

JUL 19 1983

IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME VI

NUMBER 2

July 20, 1983

Pages 73 to 128



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PREFACE

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

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

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

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

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

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

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
3	Friday, July 15, 1983	August 3, 1983
4	Friday, July 29, 1983	August 17, 1983
5	Friday, July 12, 1983	August 31, 1983

The Administrative Rules Review Committee will hold a special meeting August 2, 1983, 9:00 a.m. in Committee Room 22, State Capitol, in lieu of the statutory date of August 9, 1983. The meeting will be recessed until August 17 and 18. Rules from July 6, 1983, July 20, 1983, and August 3, 1983 Iowa Administrative Bulletins will be reviewed.

Note: A supplemental agenda will appear in the August 3, 1983 Iowa Administrative Bulletin.

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IAB 7/20/83

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CIVIL RIGHTS COMMISSION[240] Affirmative action, Ch 12 IAB 7/20/83 ARC 3904	Conference Room Second Floor Colony Building 507-10th Street Des Moines, Iowa	August 10, 1983 1:30 p.m.
COLLEGE AID COMMISSION[245] Iowa guaranteed loan payment program, Ch 14; Iowa science and mathematics loan program, ch 15 IAB 7/20/83 ARC 3912	Conference Room 201 Jewett Building Des Moines, Iowa	August 17, 1983 1:30 p.m.
COMMERCE COMMISSION[250] Gas and electric utilities, energy conservation standards for new structures, 19.2(4)"c"(24), 19.9(5), 20.2(4)"ab", 20.12 IAB 6/8/83 ARC 3804 Rates and service supplied by telephone utilities, 16.5; accounting, ch 22 IAB 6/22/83 ARC 3832	Commission Hearing Room First Floor Lucas State Office Building Des Moines, Iowa Commission Hearing Room First Floor Lucas State Office Building Des Moines, Iowa	July 25, 1983 10:00 a.m. July 26, 1983 10:00 a.m.
CREDIT UNION DEPARTMENT[295] Small employee groups, 5.1 IAB 7/6/83 ARC 3855	Auditorium Wallace State Office Building Des Moines, Iowa	July 27, 1983 10:30 a.m.
ENERGY POLICY COUNCIL[380] Weatherization assistance program, ch 15 IAB 7/20/83 ARC 3912	Conference Room Second Floor Lucas State Office Building Des Moines, Iowa	August 9, 1983 10:00 a.m.
HEALTH DEPARTMENT[470] Immunization of persons attending elementary or secondary schools or child-care centers, 7.4(4) IAB 7/6/83 ARC 3852 Advanced emergency medical care, 132.6 IAB 7/6/83 ARC 3849 Vital records, 96.1, 96.6 IAB 7/20/83 ARC 3924	Conference Room Third Floor Lucas State Office Building Des Moines, Iowa Conference Room A Third Floor Lucas State Office Building Des Moines, Iowa Conference Room Third Floor Lucas State Office Building Des Moines, Iowa	July 28, 1983 1:00 p.m. July 27, 1983 2:00 p.m. August 15, 1983 1:00 p.m.
IOWA FAMILY FARM DEVELOPMENT AUTHORITY[523] Issuance of bond, 2.12 IAB 7/6/83 ARC 3845 Issuance of bond, 4.4 IAB 7/6/83 ARC 3846	First Floor Conference Room Wallace State Office Building Des Moines, Iowa First Floor Conference Room Wallace State Office Building Des Moines, Iowa	August 17, 1983 9:30 a.m. August 17, 1983 9:30 a.m.
MERIT EMPLOYMENT DEPARTMENT[570] State service and its divisions, ch 2 IAB 7/20/83 ARC 3902	First Floor Conference Room Grimes State Office Building Des Moines, Iowa	August 11, 1983 9:15 a.m.

PLANNING AND PROGRAMMING[630]

Iowa job training partnership
program, ch 19
IAB 7/20/83 ARC 3914

Planning and Programming
Conference Room
523 E. 12th Street
Des Moines, Iowa

August 11, 1983
1:00 p.m.

RAILWAY FINANCE AUTHORITY[695]

Projects, 4.3(3)"a"
IAB 7/20/83 ARC 3893
(See ARC 3892 herein)

Department of Transportation
Complex
800 Lincoln Way
Ames, Iowa

August 31, 1983

REAL ESTATE COMMISSION[700]

Renewal procedures following
expiration, 1.7
IAB 7/6/83 ARC 3858

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

August 12, 1983
9:00 a.m.

SOCIAL SERVICES DEPARTMENT[770]

ADC, application for aid and
granting assistance, amendments
to chs 40 and 41
IAB 6/22/83 ARC 3833

Iowa Department of Social Services
409 North 4th
Burlington, Iowa

July 22, 1983
10:00 a.m.

Iowa Department of Social Services
611 North West Street
Carroll, Iowa

July 20, 1983
9:30 a.m.

United Way Building
712 Third Avenue S.E.
Cedar Rapids, Iowa

July 20, 1983
1:30 p.m.

Iowa Department of Social Services
Third Floor Conference Room
12 Scott Street
Council Bluffs, Iowa

July 25, 1983
1:00 p.m.

Union County Courthouse
Law Enforcement Center
Conference Room
Creston, Iowa

July 20, 1983
9:30 a.m.

Iowa Department of Social Services
Fifth Floor — Bicentennial Building
428 Western Avenue
Davenport, Iowa

July 20, 1983
1:00 p.m.

Iowa Department of Social Services
Winneshiek County
1111 Payne Street
Decorah, Iowa

July 21, 1983
1:00 p.m.

Iowa Department of Social Services
Des Moines District Office
Conference Room
3619½ Douglas
Des Moines, Iowa

July 21, 1983
1:30 p.m.

Iowa Department of Social Services
Dubuque County Office
Nester Centre, Town Clark Plaza
Third Floor Conference Room
Dubuque, Iowa

July 21, 1983
1:00 p.m.

Iowa Department of Social Services
Webster County
23 North Seventh Street
Ft. Dodge, Iowa

July 20, 1983
2:00 p.m.

Iowa Department of Social Services
Marshalltown Annex
206 West State Street
Marshalltown, Iowa

July 27, 1983
1:00 p.m.

Iowa Department of Social Services
1531 South Monroe
Mason City, Iowa

July 21, 1983
2:00 p.m.

Ottumwa Public Library
129 North Court
Ottumwa, Iowa

July 22, 1983
1:00 p.m.

SOCIAL SERVICES DEPARTMENT[770] (cont'd)

Iowa Department of Social Services 808 Fifth Street 2nd Floor Conference Room Sioux City, Iowa	July 21, 1983 7:00 p.m.
Bethany Lutheran Church 15 West 14th Spencer, Iowa	July 20, 1983 7:00 p.m.
2nd Floor Conference Room Black Hawk County Department of Social Services KWWL Building 500 East Fourth Street Waterloo, Iowa	July 20, 1983 7:00 p.m.

SOIL CONSERVATION DEPARTMENT[780]

Iowa financial incentives program for soil erosion control, 5.20, 5.60 IAB 6/22/83 ARC 3836	Fourth Floor Conference Room Wallace State Office Building Des Moines, Iowa	August 5, 1983 1:00 p.m.
Conservation practices revolving loan fund, ch 9 IAB 6/22/83 ARC 3837	Fourth Floor Conference Room Wallace State Office Building Des Moines, Iowa	August 5, 1983 1:00 p.m.

TRANSPORTATION, DEPARTMENT OF [820]

Vehicle registration and certificate of title, [07,D] ch 11 IAB 6/22/83 ARC 3807	Department of Transportation Complex 800 Lincoln Way Ames, Iowa	August 2, 1983
Designated Highway System [07,A] 1.6 IAB 7/20/83 ARC 3895	Department of Transportation Complex 800 Lincoln Way Ames, Iowa	August 30, 1983
Safety standards for implement of husbandry [07,E] 1.6 IAB 7/20/83 ARC 3916	Department of Transportation Complex 800 Lincoln Way Ames, Iowa	August 30, 1983

WATER, AIR AND WASTE MANAGEMENT[900]

Consolidation of three agency rules under new department, chs 1 to 141 IAB 6/22/83 ARC 3827 (See ARC 3826, herein)	City Council Chambers 226 W. 4th Davenport, Iowa	August 11, 1983 7:00 p.m.
	Fifth Floor Conference Room Wallace State Office Building Des Moines, Iowa	August 16, 1983 10:00 a.m.
	City Council Chambers 6th and Douglas Sioux City, Iowa	August 17, 1983 7:00 p.m.
Waste water construction and operation permits, ch 64; Hazardous waste, ch 141 IAB 7/20/83 ARC 3910	Fifth Floor Conference Room Wallace State Office Building Des Moines, Iowa	August 9, 1983 10:30 a.m.
Water right permits, chs 50, 51; flow basis ch 52; Unsafe dams, ch 73; Correction amendments and procedural rules chs 72, 81 IAB 7/20/83 ARC 3908	City Council Chambers 226 W. 4th Davenport, Iowa	August 11, 1983 7:00 p.m.
	Fifth Floor Conference Room Wallace State Office Building Des Moines, Iowa	August 16, 1983 10:00 a.m.
	City Council Chambers 6th and Douglas Sioux City, Iowa	August 17, 1983 7:00 p.m.
Criteria for award of grants 91.1 IAB 7/20/83 ARC 3909	Auditorium Wallace State Office Building Des Moines, Iowa	August 15, 1983 10:30 a.m.

ARC 3904**CIVIL RIGHTS COMMISSION[240]****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 601A.5, and Executive Order #46, the Iowa Civil Rights Commission hereby gives Notice of Intended Action to add Chapter 12 "Affirmative Action", Iowa Administrative Code.

The present rules of the commission do not provide state agencies with uniform affirmative action planning standards. These rules establish such standards.

Any interested person may make written suggestions or comments on these proposed rules prior to August 10, 1983. Such written material should be directed to the Affirmative Action Director, Iowa Civil Rights Commission, 507 - 10th Street, Des Moines, Iowa 50309. Persons who want to convey their views orally should contact the Affirmative Action Director at 515/281-8084 or in the commission office on the eighth floor of 507 - 10th Street, Des Moines, Iowa.

There will be a public hearing on August 10, 1983, at 1:30 p.m. in the conference room on the second floor of the Colony Building, 507 - 10th Street, Des Moines, Iowa. Persons may present their views at this public hearing either orally or in writing.

These rules are intended to implement Iowa Code sections 601A.5 and 601A.15.

The following are proposed.

**CHAPTER 12
AFFIRMATIVE ACTION**

240—12.1(601A) Definitions. The following definitions shall be applied to the rules of this chapter.

12.1(1) "Agency" shall mean an executive branch state entity which is under the authority of the governor's executive orders.

12.1(2) "Availability" shall mean the extent to which protected class members are able or trainable to be employed in an occupational category within a generally recognized geographical area.

12.1(3) "EEO-4 occupational categories" shall mean officials and administrators, professionals, technicians, protective service workers, paraprofessionals, office and clerical, skilled craft workers and service maintenance categories.

12.1(4) "EEO-4 report" shall mean the annual state employment data generated by the state comptrollers office, updated and distributed by the Iowa merit employment department and submitted by the governor to the federal Equal Employment Opportunity Commission.

12.1(5) "Protected class" shall mean racial/ethnic minorities, women and the disabled.

12.1(6) "Racial/ethnic minorities" shall mean Black; Hispanic; Asian and Pacific Islander; and American Indians and Alaskan natives.

12.1(7) "Utilization" shall mean the extent protected class members are being employed within an agency's work force as compared to their availability.

12.1(8) "Work force" shall mean employees of an agency who occupy permanent authorized positions and who are represented in their full time equivalency.

240—12.2(601A) Affirmative action required. Each agency shall prepare an affirmative action plan to meet the requirements of Governor's Executive Orders Numbers 15 and 46.

240—12.3(601A) Minimum plan standards. Each plan shall include, but not be limited to, the following minimum standards.

12.3(1) Policy statement. The statement shall be a clear and concise declaration of commitment to the principles of equal employment opportunity and affirmative action.

a. **Signature.** The statement shall be signed and dated by the top administrator of the agency.

b. **Dissemination.** The statement shall be disseminated internally and externally, and shall be posted in conspicuous places in the agency.

c. **Update.** The agency shall reaffirm and update its statement of commitment annually.

d. **Official.** The agency shall identify and make known the responsible equal employment opportunity/affirmative action official by name, job title and work location.

e. **Audit.** The agency shall specify an internal system for auditing and reporting on its affirmative action program.

f. **Content.** The statement shall contain the following or similarly worded language:

(1) The agency prohibits discrimination in its employment policies and practices on the basis of race, creed, color, religion, national origin, sex, age or disability.

(2) The agency is an equal employment opportunity and affirmative action employer.

12.3(2) Work force analysis. A work force analysis shall show the numerical and percentile breakdown of the agency's employees by race/ethnicity, sex, disability and shall be arrayed according to their EEO-4 occupational categories.

a. **Permanent authorized positions.** Only permanent authorized positions are to be included in the analysis, except as follows:

(1) Part time positions shall be reported by their full time equivalency.

(2) Elected officials; the officials' immediate secretary, administrative, legislative, or other immediate or firstline aide; the officials' legal advisor; and appointed cabinet official of the governor shall be excluded from the analysis.

b. **Organization unit.** Each agency shall review its work force size, geographical dispersion and administrative line of authority to determine those units needing separate analysis.

(1) An agency with no separate organization units may submit an analysis for the entire agency.

(2) An agency with separate organization units shall submit an analysis for the entire agency along with an analysis for each organization unit.

c. **Analysis format.** The work force analysis may be submitted on Work Force Analysis, Form - AA001.

(1) An agency may submit the EEO-4 report in lieu of Form - AA001 if an agency has no separate organization units.

(2) An agency may substitute Form - AA001 by submitting a similar analysis required by another regulatory agency such as a federal funding agency.

CIVIL RIGHTS COMMISSION[240] (*cont'd*)

12.3(3) Availability analysis. An availability analysis shall show the percentile breakdown of the relevant civilian labor force by race/ethnicity, sex, disability and arrayed according to their EEO-4 occupational categories.

a. **Organization unit.** An availability analysis shall be conducted for each organization unit determined under 12.3(2)"b".

b. **Relevant recruitment area.** An agency shall determine the relevant geographical area from which recruitment can reasonably occur for each EEO-4 occupational category within each organizational unit.

(1) An availability analysis shall be directly related to the relevant geographical area.

(2) The relevant recruitment area will usually be larger for the higher-paid or higher-ranked classifications.

c. **Analysis method.** Unless otherwise excepted, only the following are acceptable methods of analysis:

(1) Availability is determined by the analysis method promulgated by the Office of Federal Contract Compliance Program.

(2) Availability analysis is based on the State Office for Planning and Programming's report entitled Race, Sex and Occupational Make-up of Iowa's 1980 Labor Force.

d. **Exceptions.** Exceptions may be granted by the Iowa civil rights commission only if an agency can document by authoritative statistical proof that its availability analysis is more reasonable and rational than those provided in 12.3(3)"c".

12.3(4) Quantitative utilization analysis. A quantitative utilization analysis shall show the numerical and percentile breakdown of protected class underrepresentation, if any, by race/ethnicity, sex, and disability.

a. **Organization unit.** A quantitative utilization analysis shall be conducted for each organization unit as determined under 12.3(2)"b".

b. **Rounding.** Whenever a partial number is encountered, 0.50 or more shall be rounded upward and 0.49 or less shall be rounded downward to the nearest whole number.

12.3(5) Qualitative utilization analysis. A qualitative utilization analysis shall show whether and where an agency's employment policies and practices do or tend to exclude, disadvantage, restrict or result in adverse impact of protected classes. It shall also show whether and where effects of prior illegal discrimination are left uncorrected.

a. **Trigger.** A showing of protected class underrepresentation as determined by 12.3(4) shall cause the more detailed qualitative utilization analysis.

b. **Area.** A qualitative utilization analysis may include but not be limited to the following areas.

(1) Recruitment efforts and methods.

(2) Applicant flow characteristics study.

(3) Interview, selection, appointment, and placement policies and practices.

(4) Policies and practices affecting transfers, promotions, and relocations.

(5) Selection of employees for training.

(6) Policies and practices in demotion, discipline, termination, and reduction in force.

12.3(6) Goals and timetables. An agency's affirmative action goals and timetables shall specify the methods and time frames in which protected class underrepresentations are targeted to be remedied.

a. **Organization unit.** Goals and timetables shall be prepared for the entire agency and for each organizational unit determined under 12.3(2)"b".

b. **Timetable.** Each agency shall determine the timetable in which it expects to meet its goals.

c. **Reasonable analysis.** The goals and timetables shall be directly and reasonably related to the problems disclosed by the analyses under 12.3(2), 12.3(3), 12.3(4) and 12.3(5).

d. **Appropriate action.** In setting goals and timetables an agency may consider, but not be limited to, the following:

(1) Devising a recruitment program in conjunction with the state recruitment co-ordinating committee.

(2) Validating the selection instruments in conjunction with the Iowa merit employment department.

(3) Revising and improving other personnel policies and practices.

(4) Providing affirmative action training internally or externally through organizations such as the Iowa management training system of the Iowa merit employment department.

(5) Devising a plan so that the agency personnel who are working in a capacity related to affirmative action can have part or all of their performance evaluated based on their meeting the established goals and timetables.

e. Goals and timetables for the employment of protected class individuals shall never be construed or inferred to mean a quota system.

12.3(7) Consolidation. An agency may consolidate the race/ethnic and EEO-4 occupational categories into broader groupings in conducting its analyses under 12.3(2), 12.3(3), 12.3(4), 12.3(5) and 12.3(6).

a. **Race/ethnic.** The minority race/ethnic groups may be consolidated into one single group.

b. **Occupational categories.** The occupational categories may be consolidated into one or more groups.

c. **Applicability.** Consolidation is applicable when the entire agency work force or the organization unit work force is determined to be too small for significant statistical analysis, if the work force is analyzed according to its detailed race/ethnic and occupational category groupings or both.

12.3(8) Comparable plan. An agency plan which is consistent with 41 CFR Chapter 60 shall be considered to be in compliance with the above minimum plan standards.

240—12.4(601A) Other affirmative action. Each agency shall also be required to take affirmative action for nonpermanently authorized positions, if any.

240—12.5(601A) Reporting. The following reporting shall be required for each agency.

12.5(1) Initial report. Each agency shall submit an affirmative action plan which conforms to the minimum standards as set forth in these rules to the Affirmative Action Director, Iowa Civil Rights Commission, on or before January 1, 1984.

12.5(2) Update report. After January 1, 1984, each plan shall be updated annually to include a record of all activities undertaken by the agency to effectuate its plan. The same shall be submitted to the Affirmative Action Director, Iowa Civil Rights Commission on or before January 1 of each subsequent year.

240—12.6(601A) Nondiscrimination. An agency which has adopted an affirmative action plan pursuant to these rules shall not be deemed to have violated Iowa Code chapter 601A by adherence to its affirmative action plan provisions.

ARC 3912**COLLEGE AID COMMISSION[245]
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 261.28 and 261.5, the Iowa College Aid Commission hereby gives Notice of Intended Action to adopt Chapter 14, "Iowa Guaranteed Loan Payment Program" and Chapter 15, "Iowa Science and Mathematics Loan Program". The substance of these rules was previously submitted as emergency adopted rules, ARC 3911, published in the Iowa Administrative Bulletin on July 20, 1983.

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

Any interested persons may make written suggestions or comments on these proposed rules prior to August 19, 1983. Such written materials should be directed to the Executive Director, Iowa College Aid Commission, 201 Jewett Building, Ninth and Grand, Des Moines, Iowa 50309. Persons who want to convey their views orally should contact the Executive Director, Iowa College Aid Commission at 515/281-3501 or in the commission offices at 201 Jewett Building. There also will be a public hearing on Wednesday, August 17, 1983, at 1:30 p.m. in the conference room at 201 Jewett Building. Persons may present their views at this public hearing either orally or in writing. Persons who wish to make oral presentations at the public hearing should contact the Executive Director of the Iowa College Aid Commission at least one day prior to the date of the public hearing.

ARC 3889**COMPTROLLER, STATE[270]
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 8.6, the State Comptroller hereby gives Notice of Intended Action to amend Chapter 1, Iowa Administrative Code. The 1983 Iowa Acts, Senate File 527 amends Iowa Code sections 8.15 and 17A.4.

This amendment provides for interest payments by state agencies, after January 1, 1984, on claims that are unpaid after sixty days of receipt by the purchasing agency. It also requires state agencies to send copies of this rule, in the number requested, to all trade and occupational associations that have registered their name and address with the agency.

Any interested person or association may make written or oral suggestions or comments on this proposed amendment prior to August 15, 1983. Such suggestions or comments should be directed to James K. Dysart, State Comptroller's Office, Hoover State Office Building, Des Moines, Iowa 50319; phone (515) 281-3941.

This rule is intended to implement Iowa Code sections 8.15 and 17A.4.

Rule 1.1(8) is amended by adding the following new subrules and renumbering subrules 1.1(2) to 1.1(4) as 1.1(4) to 1.1(6):

1.1(2) Interest on claims. Any claim received after January 1, 1984, for services, supplies, materials or a contract which is payable from the state treasury that remains unpaid after sixty days following the receipt of the claim or the satisfactory delivery, furnishing or performance of the services, supplies, materials or contract whichever date is later, the state shall pay interest at the rate of one percent per month on the unpaid amount of the claim. This paragraph does not apply to claims against the state under chapters 25 and 25A or the claims paid by federal funds. The interest shall be charged to the appropriation or fund to which the claim is certified.

