effective March 19, 1986. Also, the emergency rule chapter published as ARC 6085 is to be rescinded effective March 19, 1986.

These rules are intended to implement 1985 Iowa Code Supplement section 312.2 and chapter 315.

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

Pursuant to the authority of Iowa Code section 307.10 and 1985 Iowa Code Supplement section 315.10, rules 820—[06,Q] chapter 4 entitled "RISE Program" are hereby rescinded and the following is adopted in lieu thereof.

CHAPTER 4
RISE PROGRAM

820—[06,Q]4.1(315) Definitions. When used in this chapter, unless the context otherwise requires:

"Commission" means the state transportation commission.

"Department" means the Iowa department of transportation.

"Direct jobs created" refers to new jobs in firms, developments, or sites specifically assisted by a RISE project.

"Direct jobs retained" refers to existing jobs that would otherwise be lost in firms, developments, or sites specifically assisted by a RISE project.

"Economic development" means private investment involving the creation of new jobs and income or the retention of existing jobs and income that would otherwise be lost. For the purposes of this program, economic development shall be viewed from a statewide perspective rather than a local or substate, regional perspective.

"Funding commitment" means commission approval of the use of RISE funds for a project.

"Grant" means funds received for a RISE project with no provision for applicant repayment of principal.

"Immediate opportunity project," one of the three types of RISE projects, is a roadway project that needs a funding commitment within a short time period and meets the threshold criteria set forth in subrule 4.8(6) of this chapter. The project primarily provides improved access to either a single economic unit, such as a county, a city, an industrial park, a plant or other business, a development site or a tourist attraction, or to a portion of a metropolitan area.

"Jurisdiction" means the state, county, or city having legal authority over a road or street.

"Loan" means funds received for a RISE project with provision for applicant repayment of principal. A loan may or may not involve the payment of interest charges.

"Local development project," one of the three types of RISE projects, is a roadway project which is programmed through a semiannual competitive rating procedure. The project primarily provides improved access to either a single economic unit, such as a county, a city, an industrial park, a plant or other business, a development site or a tourist attraction, or to a portion of a metropolitan area.

"Metropolitan area" means an urbanized area, as defined by the latest available federal decennial or special census.

"Project" means an eligible activity or cost or set of eligible activities or costs funded with RISE program funds. The three types of projects which may be funded under the RISE program are immediate opportunity projects, local development projects, and regional development projects.

"Regional development project," one of the three types of RISE projects, is programmed annually in a process parallel to the department's development of its five-year transportation improvement program. The project provides improved access to either a multiplicity of economic units, such as several counties, cities or development sites, or to an entire metropolitan area.

"RISE" means revitalize Iowa's sound economy.

"RISE fund" means the fund created in 1985 Iowa Code Supplement section 315.2.

"Total capital investment" means the economic value of all permanent purchases, donations, or improvements directly associated with an economic development activity but not funded with RISE moneys, including land; improvements to land; buildings; equipment; furnishings; electric, gas, telephone, and other utilities; sanitary sewer and storm sewer extensions and hookups; and railroad spurs, access roads, parking lots, and other transportation facilities.

"Transportation justification" means the reasons given for a project from an engineering standpoint. The justification should address the current condition of existing roadways or bridges, the relationship of the project to connecting roads, anticipated total traffic, anticipated large truck traffic, proposed major design features, roadway function, and the reasons the proposed alternative was selected over other available alternatives.

820—[06,Q]4.2(315) Purpose of RISE program. The purpose of the RISE program is to promote economic development in Iowa through the establishment, construction, improvement, and maintenance of roads and streets.

820—[06,Q]4.3(315) Administration of RISE program.

4.3(1) The RISE program shall be administered by the department as a statewide program, with projects evaluated primarily on the basis of economic development criteria rather than solely on the basis of transportation criteria. In carrying out its program responsibilities, the department shall:

a. Involve local officials in program development and periodic program review and evaluation, including evaluation of the accomplishments and effectiveness of the RISE program. However, all project funding decisions shall be the responsibility of the commission.

b. Simplify application processes and administrative procedures to the maximum practicable extent.

c. Design the RISE program administrative procedures so that they are flexible enough to meet county and city needs.

d. Ensure neutrality and fairness in the treatment of all applications submitted for funding under the RISE program.

4.3(2) The commission shall be responsible for all RISE project funding commitments. All project funding commitments are made subject to the availability of RISE funds.

