

HISTORICAL DIVISION[223]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 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 section 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 303.1A, the Director of the Department of Cultural Affairs hereby gives Notice of Intended Action to amend Chapter 35, “Administration,” Iowa Administrative Code.

The State Historic Preservation Office annually receives a federal grant through the Historic Preservation Fund administered by the National Park Service. Acceptance of the federal grant stipulates compliance with the requirements of the Historic Preservation Fund Grants Manual. The rules in Chapter 35 set forth the general procedures by which the historic preservation program operates in order to implement the requirements of the Historic Preservation Fund Grants Manual, the National Historic Preservation Act, and Iowa Code chapter 303. This proposed amendment clarifies definitions and adds a definition for “historic property.”

Public comments concerning the proposed amendment will be accepted until 4:30 p.m. on May 8, 2012. Interested persons may submit written or oral comments by contacting Kristen Vander Molen, Department of Cultural Affairs, Historical Building, 600 East Locust Street, Des Moines, Iowa 50319-0290; fax (515)282-0502; E-mail Kristen.VanderMolen@iowa.gov. Persons who wish to convey their views orally should contact the Department of Cultural Affairs at (515)281-4228.

Also, there will be a public hearing on May 10, 2012, at 10 a.m. at the above address in the Auditorium, First Floor, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Department and advise of specific needs.

After analysis and review of this rule making, a positive impact on jobs exists. This rule making streamlines the process to allow construction projects to proceed. Construction projects can commence after review by the state’s State Historic Preservation Officer’s (SHPO) Office. This rule making implements recent legislation by streamlining the application process conducted by SHPO and improving the permit process for construction projects.

The direct impacts of construction per 100 miles which would take approximately 52 weeks would be approximately 18 to 20 jobs for construction personnel, three digger derrick trucks, three backset trucks, and four pick-up trucks. FEMA and the state of Iowa have approved 2,400 miles of line construction directly tied to the FEMA 404 Mitigation Program. Currently pending, there are another 1,300 miles of construction projects being evaluated and considered for approval by FEMA.

The total cost of these projects is \$225 million. If each project allows for approximately 18 to 20 jobs per 100 miles and each project takes approximately 52 weeks, this rule making will help create approximately 740 jobs for a 52-week period. Obligations for funding these projects have begun, as FEMA requested that Archaeological Phase 1 Surveys be completed. The schedule of this work is concurrent with the FEMA 406 storm rebuild projects.

The crew stays in local Iowa hotels and eats three meals a day at local Iowa restaurants. The majority of these projects take place in rural Iowa and would greatly benefit small towns in Iowa. Also, each truck (approximately ten) would use approximately 60 to 80 gallons of fuel per week. All fuel purchases would be local in Iowa. The total fuel purchases for ten trucks for 52-week projects would be approximately 36,400 gallons of fuel purchases in Iowa per project. Contractors rent space to park the ten vehicles

used per project, storage for materials, and office space for contractors. Contractors utilize local Iowa mechanic shops for repairs on trucks. Further, the bulk of the construction materials are provided by distributors located in the state of Iowa. Multiple jobs will be created due to the sheer volume of materials required for each construction project. The transportation industry in Iowa will benefit because of the materials being shipped to Iowa. The State will receive a positive fiscal impact due to the significant amount of sales tax on materials bought here in Iowa.

The Department of Cultural Affairs and the State of Iowa's SHPO Office will continue to collaborate with stakeholders to maximize this rule making's positive impact on jobs.

This amendment is intended to implement 2011 Iowa Code Supplement section 303.2, subsection 2, paragraph "c," and section 303.18 and 16 U.S.C. 470 et seq.

The following amendment is proposed.

Amend rule 223—35.2(303) as follows:

223—35.2(303) Definitions. The definitions listed in Iowa Code section 17A.2 and rule 223—1.2(303), Iowa Administrative Code, shall apply for terms as they are used throughout Title V of these rules. In addition, the following definitions apply:

"Act" means the National Historic Preservation Act of 1966, Public Law 89-665.

"Advisory council" means the Advisory Council on Historic Preservation established under Section 201 of the National Historic Preservation Act of 1966, Public Law 89-665.

"Applicant" means any individual or entity seeking funding or service for a historic preservation activity from the society.

"Certified local government" means a unit of local government which is certified by the National Park Service to carry out the purposes of the National Historic Preservation Act in accordance with Section 101(c) of the Act and 36 CFR 61, April 13, 1984, and August 30, 1985.