1.1(3) Availability of rules. All state agencies are required to mail the number of copies of the proposed rule as requested to the state office of a trade or occupational association which has registered its name and address with the agency. The trade or occupational association shall reimburse the agency for the actual cost incurred in providing the copies of the proposed rule.

ARC 3919**ENERGY POLICY COUNCIL[380]
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 requirements of the Department of Energy under Part A, USC 6861-6870 of Title IV of the Energy Conservation and Production Act, Public Law 94-385, 90 Stat. 1125 et seq., and under the authority granted by the 1982 Iowa Acts, Chapter 1262, Division II, Section 4, and 1983 Iowa Acts, Senate File 556, Division IV, Section 11, the Energy Policy Council (EPC) gives Notice of Intended Action to rewrite Chapter 15, Weatherization Assistance Program.

The Weatherization Assistance Program is designed to assist in achieving a healthful dwelling environment and maximum practicable energy conservation in the dwellings of low-income persons, in order to both aid those persons least able to afford higher utility costs, and to conserve needed energy.

These rules differ from the rules presently contained in chapter 15 primarily by providing more specificity, and by expanding the procedures available for appeal from local administering agency decisions to the Energy Policy Council. These rules also adopt by reference the updated state plan and procedures manual.

ENERGY POLICY COUNCIL[380] (cont'd)

Rule 15.2 updates the poverty guidelines on which program eligibility is based, and subrule 15.4(5) brings the appeal and hearing procedures into conformity with chapter 11.

Any interested person may make written suggestions or comments on these proposed rules prior to August 9, 1983. Such written materials should be directed to the Director, Iowa Energy Policy Council, Lucas Building, Des Moines, Iowa 50319.

Persons who want to convey their views orally should contact the Director, Energy Assistance Division, 515/281-3268 or at the Energy Assistance Offices, Second Floor, Lucas Building, Des Moines, Iowa 50319. Also, there will be a public hearing on Tuesday, August 9, 1983 at 10:00 a.m. in the Conference Room, Sixth Floor, Lucas Building. Persons may present their views at this public hearing either orally or in writing.

These rules are also being adopted under emergency provisions of Iowa Code chapter 17A and appear herein as ARC 3918.

ARC 3922**HEALTH DEPARTMENT[470]****NOTICE OF TERMINATION**

Pursuant to the authority of Iowa Code section 135.11(15) and 144.43; the Iowa State Department of Health hereby gives notice of termination of rulemaking on Chapter 96 "Vital Records" Iowa Administrative Code [Iowa Administrative Bulletin volume V, number 21, April 13, 1983, ARC 3685]. Termination is the result of reconsideration following public comments.

ARC 3924**HEALTH DEPARTMENT[470]****NOTICE OF INTENDED ACTION**

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

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 135.11(15) and 144.43 the Iowa State Department of Health hereby gives Notice of Intended Action to amend Chapter 96 "Vital Records" Iowa Administrative Code.

These amendments change the definitions of Records of Birth, Death, Marriage, and Divorce for purposes of public access. The present definitions set out particular items which are not accessible to the public on these records. The changes are intended to clarify access and go from specific item exclusion to category exclusion. The categories excluded are those specifically designated as "confidential information", "statistical only", or any data otherwise indicated as statistical or confidential in nature on the face of the record. This change will increase public access to docket book entries and will for the most part

make completely accessible death certificates, at the local custody level which is where the changes will have their greatest effect.

Further a newly created definition, for purposes of local access, for out-of-wedlock births is proposed.

Records of out-of-wedlock births are required by Iowa Code section 144.43(1) to be kept confidential even while in the custody of a county or local registrar. While little disagreement exists with respect to the first two situations in which a record of birth will be closed to public access, some question has been raised with respect to the third situation. From evidence available to the department, a significant portion of those records of birth where the father's name is missing are births which occurred out-of-wedlock, although many are not. With respect to records in the third category, the department requires local registrars to use reasonable efforts to determine whether the birth occurred in or out-of-wedlock. Where the registrar is unable to determine whether a particular birth was in or out-of-wedlock, however, the department believes it is reasonable, in accordance with the confidentiality interests of section 144.43(1), to close such records. These records, nonetheless, are available to those persons showing a direct and tangible interest as set out in rule 96.7(144).

The situation described in this rule which renders a record of birth inaccessible to the general public should not be construed as indicating that a specific birth did, indeed, occur out-of-wedlock. Instead this rule reflects the department's recognition that the release to the general public records of birth in any of the three categories described by the rule would result in the release of records of birth occurring out-of-wedlock, which is prohibited by Iowa Code section 144.43(1).

A public hearing will be held on August 15, 1983, 1:00 p.m., 3rd Floor Conference Room, Lucas State Office Building, Des Moines, Iowa.

Written comments may be submitted prior to August 15, 1983, addressed to Mark W. Wheeler, Hearing Officer, Iowa State Department of Health, Lucas State Office Building - 3rd Floor, Des Moines, Iowa 50319.

These amendments are intended to implement Iowa Code section 144.43.

The following amendments are proposed.

ITEM 1. Amend rule 96.1(144) by striking subrule 96.1(1) through 96.1(4) and in lieu thereof add the following subrules:

96.1(1) Record of live birth. Record of live birth shall be the compilation of those entries of live birth contained in docket books reflecting the recording of the live birth event.

Record of live birth shall also be the Certificate of Live Birth excluding all entries indicating that "they will not appear upon the certificate", "for medical and health purposes only", "for statistical purposes only", "confidential information", or otherwise indicated as confidential or statistical in nature on the face of the record.

96.1(2) Record of death. Record of death shall be the compilation of those entries of death contained in docket books reflecting the recording of the death event.

Record of death shall also be the Certificate of Death excluding all entries indicating that they are "confidential information", "for statistical purposes only", or otherwise indicated as confidential or statistical in nature on the face of the record.

96.1(3) Record of marriage. Record of marriage shall be the compilation of those entries contained in docket books reflecting the recording of the marriage event.

HEALTH DEPARTMENT[470] (cont'd)

Record of marriage shall also be the Certificate of Marriage excluding all entries indicating "confidential information", "for statistical purposes only", or otherwise indicated as confidential or statistical in nature on the face of the record.

96.1(4) Record of dissolution or divorce. Record of dissolution or divorce shall be the Statistical Report of Dissolution and Report of Divorce excluding all entries under that "Confidential Statistical Section", or indicating the "Information for Statistical Purposes Only" or otherwise indicated as confidential or statistical in nature on the face of the record.

ITEM 2. Amend rule 96.6(144) by adding the following as subrule 96.6(4):

96.6(4) Out-of-wedlock birth records. Accessibility: Records of out-of-wedlock births shall not be accessible to the public as of right under chapter 68A when they are in the custody of a county or local registrar.

For purposes of general public access and confidentiality "out-of-wedlock" birth records shall be determined as follows:

a. Any record of birth where there is a reference or statement on the certificate or entry which directly indicates or specifies illegitimate or specifies "no" regarding "born in wedlock" or "legitimate", or

b. Any record of birth where there is reference or statement on the certificate or entry that either parent is "unknown", "anonymous", or there was a refusal to give parents name, or

c. Any certificate or entry which reflects the omission or absence of the name of the father of the child.

However, in all of the above paragraphs where the registrar has evidence either from the record itself or from other sources that the birth is a legitimate birth, the record of birth shall be accessible. Local registrars shall use reasonable effort to determine from the record itself or from other sources whether the birth is a legitimate birth.

ARC 3925**HEALTH DEPARTMENT[470]**

BOARD OF PHYSICAL AND OCCUPATIONAL
THERAPY 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 sections 147.76 and 148B.7, the Board of Physical and Occupational Therapy Examiners gives Notice of Intended Action to amend rule 470—138.206(148B) of the Iowa Administrative Code.

The proposed rule provides a procedure for an occupational therapy assistant from another state to be licensed in Iowa by waiver.

Any interested person may make written comments concerning the proposed rule not later than 4:30 p.m., August 11, 1983, addressed to Peter J. Fox, Hearing Officer, State Department of Health, Lucas State Office Building, Des Moines, Iowa 50319.

The proposed rule is intended to implement Iowa Code section 148B.6.

Rule 470—138.206(148B) is amended by adding the following new subrule:

138.206(5) An applicant for a license as an occupational therapy assistant after December 30, 1981, who has not been licensed in another state but who has successfully completed the registration examination of the Professional Examination Service or Psychological Corporation for occupational therapy assistants, shall show proof of practice for at least one of the past five years and provide evidence of having completed seven and one-half hours of continuing education relating to the practice of an occupational therapy assistant within the year previous to the application date, may be licensed by waiver. Individuals who do not meet these requirements will be licensed by examination provided by the board. This does not apply to individuals who have graduated from an accredited occupational therapy assistant program within the last twelve months prior to the application date.

ARC 3926**HEALTH DEPARTMENT[470]**

BOARD OF PSYCHOLOGY 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 Psychology Examiners gives Notice of Intended Action to rescind subrule 140.4(9) of the Iowa Administrative Code and adopt a new subrule.

The proposed rule provides a procedure for application for a limited permit to practice psychology.

Any interested person may make written comments concerning the proposed rule not later than 4:30 p.m., August 11, 1983, addressed to Peter J. Fox, Hearing Officer, State Department of Health, Lucas State Office Building, Des Moines, Iowa 50319.

The proposed rule is intended to implement Iowa Code section 154B.3(5).

Subrule 140.4(9) is rescinded and the following adopted in lieu thereof.

140.4(9) Psychologists residing outside the state of Iowa and intending to practice in Iowa under the provisions of Iowa Code section 154B.3(5) shall file an application for a limited permit to practice at least sixty days in advance of such practice on a form provided by the board. The limited permit expires one year after issuance and may be renewed only once for an additional twelve-month period.

The following fees, which are nonrefundable, shall be submitted payable to the state department of health:

a. The application for a limited permit to practice shall be accompanied by a check or money order in the amount of forty dollars.

b. The renewal fee of forty dollars by check or money order shall be submitted at least thirty days prior to the expiration of the initial limited permit if the person intends to continue to practice in Iowa under the provisions of Iowa Code section 154B.3(5).

ARC 3927**HEALTH DEPARTMENT[470]**

BOARD OF COSMETOLOGY 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 Cosmetology Examiners gives Notice of Intended Action to rescind subrule 149.2(5) of the Iowa Administrative Code and adopt a new subrule.

The proposed rule would permit a cosmetology school operated by an area community college prior to September 1, 1982 to continue to operate with only one instructor per fifteen students. The rule would conform with House File 500, enacted by the Seventieth General Assembly.

Any interested person may make written comments concerning the proposed rule not later than 4:30 p.m. August 11, 1983 addressed to Grace M. West, Executive Secretary, Board of Cosmetology Examiners, State Department of Health, Lucas State Office Building, Des Moines, Iowa 50319.

The proposed rule is intended to implement Iowa Code sections 157.8 and 157.14.

Subrule 149.2(5) is rescinded and the following adopted in lieu thereof:

149.2(5) The number of instructors for each school shall be based upon total enrollment, with a minimum of two instructors employed on a full-time basis for up to thirty students and an additional instructor for each additional fifteen students. However, a school operated by an area community college prior to September 1, 1982 with only one instructor per fifteen students is not subject to this subrule and may continue to operate with the ratio of one instructor to fifteen students.

ARC 3928**HEALTH DEPARTMENT[470]**

BOARD OF COSMETOLOGY 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 258A.2, the Board of Cosmetology Examiners gives Notice of Intended Action to amend rule 470—151.3(258A) by adding a new subrule.

The proposed subrule would prohibit persons or companies which are primarily engaged in the sale of cosmetology products from providing continuing education.

Any interested person may make written comments concerning the proposed rule not later than 4:30 p.m. August 11, 1983 addressed to Grace M. West, Executive Secretary, Board of Cosmetology Examiners, State Department of Health, Lucas State Office Building, Des Moines, Iowa 50319.

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

Rule 470—151.3(258A) is amended by adding the following new subrule:

151.3(4) Persons or companies which are primarily engaged in the sale of cosmetology products are not eligible to provide continuing education.

ARC 3894**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 234.6(7), the Department of Human Services proposes amending rules appearing in the IAC relating to the food stamp program (chapter 65).

Currently ADC rules provide that the Public Assistance Eligibility Report (PAER), form PA-2140-0, will serve as a monthly report form and a review form for public assistance households. These rules provide that PAER, form PA-2140-0, will also serve as a monthly report form and a recertification form for food stamp households. The form will be mailed, each month, to all food stamp households which are required to complete and submit monthly reports and, beginning with the implementation of the Automated Benefit Calculation (ABC) System, to all nonmonthly reporting households whose Public Assistance review is nearly due. The department believes that it would be equitable and a convenience for food stamp households to receive a "recertification form" in the mail and that this form can also serve to give prior notice to the household of the expiration of its certification period. This will occur with the implementation of the ABC System. Combining the monthly report/recertification and the Notice of Expiration will give the household a single explanation of its rights and options, reduce confusion, and save postage dollars.

Nonpublic Assistance food stamp households will begin receiving the PA-2140-0 at the end of December 1983 in one pilot county and at the end of January 1984 statewide. The first computer-generated messages regarding the expiration of certification periods will be for certification periods which end with January for the pilot county and with February statewide. The Public Assistance food stamp households which are not subject to monthly reporting will receive their PA-2140-0's from Central Office with the implementation of the ABC System.

Consideration will be given to written data, views or arguments thereto, received by the Bureau of Policy,

HUMAN SERVICES DEPARTMENT[498] (cont'd)

Coordination, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319 on or before August 9, 1983.

These rules are intended to implement Iowa Code section 234.12.

ITEM 1. 498—65.1(234) is amended by adding a new subrule.

65.1(8) "Notice of expiration" means either a message printed on an application for continued program participation, PAER form PA-2141-0, which is automatically issued to the household, or form FP-2310-0.

ITEM 2. Chapter 65 is amended by adding a new rule. 498—65.20(234) Notice of expiration issuance.

65.20(1) Issuance of the Automated Notice of Expiration will occur with the monthly mailing of Public Assistance Eligibility Reports, form PA-2140-0, from Des Moines.

65.20(2) Issuance of the Notice of Expiration, form FP-2310-0, will occur from the local office at the time of certification if the household is certified for one month, or for two months, and will not receive the Automated Notice of Expiration.

This rule is intended to implement Iowa Code section 234.12.

ARC 3902**MERIT EMPLOYMENT
DEPARTMENT[570]****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 19A.9, the Iowa Merit Employment Department hereby gives Notice of Intended Action to amend Chapter 2 "State Service and Its Divisions", Iowa Administrative Code. The substance of this rule was previously submitted as an emergency adopted and implemented rule, ARC 3901, published in the Iowa Administrative Bulletin on July 20, 1983.

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

Any interested person may make written suggestions or comments on this proposed rule no later than August 9, 1983 to the Division Manager, Technical Services Division, Iowa Merit Employment Department, Grimes State Office Building, Des Moines, Iowa 50319. Persons who wish to convey their views orally should contact the Division Manager, Technical Services Division at (515) 281-6602 or at the above address. Also, there will be a public hearing on Thursday, August 11, 1983, at 9:15 a.m. in the Grimes Conference Room, North Half, on the first floor of the Grimes State Office Building. Persons may present their views at this public hearing either orally or in writing. Persons who wish to make oral presentations at the public hearing should contact the Division Manager of the Technical Services Division prior to the date of the public hearing in order to be scheduled.

ARC 3923**NURSING HOME ADMINISTRATORS
BOARD OF EXAMINERS[600]****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 135E.9, the Iowa State Board of Examiners for Nursing Home Administrators gives Notice of Intended Action to amend chapter 2 of the Iowa Administrative Code.

The proposed amendments provide a procedure for biennial renewal of license, provide limitations for appointment of a provisional administrator, and provide procedure for licensure by equivalency.

Any interested person may make written comments concerning the proposed rules not later than 4:30 p.m., August 11, 1983 addressed to Peter J. Fox, Hearing Office, State Department of Health, Lucas State Office Building, Des Moines, Iowa 50319.

The proposed rules are intended to implement Iowa Code section 135E.9.

ITEM 1. Subrule 2.4(1) is rescinded and the following adopted in lieu thereof:

2.4(1) Renewal of license.

a. The period of licensure is January 1 of each even-numbered year to December 31 of the next odd-numbered year.

b. Each applicant for the renewal of license shall be mailed, at the applicant's last known address, the application at least thirty days prior to the expiration date on the current license.

c. Any administrator who fails to renew a license after thirty days but before sixty days following the expiration shall pay a penalty of thirty dollars in addition to the renewal fee upon filing the application for renewal.

d. Any administrator who fails to renew a license after sixty days following the expiration shall pay a penalty of one hundred dollars in addition to the renewal fees and also successfully retake the state examination. The one hundred dollar penalty fee will include the examination fee.

ITEM 2. Subrule 2.6(3) is rescinded and the following adopted in lieu thereof:

2.6(3) Provisional administrator. In the event that an existing nursing home loses the services of its licensed administrator and the home is unable to secure another licensed administrator, an unlicensed person may be employed as a provisional administrator for a period of three months. At the discretion of the board, a three-month extension may be granted. A nursing home shall not have more than a total of two three-month provisionals in any twelve-month period. The owner of the nursing home shall apply to the board within fifteen days after the home has lost its licensed administrator for a provisional letter. The person appointed by the nursing home owner shall complete a regular application form furnished by the board. The application will be accompanied by a fee of thirty dollars for the examination of credentials.

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

ITEM 3. Rule 2.7(147) is rescinded and the following adopted in lieu thereof:

600—2.7(147) Equivalency.

2.7(1) Applicants for licensure to practice as a nursing home administrator in the state of Iowa who holds a currently valid license in good standing from another state may make application for licensure by equivalency with the board. Equivalency may be granted if the applicant complies with the following minimum licensing criteria:

a. Passed the national association of boards of examiners for nursing home administrators (NAB) or professional examination service (PES) examinations using Iowa's current examination score requirements; and

b. Passed the current Iowa state licensure examination; and

c. Practiced full time as a licensed nursing home administrator in a nursing home for at least four years of the previous five years immediately prior to application. Applicant must have been actively licensed for at least five years. Applicant must furnish official documentation of proof of practice from the state agency responsible for licensing of nursing home facilities of the state in which they have practiced.

d. In lieu of the experience requirement in paragraph "c" above, an applicant may substitute the successful completion of the curriculum of the program in long term health care administration offered by an accredited college or university with an associate of arts or science degree or its equivalent as determined by the board. The curriculum shall include:

6 semester (9 quarter) hours of social sciences; and

6 semester (9 quarter) hours of English or communications; and

5 semester (8 quarter) hours of mathematics or science or both; and

10 semester (15 quarter) hours of business management, accounting or business law or both or any combination thereof; and

4 semester (6 quarter) hours of gerontology; and

13 semester (20 quarter) hours of health care or long term health care administration or both; and

12 semester (18 quarter) hours of long term health care practicum (720 clock hours). Substitution of one year of long term health care administration experience may be allowed at the discretion of the board; and

4 semester (5 quarter) hours of electives; total of 60 semester (90 quarter) hours.

Notice of Intended Action to amend Chapter 19, "Iowa Job Training Partnership Program".

Item 1 establishes a state level complaint resolution procedure and a service delivery area grant recipient level procedure to receive, investigate and resolve grievances, and conduct hearings to adjudicate disputes under Public Law 97-300. Item 2 establishes conflict of interest rules under the Iowa Job Training Partnership Act program.

Any interested person may make written suggestions or comments on these proposed rules to the Director, Division for Human Resources Coordination, Office for Planning and Programming, 523 E. 12th Street, Des Moines, Iowa 50319, prior to August 10, 1983. A public hearing on these rules will be held on Thursday, August 11, 1983 at 1:00 p.m. in the Office for Planning and Programming conference room. Any person attending the hearing and wishing to comment on the rules will be given the opportunity to do so.

These rules are intended to implement Executive Order 47 and Public Law 97-300.

The following new rules are proposed.

ITEM 1. Add a new rule to chapter 19 as follows:

630—19.21(7A, 17A, 29 U.S.C. 1501 et seq.) Complaint procedure.

19.21(1) Applicability.

a. These rules indicate and specify the minimum procedural requirements for resolving complaints, including audit disputes, arising in connection with the Job Training Partnership Act (JTPA) program operated by the office for planning and programming, the service delivery area (SDA) grant recipients, and other sub-recipients alleging a violation of the JTPA, regulations, grant or other agreements under the Act.

b. These rules do not apply to proceedings that determine law or policy of general applicability based on legislative fact nor to automatic grant adjustments for classes of contractors, subcontractors or participants when said adjustments are required by state or federal law.

c. Complaints may be brought by participants, sub-grantees, subcontractors, and other interested persons. The office for planning and programming may also initiate complaints on its own motion or as required by statute or constitution in order to determine the legal rights, duties, or privileges of a party which are at issue.

19.21(2) Definitions. As used in this complaint procedure the following definitions apply, unless the context otherwise requires:

a. "Complaint" means an alleged injury, injustice or wrong and includes the term grievance.

b. "Contested case" means a proceeding in which the legal rights, duties or privileges of a party are required by constitution or statute to be determined by the office for planning and programming, after an opportunity for an evidentiary hearing.

c. "Director" means the director of the office for planning and programming.

d. "Dismissal" means that a complaint will not be pursued for the following reasons:

(1) The alleged violation is not one that arises in connection with the JTPA, regulations, grant, or other agreements, under the Act; or

(2) No useful purpose would be derived in pursuing further action on the complaint.

e. "Final action" means resolution of the complaint by withdrawal, settlement agreement, dismissal, or final decision.