4.3(3) The department's office of program management shall be responsible for managing the RISE programming process. RISE program instructions and forms are available upon request to the Office of Program Management, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone number 515-239-1145.

4.3(4) The department shall annually prepare a written report indicating the amount and percentage of funds expended during the previous year on primary roads, secondary roads, and city streets.

820—[06,Q]4.4(315) Source, allocation, and use of RISE funds.

4.4(1) Source. The RISE program is funded with dedicated state motor fuel and special fuel tax revenues as set out in 1985 Iowa Code Supplement section 312.2(16, 17) and chapter 315.

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

4.4(2) Allocation and use.

a. Allocation among roadway jurisdictions. 1985 Iowa Code Supplement section 315.4. provides that the RISE fund shall be allocated as follows: Fifty percent for the use of the department on primary road projects; twenty-five percent for the use of the counties on secondary road projects; and twenty-five percent for the use of the cities on city street projects. The commission shall take these percentages into account when funding RISE projects.

b. Funding restricted to public roads. The use of RISE funds is restricted to construction or improvement of primary roads, secondary roads, and city streets presently open to public use or ones which will be dedicated and open to public use in the future. RISE funds may not be used for private road projects or for any other private purpose. Project activities which may and may not be funded under the RISE program are listed in rule 4.7(315) of this chapter.

c. Use of county or city RISE funds on primary road projects. Counties or cities may at their option make application to the department to apply RISE funds allocated for use on secondary road or city street projects toward primary road projects. Use of county or city RISE funds on primary road projects must be approved by the commission.

d. Types of projects. The three types of projects which may be funded under the RISE program are immediate opportunity projects, local development projects, and regional development projects. The requirements and procedures specifically applicable to the various project types are located in the following rules of this chapter:

(1) Immediate opportunity projects: Rule 4.8(315).

(2) Local development projects: Rule 4.9(315).

(3) Regional development projects: Rule 4.10(315).

e. Priorities. The demonstrated relationship of projects to economic development shall be the main criterion employed in determining priorities for funding. In terms of project type, immediate opportunity projects shall have first priority for all available RISE funds.

f. Use of repaid funds. RISE funds repaid the department for any reason may be used for other projects or carried over to the next programming cycle at the discretion of the commission. RISE funds repaid shall be credited to the county, city, or state share from which the project was originally funded.

g. Carryover of funds. The commission need not commit the spending of all RISE funds available during a programming cycle. Uncommitted funds may be carried over to the next programming cycle or used for immediate opportunity projects.

h. Reserve for future needs and contingencies. The commission shall hold back from funding commitment an amount of RISE funds sufficient to meet anticipated present and future immediate opportunity project needs and other contingencies.

820—[06,Q]4.5(315) Project financing and funding shares.

4.5(1) Financing. Applicants may choose to propose grant financing for any RISE project. Applicants are encouraged but not required to propose below market rate interest loan, no interest loan, or partial principal payback rather than grant financing for RISE projects. The extent to which a project will return moneys to the RISE fund shall be considered in project evaluation processes. Final financial terms for all RISE projects are subject to negotiation between the department and the applicant and approval by the commission.

4.5(2) Funding shares. Applicants may propose the proportions and sources of RISE and non-RISE funds to be used for a project. Use of RISE funds is subject to commission approval.

820—[06,Q]4.6(315) Eligibility of applicants and joint applications.

4.6(1) Applicant eligibility. All incorporated cities and all counties in the state of Iowa are eligible to apply for and receive funds under the RISE program. The department is also eligible to initiate projects and receive funds under this program, but need not formally apply for funds. Private firms or developers or other agencies may not apply directly for funds, but are encouraged to work with county or city governments in seeking funding for projects.

4.6(2) Joint applications. Joint applications from two or more counties or cities are encouraged when mutual action is required to support economic development. Joint applications shall designate a lead county or city to serve as a principal contact point for the department.

820—[06,Q]4.7(315) Project activities eligible and ineligible for RISE funds.