"Comprehensive historic preservation planning" means the ongoing planning process by the division or a local community that is consistent with technical standards issued by the U.S. Department of the Interior and which produces reliable, understandable, and up-to-date information for decision making related to the identification, evaluation, and protection or treatment of historic resources.

"Considered eligible" means those properties that both the state historic preservation officer and a state or federal agency agree may be considered eligible for listing in the National Register of Historic Places, but have not been forwarded to the National Park Service for a formal determination of eligibility.

"Cultural resource" means man-made components of the physical environment which are of some historical significance or importance and which represent or reflect the history and prehistory of the state.

"Deputy state historic preservation officer" means the designee of the state historic preservation officer who is responsible for the daily administration of the historic preservation program in the state.

"Determination of eligibility" means the finding by the National Park Service that a district, site, building, structure, or object meets the National Register criteria, but a formal nomination has not been forwarded to the National Park Service. A determination of eligibility does not make the property eligible for such benefits as grants, loans, or tax incentives that have listing on the National Register as a prerequisite.

"~~Historical~~ Historic Preservation Fund" means the federal source from which moneys are appropriated to fund the program of matching grants-in-aid to the states and other authorized grant recipients for historic preservation programs, as authorized by Section 101(d)(1) of the National Historic Preservation Act ~~of 1966~~.

"Historic context" means a historical theme summary created for planning purposes that links historical information with related historic properties based on the minimal components of a shared theme, specific time period, and geographical area.

"Historic preservation" means the protection, rehabilitation, restoration, and appropriate adaptive reuse of historic properties significant in American history, architecture, archaeology, engineering, or culture.

"Historic property" means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the

Secretary of the Interior. “Historic property” includes artifacts, records, and remains that are related to and located within such properties. “Historic property” includes properties of traditional religions and cultural importance to an Indian tribe and that meet the National Register criteria.

“*Investment tax credit*” means a federal income tax credit for the substantial rehabilitation of historic buildings for commercial, industrial, and rental residential and nonresidential purposes.

“*National Register of Historic Places*” means the national list of historic properties significant in American history, architecture, archaeology, engineering, or culture, maintained by the Secretary of the Interior.

“*National Trust for Historic Preservation*” means the private, nonprofit organization chartered by legislation approved by Congress on October 26, 1949, with the responsibility for encouraging public participation in the preservation of districts, structures, sites, buildings, and objects significant in American history and culture.

“*Property owner*” means that individual who pays local property tax for a historic property that they either own or are purchasing by contract.

“*Review and compliance*” means the review of federal, state and local undertakings according to 36 CFR Part 800: Protection of Historic Properties, September 21, 1986, and the regulations of the Advisory Council on Historic Preservation governing the Section 106 review process.

“*Review committee*” means the Iowa state national register nominations review committee, which is appointed by the state historic preservation officer.

“*Secretary’s Standards and Guidelines*” means the Secretary of the Interior’s Standards and Guidelines for Archaeology and Historic Preservation (36 CFR Part 61) which provide technical information about archaeological and historic preservation activities and methods. The subjects covered include preservation planning; identification, evaluation, registration, historic research and documentation; architectural and engineering documentation; archaeological investigation; historic preservation projects; and preservation terminology.

“*Section 106*” means the section of the National Historic Preservation Act of 1966, Public Law 89-665, which requires the federal agency head with jurisdiction over a federal ~~an~~ undertaking or federally licensed undertaking to take into account the effects of the agency’s ~~undertakings~~ actions on properties included in or eligible for the National Register of Historic Places and, prior to approval of an ~~undertaking~~ expenditure of funds, to afford the Advisory Council ~~for~~ on Historic Preservation a reasonable opportunity to comment on the undertaking. The regulations of 36 CFR Part 800, September 21, 1986, define the process used by an agency to meet these responsibilities and the role of the state historic preservation officer in review and comment on these undertakings.

“*State historic preservation officer*” or “*SHPO*” means the governor’s appointee who is responsible for the management of the historic preservation program of the state and compliance of the state historic preservation program with federal statutes and regulations of the National Park Service.

“*Survey and planning grants*” means the grants which result in the survey, evaluation, and nomination to the National Register of Historic Places of historic properties as well as the planning for these activities.

“*Technical assistance*” means services provided to the public for the development of skills or the provision of knowledge relative to the background, significance, operation, or implications of some aspect of the historic preservation program.