ARC 3914

PLANNING AND PROGRAMMING[630]

NOTICE OF INTENDED ACTION

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

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

Pursuant to the authority of Iowa Code section 7A.3, chapter 17A, and Governor's Executive Order 47 (1982) the Office for Planning and Programming hereby gives

PLANNING AND PROGRAMMING[630] (cont'd)

f. "JTPA" means the Job Training Partnership Act of 1982, Public Law 97-300.

g. "Presiding officer" means the person assigned to preside over a hearing or render a final decision whether that be the director or an administrative hearing officer appointed according to Iowa Code chapter 17A.

h. "Settlement agreement" means that a written agreement has been executed which recites that the subject of the controversy and the solution mutually agreed upon by the parties, including a statement of the action to be taken, or to be refrained from, by each of the parties.

i. "State" for the purpose of this complaint procedure means the Office for Planning and Programming, 523 East 12th Street, Des Moines, Iowa 50319.

j. "Withdrawal" means a complainant has requested prior to a hearing that no further action be taken by the state on the complaint.

19.21(3) Publication, distribution and notification of complaint procedure. Service delivery area grant recipients shall provide participants, upon enrollment into employment or training, with a written description of the complaint procedure including notification of their right to file a complaint and instructions on how to do so. Persons not familiar with English shall be provided with a written or oral translation into the language understood by them. When a person is illiterate or semilliterate, such person shall be advised of each right to the satisfaction of that person's understanding. The service delivery grant recipient and the state shall provide a complaint form and filing instructions upon request.

Upon filing a complaint and at each stage thereafter each complainant shall be notified in writing of the next step in the complaint procedure.

19.21(4) Confidentiality. The identity of any person who has furnished information relating to, or assisting in, an investigation of a possible violation of JTPA shall be kept confidential to the extent possible, consistent with due process and a fair determination of the issues.

19.21(5) Each service delivery area (SDA) grant recipient and administrative entity shall establish procedures for resolving any complaint alleging a violation of JTPA, regulations, grant or other agreements under JTPA by the SDA grant recipient or subrecipient. These procedures shall include:

a. The handling of complaints and grievances arising in connection with JTPA programs operated by each SDA grant recipient and subrecipient;

b. Procedures for resolving complaints arising from actions such as audit disallowances or the imposition of sanctions, taken as a result of audit findings, investigations or monitoring;

c. The opportunity to file a complaint within one year of the occurrence prompting the complaint; except for complaints alleging fraud or criminal activities, or within one hundred and eighty days for complaints alleging discrimination prohibited under the JTPA, regulation, grant or other agreements under JTPA.

d. An opportunity for a hearing, within thirty days of filing, written notice of the date, time, and place of the hearing, and an opportunity to present evidence;

e. A written decision within sixty days of the filing of the complaint; and

f. Notification of the right to request a review of the complaint by the state where complainant does not receive a decision at the SDA grant recipient level within sixty days of filing or receives a decision unsatisfactory to the complainant.

19.21(6) Grievance or complaint procedure at the employer level.

a. SDA grant recipients and other subrecipients shall assure that other employers, including private-for-profit employers of participants under JTPA also have a grievance procedure relating to the terms and conditions of employment available to their participants.

b. Employers under paragraph "a" of this subrule may operate their own grievance system or may utilize the grievance system established by the SDA grant recipient. Employers shall inform participants of the grievance procedure they are to follow.

c. An employer system shall provide for a review, in accordance with subrule 19.21(5), of an employer's decision by the SDA grant recipient upon request by the complainant.

19.21(7) State review. If a complainant does not receive a decision at the SDA level within sixty days of filing the complaint or receives a decision unsatisfactory to the complainant, the complainant may request a review of the complaint by the state.

a. To be considered, such a request must be filed with the state within ten days of receipt of the adverse decision or ten days from the date on which the complainant should have received a decision.

b. No complainant subject to the procedure specified in 19.21(5) may file a complaint with the state until the SDA grant recipient level procedures have been exhausted, unless a decision has not been issued within the time period required by 19.21(5), paragraph "e".

c. The request shall be filed as noted in subrule 19.21(8), paragraph "e".

d. The request shall be in writing and shall include:

- (1) The date of filing the appeal;
- (2) The names and addresses of all parties involved;
- (3) The grounds upon which the appeal is based; and
- (4) Any additional evidence which will warrant a review by the state.

19.21(8) Filing a complaint with the state.

a. Who may file. Any interested person, organization or agency may file a complaint.

b. Grounds. The sole ground for filing a complaint under this rule is to adjudicate or otherwise resolve an allegation that the governor, the office for planning and programming, the state job training coordinating council, local elected officials or a service delivery area private industry council, consortium, planning grant recipients, administrative entity or subrecipient violated JTPA, the federal or state regulations, grants, contracts or other agreements under JTPA.

c. Time.

(1) Except for complaints alleging fraud, complaints shall be filed within one year of the alleged occurrence.

(2) Complaints alleging any activity which excludes from participation in, denies the benefits of, subjects to discrimination under, or denies employment in the administration of or in connection with any such program because of race, color, religion, sex, national origin, age, handicap, or political application or belief shall be filed no later than one hundred and eighty days from the date of the alleged activity.

d. Contents. Complaints shall be clearly portrayed as such by the complainant and shall satisfy the following requirements:

(1) Complaints shall be legible and signed by the complainant or the complainant's authorized representative;

(2) Complaints shall pertain to a single subject, situation or set of facts;

(3) The name, address and phone number (or TTY number) shall be clearly indicated. If the complainant is

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represented by an attorney or other representative of the complainant's choice, the name, address and phone number of the representative shall also appear in the complaint;

(4) Complaints shall state the name of the party or parties complained against and, if known to the complainant, the address and phone number of the party or parties complained against;

(5) Complaints shall contain a clear and concise statement of the facts, including pertinent dates, constituting the alleged violations.

(6) Complaints shall cite the provisions of JTPA, regulations, grants or other agreements under JTPA believed to have been violated;

(7) Complaints shall state the relief or remedial action(s) sought; and

(8) Copies of documents supporting or referred to in the complaint shall be attached to the complaint;

(9) Complaints shall state whether or not an oral hearing is requested.

e. Where filed. Complaints shall be filed with the Complaint Officer, Division for Human Resources Coordination, Office for Planning and Programming, 523 East 12th Street, Des Moines, Iowa 50319.

19.21(9) Acknowledgment of complaint and notice of opportunity for hearing.

a. A complaint shall be deemed filed with the state when it has been received by the complaint officer in a form which satisfies the requirements of subrule 19.21(8).

b. Upon receipt of a complaint in proper form, the office for planning and programming shall send, by personal service or by certified mail, a copy of the complaint and a letter of acknowledgment and notice to the respondent and complainant within seven days. The letter of acknowledgment and notice shall contain the filing date, the docket number, and notice of the following opportunities:

(1) The opportunity for informal resolution of the complaint at any time before a contested case hearing is convened;

(2) The opportunity to request, within fifteen days of the date of filing, a hearing;

(3) The opportunity for a hearing within thirty days of filing the complaint;

(4) The opportunity to present written evidence on the complaint; and

(5) A state review of the merits of the complaint and a final decision within sixty days of the filing of the complaint;

(6) The opportunity to appeal to the Secretary of the United States Department of Labor should the state fail to issue a decision within sixty days.

The letter of acknowledgment and notice shall also state the requirement that informal settlement efforts take place prior to rendering a final decision or prior to the existence of the right to exercise the opportunity for hearing.

c. A representative designated by the state will be notified concurrently of the filing of a complaint and be required to take action as noted in 19.21(10).

19.21(10) Settlement. A controversy may, unless precluded by statute, be informally settled by mutual agreement of the parties any time before or after a controversy is formally identified by the filing of a complaint, notice, or petition, and before a contested case hearing is convened. The settlement shall be effected by a settlement agreement or a statement from the complainant that the complaint has been withdrawn or resolved to complainant's satisfaction. The complaint officer shall acknow-

ledge the informal settlement and notify the parties of the final action. With respect to the specific factual situation which is the subject of controversy, the informal settlement shall constitute a waiver, by all parties of the formalities to which they are entitled under the terms of the Iowa administrative procedure Act, Iowa Code chapter 17A, JTPA and the rules and regulations under JTPA.

Upon receipt of the notice given pursuant to 19.21(9), paragraph "c", the representative shall gather facts relative to the merits of the allegations and immediately attempt to informally resolve the complaint.

a. When an informal resolution has not been accomplished and a hearing has not been requested, the representative designated by the state shall prepare and submit to the complaint officer, within forty-five days of the filing date, a recommendation which shall include:

(1) A summary of the fact-finding and settlement efforts conducted; and

(2) A recommendation supported by documentation and references to JTPA, regulations, grants, or other agreements under JTPA.

b. The complaint officer shall send by certified mail or deliver by personal service the recommendation submitted by the representative. The recommendation shall contain a notice of the right to appeal the recommendation if filed within seven days of receipt. On receipt of an appeal filed within seven days of notice, the complaint officer shall notify all parties of the appeal. The appeal shall include:

(1) The grounds upon which the appeal is based; and
(2) Any additional evidence which will warrant a final agency review.

Unless the appeal is filed within seven days of receipt of notice, the appeal shall not be entertained for any reason.

19.21(11) Procedure for requesting a hearing.

a. A request for a hearing shall be made in writing within fifteen days of the filing of a complaint and shall include:

(1) The date of filing the complaint;
(2) The names and addresses of all parties involved; and
(3) The date of filing the request for hearing.

b. A request for hearing may be made concurrently with the filing of a complaint and may be initiated by the state on its own motion.

19.21(12) Notice of hearing.

a. On receiving a request for hearing which satisfies subrule 19.21(11), the presiding officer shall give all parties at least seven days' written notice of the hearing, either by personal service or certified mail. The notice may be waived in case of emergency, as determined by the presiding officer, or for administrative expediency upon agreement of the interested parties. A person or organization potentially or directly affected by the outcome and who has applied in writing to the state shall also be given written notice.

b. Contents of notice. Notice of hearing shall include:
(1) A statement of the date, time, place, nature, and manner of the hearing;

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

(3) A reference to the particular sections of the statutes, rules or regulations involved; and

(4) A short, plain statement of the matters asserted. If the state is unable to recite the matters in detail at the time the notice is given, the notice may be limited to a statement of the issues involved.

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(5) A statement informing all parties of their opportunities at hearing:

(a) Opportunity for the requesting party to withdraw the request for hearing before the hearing;

(b) Opportunity to request rescheduling of the hearing for good cause;

(c) Opportunity to be represented by an attorney or other representative of their choice.

(d) Opportunity to introduce into the record documentary evidence and bring witnesses to the hearing;

(e) Opportunity to have records or documents relevant to the issues produced by their custodian when such records or documents are kept by or for the state, contractor or its subcontractor in the ordinary course of business and where prior reasonable notice has been given to the presiding officer;

(f) Opportunity to question any witnesses or parties;

(g) The right to an impartial presiding officer; and

(h) A final written decision from the presiding officer to the complainant(s), and any other interested parties, within sixty days of the filing of the complaint.

19.21(13) Prehearing subpoena and discovery rights and procedures. The presiding officer shall, upon request, issue subpoenas in accordance with the provisions of Iowa Code section 17A.13.

19.21(14) Conduct of hearing.

a. The hearing shall be held within thirty days of the filing of the complaint.

b. Hearings may be conducted in whole or in part by telephone. When it is impractical for the state to conduct an in-person hearing, a telephone hearing may be scheduled.

c. After the presiding officer has called the hearing to order, the parties may be given opportunity by the presiding officer to present opening statements; thereafter the parties shall present their evidence in such sequence as determined by the presiding officer.

d. When a witness is introduced to provide testimony or evidence in a contested case hearing, the witness shall, prior to testifying, be identified by name and address and shall take an oath or affirmation administered by the presiding officer.

e. The rules of evidence, the contents of the record and the functions of the presiding officer shall be as allowed under Iowa Code sections 17A.12, 17A.14, and 17A.17.

19.21(15) Ex parte communications.

a. Presiding officer. Where the presiding officer desires to communicate with any party or person with a personal interest in or engaged in prosecuting or advocating in either the case under consideration before them or a pending factually related case involving the same parties, that officer shall notify these persons or parties indicating the time and place at which all affected persons or parties may meet to discuss the matters.

However, without notice and opportunity for all parties to participate, individuals assigned to render a proposed or final decision, or to make findings of fact and conclusions of law in a contested case, may communicate with members of the state and may have the aid and advice of persons other than those with a personal interest in, or those engaged in prosecuting or advocating in, either the case under consideration or a pending factually related case involving the same parties.

b. Parties or their representatives. Where any party or their representative desires to discuss certain matters with the presiding officer, they should notify the presiding officer and the opposing party of the desire to meet with the presiding officer, and the presiding officer, upon

notification of the affected persons or parties, may meet to discuss any matters.

c. Sanction. The recipient of a prohibited communication as provided in Iowa Code section 17A.17, may be required to submit the communication, if written, or a summary of the communication, if oral, for inclusion in the record of the proceedings. As sanctions for violations of any prohibited communication provided in Iowa Code section 17A.17, a decision may be rendered against a party who violates these rules, or for reasonable cause shown the director may censor, suspend, or revoke a privilege to practice before the office, or for reasonable cause shown after notice and opportunity to be heard, the director may censor, suspend, or dismiss any state personnel.

19.21(16) Decision. The decision shall conform to the following requirements:

a. Timing. The decision shall be made within sixty days of the filing of the complaint unless the period is extended with the written consent of all parties for good cause.

b. Contents. A proposed or final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact shall be based solely on the evidence in the record and on matters officially noticed in the record, and, if set forth in statutory language, shall be accompanied by a concise and explicit statement of underlying facts supporting the findings. Each conclusion of law shall be supported by cited authority or by a reasoned opinion. The decision shall include:

(1) Notice of the right to file an appeal to the governor within ten days of the receipt of the decision; or

(2) Notice of the right to file an appeal to the Office of Civil Rights, U.S. Department of Labor, 911 Walnut, Room 100, Kansas City, Missouri 64106 for complaints charging discrimination in accordance with 19.21(8), paragraph "c", subparagraph (2).

19.21(17) Governor's review. When requested, the governor or his designee shall independently review a complaint and decision. The governor's review shall result in a decision within thirty days of the request and shall be final.

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

ITEM 2. Chapter 19 is amended by adding the following new rule:

630—19.11(7A,29 U.S.C. 1501 et seq.) Conflict of interest.

19.11(1) Council members. No member of any service delivery area council appointed or nominated under the JTPA shall:

a. Cast a vote or attempt to influence directly or indirectly those who cast votes, on any matter bearing upon the provision of services under the Act by that member or any organization that member represents; or,

b. Participate in any way directly or indirectly in a decision to award contract(s) to that member or any organization that member represents; or

c. Cast a vote or attempt to influence directly or indirectly those who cast votes on any matter which would provide direct financial or personal benefit to that member or give the appearance of providing personal or financial benefit.

d. Notwithstanding any provision of this section to the contrary, a member of the council who complies with 19.11(1), paragraphs "a", "b" and "c" who has a direct or indirect interest in a contract for personal property or

PLANNING AND PROGRAMMING[630] (cont'd)

services between a member and any private industry council or any administrative entity selected to administer any job training plan or any other activity provided for under JTPA, may contract for said personal property or services between such member and such private industry council or any administrative entity selected to administer any job training plan or any other activity provided for under JTPA as long as the member notifies in writing the private industry council or administrative entity of said member's potential conflict of interest and the private industry council or administrative entity records said notice along with its reasons for awarding the contract and why the award is in the public's best interest. In the event the notice is sent to an administrative entity, a copy of the notice shall be forwarded by the administrative entity to the private industry council to which it is responsible.

19.11(2) Employees. Employees and officers of each grant recipient, administrative entity, private industry council and service provider under JTPA shall avoid having any conflict of interest, direct or indirect, financial or personal, and shall avoid the appearance of such a conflict in awarding financial assistance and in procurement activities involving JTPA funds.

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

ARC 3885

**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 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 chapter 280A, the Department of Public Instruction hereby gives Notice of Intended Action to amend Chapter 5, "Area Vocational Schools and Community Colleges," Iowa Administrative Code.

Chapter 15, "Endorsements" was amended effective January 1, 1983 to revise the certification requirements for merged area schools. This amendment to Chapter 15 eliminated the need to retain the present administrative subrule 5.3(1).

Any interested person may make written suggestions or comments on these rules prior to August 10, 1983, to Charles Moench, Director, Area Schools Division, Iowa Department of Public Instruction, Grimes State Office Building, Des Moines, Iowa 50319. Persons who want to convey their views orally should contact the Director at (515) 281-3599, or in the Area Schools Division on the third floor of the Grimes State Office Building.

No public hearing is anticipated.

These rules are intended to eliminate duplication and confusion with the revised certification requirements in chapter 15.

This rule is intended to implement Iowa Code chapter 280A.

The following amendment is proposed.
Rescind subrule 5.3(1) and insert in lieu thereof the following:

5.3(1) Certification and subject matter approval. Instructors in preparatory vocational programs, arts and science programs, high school completion programs, and support staff/services personnel shall hold a valid certificate with appropriate endorsement and approval issued by the state board of public instruction for teaching or service in an area school.

ARC 3893

**RAILWAY FINANCE
AUTHORITY[695]
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.

On August 31, 1983, at their meeting at the Department of Transportation Complex, 800 Lincoln Way, Ames, Iowa, the Iowa Railway Finance Authority board shall consider for adoption the administrative rule described herein. This action shall be in accord with the Iowa administrative procedure Act, Iowa Code chapter 17A.

Written comments concerning these proposed rules or written requests to make an oral presentation at the above specified board meeting shall be addressed to the Department of Transportation, Office of Financial/Operational Analysis, 800 Lincoln Way, Ames, Iowa 50010. Written comments or written requests to make an oral presentation may be accepted if received by the board on or before August 17, 1983.

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

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

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

Pursuant to the authority of Iowa Code subsection 307B.7(2) the Iowa railway finance authority board hereby gives Notice of Intended Action to amend 695—chapter 4 entitled, "Projects".

The content and explanation of the proposed rule can be found under ARC 3892 in this issue.

This rule amendment is intended to implement Iowa Code chapter 307B.

Proposed rulemaking actions:

Pursuant to the authority of Iowa Code subsection 307B.7(2), rules 695—chapter 4 entitled "Projects" are hereby amended.

RAILWAY FINANCE AUTHORITY[695] (cont'd)

Amend subrule 4.3(3) by rescinding paragraph "a" and inserting in lieu thereof:

a. The net present value of the proposed project is positive, or the benefits to the public, shipper(s), and carrier(s) which have no determinable precise monetary value are judged by staff to outweigh a negative calculation. The benefits with no determinable precise monetary value may include, but are not limited to, the following:

- (1) Safety impacts; e.g. reduced likelihood of accidents involving personal injury or hazardous cargoes.
- (2) Economic development impacts; e.g. increase in employment opportunities or increase in industrial development.
- (3) Environmental impacts; e.g. changes in ambient noise levels or air quality.

ARC 3905**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 41, "Determination of Taxable Income", Iowa Administrative Code.

The Acts of the Sixty-ninth General Assembly, 1982 Regular Session, Senate File 2305[422.9(2)"g"], initiate an income tax itemized deduction for expenses incurred for caring for certain disabled relatives in the home of the taxpayer. Present rules do not presently cover this itemized deduction.

Any interested persons may make written suggestions or comments on this proposed rule on or before August 19, 1983. Such written comments should be directed to the Director, Income Tax Division, Iowa Department of Revenue, Hoover State Office Building, Des Moines, Iowa 50319.

Persons who want to orally convey their views should contact the Director, Income Tax Division at 515/281-8450 or in the income tax offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by August 12, 1983.

This subrule is intended to implement Iowa Code section 422.9(2)"g".

The following amendment is proposed.

Rule 730—41.5(422) is amended by adding the following new subrule and amending the implementation clause at the end of the rule.

41.5(4) Deduction for expenses for the care of certain disabled relatives.

a. For tax years beginning on or after January 1, 1983, a deduction from net income may be taken for expenses incurred by a taxpayer for care of a disabled person who is unable to live independently. Such care must be provided in the home in which the taxpayer

resides throughout the year. A person is considered to be incapable of living independently if as a result of a physical or mental defect, the person is incapable of caring for his or her hygienical or nutritional needs or requires full-time attention of another person for his or her own safety or the safety of others. The fact that an individual, by reason of a physical or mental defect, is unable to engage in any substantial gainful activity, or is unable to perform the normal household functions of a homemaker or to care for minor children, does not of itself establish that the individual is physically or mentally incapable of self-care. An individual who is physically handicapped or is mentally defective, and for such reason requires constant attention of another person, is considered to be physically or mentally incapable of self-care.

To qualify for the deduction, in addition to being disabled, the person must be the grandchild, child, parent or grandparent of the taxpayer or the taxpayer's spouse, and

- (1) Be receiving medical assistance benefits under Iowa Code chapter 249A; or
- (2) Be eligible to receive such benefits under the income and resources levels established in Iowa Code chapter 249A; or
- (3) Would be eligible to receive such benefits if living in a health care facility licensed under Iowa Code chapter 135C.

Expenses incurred for a taxpayer's disabled spouse do not qualify for the deduction.

b. The deductible amount is limited to \$5,000 for each disabled person cared for in the taxpayer's home and the expenses must not be otherwise deductible as a deduction from net income under Iowa Code section 422.9.

c. Qualifying expenses include a proportionate share of food expenses as well as amounts spent directly on the disabled person for such items as clothing, medical care, dental care and transportation.

Medical expenses incurred for a disabled relative which are eliminated from federal itemized deductions because of the federal adjusted gross income percentage limitation, may be included in the deduction for expenses incurred for the care of the disabled relative providing the other requirements are met. Following are examples to illustrate the portion of medical expenses incurred which would be deductible.