4.7(1) Eligible activities. Project activities or costs eligible for RISE funding, and which may be counted as part of the non-RISE participation in immediate opportunity and local development roadway projects, include only the following:

a. Roadway resurfacing, rehabilitation, modernization, upgrading, reconstruction or initial construction, including grading and drainage, paving, erosion control, pavement repairs and overlays, and shoulder widening and stabilization.

b. Bridge and culvert repair, modernization, replacement or initial construction.

c. Roadway intersection and interchange improvements including warranted traffic signalization when it is integral to the improvement.

d. Right-of-way purchase.

e. Construction or improvement of motorist rest areas, welcome centers, and information centers.

f. Design engineering costs and construction inspection costs associated with RISE-financed projects.

g. County and city bond principal and interest payments associated with RISE projects. No financing expenses incurred prior to funding commitment shall be eligible.

h. Storm drainage and storm sewer costs to the extent needed for draining the roadway.

4.7(2) Ineligible activities. Activities or costs ineligible for RISE funding, and which may not be counted as part of the non-RISE participation in immediate opportunity or local development roadway projects, include but are not limited to the following:

a. Any and all costs incurred prior to a funding commitment by the commission.

b. Routine roadway, bridge and culvert maintenance, including pothole filling, crack sealing, seal coating, patching, shoulder maintenance, gravel or earth roadway maintenance, and bridge painting.

c. Winter roadway and bridge maintenance, including snow plowing, sanding, and salting.

d. Overhead and operating costs associated with eligible project activities, including auditing.

e. Expenses associated with the preparation and submission of applications for RISE funding.

f. Pre-design engineering expenses.

g. Traffic signalization, except as an integral part of a roadway project.

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

h. Pavement marking and traffic signs, except as an integral part of a roadway project.

i. Electric, water, natural gas, telephone and other utility construction, reconstruction or adjustment.

j. Safety appurtenances, except as an integral part of a roadway project.

k. Lighting, except as an integral part of a roadway project.

l. Lighting energy and maintenance costs.

m. Sidewalks, bicycle paths, and railroad-highway crossings, except when replacing those facilities in service and affected by the project, or as an integral part of a roadway project.

n. Parking expenditures, including those for structures, lots, meters, and marking.

o. Nonroadway transportation expenditures, including those for railway, aviation, public transportation, and inland waterway facilities and equipment.

p. Purchase of furnishings, construction equipment, and personal property.

q. General government expenses and expenses associated with the provision of any public service which are not eligible for RISE program assistance.

r. Sanitary sewers.

s. Water mains.

820—[06,Q]4.8(315) Immediate opportunity projects.

4.8(1) General provisions. The following provisions are applicable to immediate opportunity projects:

a. Immediate opportunity projects may be located on primary roads, secondary roads, or city streets.

b. There is no restriction on the number of applications per county or city that will be considered for RISE funding.

c. Counties and cities may apply for single- or multi-year funding. Multiyear funding shall be limited to funding commitments from no more than three program years' allocations.

d. Applicants may use staff from other counties or cities, areawide planning organizations, areawide economic development organizations, or other jurisdictions to prepare application materials or administer projects.

e. There must be an adequate transportation justification for the roadway project. The proposed improvement need not be designed prior to project application, but the concept must generally be reasonable from a transportation engineering standpoint and detailed enough to enable project cost estimates to be developed.

4.8(2) Contents of applications. Each application for an immediate opportunity project must contain the following:

a. General information, including applicant name, contact person, mailing address, telephone number, and other information of a general nature about the project proposal and the associated economic development activity.

b. Cost information, including the estimated total capital investment involved with the associated economic development activity, the estimated total cost of the roadway project, the amount of RISE funds requested for the roadway project, and the amount of non-RISE funds to be used to match or supplement RISE funding. Itemized breakdowns (showing the item, cost, and funding source) must be included for the total capital investment, the total roadway project cost, the RISE funds requested, and the non-RISE funds to be used to match or supplement RISE funding.

c. Data showing the impact of the associated economic development activity, including the number of direct jobs created or retained. Jobs created as a result of other jobs being displaced elsewhere in the state shall not be considered direct jobs created for the purpose of evaluating the application.

d. A preliminary project concept statement for the roadway project, including a location map, a cross-section and sketch plan of the roadway project, and a written transportation justification.

e. A time schedule for the total development, including the roadway project.

f. For a road or street which is not currently dedicated to public use, written assurance of future dedication from the jurisdiction responsible or to be responsible for the road or street to be constructed or improved.

g. An official endorsement of the project proposal from the jurisdiction responsible or to be responsible for the road or street to be constructed or improved. The jurisdiction must also provide written assurance that it will adequately maintain the new or improved road or street.

h. Documentation showing that the threshold criteria of subrule 4.8(6) of this rule have been met.