Example 1. Mr. and Mrs. Smith care for Mrs. Smith's mother in their home. Mrs. Smith's mother is physically unable to live independently and qualifies for medical assistance benefits under Iowa Code chapter 249A. Mr. and Mrs. Smith paid medical expenses of \$1,500 for themselves and \$500 for Mrs. Smith's mother. The medical expenses for Mrs. Smith's mother are includable as federal itemized deductions. Mr. and Mrs. Smith's federal adjusted gross income is \$20,000. For 1983, the federal deduction for medical expenses would be \$1,000 (\$2,000-5% of \$20,000). Since the deductible amount for federal tax purposes is \$1,000 or fifty percent of the total medical expenses of Mr. and Mrs. Smith and Mrs. Smith's mother, there remains fifty percent of the \$500 expense for Mrs. Smith's mother (or \$250) which can be included in the Iowa deduction for a disabled relative.

Example 2. Mr. and Mrs. Smith's medical expenses were \$400 and Mrs. Smith's mother's expenses were \$200. None of the \$600 in expenses would be deductible as a federal itemized deduction but the mother's \$200 in expenses would be includable in the Iowa deduction for expenses incurred for a disabled relative.

REVENUE DEPARTMENT[730] (cont'd)

d. Expenses not directly related to care of a disabled relative are not deductible. This category includes rent, mortgage interest, utilities, house insurance and taxes. Such expenses would be incurred without the disabled relative in the home and unless an expense can be directly attributed to the disabled relative, it may not be deducted.

e. In the event that the person being cared for is receiving assistance benefits under Iowa Code chapter 239, the expenses qualifying for deduction shall be the net difference between the expenses actually incurred in caring for the person which are not otherwise deductible as a deduction to net income and the assistance benefits under chapter 239. Chapter 239 covers aid to dependent children payments.

f. In order to claim a deduction for expenses for care of a disabled relative, a schedule of qualifying expenses must be provided with the tax return as well as a statement from a qualified physician certifying that the disabled individual is unable to live independently. Such certification must be filed with the tax return in the initial year for the deduction and every third year thereafter.

This rule is intended to implement Iowa Code section 422.9(2) "g", and 1982 Iowa Acts, chapter 1023, section 9.

ARC 3906

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 428A.11, the Iowa Department of Revenue hereby gives Notice of Intended Action to amend Chapter 79, "Real Estate Transfer Tax and Declarations of Value", Iowa Administrative Code.

Subrules 79.1(1), 79.1(2), 79.1(3), 79.1(4) and 79.1(5) are amended to implement the provisions of the 1983 Iowa Acts, Senate File 354.

Subrule 79.5(5) is amended to provide authorization and procedures for recording real estate conveyance instruments by the party completing the declaration of value for situations in which he or she is unable to obtain the social security number or federal identification number from the other party to the sales transaction.

Any interested person may make written suggestions or comments on these proposed amendments on or before August 19, 1983. Such written comments should be directed to the Property Tax Administrator, 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 the Property Tax Administrator 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 August 12, 1983.

These rules are intended to implement Iowa Code chapter 428A.

The following amendments are proposed.

ITEM 1. Rule 730—79.1(428A) is amended to read as follows:

730—79.1(428A) Real estate transfer tax: Responsibility of county recorders.

79.1(1) Materials and equipment. County recorders shall use only materials, forms, devices and equipment provided by the department of revenue for the issuance collection of real estate transfer tax stamps and the recording and reporting of such tax stamp sales collections.

79.1(2) Monthly reports. County recorders shall submit a report to the department of revenue on or before the tenth day of each month enumerating real estate transfer tax stamp issuance and collection information for the preceding month. This report shall be submitted on forms prescribed by the department of revenue and shall contain such information as is deemed necessary by the department.

79.1(3) Equipment use, repair, and maintenance. The county recorder shall report promptly to the department of revenue the need for any repair or maintenance of real estate transfer tax equipment and machinery furnished by the department. Upon the completion of such service, the county recorder shall notify the department of the nature of the work performed and the cost of such work. The department of revenue shall pay the costs of real estate transfer tax equipment repair and maintenance for the equipment furnished to the county recorder by the department of revenue.

a. Effective for tax collections commencing July 1, 1983, the department of revenue shall provide each county recorder with a device to be used to evidence real estate transfer tax payment. Such devices shall imprint on the document or instrument presented for recording or presented for tax payment, a standard information format on which the recorder shall enter the actual tax payment, date of payment, and initials of the recorder or authorized employee of the recorder. The department of revenue shall be responsible for repair or replacement of these devices.

b. It shall be the responsibility of each county recorder to ensure that proper security measures are taken to safeguard the use and storage of the devices utilized to evidence real estate transfer tax payment provided in subrule 79.1(3)"a".

c. County recorders shall accept for recording any documents or instruments for which the correct amount of real estate transfer tax had been paid prior to July 1, 1983, as evidenced by real estate transfer tax stamps issued by equipment formerly provided to county recorders by the department of revenue.

d. Upon approval by the department of revenue, county recorders may elect to continue to use equipment issued by the department prior to July 1, 1983, which issued stamps to evidence tax payment. If approved for use, stamps evidencing tax payment shall be used in lieu of tax payment evidence devices provided in subrule 79.1(3)"a", and shall be used only by affixing such stamps to documents or instruments presented for recording or tax payment. Each stamp shall be initialed by the recorder or authorized employee of the recorder.

e. County recorders who have been authorized by the department to continue using real estate transfer tax equipment issued by the department of revenue prior to July 1, 1983, as provided in subrule 79.1(3)"d", shall be responsible for all supplies, maintenance and repair of such equipment. However, to ensure uniformity of tax payment evidence, county recorders shall request approval

REVENUE DEPARTMENT[730] (cont'd)

from the department of revenue prior to use of any product producing the actual real estate transfer tax stamp.

f. This rule shall not be construed to prevent payment of the real estate transfer tax for conveyances in which the documents or instruments are not actually recorded provided that evidence of tax payment as required by subrules 79.1(3)"a" and 79.1(3)"d" is placed on such documents or instruments.

79.1(4) Recording refused. The county recorder shall refuse to record any deed, instrument, or writing regardless of any statement by the grantor, grantee, or their agents that the transaction is exempt pursuant to Iowa Code section 428A.2 of the Code, if in the recorder's judgment, additional facts are necessary to clarify the taxable status of the transfer, or determine the full consideration paid for the property. The county recorder may request from the grantor, grantee, or their agents, any information necessary to determine the taxable status of the transfer or the full amount of consideration in the transaction. County recorders under no circumstance shall record any deed or instrument of conveyance upon which the proper amount of real estate transfer tax stamps has not been collected affixed. This shall apply to the collection affixing of stamps showing tax paid in excess of the amount due for the actual amount of consideration as well as situations in which an insufficient amount of tax stamps has been collected. affixed.

79.1(5) Canceling stamps. County recorders shall not record any deed or instrument of conveyance upon which real estate transfer tax stamps have been affixed until such stamps have been defaced as required by section 428A.6 of the Code.

79.1(6)(5) Refunds. County recorders shall not refund any overpayment of a real estate transfer tax liability. The grantor of the real property for which the real estate transfer tax has been overpaid shall petition the state appeal board for a refund of seventy-five percent of the overpayment amount. A refund of the remaining twenty-five percent of the overpayment shall be petitioned from the board of supervisors of the county in which the tax was paid.

This rule is intended to implement chapter 428A of the Code: Iowa Code chapter 428A, as amended by the 1983 Iowa Acts, Senate File 354.

ITEM 2. Subrule 79.5(5) is amended to read as follows.

79.5(5) Recording refused. The county recorder shall refuse to record any document for which a real estate transfer-declaration of value is required if such form is not completed accurately and completely by the buyer or seller or the agent of either. *The declaration of value shall include the social security number or federal identification number of the buyer and seller and all other information required by the director of revenue. (Iowa Association of Realtors et al v. Iowa Department of Revenue, CE 18-10479, Polk County District Court, February 4, 1983.) However, if having made good faith effort, the person or person's agent completing the declaration of value is unable to obtain the social security or federal identification number of the other party to the transaction due to factors beyond his or her control, a signed affidavit stating that such effort was made and the reasons why the number could not be obtained shall be submitted with the incomplete declaration of value. The declaration of value with attached affidavit shall be considered sufficient compliance with Iowa Code section 428A.1 and the affidavit shall be considered a part of the declaration of value subject to the provisions of Iowa Code section 428A.15.*

This rule is intended to implement Iowa Code sections 428A.1, 428A.2 and 428A.4; as amended by Acts of the Sixty-ninth General Assembly, Senate File 217.

ARC 3895

TRANSPORTATION,
DEPARTMENT OF[820]

07 MOTOR VEHICLE DIVISION

NOTICE OF INTENDED ACTION

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

On August 30, 1983, at their regular meeting at the Department of Transportation Complex, 800 Lincoln Way, Ames, Iowa, the transportation commission shall consider for adoption the administrative rules as described herein. Such action shall be in accord with the Iowa administrative procedure Act, Iowa Code chapter 17A, and department of transportation rules 820—[01,B] chapter 1, "Administrative Rules".

Written comments concerning these proposed rules or written requests to make an oral presentation at the above specified commission meeting shall be addressed to the Department of Transportation, Office of Financial/Operational Analysis, 800 Lincoln Way, Ames, Iowa 50010. Written comments or written requests to make an oral presentation may be accepted if received by the department of transportation on or before August 16, 1983.

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

1. The name, address and phone number of the person or agency authoring the comment or request.
2. The title and number of the proposed rule as given in this notice which is the subject of the comment or request. (Comments pertaining to a specific section of a proposed rule shall reference that section by subrule, paragraph, and subparagraph as appropriate.)
3. With regard to requests to make an oral presentation, the general content shall be indicated.

Pursuant to the authority of Iowa Code section 307.10, the department of transportation hereby gives Notice of Intended Action to amend 820—[07,A] chapter 1 entitled "Designated Highway System".

In compliance with the Surface Transportation Assistance Act of 1982 (Public Law 97-424), the Secretary of the United States Department of Transportation designated a national system of highways for use by the longer and wider trucks which were authorized by that law. The national highway system was adopted by the Transportation Commission, as authorized by 1983 Iowa Acts, Senate File 207, effective April 6, 1983.

This rule amendment outlines the procedures by which the public may request review and approval of additions and deletions of Iowa routes to that designated highway system.

This rule amendment is intended to implement Iowa Code chapter 321 and 1983 Iowa Acts, Senate File 207.

Proposed rulemaking actions:

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

07 MOTOR VEHICLE DIVISION

Pursuant to the authority of 1983 Iowa Acts, Senate File 207, rules 820—[07,A] chapter 1 entitled "Designated Highway System" are amended by adding the following new rule.

820—[07,A]1.6(321) Changes to designated system. A change to the designated highway system for the movement of vehicles of the specified lengths and widths shall be processed as follows:

1.6(1) Addition.

a. Persons requesting an addition shall submit a written request to: Director, Motor Vehicle Division, Iowa Department of Transportation, 5268 N.W. 2nd Ave., Des Moines, Iowa 50313. The request shall specify the additional route being requested and the reasons for the request.

b. Within fifty days after receipt of the request, the staff of the department shall prepare a recommendation and present the recommendation to the transportation commission.

c. If the transportation commission approves the staff recommendation, the route shall become part of the Iowa designated system ten days after the date of the commission approval.

1.6(2) Deletion. A request for the deletion of a route from the Iowa designated system shall be processed according to the procedure in subrule 1.6(1). However, if the commission approves the deletion, notice of the commission action shall be forwarded to the secretary of the United States department of transportation for review and possible deletion by the secretary.

This rule is intended to implement Iowa Code sections 321.454 and 321.457 and 1983 Iowa Acts, Senate File 207.

ARC 3915**TRANSPORTATION,
DEPARTMENT OF [820]**

07 MOTOR VEHICLE DIVISION

TERMINATION OF NOTICE

Pursuant to the authority of Iowa Code section 307.10, the Department of Transportation is terminating the Notice of Intended Action to amend 820—[07,E] Chapter 1 entitled "Motor Vehicle Lighting Devices and Other Safety Equipment."

Specifically, the proposed rules established safety requirements for the movement of implements of husbandry by a manufacturer or retail seller. Comments and suggestions received from interested persons resulted in the rules being completely rewritten and they are being resubmitted separately as ARC 3916.

The Notice of Intended Action was published in the Iowa Administrative Bulletin of December 22, 1982 as ARC 3452. The amendment was intended to implement Iowa Code chapter 321.

ARC 3916**TRANSPORTATION,
DEPARTMENT OF [820]**

07 MOTOR VEHICLE DIVISION

NOTICE OF INTENDED ACTION

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

On August 30, 1983, at their regular meeting at the Department of Transportation Complex, 800 Lincoln Way, Ames, Iowa, the transportation commission shall consider for adoption the administrative rules as described herein. Such action shall be in accord with the Iowa administrative procedure Act, Iowa Code chapter 17A, and department of transportation rules 820—[01,B] chapter 1, "Administrative Rules".

Written comments concerning these proposed rules or written request to make an oral presentation at the above specified commission meeting shall be addressed to the Department of Transportation, Office of Financial/Operational Analysis, 800 Lincoln Way, Ames, Iowa 50010. Written comments or written requests to make an oral presentation may be accepted if received by the department of transportation on or before August 16, 1983.

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

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

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

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

Pursuant to the authority of Iowa Code section 307.10, the Department of Transportation hereby gives Notice of Intended Action to amend 820—[07,E] chapter 1 entitled "Motor Vehicle Lighting Devices and Other Safety Equipment".

This rule establishes the minimum safety standards for the movement of implements of husbandry on Iowa highways by a manufacturer or retailer. An earlier version of the safety standards was submitted as ARC 3452, but, as a result of comments received, that proposed rule has been terminated and these standards are being submitted instead.

These rule amendments are intended to implement Iowa Code chapter 321.

Proposed rulemaking actions:

07 MOTOR VEHICLE DIVISION

Pursuant to the authority of Iowa Code section 307.10, rules 820—[07,E] chapter 1 entitled "Motor Vehicle Lighting Devices and Other Safety Equipment" are hereby amended.

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

ITEM 1. [07,E] chapter 1 is amended by adding rule [07,E]1.6(321) as follows:

820—[07,E]1.6(321) Safety requirements for the movement of implements of husbandry by retail sellers and manufacturers. The following standards are minimum safety requirements for the movement of implements of husbandry by the retail seller between the retail seller and a farm purchaser, or the movement of indivisible implements of husbandry by the manufacturer or retail seller between the place of manufacture and a retail seller or farm purchaser.

1.6(1) Towing standard. No power unit operated by a retail seller or manufacturer shall tow more than one implement of husbandry from the manufacturer to the retail seller, from the retail seller to the farm purchaser, or from the manufacturer to the farm purchaser.

1.6(2) Equipment standards.

a. **Braking.** The towing unit or self-propelled implement of husbandry operated upon a highway shall be equipped with a braking device(s) which can control the movement of and stop the vehicle(s). When the vehicle is traveling twenty miles per hour, the braking device shall be adequate to stop the vehicle or vehicles within thirty feet if the gross weight is less than five thousand pounds and fifty feet if the gross weight is five thousand pounds or more.

b. **Rearview mirror.** The towing vehicle or self-propelled implement of husbandry shall be equipped with a rearview mirror that reflects to the operator a view of the highway for a distance of at least two hundred feet to the rear of the vehicle(s). The rearview mirror equipment standard may be met by the use and installation of a temporary rearview mirror.

c. **Lighting.** The towing or towed vehicle or self-propelled implement of husbandry shall be equipped with at least one rear taillight which exhibits a red light plainly visible from a distance of five hundred feet to the rear. The rear taillight equipment standard may be met by the use and installation of a temporary rear taillight. If an implement of husbandry is being towed by a vehicle which is equipped with brake lights, the towed unit must also have brake lights, constructed and located on the implement of husbandry so as to give a signal of intention to stop. The light shall be red or yellow in color. The signal shall be plainly visible in normal sunlight and at night from a distance of one hundred feet to the rear and may be met by the use and installation of a temporary light.

d. **Turn signal.** The towing or towed vehicle or self-propelled implement of husbandry shall be equipped with a turn-signal device that operates in conjunction with or separately from the rear-taillight. The signal shall be plainly visible and understandable from a distance of one hundred feet to the rear. The turn-signal device equipment standard may be met by the use and installation of a temporary turn-signal device.

e. **Tires.** Pneumatic tires shall not be used if any part of the ply or cord is exposed; if there is any bump, bulge, or separation; if there is a tread design depth of less than one-sixteenth inch; if there is marking "not for highway use" or "unsafe for highway use."

f. **Warning devices.** A towing vehicle or self-propelled implement of husbandry shall be equipped with flares,

red reflectors or reflective triangles if operated after sunset and before sunrise.

g. **Drawbar.** When one vehicle is towing another vehicle, the drawbar shall be of sufficient strength to pull the weight towed and shall be fastened to the frame of the towing unit so as to prevent sidesway. In addition to the principal connection there shall be safety chain which shall be fastened so it is capable of holding the towed vehicle if the principal connection fails.

This rule is intended to implement Iowa Code section 321.383.

ARC 3908**WATER, AIR AND WASTE
MANAGEMENT DEPARTMENT [900]****AMENDED NOTICE OF INTENDED ACTION**

Pursuant to authority of Iowa Code section 455B.105 and 1983 Iowa Acts, S.F. 267, the Water, Air and Waste Management Commission intends to adopt rules to implement the provisions of Iowa Code chapter 455B and for the effective administration of the Department of Water, Air and Waste Management [WAWM]. This Notice amends and supplements a Notice published on June 22, 1983 [ARC 3827] which placed a comprehensive emergency adoption [ARC 3826] of rules for the department on notice to elicit public comment. This amended notice identifies several areas of the adopted rules in which changes appear appropriate, in many instances due to changes in statutes passed by the most recent General Assembly, and it is the department's intent to consider these areas as well as others which might be identified by the public in taking final action on these rules.

The changes being considered are summarized below:

Item 1. Chapter 50 - fees for water rights permit applications. The department is proposing to continue the previous statutory application fee of \$25.00 for these permits to recover part of the costs to the department of processing applications, including publication of public notices, and to inhibit the filing of frivolous applications.

Items 2 and 6. Chapters 50 and 70 - reviewing permits out of order. The department has determined that the statutory provision, 455B.266, regarding the order of processing permit applications may need more detailed clarification than provided in 50.7(1) and 70.5(2) and suggests possible new language in this Notice.

Item 3. Chapter 51 - registration of test pumping. The department proposes to clarify this provision by stating more clearly when registration is required and by stating that a request need not be in writing.

Item 4. Chapter 52 - cancellation of permits due to nonuse. Subrule 52.7(1)"b" is amended to clarify the department's interpretation of the statutory provision, 1983 Iowa Acts, S.F. 368, section 17, which states that nonuse of water due to adequate rainfall does not constitute grounds for cancellation of a permit to use water for irrigation. The department proposes that failure to construct a well

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

within three years is a ground for permit cancellation regardless of rainfall unless the permittee demonstrates an adequate plan to construct a well within a reasonable time after notification of intent to cancel the permit.

Item 5. Chapter 52 - protected flow basis. Subrule 52.8(2) is amended to reference a more recent publication that is used to determine protected flows of streams.

Item 7. Chapter 72 - a change is proposed to correct an error in existing rules. In 72.50(2), previously NRC 5.95(2), the reference to Grannis Creek in Fayette County contained an incorrect location reference point, which is proposed to be corrected.

Items 8 and 9. Chapter 73 - the procedures for designation of unsafe dams are proposed to be amended to conform to the procedures in Chapter 70 for other flood plain determinations. Basically, the change inserts an informal "opportunity for comment" stage into the decisionmaking process for unsafe dam designations, prior to the opportunity for contested case proceedings. The proposal also provides for emergency procedures to deal with situations involving imminent danger of failure which would cause significant public damages.

Item 10. Chapter 81 - certain procedural rules relating to the certification of water and wastewater operators that were contained in DEQ Chapter 24 are proposed to be transferred to this chapter which contains all other rules on this subject. Also, reference to a form currently used by the department is newly referenced.

Any interested person may file written comments on the above-proposed amendments through August 29, 1983, with the Executive Director of the Department of Water, Air and Waste Management, 900 East Grand Avenue, Des Moines, Iowa 50319. Persons are also invited to present oral or written comments at public hearings which will be held on August 11, 1983, at 7:00 p.m. in the City Council Chambers, 226 W. 4th, Davenport, Iowa, on August 16, 1983, at 10:00 a.m. in the 5th Floor Conference Room, Henry A. Wallace Building, 900 E. Grand Avenue, Des Moines, Iowa, and on August 17, at 7:00 p.m. in the City Council Chambers, 6th and Douglas, Sioux City, Iowa.

These rules are intended to implement Iowa Code sections 17A.3, 258A.2 to 258A.10, 455B.105 and Iowa Code chapter 455B, Division III, Parts 2 and 4.

ITEM 1. Amend 900—50.4(17A, 455B) by adding a new subrule as follows:

50.4(2) Application fee. A check or money order in the amount of twenty-five dollars payable to the Department of Water, Air and Waste Management must accompany an application for a new permit to withdraw or divert water. The same fee must accompany an application for modification or renewal of a permit to withdraw or divert water. No fee is charged for an application to store water or an application for registration of a minor nonrecurring use of water.

ITEM 2. Amend subrule 50.7(1) to read as follows:

50.7(1) Order of processing. In general, complete applications including all requested supporting information shall be reviewed in the order that complete information is received. However, *when there are a large number of pending applications, which preclude the department from promptly processing all applications, the department may expedite review of an particular application out of order if the completed application and supporting documents were submitted at the earliest practicable time and any of for the following reasons conditions exist:*

a. Relatively little staff review time *generally less than four hours*) is required and delay will cause the applicant hardship;

b. ~~Expeditious review is necessary to protect public health, safety and welfare.~~

b. *The applicant can demonstrate that a delay in the permit will result in a substantial cost increase of a large project;*

c. *Prompt review of the permit would result in earlier completion of a project that conveys a significant public benefit;*

d. *The need for a permit is the result of an unforeseen emergency or catastrophic event;*

e. *A permit is needed to complete a project that will abate or prevent an imminent threat to the public health and welfare; or*

ITEM 3. Amend subrule 51.7, paragraph "c", by adding the following new sentence at the end:

A registration must be obtained from the department for any pumping test in which more than 25,000 gallons of water will be withdrawn in a period of twenty-four or less hours. A request for issuance of a registration need not be in writing if the contractor or responsible landowner accurately describes the location of the test, the aquifer to be pumped, and the planned test duration and pumping rate in an oral request.

ITEM 4. Amend rule 900—52.7(455B)[formerly 580—3.10] as follows:

900—52.7(455B) Modification, cancellation, and emergency suspension of permits.

52.7(1) ~~In g~~General. Except as provided in subrule 52.7(2), after at least thirty days' written notice mailed to the permittee's last known address by restricted certified mail or personal service, and an opportunity for the permittee to be heard in an evidentiary hearing conducted according to the contested case provisions of *Iowa Code* chapter 17A of the Code, the department may modify or cancel a water permit or any condition thereof of a permit notwithstanding any other rule, ~~upon finding~~ for any of the following:

a. Breach of permit condition or law. A condition of the permit has been breached or the law pertaining to the permit has been violated by the permittee or permittee's agent;

b. Nonuse. The permittee has ~~failed ceased~~ for three consecutive years to use the water, and the permittee has not ~~filed a new water permit application or an extension thereof within sixty days of notification of nonuse by the department.~~ *demonstrated adequate plans to use water within a reasonable time. Nonuse due to adequate rainfall shall not be a justification for cancellation of a permit. However, authorization to withdraw water from a proposed well may be canceled after notice to the permittee if the permittee has failed to construct the proposed well within three years after issuance of the permit.*

ITEM 5. Amend subrule 52.8(2)[formerly 580—3.9(2)] by adding a reference at the end to the following additional publication:

"Annual and Seasonal Low-Flow Characteristics of Iowa Streams" (INRC Bulletin No. 13 (1976)).

ITEM 6. Amend subrule 70.5(2) to read as follows:

70.5(2) Order of processing. In general, complete applications including ~~sufficient plans and specifications~~ all requested supporting information shall be reviewed in the order that complete information is received. However, *when there are a large number of pending applications,*

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

which preclude the department from promptly processing all applications, the department may expedite review of a project particular application out of order if the completed application and supporting documents were submitted at the earliest practicable time and any of the following reasons conditions exist:

a. Relatively little staff review time (generally less than four hours) is required and delay will cause the applicant hardship; or

b. ~~Expeditious review is necessary to protect public health, safety and welfare.~~

b. The applicant can demonstrate that a delay in the permit will result in a substantial cost increase of a large project;

c. Prompt review of the permit would result in earlier completion of a project that conveys a significant public benefit;

d. The need for a permit is the result of an unforeseen emergency or catastrophic event;

e. A permit is needed to complete a project that will abate or prevent an imminent threat to the public health and welfare; or

ITEM 7. Amend subrule 72.50(2) [formerly 580—5.95(2)], under FAYETTE COUNTY, the line which begins with the words “Grannis Creek”, as follows:

Grannis Creek, mouth (section 30, T93N, R7W to ~~South line of section 31, T93N, R7W~~ unnamed major spring outlet in E 1/4 of section 36, T93N, R8W;

ITEM 8. Rescind subrule 73.30(2) [formerly 580—7.30(2)] and insert in lieu thereof the following:

73.30(2) Opportunity for comment. The department shall provide the owner or other responsible person with a reasonable opportunity to comment on the staff report considering the degree and imminence of hazard identified in the staff report.

ITEM 9. Amend rule 900—73.32(109,455B,469) [formerly 580—7.32] as follows:

900—73.32 (109, 455B, 469) Agency action concerning an unsafe dam. ~~Upon finding a dam to be in an unsafe condition~~ After completion of the procedures in 900—73.30(109, 455B, 469), the department shall issue an initial decision which may order remedial work depending on the degree and imminence of hazard caused by the unsafe condition. Remedial work may include draining of the impoundment or removal of any structure determined to constitute a public nuisance. *Procedures for appealing an initial decision are the procedures in 900—70.6(455B).* If the initial decision requires emergency remedial work to abate an imminent danger of failure which would cause significant public damages as defined in chapter 70, the executive director may request the assistance of the attorney general to seek an appropriate judicial order compelling performance of emergency remedial work.

ITEM 10. Amend 900—chapter 81 [formerly 400—21] by adding a new subrule 81.2(9) and amending subrules 81.8(1), 81.10(1), and 81.10(2) as follows:

81.2(9) Compliance plan. When the board of certification allows the owner of a facility required to have a certified operator time to obtain an operator, the owner must submit a compliance plan indicating what action will be taken to obtain a certified operator. The plan must be on a form (WAWM 52) provided by the department and must be submitted within thirty days of the facility owner's receipt of a notice of violation.

81.8(1) All persons wishing to take the examination required to become a certified operator of a wastewater or

water treatment plant or a water distribution system shall complete an application for examination form WAWM 48. A listing of dates and locations of examinations is available from the central office upon request. The application form requires the applicant to indicate educational background, training and past experience in water or wastewater operation. The completed application and the application fee shall be sent to the board of certification and addressed to the central office in Des Moines. Application for examination must be received by the department at least thirty days prior to the date of examination.

81.10(1) Renewal period.

a. All certificates must be renewed annually in order to maintain certification. This subrule shall be effective through June 30, 1983.

b. All certificates shall expire on June 30 of odd-numbered years and must be renewed every two years in order to maintain certification. This subrule is effective July 1, 1983.

81.10(2) Currently certified operators will be mailed an application for renewal (WAWM 50) prior to the expiration date of their certificates. Application for renewal must be made in accordance with this rule and the instructions on the form in order to renew the certificate for the next two years. Application for renewal of a certificate without penalty must be received by the executive director or postmarked prior to the expiration of the certificate, on forms provided by the department and shall be accompanied by the certification renewal fee.

ARC 3910**WATER, AIR AND WASTE
MANAGEMENT DEPARTMENT[900]**

DEPARTMENT OF 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 the authority of Iowa Code sections 455B.173, 455B.412 and 1983 Iowa Acts, House File 267 the Water, Air and Waste Management Commission gives Notice of Intended Action to amend Chapter 64, “Waste Water Construction and Operation Permits” and Chapter 141, “Hazardous Waste”, Iowa Administrative Code, by proposing to adopt, by reference, regulations governing the permitting of new and existing hazardous waste treatment, storage and disposal facilities (TSD). Also proposed is the adoption by reference of recently promulgated federal regulations pertaining to the classification of hazardous waste, the “cradle-to-grave” manifest system, the standards applicable to all generators and transporters of hazardous wastes, and the general standards for all owners and operators of TSD facilities. Explicit permitting procedures pertaining to the information to be submitted, the type of public notice to be issued, and public hearing procedures are also to be adopted.

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

The majority of the proposed revisions to the existing rules pertain to the adoption by reference of permitting requirements for treatment, storage, and disposal facilities. These revisions establish specific requirements for accident prevention, contingency planning, manifesting procedures, closure and postclosure care, and financial responsibility as well as technical regulations applicable to specific facilities such as surface impoundments, waste piles, land treatment units and landfills. The new rules also include standards which pertain to the disposal of hazardous wastes in incinerators and the storage of hazardous wastes in tanks and containers.

The remainder of the newly adopted rules pertain to the designation of "interim status" to TSD facilities which were in existence on or before November 19, 1980. In accordance with previously adopted rules, as of November 19, 1980, the disposal, treatment or storage of hazardous waste was prohibited unless a permit allowing those activities was obtained. Facilities granted "interim status" are currently allowed to continue to operate without final permits pending action on those permit applications which have been timely filed. During this interval, facilities are required to comply with the "interim status" standards proposed herein.

Please note that chapter 141 of the department rules was formerly 400—45 IAC and was renumbered as part of the reorganization and merger of the Department of Environmental Quality and the Iowa Natural Resources Council effective July 1, 1983. All former DEQ rules have been renumbered and are designated as rules of the Department of Water, Air and Waste Management.

In greater detail, the following amendments are proposed:

Item 1 amends subrule 64.6(5) paragraph "h" (formerly DEQ 19.6(5)"h" by inserting, parenthetically, a reference to rule 900—62.9(455B) (formerly DEQ 17.9). This reference is made necessary by the adoption of rule 141.7(455B) which prohibits the disposal of hazardous wastes into wells. Rule 62.9(455B) further qualifies both paragraph 64.6(5)"h" and rule 141.7(455B) by allowing the disposal of heat into wells under controlled circumstances.

Item 2 rescinds rule 900—64.11(455B) (formerly DEQ 19.11) in its entirety. The federal rule which rule 64.11(455B) references, 40 C.F.R. §124.81, no longer exists.

By Item 3 rule 900—141.1(455B) is amended by including, as federal regulations adopted by reference, those regulations pertaining to 40 C.F.R. Part 260 which have been promulgated through April 1, 1983. Part 260 sets forth the general purpose and the scope and applicability of the rules pertaining to hazardous waste management systems, definitions, availability of information, and general rulemaking requirements.

Item 4 amends 900—141.2(455B) by striking the three unnumbered paragraphs and by including as federal regulations adopted by reference those regulations pertaining to 40 C.F.R. Part 261 which have been promulgated through April 8, 1983. Part 261 identifies those solid wastes which are subject to regulation as hazardous wastes and which are subject to the notification requirements. Pursuant to 900—141.12(455B) of these rules any person who generates, transports, treats, stores, or disposes of a waste which is by rule listed as a hazardous waste must notify the department within ninety days of the effective date of the rule. The notification must state the waste handled and the location and a description of the activity involving the waste. By striking the three

unnumbered paragraphs, sewage sludge from publicly owned treatment works is no longer excluded from the definition of hazardous waste and is, as a result, subject to the hazardous waste disposal, storage and treatment rules proposed herein. This reflects the changes in the statute, 455B, as amended to conform to the federal Resource Conservation and Recovery Act of 1976. 1981 Iowa Acts Ch. 151. The Commission's interpretation of 40 C.F.R. §261.4(b)(2) is also eliminated.

Item 5 amends 900—141.3(455B) by including, as federal regulations adopted by reference, those regulations pertaining to 40 C.F.R. Part 262 which have been promulgated through April 1, 1983. Part 262 pertains to the standards applicable to generators of hazardous waste.

Item 6 amends 900—141.4(455B) which pertains to the adoption by reference of 40 C.F.R. Part 263 which has been promulgated through April 1, 1983, and includes the standards applicable to transporters of hazardous waste.

Item 7 amends 900—141.5(455B) by including, as federal regulations adopted by reference, those regulations pertaining to 40 C.F.R. Part 264 which have been promulgated through April 1, 1983. Part 264 is those standards for owners and operators of hazardous waste treatment, storage, and disposal facilities. This rule is further amended by specifically requiring that reports and plans which are required to be submitted are prepared by independent, registered, professional, certified public accountants, engineers and land surveyors.

By Item 8 rule 900—141.6(455B) is amended to include, as federal rules adopted by reference, those federal regulations pertaining to Part 265 promulgated through April 1, 1983. Part 265 sets forth the interim status standards for owners and operators of hazardous waste treatment, storage, and disposal facilities. Also included are provisions requiring that certification of closure be performed by the owner or operator of TSD facilities and an independent professional engineer and land surveyor both registered in Iowa and that other specified reports be written by an independent certified public accountant who is registered in Iowa in accordance with Chapter 116 of the Code.

Item 9 amends rule 900—141.7(455B) which was formerly reserved. This rule prohibits the disposal of hazardous waste into wells. At the present time rule 900—62.9(455B) (formerly DEQ rule 17.9) of the water quality rules prohibits the disposal of any pollutant other than heat into wells within Iowa. Federal regulations allow, but do not require, states which have not adopted an underground injection control program to issue permits for the injection of hazardous wastes into wells. The state of Iowa has chosen not to allow the injection of wastes into wells as a disposal method. The attorney general has determined in a formal opinion that this restriction does not violate Iowa Code section 455B.420 which prohibits the commission from adopting, under sections 455B.411 to 455B.421, rules which are more restrictive than the comparable federal rules. (Ovrom to Ballou, Executive Director, Department of Environmental Quality, March 23, 1983) The attorney general has determined that section 455B.420 only prohibits the commission from adopting rules under section 455B.411 to 455B.421 which exceed the requirements of federal rules. The fact that rule 900—62.9(455B) was promulgated under section 455B.173, the water quality authority, and that the

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

prohibition applies to all pollutants, supports the attorney general's opinion that the proposed rule will not violate the "consistency" clause.

Item 10 strikes rules 900—141.8(455B), 141.9(455B), and 141.10 (455B) and reserves these rule numbers for future use. Rules 141.8(455B) and 141.10(455B) have been amended and appear, as amended, as rules 900—141.12(455B) and 141.15(455B) respectively.

Item 11 proposes the new rule 900—141.11(455B) which is reserved for future action.

By Item 12 rule 900—141.12(455B), is amended by dividing it into four subrules, and is retitled for clarification. Subrule 141.12(1) and 141.12(2) are unchanged from the original rule. Subrule 141.12(3) is amended by eliminating a one sentence explanation of the reason for using the federal notice requirements. Subrule 141.12(4) is amended by inserting a list of the specific information which is to be submitted to the department to satisfy the notification requirements. The final two paragraphs of the rule are rescinded in order that the Iowa regulations will conform to federal regulations.

Item 13 proposes the new rule 900—141.13(455B) which sets forth the procedures for issuing, modifying, revoking and reissuing or terminating permits other than emergency permits and permits by rule which are subject to 40 C.F.R. 270, adopted by reference in rule 141.14 of these rules.

By Item 14 rule 900—141.14(455B) adopts by reference federal regulations 40 C.F.R. Part 270 promulgated through April 1, 1983. The regulations in Part 270 cover basic permitting requirements such as application requirements, standard permit conditions, and monitoring and reporting requirements. Separate regulations pertaining to technical requirements used by the Iowa Department of Water, Air and Waste Management to determine what conditions must be incorporated into permits if they are to be issued are found in 40 C.F.R. Part 264, adopted by reference by rule 141.5 of these rules.

Item 15 proposes the new rule 900—141.15(455B). Pursuant to rule 141.15(455B) claims of confidentiality shall be processed in accordance with chapter 4 of the Water, Air and Waste Management rules. (See ARC number 3826).

Finally, Item 16 proposes new rule 900—141.16(455B). The state of Iowa is currently in the process of obtaining final authorization from the EPA to administer the hazardous waste program. The EPA shall continue to administer the program and issue the permits necessary to operate hazardous waste treatment, disposal, and storage facilities within the state of Iowa until final authorization is obtained. To accommodate affected facilities which are issued permits prior to final authorization the state of Iowa shall deem all facilities which are issued permits by the EPA to meet all state hazardous waste permit requirements.

Any person interested in receiving a copy of the federal regulations adopted by reference may contact the Department of Water, Air and Waste Management. Copies are available from the department for the cost of reproduction.

Any interested party may file a written statement of position on the subjects covered by the proposed rules no later than August 19, 1983. These written statements should be directed to the Executive Director of the Department of Water, Air and Waste Management, 900 East Grand Avenue, Des Moines, Iowa 50319. Persons or

organizations are also invited to present oral or written comments at a public hearing on these proposed amendments which will be held on Tuesday, August 9, 1983 at 10:30 a.m. in the fifth floor conference room of the Henry A. Wallace Building, 900 East Grand Avenue, Des Moines, Iowa 50319.

These rules are intended to implement Iowa Code sections 455B.173 and 455B.412(1983).

The following amendments are proposed.

ITEM 1. Subrule 64.6(5) paragraph "h" is amended as follows:

h. If an applicant for an NPDES permit proposes to dispose of pollutants into wells as part of a program to meet the proposed terms and conditions of an NPDES permit, the executive director shall specify additional terms and conditions in the issued NPDES permit which shall prohibit the proposed disposal or control the proposed disposal in order to prevent pollution of ground and surface water resources and to protect the public health and welfare. (See rule 62.9(455B)).

ITEM 2. Rule 900—64.11(455B) is rescinded and reserved for future use.

ITEM 3. Subrule 141.1(1) is rescinded and the following is inserted in lieu thereof:

141.1(1) The following is adopted by reference: 40 C.F.R. part 260 as amended through April 1, 1983.

Provided that "Underground source of drinking water (USDW)" means an aquifer or its portion: which supplies any public water system; or which contains a sufficient quantity of ground water to supply a public water system; and currently supplies drinking water for human consumption; or contains fewer than 10,000 mg/1 total dissolved solids.

ITEM 4. Rule 900—141.2 (455B) is amended by striking the three unnumbered paragraphs and by inserting in lieu thereof the following:

900—141.2 (455B) Identification and listing of hazardous waste. The following is adopted by reference: 40 C.F.R. 261 as amended through April 8, 1983. Provided that any general reference to 40 C.F.R. part 124 shall mean 141.13 of these rules.

ITEM 5. Rule 900—141.3(455B) is amended by striking the first unnumbered paragraph and by inserting in lieu thereof the following:

900—141.3(455B) Standards applicable to generators of hazardous waste. The following is adopted by reference: 40 C.F.R. part 262 as amended through April 1, 1983.

ITEM 6. Rule 900—141.4(455B) is amended by striking the first unnumbered paragraph and by inserting in lieu thereof the following:

900—141.4(455B) Standards applicable to transporters of hazardous waste. The following is adopted by reference: 40 C.F.R. part 263 as amended through April 1, 1983.

ITEM 7. Rule 900—141.5(455B) is amended by striking the first unnumbered paragraph and by inserting in lieu thereof the following:

900—141.5(455B) Standards for owners and operators of hazardous waste treatment, storage, and disposal facilities. The following is adopted by reference: 40 C.F.R. part 264 as amended through April 1, 1983.

Provided that in 40 C.F.R. §§264.143(f)(3)(ii) and (iii), 264.145(f)(3)(ii) and (iii), and 264.147(f)(3)(ii) and (iii) the

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specified reports shall be written by an independent certified public accountant registered in Iowa pursuant to Iowa Code chapter 116.

Also provided that in 40 C.F.R. §264.115 the certification of closure shall be performed by both the owner or operator and an independent professional engineer registered in Iowa pursuant to Iowa Code chapter 114.

Provided that in 40 C.F.R. §264.119 the preparation and certification of a survey plat indicating the location and dimension of the disposal areas shall be performed by an independent professional land surveyor registered in Iowa pursuant to Iowa Code chapter 114.

Also provided further that where 40 C.F.R. 264 references 40 C.F.R. part 124 it shall mean rule 141.13(455B) of these rules.

ITEM 8. Rule 900—141.6(455B) is amended by striking the first unnumbered paragraph and by inserting in lieu thereof the following:

900—141.6(455B) Interim status standards for owners and operators of hazardous waste treatment, storage, and disposal facilities. The following is adopted by reference: 40 C.F.R. part 265 as amended through April 1, 1983.

Provided that in 40 C.F.R. §265.115 the certification of closure shall be performed by both the owner or operator and an independent professional engineer registered in Iowa pursuant to Iowa Code chapter 114. In 40 C.F.R. 265.141(f)(3)(ii) and (iii), §§265.143(e)(3)(ii) and (iii), and 265.145(e)(3)(i) and (iii) the specified reports shall be written by an independent certified public accountant registered in Iowa pursuant to Iowa Code chapter 116.

Provided that in 40 C.F.R. §265.119 the preparation and certification of a survey plat, indicating the location and dimension of the disposal areas, shall be performed by an independent professional surveyor registered in Iowa pursuant to Iowa Code chapter 114.

Also provided further that where 40 C.F.R. 265 references 40 C.F.R. part 124 it shall mean rule 141.13(455B) of these rules.

ITEM 9. Rule 900—141.7(455B), formerly reserved, is inserted as follows:

900—141.7(455B) Disposal of hazardous waste into wells. The disposal of hazardous wastes into wells is prohibited within Iowa in accordance with rule 62.9.

ITEM 10. Rules 900—141.8(455B), 141.9(455B), and 141.10 (455B) are stricken and are reserved for future action.

141.8 Reserved

141.9 Reserved

141.10 Reserved

ITEM 11. Rule 900—141.11 is reserved for future use.

ITEM 12. The new rule 900—141.12(455B) is proposed as follows:

900—141.12(455B) Notification.

141.12(1) Notification upon effective date of hazardous waste listing. Iowa Code subsection 455B.414(2), requires that a person who, on the effective date of a rule listing a hazardous waste, is generating or transporting a listed hazardous waste or who owns or is operating a facility that treats, stores, or disposes of the listed hazardous waste shall file with the executive director within ninety days a notification stating the waste handled by the person and the location and a description of the activity involving the waste.

141.12(2) Notification prior to commencement of activity. Iowa Code subsection 455B.414(2), requires that a person who plans to commence generating or transporting a hazardous waste on or after the effective date of such a rule shall file a notification prior to commencing that activity.

141.12(3) Notification in lieu of state requirements. A person who has filed a satisfactory notification with EPA will be deemed to have complied with the notification requirements under Iowa Code section 455B.414.