4.8(3) Submission of applications. Application instructions and forms for immediate opportunity projects are available from the office of program management. An original and one copy of completed applications shall be submitted to the office of program management. Applications may be submitted at any time.

Once an application has been submitted, no further information concerning that application shall be accepted by the department from the applicant unless specifically requested by the department. Applications may be withdrawn by the applicant and resubmitted at any time. Resubmitted applications shall be dated accordingly.

4.8(4) Incomplete applications. An applicant must satisfy the application requirements outlined in this chapter of rules and must fully complete the official application form before its application will be reviewed. An applicant shall be notified if an application is incomplete. An incomplete application shall be reviewed when it is resubmitted in a complete form by the applicant.

4.8(5) Verification of application materials. Complete applications shall be reviewed to verify the figures or statements in the applications. This may include site visits. If inaccuracies, omissions, or errors are found, the commission may rescind the commitment of funds or re-evaluate the application based on the correct information. If an applicant loses funding through this process, the commission shall have complete discretion concerning the disposition of those funds, including awarding them to other applicants or carrying them over to the next programming cycle.

4.8(6) Threshold criteria. Funding commitment decisions for immediate opportunity projects shall be made on an individual basis. There is no competitive ranking of project applications. In order to gain a funding commitment, an application must meet all of the following threshold criteria:

a. The project must be related to an immediate, non-speculative opportunity for permanent job creation or retention. The applicant county or city (or its agent) should be in the process of negotiating a location or retention decision with a developer or firm. This criterion may be satisfied by a resolution from the applicant county or city stating that it is involved in negotiations with a developer or firm.

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

b. The applicant must demonstrate that an immediate funding commitment is essential to influence the job location or retention decision.

c. The applicant must demonstrate that necessary arrangements have been made for nonroadway factors (e.g., labor force training, zoning, sewer, water, police and fire protection, financing, and permits) essential for the proposed job creation or job retention activity.

d. There must be at least twenty percent non-RISE financial participation in the roadway project, except as indicated in the last sentence of this paragraph. This participation shall include only those items listed as eligible for RISE funding, and may be in the form of cash, right-of-way, design engineering services, or the non-RISE expense of stages of the same roadway project which have already been completed. This requirement is subject to a hardship waiver by the commission in the case of an economically distressed county or city.

e. There must be a strong likelihood that the total development, including the roadway project, can be completed in a timely manner. It is up to the applicant to identify a time schedule and maintain it. This time schedule may be adjusted when agreed to by the commission if the project involves unusually complex engineering studies, extensive real estate negotiations, extensive analysis for environmental clearances, or unusually complex planning for associated development. The commission may withdraw funding if time schedules have been misrepresented or have not been maintained.

4.8(7) Review and funding of applications.

a. The staff of the department shall review complete immediate opportunity project applications and may consult with other organizations with economic development responsibilities. This review shall be performed within ten working days after receipt of the application. Following this review, complete applications meeting the threshold criteria of subrule 4.8(6) of this rule shall be forwarded to the commission for action at their next meeting.

b. The commission may fund all or any part of an application and may make a conditional funding commitment. In making its decision, the commission will consider the amount of total capital investment per RISE dollar requested, and the amount of RISE dollars requested per job created or retained.

c. The commission may deny funding for projects which will not result in net job creation or job retention from a statewide point of view; for instance, projects which simply involve the relocation of jobs or other economic activity within Iowa.

820—[06,Q]4.9(315) Local development projects.

4.9(1) General provisions. The following provisions are applicable to local development projects:

a. Local development projects may be located on primary roads, secondary roads, or city streets.

b. There is no restriction on the number of applications per county or city that will be considered for RISE funding.

c. Counties and cities may apply for single- or multi-year funding. Multi-year funding shall be limited to funding commitments from no more than three program years' allocations.

d. Applicants may use staff from other counties or cities, areawide planning organizations, areawide economic development organizations or other jurisdictions to prepare application materials or administer projects.

e. There must be an adequate transportation justification for the roadway project. The proposed improvement need not be designed prior to project application, but the concept must generally be reasonable from a transportation engineering standpoint and detailed enough to enable project cost estimates to be developed.

4.9(2) Contents of applications. Each application for a local development project must contain the following:

a. General information, including applicant name, contact person, mailing address, telephone number, and other information of a general nature about the project proposal and the associated economic development activity.

b. Cost information, including the estimated total capital investment involved with the associated economic development activity, the estimated total cost of the roadway project, the amount of RISE funds requested for the roadway project, and the amount of non-RISE funds to be used to match or supplement RISE funding. Itemized breakdowns (showing the item, cost, and funding source) must be included for the total capital investment, the total roadway project cost, the RISE funds requested, and the non-RISE funds to be used to match or supplement RISE funding.

c. Data showing the impact of the associated economic development activity, including the number of direct jobs created or retained. Jobs created as a result of other jobs being displaced elsewhere in the state shall not be considered direct jobs created for the purpose of evaluating the application.

d. A preliminary project concept statement for the roadway project, including a location map, a cross-section and sketch plan of the roadway project, and a written transportation justification.

e. A time schedule for the total development, including the roadway project.

f. For a road or street which is not currently dedicated to public use, written assurance of future dedication from the jurisdiction responsible or to be responsible for the road or street to be constructed or improved.

g. An official endorsement of the project proposal from the jurisdiction responsible or to be responsible for the road or street to be constructed or improved. The jurisdiction must also provide written assurance that it will adequately maintain the new or improved road or street.

4.9(3) Submission of applications. Application instructions and forms for local development projects are available from the office of program management. An original and one copy of completed applications shall be submitted to the office of program management.

a. Applications may be submitted at any time. However, in order to be considered in the current round of programming, complete applications must be received by the department no later than February 1 or September 1. Applications which are submitted at least two months in advance of a deadline will generally have an opportunity to be revised and resubmitted if necessary and still be considered in the same programming cycle.

b. Once an application has been submitted, no further information concerning that application shall be accepted by the department from the applicant unless specifically requested by the department. Applications may be withdrawn by the applicant and resubmitted at any time. Resubmitted applications shall be dated accordingly.

4.9(4) Incomplete applications. An applicant must satisfy the application requirements outlined in this chapter of rules and must fully complete the official

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

application form before its application will be reviewed. An applicant shall be notified if an application is incomplete. An incomplete application shall be reviewed when it is resubmitted in a complete form by the applicant.

4.9(5) Verification of application materials. Complete applications shall be reviewed to verify the figures or statements in the applications. This may include site visits. If inaccuracies, omissions or errors are found, the commission may rescind the commitment of funds or re-evaluate the application based on the correct information. If an applicant loses funding through this process, the commission shall have complete discretion concerning the disposition of those funds, including awarding them to other applicants or carrying them over to the next programming cycle.

4.9(6) Rating factors. The following factors shall be used in assessing applications for local development projects; assessment of these factors shall be the responsibility of the department.

a. **Development potential.** This factor measures the degree of certainty involved in the economic development activity to be supported by the proposed RISE project.

b. **Economic impact.** This factor measures the economic impact of the development activity to be supported by the proposed RISE project, including jobs and investment leveraging.

c. **Local commitment and initiative.** This factor measures the level of effort being put forth by the applicant to attract economic development and the adequacy of the supporting infrastructure.

d. **Transportation need.** This factor measures the condition and quality of existing road or street service.

e. **Area economic need.** This factor measures the economic condition of the area.

4.9(7) Review and funding of applications.

a. The staff of the department shall review and rate complete local development project applications and may consult with other organizations with economic development responsibilities. Complete applications shall be forwarded to the commission for a funding commitment action within sixty days after the application deadline. An application considered but not funded in one programming cycle must be resubmitted by the applicant if it is to be considered in a subsequent cycle.

b. The commission may fund all or any part of an application and may make a funding commitment conditional upon adherence to a specific time schedule, realization of a development prospect, or fulfillment of other agreements.

820—[06,Q]4.10(315) Regional development projects. Regional development projects shall be evaluated by the department and approved by the commission in a process parallel to the department's annual development of its five-year transportation improvement program.

4.10(1) Regional development project objectives. The following objectives shall be employed in identifying potential regional development routes and projects:

a. Improving or maintaining highway access between urban centers or metropolitan areas and the interstate road system as defined in Iowa Code section 306.3.

b. Improving or maintaining highway access between urban centers or metropolitan areas.

c. Improving or maintaining highway access to economically distressed areas of the state, as defined by the party requesting a project to further this objective.

d. Improving or maintaining highway access to points of shipment or processing of products, including grain storage elevators.

e. Improving or maintaining highway access to trucking terminals or points of embarkation or shipment by other modes, including trailer-on-flatcar and container-on-flatcar terminals, barge terminals, air cargo terminals, and freight forwarding terminals.

f. Improving or maintaining highway access to scenic, recreational, historic or cultural sites, or other locations identified as tourist attractions.