141.12(4) Notification form. A person who files a notification shall do so by using the federal form (EPA form 8700-12 (6-80), see 45 Federal Register 12750-12754 February 26, 1980) or by submitting the following information on 8 1/2 x 11 inch typed pages:

a. Name, mailing address, and location of the installation.

b. Name, title and telephone number of the primary contact person at the installation.

c. Name of owner and type of ownership as either federal or nonfederal.

d. Identification of hazardous waste activity as: generation; treat/store/dispose; underground injection; transportation (identify mode of transportation as air, rail, highway, water, other).

e. A description of each listed hazardous waste handled at the installation through the use of the four-digit code in accordance with rule 141.2 (40 C.F.R. §§261.31, 261.32 and 261.33).

f. A description of the characteristics of nonlisted hazardous wastes as ignitable, corrosive, reactive or toxic in accordance with rule 141.2 (40 C.F.R. §§261.21 through 261.24).

g. An indication as to whether this is an initial or revised notification.

ITEM 13. Chapter 141 is amended by inserting the new rule 900—141.13 (455B) as follows:

900—141.13(455B) Permitting procedures. This rule describes those procedures which are followed by the department when it issues permits to operate hazardous waste treatment, storage, and disposal facilities. The rule also describes the methods by which a permit applicant must notify the public of the department's intent to issue a permit.

141.13(1) The executive director shall not issue a permit before receiving five copies of a completed application. The executive director shall determine whether the application is in substantial compliance with the information requirements and shall either accept the application or notify the applicant of any deficiencies.

141.13(2) The executive director shall notify the applicant in writing of specific deficiencies and shall specify a date for submission of information to correct the deficiencies. Existing facilities which fail or refuse to correct deficiencies in the permit application by the specified date shall have their interim status terminated.

141.13(3) If a site visit is necessary, the executive director shall notify the applicant in writing of the scheduled date.

141.13(4) The executive director shall prepare and mail to the applicant a project decision schedule outlining target dates for:

a. Preparing a draft permit.

b. Giving public notice.

c. Concluding the public comment period and any public hearings.

d. Issuing a final permit.

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141.13(5) If the executive director tentatively decides to deny the permit application, the executive director shall issue a notice of intent to deny. A notice of intent to deny the permit application is a type of draft permit which follows the same procedures as any draft permit prepared under this rule. If the executive director's final decision is that the tentative decision to deny the permit application was incorrect, the executive director shall withdraw the notice of intent to deny and proceed to prepare a draft permit under subrule 141.13(6).

141.13(6) If the executive director tentatively decides to issue the draft permit, the draft permit shall contain the following information:

- a. A list of wastes or classes of wastes to be handled.
- b. A description of the processes to be used including the design capacities of each storage, treatment, and disposal unit.
- c. All required general conditions.
- d. Standards for treatment, storage, or disposal.
- e. All monitoring requirements.
- f. All compliance schedules.
- g. Other permit conditions.

141.13(7) A fact sheet shall be prepared to accompany each draft permit. The fact sheet shall briefly set forth the principal facts and the legal, methodological, and policy questions considered in preparing the draft permit. The executive director shall send this fact sheet to the applicant and, on request, to any other person. The fact sheet shall include the following information, when applicable:

- a. A brief description of the type of facility or activity which is the subject of the draft permit.
- b. A legal description of the location of the facility.
- c. The type and quantity of wastes, fluids or pollutants which are proposed to be or are being treated, stored, disposed of, emitted, or discharged.
- d. A brief summary of the basis for the draft permit conditions including references to applicable legal authority.
- e. Reasons why any requested variances or alternatives to required standards do or do not appear justified.
- f. A description of procedures for reaching a final decision on the draft permit including the beginning and ending dates of the comment period and the address where comments will be received, procedures for requesting a hearing and nature of that hearing, and any other procedures by which the public may participate in the final decision.
- g. Name and telephone number of the department representative to contact for additional information.

141.13(8) The administrative record shall consist of:

- a. The permit application.
- b. The draft permit or notice of intent to deny the application or terminate the permit.
- c. The fact sheet.
- d. All comments received during the public comment period.
- e. The tape or transcript of any hearings.
- f. Written materials submitted at any hearing.
- g. The executive director's response to public comments in accordance with subrule 141.13(16) or any new material placed in the record.
- h. Other supporting documents.
- i. The final permit.

141.13(9) The executive director shall give public notice that the following actions have occurred:

- a. A draft permit has been prepared.
- b. A public hearing has been scheduled.
- c. A permit application has been tentatively denied.

141.13(10) The method for issuing a public notice shall be by mailing a copy of the notice (unless voluntarily waived) to:

- a. The applicant.
- b. EPA.
- c. The federal Fish and Wildlife Service, the Iowa Conservation Commission, the Iowa Historical Department, any other state or federal agency upon request or which the executive director determines should be notified, including affected states.
- d. Persons on a hazardous waste mailing list. The executive director shall develop this list by including those who request, in writing, to be on the list; by soliciting persons for "area lists" from participants in past permit proceedings in that area; and by notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and in such publications as regional and state funded newsletters, environmental bulletins, or state law journals. (The executive director may update the mailing list from time to time by requesting written indication of continued interest from those listed. The executive director may delete from the list the name of any person who fails to respond to such a request.)
- e. Any unit of local government with jurisdiction over the area.
- f. Any state agency with authority over construction or operation of such facility.

141.13(11) The permit applicant shall publish and broadcast the notice of intent to issue a permit in one major daily or weekly local newspaper and one local radio station within ten days of receipt of a notice of intent to issue a permit. The permit applicant shall submit proof of publication and broadcast to the executive director. The public notice shall contain:

- a. Name, address and telephone number of a department representative from whom persons may obtain further information.
- b. Name and address of the permit applicant and, if different, the address of the facility.
- c. A brief description of the business conducted at the facility.
- d. A brief description of the public comment procedure and the time and place of any hearing, including a statement of the procedure to request a hearing.

141.13(12) The executive director shall allow at least forty-five days for public comment during which time any interested person may make written comments or make a written request for a public hearing. Any request for a public hearing shall state the nature of the issues to be raised in the hearing.

141.13(13) The executive director shall provide a copy of the draft permit and fact sheet to the applicant and EPA at the time of public notice issuance. All other federal, state, and local agencies shall receive a copy of the draft permit and fact sheet upon request.

141.13(14) The administrative record (see subrule 141.13(8)) shall be available for public inspection at the central office of the department and the nearest regional office. Copies of the administrative record shall be provided upon request for the cost of reproduction.

141.13(15) The executive director shall schedule a public hearing if there is opposition or significant public interest in the draft permit, including the filing of requests for such a hearing. Frivolous or insubstantial requests for a hearing may be denied by the executive director. Instances of doubt should be resolved in favor of holding the hearing. The executive director may also hold

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a public hearing at his discretion, whenever for instance, such a hearing might clarify one or more issues involved in the permit decision. Whenever possible, the executive director shall schedule a hearing at a location convenient to the nearest population center to the facility. A public notice of a hearing shall be issued at least thirty days prior to the hearing. The public notice of a hearing shall contain the following:

- a. Reference to the date of previous public notices relating to the permit;
- b. Date, time and place of the hearing; and
- c. A brief description of the nature and purpose of the hearing, including the applicable rules and procedures.

141.13(16) In issuing any final permit, the executive director shall briefly describe and respond to all significant comments raised during the public comment period or during any hearing and make the response available to the public. The executive director shall specify any changes in the final permit not appearing in the draft permit and justify these changes.

141.13(17) If the executive director denies a permit, the executive director shall inform the applicant in writing of the reasons for the denial. The applicant may appeal to the commission from the denial of a permit or from a condition of a permit if the applicant files a notice of appeal with the executive director within thirty days of receipt of the denial or issuance of the permit.

141.13(18) Permit modification, revocation and reissuance, or termination.

a. A permit may be modified, revoked and reissued, or terminated at the written request of the permittee or upon the initiative of the executive director for the causes specified in rule 141.14(455B). The permittee may appeal any such action to the commission in accordance with subrule 141.13(17) except as provided by rule 141.14(455B).

b. The executive director may deny any request for permit changes. If so, the executive director shall provide a written response giving a reason for the decision. Denials are not subject to public notice, comment or hearings, however, the requestor may appeal the decision to the commission in accordance with subrule 141.13(17).

c. For a decision to modify, or revoke and reissue, the executive director shall prepare a draft permit incorporating the proposed changes except as provided in rule 141.14(455B). The executive director may request additional information and, in the case of a modified permit, may require the submission of an updated permit application. In the case of a revoked and reissued permit, the executive director shall require the submission of a new application.

d. In a permit modification under this subrule, only those conditions to be modified shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. When a permit is revoked and reissued under this subrule, the entire permit is reopened just as if the permit had expired and was being reissued. During any revocation and reissuance proceeding the permittee shall comply with all conditions of the existing permit until a new final permit is issued.

e. Suitability of facility location shall not be considered at the time of permit modification or revocation and reissuance unless new information or standards indicate that a threat to human health or the environment exists which was unknown at the time of permit issuance.

f. If the executive director tentatively decides to terminate a permit, a notice of intent to terminate shall be

issued. A notice of intent to terminate is a type of draft permit which follows the procedures specified in this rule.

ITEM 14. Chapter 141 is amended by inserting the new rule 900—141.14(455B) as follows:

900—141.14(455B) The hazardous waste permit program. The following is adopted by reference: 40 C.F.R. part 270 as promulgated through April 1, 1983 (48 FR 14228-14248).

ITEM 15. Chapter 141 is amended by inserting the new rule 900—141.15 (455B) as follows:

900—141.15(455B) Confidentiality of information. Claims of confidentiality shall be processed in accordance with chapter 4 of these rules.

ITEM 16. Chapter 141 is amended by inserting the new rule 900—141.16(455B) as follows:

900—141.16(455B) Permit in lieu of a state hazardous waste permit. A permit required by the Environmental Protection Agency for hazardous waste management facilities may serve in lieu of a state permit until its expiration or replacement by a state permit.

ARC 3909**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.

The Water, Air and Waste Management Commission (WAWMC) pursuant to Iowa Code Sections 455B.105 and 455B.245 and 1983 Iowa Acts, House File 267, intends to take action on Chapter 91, "Criteria for Award of Grants", Iowa Administrative Code. The Water, Air and Waste Management Commission intends to amend rule 900—91.1(455B) under which a state priority system for municipal wastewater treatment construction grants is adopted by reference. Rule 900—91.1(455B) was recently adopted in the process of transferring rules from the Department of Environmental Quality to the new Department of Water, Air and Waste Management. The verbatim contents of present chapter 91 were formerly found in 400—19.2(12) IAC and were adopted as emergency rules effective July 1, 1983. Notice of this action was published in the Iowa Administrative Bulletin June 22, 1983, ARC 3826.

The proposed system entitled "Priority System for Administration of Federal Wastewater Treatment Works Construction Grants Under the Authority of the federal Water Pollution Control Act as Amended" [Priority System] is required by federal regulation to be reviewed annually. The Priority System is used to generate the list of projects which will be funded with Iowa's annual federal allotment of funds for municipal wastewater

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

treatment construction grants. State and federal approval of the Priority System is required. The state project priority list must be revised annually, and a new state project priority list is being revised and published in conjunction with this rulemaking. Accordingly, the proposed "Fiscal Year 1984 - Construction Grants State Project Priority List" [Project List] has been revised in accordance with the proposed Priority System. Federal and state approval of the Project List is required for municipal projects to receive grant funds.

The proposed rule change would adopt the Priority System by reference, replacing the fiscal year [FY] 1983 Priority System presently in effect. A public hearing is required on the Priority System to fulfill federal regulations and state rulemaking requirements.

A public hearing on the Project List is required to fulfill federal public participation requirements. Project information contained in the proposed Project List has been revised to reflect current project cost estimates and schedules for funding based on anticipated federal appropriations for the construction grant program. The Project List includes both a fundable portion and a planning portion. The fundable portion includes projects scheduled for award of grant assistance from funds available during the fiscal year. The planning portion includes projects for which funding is anticipated from allotments authorized by the federal Water Pollution Control Act.

The Water, Air and Waste Management Commission intends to hold a public hearing on both the Priority System and the Project List on August 15, 1983. The public is urged to offer comments on the proposed Priority System and Priority List.

There are four proposed changes in the Priority System that will be considered at the public hearing on August 15, 1983. New section I.D. is proposed (1) providing that decisions of the executive director or his agents in the construction grants program are final agency action and (2) listing some of the guidance which is used in the department's management of the construction grants program. The purpose of this section is to notify the public what constitutes final agency action for purposes of appeal. Also, the section provides the public with a basic listing of the guidance commonly used in the program.

A second change involves grant closeout. New section VII.F proposes that the department will establish a costs cut-off date no later than eighteen months after the final project inspection. Costs incurred after the eighteen month cut-off date will not be grant funded. The purpose of this provision is to establish a procedure for grant closeout and final payment since some grants have not been finalized in an expedient manner in the past.

A third change is an amendment to subsection VII.E(2) indicating that small community alternative reserve

projects will be funded in priority order, rather than on a first-come basis as the existing Priority System indicates. The purpose of this change is to reflect department policy that when it is necessary to go off the fundable portion of the Project List to use up small community alternative reserve funds, projects will continue to be funded in priority order.

The final proposed change relates to delay of Step 4 projects. Each Step 4 grant contains a date for submission of project plans and specifications. It is proposed in new section VII.G that if a Step 4 grantee has not advertised for bids within nine months after that submission date, the department will recommend to EPA that the Step 4 grant be terminated or annulled. This section includes a provision that for good cause, the time for advertising for bids may be extended three months.

A clarification will be made in the Point Source Rating Criteria in Appendix A. The formula provides on page A3 that the 7Q₁₀ factor is used in the ranking formula. In conformance with 900—61.5 (formerly 400—16.5) IAC, the department uses the protected stream flow value when that value is higher than the 7Q₁₀ value. The protected stream is usually the 7Q₁₀ but in those instances where it is different, the proper value will be used and the Point Source Rating Criteria shall reflect this.

A public hearing on the rule amendment to adopt the proposed Priority System by reference and on the proposed Project List will be held on August 15, 1983, at 10:30 a.m. in the auditorium of the Henry A. Wallace Building, 900 E. Grand Avenue, Des Moines, Iowa. Any interested person may make an oral presentation on the proposed Project List or rule change at the public hearing. Interested persons may also submit written comments on the Project List or rule change on or before August 25, 1983, to the Executive Director, Department of Water, Air and Waste Management, Henry A. Wallace Building, 900 E. Grand Avenue, Des Moines, Iowa 50319. Single copies of the proposed Priority System and Project List may be obtained at no cost from the Records Division of the Department of Water, Air and Waste Management at the address provided above after July 15, 1983.

The following amendment is proposed.

Subrule **900—91.1(455B)** is amended to read as follows:

b. Beginning October 1, ~~1984~~ 1983, the department endorsement of federal grants shall be in accordance with the document entitled "Priority System for Administration of the Federal Wastewater Treatment Works Construction Grants Under Authority of the ~~Clean Water~~ Federal Water Pollution Control Act As Amended" [as adopted].

This rule is intended to implement Iowa Code section 455B.105 and Iowa Code chapter 455B, Division III, Part 3.

ARC 3911

COLLEGE AID COMMISSION[245]

Pursuant to the authority of 1983 Iowa Acts, House File 532, sections 2 and 6, the Iowa College Aid Commission emergency adopts Chapter 14 "Iowa Guaranteed Loan Payment Program" and Chapter 15 "Iowa Science and Mathematics Loan Program".

In compliance with Iowa Code section 17A.4(2), the commission finds that public notice and participation is impractical in that the 1983 Iowa Acts, House File 532, provide that these programs become effective on July 1, 1983 with immediate implementation necessary to provide access for summer school students.

The commission also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these rules, thirty-five days after publication should be waived and the rule be made effective upon filing with the Administrative Rules Coordinator on July 1, 1983, as it confers a benefit upon the public to ensure speedy implementation of these programs.

The commission adopted these rules at a meeting on June 29, 1983.

These rules are also being submitted as a Notice of Intended Action, ARC 3912, to allow public input.

These rules implement 1983 Iowa Acts, House File 532, sections 2 and 6.

ITEM 1. Chapter 14 will read as follows:

CHAPTER 14

IOWA GUARANTEED LOAN PAYMENT PROGRAM

245—14.1(261) Iowa guaranteed loan payment for new teachers of advanced mathematics and specified science programs in approved Iowa postsecondary schools.

14.1(1) Application for loan payments.

a. Application forms shall be provided by the commission for distribution through school districts and teacher preparation institutions in the state.

b. In the appropriate section of the application form the superintendent of the school district which has contracted with the applicant shall certify the teaching assignment of the applicant for the forthcoming school year.

c. The applicant shall file the completed application with the commission.

14.1(2) Criteria for selection of beneficiaries. Eligible teachers who file completed applications shall be granted loan payment benefits in rank order of the date the application was received by the commission.

14.1(3) Definitions.

a. For purposes of this program, a "sequential mathematics course at the advanced algebra level or higher" (1983 Iowa Acts, House File 532, section 2, subsection 4, paragraph "a") shall be defined as the third or fourth year of the sequential mathematics program in the school district.

b. For purposes of this program, "graduated from college" is defined as the occasion of the individual's award of the first baccalaureate degree.

c. For purposes of this program, a major in mathematics or science is defined as a major in one or more of the courses of study specified in 670—16.17(257) or 670—16.23(257) of the Iowa administrative rules adopted by the department of public instruction, as amended from time to time.

d. "Outstanding debt" is defined as an Iowa guaranteed student loan insured by the commission.

14.1(4) Certifications required for reimbursement of loan payments.

a. After the close of the school year and before July 15, the superintendent of the school district which has employed the teacher shall certify to the commission that the teacher served throughout the school year in an eligible teaching assignment. The certification form provided by the commission for this purpose shall include a section in which the superintendent will indicate renewal status of the teacher's contract and anticipated teaching assignment for the forthcoming school year.

b. After the close of the school year and before July 15, the lending institution which holds the teacher's student loan notes shall certify to the commission the total amount paid on principal and interest during the preceding state fiscal year. The form provided by the commission for this purpose shall include a section to report any delinquencies in loan payment. If two or more lenders are holders of the teacher's Iowa guaranteed student loan notes, all lenders must provide certification.

14.1(5) Reimbursement of loan payments.

a. Upon receipt of the necessary certifications, the commission shall reimburse the teacher for loan payments made during the preceding fiscal year within the limitations of the maximum amount specified by law.

b. A teacher shall not be reimbursed for payments made more than sixty days after the due date.

ITEM 2. Chapter 15 will read as follows:

CHAPTER 15

IOWA SCIENCE AND MATHEMATICS
LOAN PROGRAM

245—15.1(261) Cancelable loans to aid teachers in obtaining authorization to teach mathematics and science.

15.1(1) Application for mathematics and science loans.

a. Application forms shall be provided by the commission for distribution through school districts and approved teacher preparation institutions in the state.

b. In the appropriate section of the application form, the educational institution shall certify the applicant's enrollment or acceptance for enrollment in a course of study eligible for loan benefits, the anticipated period of enrollment, the number of credit hours to be earned, and the related tuition and fees.

c. In the appropriate section of the application form, the board of educational examiners shall certify the applicant's current teaching authorization and the number of credit hours needed by the applicant in order to receive authorization as a teacher of mathematics or science.

d. The applicant must file the completed application form and college transcripts for receipt by the commission by October 1, 1983, and by May 1 in subsequent years in order to receive priority consideration.

15.1(2) Criteria for selection of loan recipients.

a. If available loan funds are insufficient to aid all eligible applicants who file by the deadline date, priority rankings shall be established according to the number of credit hours needed for approval as a teacher of a sequential mathematics course at the advanced algebra level or higher, chemistry or advanced chemistry, physics or advanced physics. Applicants who need the fewest credit hours for approval shall receive highest priority.

b. In the event of tied rankings, applicants shall be given priority in rank order of the date their applications were received.

c. If loan funds are available after all eligible applicants filing by the deadline date have been aided, loans

COLLEGE AID COMMISSION[245] (cont'd)

shall be offered to applicants who filed after the deadline date in rank order of the date their applications were received.

15.1(3) Promissory note. The recipient of a loan under this program shall sign a promissory note payable to the commission agreeing to repay the loan on terms established by the commission in conformity with statutory provisions. A repayment schedule shall be agreed upon between the commission and the borrower within three months after completion of the course of study for which the loan was made.

15.1(4) Interest rate. The rate of interest on loans under this program shall be equivalent to the interest rate paid by first-time borrowers under the guaranteed student loan program at the time the promissory note is signed.

15.1(5) Disbursement of loan proceeds.

a. The loan will be disbursed only after the educational institution certifies that the borrower is enrolled and in good standing. The necessary certification forms will be provided to the institution by the commission.

b. The loan check made payable to the borrower will be sent to the educational institution by the commission promptly after enrollment certification is received.

c. The institution will deliver the check to the student if the student has already paid tuition for the course of study. If tuition has not been paid, the institution may require that the loan check be endorsed to the educational institution.

d. If the student withdraws from attendance and is entitled to a refund on tuition and fees, the pro rata share of the refunds attributable to the state loan must be refunded to the commission.

15.1(6) Eligible courses of study. Courses of study eligible for loan benefits shall be designated by the Board of Education Examiners as set forth in 670—Chapter 16 of the Iowa Administrative Code.