4.10(2) Local participation in programming regional development projects. To the extent that projects are located on primary roads, the department encourages the participation of counties and cities in the programming process for regional development projects.

a. **Request.** Counties and cities may separately or jointly make requests. Request instructions and forms are available from the office of program management. Official requests for regional development projects must be submitted on the prescribed form and may be submitted to the office of program management at any time. Each official request must, at a minimum, contain the following:

(1) General information, including the name of the requesting local government, contact person, mailing address, telephone number, and other information of a general nature about the project request and the associated economic development activity.

(2) Project cost information, including the estimated total cost of the roadway project, the amounts and sources of RISE funds requested, and amounts and sources, if any, of funds to be used to match RISE funding.

(3) A narrative and supporting material describing and documenting how the project will support economic development in the affected region of the state.

(4) A clear, economic development-related rationale for the proposed project as outlined in subrule 4.10(1) of this rule.

(5) The economic and other benefits of the project for the affected region of the state.

(6) A preliminary project concept statement for the roadway project, including a location map, a narrative describing the project, and a written transportation justification.

(7) A proposed time schedule for the roadway project.

b. **Review.** Review of official requests for regional development projects shall be performed by the department in consultation, where appropriate, with other organizations with economic development responsibilities.

4.10(3) Programming. The department shall annually develop and publish each December in its five-year transportation improvement program a listing of regional development projects to be funded with RISE funds. In making its selection of projects each year, the commission shall consider the regional development objectives outlined in subrule 4.10(1) and any official requests for regional development projects received from counties or cities during the past calendar year.

820—[06,Q]4.11(315) Project administration.

4.11(1) Projects located on primary roads. RISE projects located on primary roads shall be administered by the department in conformance with the requirements of Iowa Code chapter 313. The department may delegate

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

part or all of this responsibility to another participating jurisdiction.

4.11(2) Projects located on secondary roads or city streets.

a. Agreement. After a funding commitment has been made for a project located on secondary roads or city streets, the department shall enter into a project agreement with those local jurisdictions whose roads or streets are a part of the project. The agreement shall delineate responsibilities for project planning, design, right-of-way, contracting, construction and materials inspection, and documentation.

b. Project payments. Payments from the RISE fund to counties or cities shall be made on a cost reimbursement basis.

c. Remedies for noncompliance with project agreement. The commission may revoke funding commitments, seek repayment of RISE funds loaned or granted, or take both actions when the county or city has not fulfilled the terms of the project agreement.

4.11(3) Cost over-runs. RISE funds committed for projects are for a maximum dollar amount. Cost over-runs shall be the responsibility of the administering jurisdiction.

These rules are intended to implement 1985 Iowa Code Supplement section 312.2,(16, 17) and chapter 315.

[Filed 1/22/86, effective 3/19/86]

[Published 2/12/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 2/12/86.

ARC 6340**VOTER REGISTRATION
COMMISSION[845]**

Pursuant to the authority of Iowa Code section 47.8, the Voter Registration Commission adopted at its January 8, 1986, meeting, an amendment to Chapter 2 of the Iowa Administrative Code entitled "Voter Registration Forms and Instructions."

The proposed subrule was in published Iowa Administrative Bulletin on December 4, 1985, as **ARC 6197**.

The subrule is adopted to allow counties to cause production of postcard registration forms containing instructions printed on a removable stub.

The adopted rule is identical to the proposed rule which was published. There were no comments on the rule from the public.

This rule will be effective March 19, 1986.

Subrule 2.1(8) is intended to implement Iowa Code section 48.3.

Rule 2.1(48) is amended by adding a new subrule as follows:

2.1(8) Any county commissioner may cause production, at county expense, of a postcard registration form with a stub attached. The instructions found in subrule 2.1(5), paragraph "f," shall be reprinted on the face of the stub. The reverse of the stub may contain a receipt to be completed and given to the registrant by the person accepting responsibility for delivering the form to the county commissioner. The design of such forms shall allow the simple removal of the stub on a perforation, leaving a form exactly as prescribed by subrule 2.1(5).

[Filed 1/24/86, effective 3/19/86]

[Published 2/12/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 2/12/86.