15.1(7) Loan cancellations.

a. Ten months following completion of the course of study for which the loan was received, the borrower shall notify the commission of the nature of the borrower's employment during the preceding year. To certify eligibility for cancellation the teacher must submit an affidavit from the superintendent of an Iowa school district verifying that the teacher has been employed for at least four months of the period as a teacher of eligible subject matter in an approved school. Such affidavit shall entitle the teacher to cancellation of fifty percent of the loan and accumulated interest.

b. If the borrower qualifies for partial loan cancellation, the commission shall notify the borrower promptly and revise the repayment schedule accordingly.

15.1(8) Loan payments.

a. Prior to the start of the repayment period the commission shall provide the borrower with a repayment schedule, modified to reflect any applicable cancellation benefits.

b. It shall be the borrower's responsibility to remit payments to the commission by the twentieth day of each month.

c. In the event of a delinquency in loan payment exceeding one hundred twenty days, the account will be referred to the attorney general or a collection agency for appropriate legal action.

d. The borrower is responsible for notifying the commission immediately of any change in name, place of employment, or home address.

15.1(9) Loan payment reimbursement.

a. At the end of the second year after completion of the

educational program for which the loan was made, the teacher shall notify the commission of the nature of the teacher's employment during the preceding year. If the teacher provides an affidavit from the superintendent of an Iowa school district verifying the teacher's employment for at least nine months of the year as a teacher of eligible subject matter in an approved Iowa school, the remainder of the loan will be canceled and the payments made during the second year will be refunded.

b. Eligibility for refund of loan payments shall be limited to a period of three years.

c. Any payments made more than sixty days after the date due shall not be subject to reimbursement by the commission.

[Filed emergency 7/1/83, effective 7/1/83]
[Published 7/20/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/20/83.

ARC 3917

COMMERCE COMMISSION[250]

The Iowa State Commerce Commission hereby gives notice that on June 30, 1983, the Commission issued an order in Docket No. RMU-83-14, In Re: Rules Concerning Mandatory Utility Financing of Energy Conservation Measures, "Order Repealing Rules On An Emergency Basis." Pursuant to Iowa Code sections 17A.4 and 17A.5, the Commission amended Iowa Administrative Code 250—27.9(476) to implement and conform to the decision of the Iowa Supreme Court issued June 15, 1983, in Iowa-Illinois Gas and Electric Company, et al. v. Iowa State Commerce Commission, No. 193—68432. In light of that judicial decision, the Commission finds that public notice and participation is unnecessary for good cause, pursuant to Iowa Code Section 17A.4(2), and that the normal effective date of the rule, thirty-five days after publication in the Iowa Administrative Bulletin, should be waived pursuant to Iowa Code section 17A.5(2), and the rules should be repealed immediately, effective upon filing with the Administrative Rules Coordinator.

ITEM 1. Strike the second sentence in subrule 27.9(1) as follows:

27.9(1) A covered utility will arrange financing for the supply or installation of any applicable energy conservation measure upon request by any eligible customer. ~~A covered utility shall provide the financing itself if the requirements of subrule 27.9(8) have been met.~~

ITEM 2. Strike subrule 27.9(8) in its entirety, including paragraphs "a" to "f".

[Filed emergency 7/1/83, effective 7/1/83]
[Published 7/20/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/20/83.

ARC 3888

COMPTROLLER, STATE[270]

Pursuant to the authority of Iowa Code section 8.6, the State Comptroller hereby adopts and emergency implements an amendment to Chapter 1, "Auditing Claims", Iowa Administrative Code. 1983 Iowa Acts, Senate File 471 amends Iowa Code section 8.15.

COMPTRROLLER, STATE[270] (cont'd)

The amendment defines the meaning of original invoice and requires state agencies to impose no additional or different requirements on submission of invoices than those contained in these rules unless the State Comptroller exempts the department from these requirements.

This amendment is adopted on an emergency basis because Iowa Code section 17A.5(2)"b"(1) provides for this when the rule is mandated by a statute. Senate File 471 mandates this rule. The public hearing and input provided for in Iowa Code section 17A.4 would have no effect because Senate File 471 has become law.

This amendment implements Iowa Code section 8.15. The amendment became effective July 1, 1983.

Subrule 1.1(1) is amended by adding the following unnumbered paragraph:

When an original invoice is submitted by a vendor, rather than the claimant signing the voucher, the vendor shall provide the state agency with an original invoice that they would use in the normal conduct of their business. A state department shall not impose additional or different requirements on submission of invoices than those contained in these rules unless the state comptroller exempts the department from these invoice requirements upon a finding that compliance would result in poor accounting or management practices.

[Filed emergency 6/29/83, effective 7/1/83]
[Published 7/20/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/20/83.

ARC 3887**EMPLOYMENT SECURITY[370]****(JOB SERVICE)**

Pursuant to the authority of Iowa Code sections 96.11(1) and 17A.3, the Iowa Department of Job Service hereby emergency adopts and implements rules to amend Chapter 3, "Employer's Contribution and Charges" and Chapter 4, "Claims and Benefits", Iowa Administrative Code.

These emergency rule changes are:

Item 1 — New employers in the construction industry are assigned the maximum penalty tax contribution rate until such time as they qualify for a computer rate.

Item 2 — Under the old law, students under the age of 22 engaged in a work study program for school credit were not covered as insured workers. This change removes the age restriction of "under 22 years of age."

Item 3 — The director has the responsibility to collect a surcharge from employers to pay the interest on trust fund loans from the federal government. The director also has the right to prescribe the manner and the amount of the surcharge to be collected.

Item 4 — This change will provide for immediate relief of charges to a contributory employer account when overpayments on claims are set up.

Item 5 — Prior to this law change an individual on workers' compensation for an extended time was ineligible for job insurance because the earnings prior to the workers' compensation claim would no longer be in the base period. By eliminating the quarters pertaining to workers' compensation, this law change, in effect, "freezes" the claimants base period.

Item 6 — An individual eligible to use old quarters of earnings because of the workers' compensation provision would have charges on the job insurance claim go against the employer that was involved in the workers' compensation claim. This change is necessary to clarify against whom the charge must be assessed.

Item 7 — The employer now has the responsibility to specifically designate the vacation period to which the vacation pay applies or the vacation deduction will be applied to the first week of layoff.

Item 8 — An individual who refuses to bump a fellow employee with less seniority is eligible for job insurance and has the able, available and work search provisions waived. However, federal regulations prevent the waiver portion when federal job insurance funds are involved.

Item 9 — An individual who has been denied job insurance between terms or academic years shall be redetermined as eligible on a retroactive basis if not re-employed. The individual, however, must have filed claims for benefits on a current weekly basis during the disqualified period.

Item 10 — An individual who refuses to exercise bumping privileges is no longer disqualified.

Item 11 — An individual has good reason to refuse suitable work if they are not able to work or available for work. The benefit eligibility conditions of Iowa Code section 96.4 must be satisfied before applying a disqualification under section 96.5. The individual who fails to bump a fellow employee with lesser seniority has the able to work, available for work and the work search provisions waived and is still eligible for job insurance payments which is different than not being able to work because of lack of transportation, broken leg, etc. Therefore, an offer of work must be adjudicated when offered to an individual who fails to exercise the right to bump.

Item 12 — An individual who refuses to bump a fellow employee with less seniority is eligible for job insurance and the able, available and search for work provisions of the law are waived. However, this waiver does not apply when federal job insurance funds are involved after regular benefits are exhausted.

Item 13 — The burden of proof of establishing the disqualification for voluntary quitting is on the employer.

Item 14 — An individual who refuses to bump a fellow employee with less seniority is eligible for job insurance payments and the able, available and work search provisions of the code are waived.

Items 15 and 16 — The monetary amount needed for second benefit year requalification has been changed from ten times weekly benefit amount (average \$1,320) to a flat dollar amount of \$250.

In compliance with Iowa Code section 17A.4(2), the department finds that public notice and participation are impracticable for the reasons stated above.

The department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these rules thirty-five days after publication should be waived and the rules be made effective on July 1, 1983 as they confer a benefit upon the public to ensure speedy and uniform compliance with the department's legislative mandate.

The Iowa department of job service adopted these rules June 24, 1983.

These rules are intended to implement Iowa Code sections 96.3(5) and (7); 96.4(3), (4) and (5)"c"; 96.5(1) and (7); 96.7(3) and (15); 96.19(6)"g"(6); and 96.23, as amended by 1983 Iowa Acts, House File 637.

The rules are amended as follows:

EMPLOYMENT SECURITY[370] (cont'd)

ITEM 1. Amend subrule 3.6(1) paragraph "d" subparagraph (2) to read as follows:

(2) Beginning ~~January~~ July 1, 1978~~83~~ for calendar year 1984, the rate for construction employers, defined in rule 3.82(96) newly subject to the Iowa employment security law ~~will shall~~ be at the rate specified in the ~~twenty-first~~ percentage of excess rank Iowa Code section 96.7(3)"d"(3) and shall be at the maximum rate assigned to any employer under this chapter, including the additional contributions required of an employer with a negative balance until they such time as the employer qualify has qualified for a computed rate as provided for in section 96.7(3)"d"(3).

ITEM 2. Amend rule 370—3.21(96) to read as follows:

370—3.21(96) Excluded employment — student. Wages earned by a student under the age of twenty-two years who is enrolled at a nonprofit or public educational institution under a program taken for credit at such institution that combines academic instruction with work experience are normally excluded from the definition of employment. Provided, however, that no work performed by such individual in excess of the hours called for in the contract between the school and the employer or performed in a period of time during which the institution is on a regularly scheduled vacation and for which such student receives no academic credit shall be excluded from said definition.

ITEM 3. Amend subrule 3.40(7) to read as follows:

3.40(7) Temporary emergency tax surcharge for beginning January 1, 1983. If it becomes necessary to implement a temporary emergency tax surcharge on all employers (except zero rated employers, government employers, and nonprofit organizations as described in the U.S. Internal Revenue Code, 26 U.S.C. 501(c)(3) for any quarter of 1983 to pay interest on moneys borrowed from the federal government to pay job insurance benefits, the emergency tax surcharge shall be collected and credited in the following manner:

a. The emergency tax surcharge rate (not to exceed one tenth of one percent) will shall be added to the regular contribution (tax) rate on the employer's quarterly reporting form. A message printed on the form will state that the rate shown includes the temporary emergency tax surcharge and shall give the emergency tax surcharge add-on rate. The add-on rate shall be a uniform percentage of all affected employer's regular contribution rate rounded to the nearest one-hundredth of a percent.

b. The A portion of each tax payment which is attributable to the emergency tax that is received from an employer for a quarter in which the emergency tax surcharge is in effect, shall be considered as being temporary emergency surcharge and shall be credited to the temporary emergency tax surcharge fund.

c. The portion of the employer's tax payment credited to the temporary emergency tax surcharge fund shall not be used in the computation of the employer's future contribution (tax) rates.

d. The temporary emergency surcharge shall be used to pay the interest accrued on the trust fund money advanced to job service by the federal government.

e. The director of job service shall prescribe the manner and the amount of the surcharge to be collected.

ITEM 4. Amend rule 370—3.44(96) to read as follows:

370—3.44(96) Benefits payments

3.44(1) Overpayments. Payments caused by the employer. If a claimant is overpaid benefits because of an

employer reporting exempt wages or other such error on such employer's report, the employer, except the employer who is required by law or by election to reimburse the fund for benefits paid will not be relieved of benefit charges to such employers account.

3.44(2) Payments caused by the employer. If more than one employer is charged benefits because of one employer's error in reporting exempt wages, or any other error in any employer's report, the employers or employers who are not in error will be relieved of any erroneous charges to their account. Reserved.

3.44(3) Erroneous payments not caused by employer. Erroneous payments caused by any thing other than employer error shall be charged to the balancing account. This applies to contributory employers only. Reserved.

3.44(4) Reserved.

3.44(5) Reserved.

3.44(6) Reserved.

3.44(7) Option of reimbursable credit upon recovery of overpayment. The department should use the option of crediting the account of the reimbursable employer on funds recovered from the claimant received in those cases as listed in subrules 3.44(1) to 3.44(3). However, provisions should be made for repaying of the employer by refund in those cases where large sums of money are involved and the employer makes the request for the refund rather than credit.

3.44(8) Reserved.

ITEM 5. Amend subrule 4.1(11) to read as follows:

4.1(11) Base period. A period of time in which a claimant must have had a specified minimum amount of insured work in order to qualify for benefits. This consists of the first four of the five previously completed calendar quarters preceding the quarter in which the claim is filed with the following exception. The department shall exclude and substitute three or more calendar quarters from the claimants base period so that the claimants four-quarter-base period is prior to the quarters in which the individual received workers' compensation or indemnity insurance benefits. This exclusion applies under the following conditions:

a. The individual did not receive wages from insured work for three calendar quarters or;

b. The individual did not receive wages from insured work for two calendar quarters and lacked the qualifying wage for an eligible claim in the preceding two quarters immediately prior to the two quarters in which there were no earnings in insured work.

ITEM 6. Amend subrule 4.1(12) as follows:

4.1(12) Base period employer and chargeable employer.

a. Base period employer. An employer who paid wages for employment to a claimant during the claimant's base period or an employer who is responsible for an individual's wages pursuant to Iowa Code section 96.3, subsection 5, pertaining to workers' compensation benefits.

b. Chargeable employer. An employer who has had base period wages transferred to their account due to a requalification decision.

ITEM 7. Amend subrule 4.16(2) as follows:

4.16(2) If the employer, after notification of the filing of a claim fails to designate a specific vacation period but there has occurred a vacation shutdown, a sum equal to a day's wages, either paid or owed, shall be applied to the first and each subsequent work day in the first week of such vacation shutdown period until the amount of such vacation pay, either paid or owed, is exhausted.

EMPLOYMENT SECURITY[370] (cont'd)

ITEM 8. Amend subrule 4.22(1) paragraph "k" to read as follows:

k. Seniority rights. A claimant is ~~not available~~, if such claimant who fails to exercise seniority rights to replace another employee with less seniority shall have the able to work, available for work and the work search requirements waived during a period of regular job insurance benefits. This waiver does not apply to the claimant who is receiving extended benefits or federal supplemental compensation.

ITEM 9. Amend subrule 4.22(3) as follows:

4.22(3) Eligibility condition—school employee employed in other than an instructional, research, or principal administrative capacity. Where, at the end of a school year or term, an individual employed in other than an instructional, research, or principal administrative capacity has a reasonable assurance of re-employment for the next ensuing year or term, a valid basis does ~~not~~ exist for a redetermination that the assurance was not bona fide merely on the ground that the assurance was not fulfilled. If, upon later revealed facts, it is determined that the assurance when given was faulty and the assurance purportedly given was not bona fide and therefore is not a valid basis for application of the "between terms" provision, the school employee is entitled to benefits. If the assurance is not fulfilled because of later developments such as budgetary restrictions forbidding the employment of the individual concerned, there would be no basis for a redetermination that the original assurance was not bona fide. The individual would be entitled to benefits, if otherwise eligible from the date when it became clear that the initial assurance would not be fulfilled: ~~if the disqualification was based solely on the between terms denial provision. The individual shall be entitled to retroactive payments for each week for which a timely claim for benefits was made. A claim shall be determined as timely when it is filed on a current weekly basis as provided in subrule 4.2(1), paragraph "e".~~

ITEM 10. Amend subrule 4.23(9) to read as follows:

4.23(9) Where an individual declines to exercise seniority rights to replace other individuals in the various departments and wants to remain on layoff status, such individual is deemed to be voluntarily unemployed and does not meet the availability requirements of section 96.4(3). Reserved.

ITEM 11. Amend subrule 4.24(4) to read as follows:

4.24(4) Work refused when the claimant is ~~not able and available~~ fails to meet the benefit eligibility conditions of Iowa Code section 96.4(3).

a. Before a disqualification for failure to accept work may be imposed, an individual must first be satisfy the benefit eligibility conditions of being able to work and available for work. If the facts indicate that the claimant was or is not available for work, and this resulted in the failure to accept work or apply for work, such claimant shall not be disqualified for refusal since the claimant is not available for work. In such a case it is the availability of the claimant that is to be tested. Lack of transportation, illness or health conditions, illness in family, and child care problems are generally considered to be good cause for refusing work or refusing to apply for work. However, the claimant's availability would be the issue to be determined in these types of cases.

b. This subrule pertaining to the job refusal issue shall not apply to any individual who fails to bump a fellow employee with less seniority because the able to work and available for work provisions have been waived and the

individual is eligible for job insurance payments. Therefore these individuals may be disqualified for the refusal of work.

ITEM 12. Amend subrule 4.24(5) to read as follows:

4.24(5) Bumping rights to a job. A claimant who fails to exercise seniority rights to bump a less senior employee is ~~deemed to be not available for work~~ eligible for benefits and the provisions pertaining to able to work, available for work and the search for work are waived during a period of regular job insurance benefits. This waiver of ability to work, availability for work and the search for work does not apply to a claimant who is receiving extended benefits or federal supplemental compensation.

ITEM 13. Amend rule 4.25(96) as follows:

370—4.25(96) Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The burden of proof of establishing the separation as a voluntary leaving of employment without good cause attributable to the employer shall be the responsibility of the employer with whom the separation occurred. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer.

ITEM 14. Add new subrule 4.26(27) as follows:

4.26(27) Refusal to exercise bumping privilege. An individual who has left employment in lieu of exercising the right to bump or oust a fellow employee with less seniority shall be eligible for benefits.

ITEM 15. Amend subrule 4.31(2) to read as follows:

4.31(2) If the claimant has the qualifying wages for the establishment of a second benefit year as specified in Iowa Code section 96.4(4), of one and one quarter times the wages paid during that quarter of the base period in which wages were the highest with a minimum of \$400 and \$200, which were earned prior to the filing of the previous claim, the claimant must, during or subsequent to that year, have worked in and been paid wages for insured work totaling at least \$250 ~~ten times the weekly benefit amount~~, to fulfill the condition to be eligible for benefits on a new claim. Vacation pay is not considered as wages for second benefit year requalification purposes.

ITEM 16. Amend subrules 4.31(5) and 4.31(6) to read as follows:

4.31(5) The amount equal to \$250 in insured work ~~ten times the weekly benefit amount~~ need not be in addition to the qualifying wages for the establishment of a second benefit year as specified in Iowa Code section 96.4(4) ~~the \$400 and \$200 of~~ in the base period of the subsequent claim provided that the amount equal to \$250 in insured work ~~ten times the weekly benefit amount~~ has been earned and paid at any time after the effective date of the previous claim for which the individual received benefits.

4.31(6) Disqualification for lack of the \$250 in insured work ~~ten times the weekly benefit amount~~ condition shall be removed upon the verification that the claimant worked in and has been paid wages for insured work totaling \$250 ~~ten times the weekly benefit amount~~ during or subsequent to the previous benefit year.

[Filed emergency 6/27/83, effective 7/1/83]

[Published 7/20/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/20/83.

ARC 3918**ENERGY POLICY COUNCIL[380]**

Pursuant to the requirements of Department of Energy (DOE) under Part A, U.S.C. 6861-6870 of Title IV of the Energy Conservation and Production Act, Public Law 94-385, 90 Stat. 1125 et seq., and under the authority granted by the 1982 Iowa Acts, Chapter 1262, division II, section 4, and 1983 Iowa Acts, Senate File 556, division IV, section 11, the Energy Policy Council (EPC) emergency adopts rules rewriting 380—Chapter 15, "Weatherization Assistance Program."

The Weatherization Assistance Program is designed to assist in achieving a healthful dwelling environment and maximum practicable energy conservation in the dwellings of low-income persons in order to both aid those persons least able to afford higher utility costs and to conserve needed energy.

In compliance with Iowa Code section 17A.4(2), the council finds that public notice and participation is impracticable and contrary to the public interest. Immediate adoption will confer a public benefit by allowing the maximum number of homes to be weatherized before the advent of inclement weather this winter. Therefore, these rules are being filed pursuant to Iowa Code section 17A.5(2)"b"(2) and become effective July 1, 1983.

These rules differ from the rules presently contained in Chapter 15 primarily by providing more specificity, and by expanding the procedures available for appeal from local administering agency decisions to the Energy Policy Council.

These rules also adopt by reference the updated state plan and procedures manual. Rule 380—15.2 (PL 94-385) updates the poverty guidelines on which program eligibility is based, and subrule 15.4(5) brings the appeal and hearing procedures into conformity with 380—Chapter 11.

These rules are also being published under Notice of Intended Action as ARC 3919.

Chapter 15 is rescinded and the following inserted in lieu thereof.

CHAPTER 15**WEATHERIZATION ASSISTANCE PROGRAM**

380—15.1(93) Purpose. Pursuant to a grant from the Department of Energy (DOE) under Part A, 42 U.S.C. 6861-6870 of Title IV of the Energy Conservation and Production Act, Public Law 94-385, 90 Stat. 1125 et seq., and under the authority granted by the 1982 Iowa Acts, chapter 1262, division II, section 4, and 1983 Iowa Acts, Senate File 556, division IV, section 11, the Energy Policy Council (EPC) will administer a weatherization program ending on or about March 31, 1984.

The purpose of the program is to develop and implement a weatherization assistance program to assist in achieving a healthful dwelling environment and maximum practicable energy conservation in the dwellings of low-income persons, particularly those of elderly and handicapped persons, in order to both aid those persons least able to afford higher utility costs and to conserve needed energy.

380—15.2(93) Eligible households. All households assisted by this program must meet income eligibility requirements.

15.2(1) Only households with incomes no higher than one hundred twenty-five percent of the poverty level

determined in accordance with criteria established by the director of the Office of Management and Budget (OMB) may be assisted by this program.

15.2(2) Both owner-occupied and renter-occupied dwellings may be weatherized. However, in the latter case, rental units occupied by low-income residents shall be weatherized providing benefits accrue primarily to the low-income tenants, rents are not raised because of the weatherization, and no undue or excessive enhancement occurs to the value of the dwelling unit.