State of Iowa
Executive Department

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

EXECUTIVE ORDER #20

- WHEREAS, high interest rates, embargoes, an overvalued dollar and declining farm receipts have created an economic crisis in agriculture; and
- WHEREAS, farm asset value have dropped by over 50% since 1981, draining over \$35 billion in wealth from Iowa; and
- WHEREAS, this level of asset liquidation is three to four times the amount that can be handled by the market; and
- WHEREAS, farmers, through no fault of their own, are having loans called because the value of their collateral is declining below the amount required to secure outstanding loans; and prices received at liquidation sales are so low as to further reduce the value of collateral securing outstanding farm loans; and
- WHEREAS, agriculture affects 65% of all jobs in the State of Iowa and Iowans in small towns to large cities are threatened by the farm crisis.

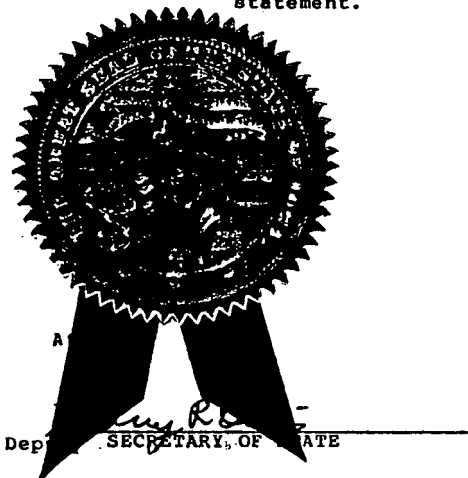
NOW, THEREFORE, I, Terry E. Branstad, Governor of the State of Iowa, on this 1st day of October, 1985, by virtue of the authority granted to me by the Constitution of the State of Iowa; and in light of the current condition of the economy of the State of Iowa, I hereby declare that a state of economic emergency now exists.

The purpose behind this declaration is to stabilize the economy of this state, by permitting the implementation of the Moratorium Continuance provision in Chapter 654.15 of the Code of Iowa. The continuance should give mortgagors additional time to stabilize their indebtedness.

This declaration of a state of economic emergency is limited to farm real estate loans. The state of economic emergency will formally exist upon the signing of this statement.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 1st day of October in the year of our Lord one-thousand nine hundred and eighty-five.

Terry E. Branstad
GOVERNOR





State of Iowa
Executive Department

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

EXECUTIVE ORDER NUMBER TWENTY-ONE

- WHEREAS, it is the historic policy of the United States and the State of Iowa to provide safe asylum to refugees who are the victims of war and persecution and who have been forced from their homelands; and
- WHEREAS, the State of Iowa coordinates and provides refugee services funded through the U.S. Department of Health and Human Services and the U.S. State Department; and
- WHEREAS, the Iowa Refugee Service Center has been the agency administratively responsible for these services since 1975 and was formally established on January 27, 1984 to:
- I. Coordinate, develop, and implement federal, state and local programs which provide resettlement services and other social services which promote the economic self-sufficiency and social self-reliance of refugees and other eligible groups.
 - II. Provide specialized cultural information and immigration and other services to refugees, entrants, and immigrants as well as the private individuals, organizations, corporations, and state agencies whose activities are associated with them.
- NOW THEREFORE, I, Terry E. Branstad, Governor of the State of Iowa, by the power and authority vested in me by the Constitution and the laws of the State of Iowa do hereby order and authorize that:
1. The Iowa Refugee Service Center will be known as the Bureau of Refugee Programs and becomes administratively part of the Iowa Department of Human Services.
 2. The Iowa Department of Human Services will be the designated state agency to receive and administer all federal refugee program funds heretofore administered by the Iowa Refugee Service Center.
 3. The Commissioner of the Iowa Department of Human Services is now appointed by me as the State Coordinator for Refugee Affairs.
 4. The Commissioner shall appoint to serve at his pleasure, a Chief of the Bureau of Refugee Programs who shall be Deputy State Coordinator for Refugee Affairs.

- 5. To assure that the refugee program continues and to realize maximum administrative efficiency this order shall be in effect January 1, 1986. Executive Order Number Eight of January 27, 1984 is hereby rescinded.



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 24th day of December in the year of our Lord one thousand nine hundred eighty-five.

Terry E. Branstad
GOVERNOR

ATTEST:

Mary Jane Odell
SECRETARY OF STATE



IOWA ADMINISTRATIVE BULLETIN

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