15.2(3) Further program criteria is contained in the Iowa state plan for the weatherization assistance program which is incorporated by reference as part of these rules. This document, as well as delegate agreements and EPC reporting forms, is available at the EPC, Lucas State Office Building, Des Moines, Iowa 50319, and is available for public inspection between the hours of 8:00 a.m. and 4:30 p.m. Monday to Friday. Copies of these documents may be obtained at cost by contacting the Energy Policy Council at the above address, telephone 515/281-4204.

380—15.3(93) Local administering agencies (LAA). EPC shall administer this program by utilizing community action agencies (CAAs), their approved subcontractors, or other public or nonprofit entities that have shown the ability or have the capacity to undertake a timely and effective weatherization program, as required under Section 573 of the Energy Security Act, Amended, Public Law 96-294, 94 Stat. 611.

Funds shall be used for the purchase of weatherization materials, e.g. insulation, storm windows, caulking, weather stripping and other related items, training and technical assistance, administration and supportive requirements.

LAAs will be required to sign a contractual agreement which specifies allowable program activities, regulations and special conditions, participant forms and audit requirements.

380—15.4(93) Appeal and complaint procedure. The following appeal and hearing procedure shall be used.

15.4(1) In the event a household believes it is eligible for weatherization but has been refused such service, it may appeal the eligibility determination by notifying, in writing, the executive director of the contracting agency. The executive director will then respond to the complaint within fifteen days, starting from the final determination of eligibility.

15.4(2) In the event of a complaint on the quality or extent of work performed, the same procedure shall be followed and the executive director shall again have fifteen days to make the final determination.

15.4(3) Should the prospective client or clients in either case be dissatisfied with the findings of the local executive director, they shall have the right to appeal to the energy policy council, again within fifteen calendar days of the date of the decision, and ask that a state hearing be held. The claimant must explain in writing why the agency's decision is being appealed and include any information which might affect the decision.

15.4(4) The agency will then forward all information about the request for a hearing to the state and a hearing will be scheduled. The claimant will receive written notice of a state scheduled hearing from the director of the energy policy council. The notice will include the date, time and place of hearing. State hearings may be held by telephone at a mutually convenient time. Prior to the hearing the agency will provide an opportunity for the

ENERGY POLICY COUNCIL[380] (cont'd)

claimant to review the case file and any written evidence that will be used in the hearing. An informal conference with the director or appropriate state staff personnel may be requested for the purposes of discussing actions taken and resolving the issues raised in the request for hearing.

15.4(5) The rules of Iowa administrative code, 380—chapter 11, "Contested Case Proceeding", shall govern appeals to the Iowa energy policy council.

380—15.5(93) Public information. All parties interested in further information concerning the weatherization assistance program should contact the Weatherization Coordinator, Energy Assistance Division, Energy Policy Council, Lucas State Office Building, Des Moines, Iowa 50319, telephone 515/281-4204.

Income guidelines, contractual agreements, applications and reporting forms are on file at the above address and available for public inspection between the hours of 8:00 a.m. and 4:30 p.m., Monday to Friday.

These rules are intended to implement Part A, 42 U.S.C. 6861-6870 of Title IV of the Energy Conservation and Production Act, Public Law 94-385, 90 Stat. 1125 et seq., and 1982 Iowa Acts, Chapter 1262, division II, section 4.

[Filed emergency 7/1/83, effective 7/1/83]

[Published 7/20/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/20/83.

ARC 3890**HUMAN SERVICES
DEPARTMENT[498]**

Pursuant to the authority of Iowa Code section 249C.15, rules of the Department of Social Services* appearing in the IAC relating to the co-ordinated manpower services program (chapter 58) are hereby amended.

The first amendment allows clients who cannot benefit from the standard four week job club activities to substitute other specialized job club/job search activities which are more appropriate to individual client need.

The second amendment ensures that participants are adequately compensated for the length of time that they are participating in job club/job search programs.

The third amendment will allow this program to continue beyond June 30, 1983.

The department of social services finds that notice and public participation is impracticable and contrary to the public interest. These amendments will allow the program to continue and provide for the availability statewide of appropriate job search activities for clients with special needs and those living in areas where the regular job search club is not feasible. These amendments also assure adequate financial compensation for clients in the program. Therefore, this rule is filed pursuant to Iowa Code section 17A.4(2).

The department of social services finds this rule confers a benefit on the public by assuring that current participants may continue in the program without interruption and will ensure the availability of appropriate job search activities and financial compensation. Therefore, this rule is filed pursuant to Iowa Code section 17A.5(2)"b"(2).

The council on social services adopted this rule May 18, 1983. This rule is intended to implement Iowa Code sec-

tions 249C.11 and 1983 Iowa Acts, House File 641, section 3.

The effective date of this rule is July 1, 1983.

ITEM 1. Subrule 58.11(2) is amended as follows:

58.11(2) Assignment to job club. Registrants who are assigned to job club shall receive one week of job seeking skills training and shall then participate in a structured employment search activity for a period not to exceed three weeks. Participants shall participate a maximum of four hours per day in scheduled job club activities. Participants shall contact a minimum of twenty-five employers per day to schedule employment interviews unless fewer contacts are required by co-ordinated manpower services staff. Scheduled activities and required hours of participation may be varied at the discretion of co-ordinated manpower services staff for job clubs operated in rural locales. Daily attendance during the one week of job seeking skills training is required. Co-ordinated manpower services staff may therefore require a participant who, for any reason, is absent during this week to repeat the entire week of training. *CMS is authorized to substitute the standard four week job club with other specialized job club/job search activities which CMS deems more appropriate to individual client need.*

ITEM 2. Current paragraph 58.11(2)"a" is rescinded and the following inserted in lieu thereof:

a. Participants assigned to job club or substitute job search activities shall receive \$15.00 transportation allowance for each week that they participate as well as an allowance for child care, if required, not to exceed the going rate in the community. When child care is required, participants shall submit Estimate of Cost, form PA-8121-5, which documents actual charges. Payments shall be issued on a monthly basis.

ITEM 3. Delete rule 498—58.17(69GA, ch1260).

[Filed emergency 6/29/83, effective 7/1/83]

[Published 7/20/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/20/83.

*Renamed Department of Human Services by 1983 Iowa Acts, S.F. 464, effective July 1, 1983.

ARC 3886**INSURANCE DEPARTMENT[510]**

Pursuant to the authority of Iowa Code sections 505.8 and 514.8, the Iowa Department of Insurance hereby adopts amendments to Chapter 34, "Nonprofit Health Service Corporations."

Notice of Intended Action was published in the May 11, 1983 issue of the IAB as ARC 3744.

As the result of public comment, the rules adopted differ from those noticed as ARC 3744. The references to health service corporations contained within subrule 34.6(1) were amended to refer to hospital service corporations. Subrule 34.6(2) now refers to the filing of a prototype contract as opposed to the filing of the general contract format. The adopted rule requires an informational filing of individual hospital contracts. The first paragraph to subrule 34.6(3) was revised.

Under Iowa Code section 514.8, contracts between nonprofit hospital service corporations and participating

INSURANCE DEPARTMENT[510] (cont'd)

hospitals for hospital service are subject to the continuing approval of the Commissioner of Insurance. The rule requires prior approval of a prototype contract and specifies standards for review of this contract. These standards seek, in part, to encourage health care cost containment by encouraging hospital efficiency and limiting unnecessary utilization.

The department finds, pursuant to Iowa Code section 17A.5(2)"b"(2) and (3), that the normal effective date of this rule thirty-five days after publication should be waived and the rule be made effective upon filing with the Administrative Rules Coordinator on June 24, 1983, as it confers a benefit on subscribers of chapter 514 corporations by allowing an earlier approval or disapproval by the department of participating hospital contracts and, conversely, a delay thereof could result in unnecessary expenditures for subscribers' health care. Blue Cross of Iowa and Blue Cross of Western Iowa and South Dakota currently have a proposed payment system for participating hospital contracts pending before the department. Due to notice requirements contained within some of the existing participating hospital contracts and the configuration of hospital fiscal years, a decision on the proposed payment system must be made before June 30, 1983. The existence of objective standards for review of the plans' proposed payment system will enhance the department's ability to complete such review.

The Commissioner of Insurance adopted this rule on June 24, 1983.

This rule is intended to implement Iowa Code chapter 514.

Insurance (510) Chapter 34 is amended by adding a new rule as follows:

510—34.6(514) Participating hospital contracts.

34.6(1) The following standards shall be applied to all participating hospital contracts subject to approval under Iowa Code section 514.8 and shall be relied upon by the commissioner in deciding whether approval is granted:

- a. Contracts shall be fair to the subscribers of the hospital service corporation.
- b. Contracts shall be fair to the hospital service corporation.
- c. Contracts shall be fair, reasonable, and in the public interest.
- d. The subscribers' rights to service under participating hospital contracts shall be adequately specified and protected.
- e. The contract shall not be unfairly discriminatory with respect to the provision of services to subscribers.
- f. Contracts shall not be detrimental to the financial condition of the hospital service corporation.
- g. The payment of consideration required of the hospital service corporation by the provisions of the contract shall not be excessive, inadequate or unfair.

34.6(2) The prototype contract used by hospital service corporations with participating hospitals for hospital service shall be subject to the prior approval of the department. The individual contracts between hospital service corporations and individual participating hospitals are not subject to prior approval, so long as they substantially conform to the prototype contract approved by the commissioner. An informational filing shall be required upon execution of an individual hospital contract. An individual hospital contract shall be deemed to be in substantial conformity with the prototype contract if it is not disapproved within thirty days of filing.

34.6(3) In order to ensure fair and equitable charges to and premiums paid by subscribers of hospital service corporations, any method for paying hospitals which is contained in contracts between hospital service corporations and participating hospitals shall contain the following:

- a. Incentives for high productivity and disincentives that encourage efficiency in hospital operation and effectiveness in-use;
- b. Provisions for economic trends;
- c. Adjustments for variations in capacity among large hospitals and small hospitals;
- d. Control mechanisms on unnecessary utilization and inappropriate setting for care;
- e. Payment levels to hospitals which are equitable and meet reasonable financial requirements;
- f. An internal appeal mechanism for disputes relating to budget review.

[Filed emergency after notice 6/24/83, effective 6/24/83]
[Published 7/20/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/20/83.

ARC 3896**LABOR, BUREAU OF[530]**

Pursuant to the authority of Iowa Code sections 88.5 and 17A.3(1), rule 530—10.20(88) appearing in IAB relating to Occupational Safety and Health Standards are hereby amended.

The Notice of Intended Action for amendments to rule 530—10.20(88), published March 16, 1983, was adopted April 22, 1983, following a public hearing held on April 6, 1983. Comments at the hearing related to the above-listed noise exposure standard with regard to hearing conservation programs. It was then decided that the agency would enforce this rule to the extent enforcement would not impose requirements more stringent than required by 48 Fed. Reg. 9776 (March 8, 1983).

Despite discussion and a decision regarding this standard, the standard's code number was inadvertently excluded from the list of adopted standards. It is hereby added.

This rule shall become effective immediately upon filing [July 1, 1983] with the Administrative Rules Coordinator pursuant to Iowa Code section 17A.5(2).

Amend rule **530—10.20(88)** by inserting after the words "46 Fed. Reg. 40185 (August 7, 1981)" the following:

46 Fed. Reg. 2632 (August 21, 1981)

[Filed emergency after notice 7/1/83, effective 7/1/83]

[Published 7/20/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/20/83.

ARC 3901**MERIT EMPLOYMENT DEPARTMENT[570]**

Pursuant to the authority of Iowa Code section 19A.9, the Iowa Merit Employment Department emergency

MERIT EMPLOYMENT DEPARTMENT[570] (cont'd)

adopts and implements an amendment to chapter 2 "State Service and Its Divisions", Iowa Administrative Code:

Iowa Code chapter 20 allows employees who occupy positions that are determined to be confidential to be exempt from its provisions. Rule 2.4(19A) addresses how these employees are to be handled in regard to all issues involving pay rather than have specific citings within chapter 4.

Revised rule 2.4(19A) gives employees who occupy positions that have been determined to have confidential status to be paid the same as employees who are covered by a collective bargaining agreement. Employees not only would be paid according to the pay plan for their particular class, but would also be paid overtime, compensatory time, standby and any other pay provisions in accordance with the bargaining agreement.

The department finds, pursuant to section 17A.5 (2)"b"(2), that the normal effective date of this amendment thirty-five days after publication should be waived and the amendment be made effective upon filing with the Administrative Rules Coordinator on July 1, 1983, as the implementation of this revised rule would coincide with changes that were negotiated for contractual employees to be effective July 1, 1983, and would provide for employees in a class that is covered by a collective bargaining agreement but who are deemed to have confidential status to receive pay benefits consistent with those received by other contractual employees.

This amendment is simultaneously being submitted as Notice of Intended Action, ARC 3902.

This rule is intended to implement Iowa Code section 19A.9.

The following amendment is adopted.

Rule 570—2.4(19A) is amended to read as follows:

570—2.4(19A) Confidential ~~classified~~ employees. An ~~classified~~ employee whose position, within a class covered by a collective bargaining agreement, is determined to be confidential in accordance with Iowa Code section 20.4, shall be exempt from the collective bargaining agreement covering the class. *However, the confidential employee shall, be paid within the same salary grade range as is provided by the collective bargaining agreement covering the class, but for purposes involving pay and other fringe benefits, be administered as provided for in the agreement in accordance with current policies of the department. For all other purposes the applicable merit rules for covered noncontractual employees.*

[Filed emergency 7/1/83, effective 7/1/83]

[Published 7/20/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/20/83.

ARC 3903

PLANNING AND PROGRAMMING[630]

Pursuant to the authority of 1983 Iowa Acts, Senate File 548, Section 48, the Office for Planning and Programming emergency adopts rules creating a new chapter 25 "Iowa Community Development Loan Program" (ICDL) in order to administer a revolving loan fund to aid

Iowa communities in improving and developing adequate public works and facilities needed to support local economic development projects.

In compliance with Iowa Code section 17A.4(2), OPP finds that public notice and participation, as contemplated by Iowa Code chapter 17A is impractical because:

1) Senate File 548, Division VIII became effective July 1, 1983 and is for the purpose of making loans to improve and develop public works and facilities.

2) Funds loaned will be used for projects involving construction.

3) It is essential that loans be made as soon after July 1, 1983 as possible so that construction projects may begin during the 1983 construction season.

4) In order to make loans for construction projects in an organized and effective manner, OPP will need to have the ICDL administrative rules adopted and effective on or soon after July 1, 1983.

OPP further finds that public participation as contemplated by chapter 17A has been satisfied by other means. Specifically, OPP has taken steps to provide for public participation in the rulemaking, including a public hearing in Des Moines on June 15, 1983 with mailed notice of hearing to all Iowa cities urging cities to comment on the program and rules. Several parties submitted comments as a result of the June 15, 1983 public hearing and OPP has given consideration to these comments as follows:

One association indicated that "local cash resources" should include federal grants. This comment was not incorporated for several reasons. First, OPP believes that cities that receive federal grants should not be allowed to use the federal grant funds as local match because Senate File 548 talks in terms of "leveraging local resources". This has been interpreted to not include grants from the state or federal government because use of such grants as local resources does nothing to mobilize or "leverage" any local resource.

Secondly, use of federal and state grants as local match may result in an inequitable distribution of ICDL funds because a city that already has a federal or state grant will then find it easier to meet minimum funding requirement and thus stand a better chance of receiving ICDL funds. Allowing the use of federal and state grants as local match makes it easier for cities that were fortunate enough to receive federal or state grants to then receive ICDL funds. On the other hand, cities that received no federal or state grants will find it more difficult to meet minimum funding criteria. It is therefore inequitable that cities that are fortunate enough to receive grants are also the cities that stand a better chance of receiving interest-free ICDL funds, while the cities that receive no federal or state funds have a lesser chance of receiving interest free funds for their much needed projects. OPP notes as a matter of clarification that federal and state grants, as used in the context of the rules, do not include federal and state-shared revenues or loans. Federal and state-shared revenues and loans are essentially local in nature and may be used as "local cash resources".

Another association comment suggests the wording of subrule 25.5(2), paragraph "c" be clarified. The wording has been modified to clearly state that city, private or other local resource could be used in combination as "local cash resources".

The final association comment suggested that the cities' cost of an ICDL audit qualify as a source of local cash resources to be used as loan match. This suggestion was incorporated in subrule 25.6(6) for audits required to be

PLANNING AND PROGRAMMING[630] (cont'd)

conducted by small cities that are not regularly audited.

One agency asked if local cash resources could, in some circumstances, be less than fifty percent of the loan amount. Senate File 548 section 45(3) clearly requires that ICDL funds shall be matched with local cash resources equal to not less than fifty percent of the amount loaned. This means that at least one-third of the project cost shall be made up of local cash resources. OPP cannot administratively change the local resources requirement found in the law.

The same agency also indicated that subrule 25.5(2) paragraph "f" does not place enough emphasis on the need of cities to remain viable retail or ag-service communities. OPP points out that the rule seeks information upon which the law requires a funding decision be made and the rule also seeks information on the promotion of existing business and industry and job retention. These latter factors will be examined objectively to determine the need of cities to remain viable retail or ag-service communities.

The final comment from the director of a city community development department indicated complete agreement with the rules.

OPP also finds that public participation as contemplated by chapter 17A, is contrary to the public interest in that it will delay disbursement of loan funds and slow the improvement and development of public works and facilities that are immediately needed to support local economic development projects and create jobs. OPP finds that during debate of Senate File 548 the Local Governments Committee indicated that OPP should implement emergency rules to get the program functioning in a timely manner in order to carry out the intent of Senate File 548 to create jobs.

OPP also finds that pursuant to Iowa Code section 17A.5(2)"b"(2) that the normal effective date of these rules thirty-five days after publication should be waived and these rules be made effective upon filing with the Administrative Rules Coordinator on July 1, 1983. Waiver is in order in this instance because, for the reasons previously specified, the rules confer a benefit upon the public by ensuring speedy and uniform administration of Senate File 548, Division VIII.

The Office for Planning and Programming adopted these rules on July 1, 1983.

These rules will become effective July 1, 1983.

These rules implement 1983 Iowa Acts, Senate File 548, Division VIII (sections 42 to 52).

CHAPTER 25
IOWA COMMUNITY
DEVELOPMENT LOAN PROGRAM

630—25.1(70GA,SF548) Purpose. The purpose of the Iowa community development loan program is to aid Iowa communities in improving and developing adequate public works and facilities needed to support local economic development projects by providing a revolving loan fund.

630—25.2(70GA,SF548) Program description. Any city in the state of Iowa is eligible to apply for and receive loans through the program. The program shall operate as a revolving loan fund and be administered by the office for planning and programming. Of the moneys appropriated to the revolving loan fund, twenty-five percent of the moneys shall be designated for cities with a population of less than five thousand, fifty percent of the moneys

shall be designated for cities with a population of five thousand or more and twenty-five percent of the moneys shall be designated for any city. Cities shall make application directly to the office for planning and programming, which will approve or disapprove such applications based on criteria described in these rules. Loan agreements may be entered into with successful applicants, specifying the terms of the loan. As repayments are made in amounts sufficient to generate additional loans, the office for planning and programming shall make said additional loans.

630—25.3(70GA,SF548) Waiver. The office for planning and programming may waive or vary any procedural provision of these rules in order to allow recipients to conform to requirements of federal law necessary to secure federal assistance for projects for which a community development loan is sought, provided the waiver or variance does not conflict with the Act.

630—25.4(70GA,SF548) Definitions.

25.4(1) "Act" means 1983 Iowa Acts, Senate File 548, Division VIII.

25.4(2) "Administrative costs" means reasonable costs and charges associated with the planning and execution of the proposed project as listed in subrule 25.6(5). Administrative costs shall not include normal and recurring overhead or salary costs of city employees.

25.4(3) "Applicant" means a city which submits an application to the office for planning and programming for loan funds through the Iowa community development loan program.

25.4(4) "Application" means a request for Iowa community development loan funds that complies with the requirements of rule 25.5(70GA,SF548).

25.4(5) "Cost" means all the costs of the project as defined in the Act.

25.4(6) "Eligible activity" means public works and facilities as defined in the Act.

25.4(7) "Iowa community development loan program" means the program authorized by the Act.

25.4(8) "Local cash resources" means local cash from whatever source except state and federal grants. Examples of local cash include state and federal shared revenues and loans exclusive of loans under the Iowa community development loan program.

25.4(9) "Proposed project" means one or more eligible activities for which a city has submitted a single application for loan funds.

25.4(10) "Recipient" shall mean any applicant receiving loan funds under this program.

630—25.5(70GA,SF548) Applications.

25.5(1) Application procedure. Applicants shall submit applications to the Iowa Community Development Loan Program, Office for Planning and Programming, 523 East 12th Street, Des Moines, Iowa 50319. Applications shall be in the form prescribed by the office for planning and programming. All applications submitted shall be rated by OPP on a competitive basis and loans shall be made to the highest ranking applicants to the extent funds are available. An applicant may submit more than one application and may receive more than one loan. In accordance with section 47(2) of the Act, additional loans shall be periodically awarded by OPP. The additional loans shall be made from designated moneys not previously awarded and from loan repayments received from prior recipients of loans.

25.5(2) Contents of application. Each application shall contain the following information:

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a. A description of the proposed project including a time schedule for implementing the proposed project.

b. The amount of loan requested and proposed repayment schedule and source of repayment.

c. The amount of city, private, other local cash resources or combination thereof which are committed to the project.

d. An assurance signed by the mayor and properly attested stating that local cash resources in an amount not less than fifty percent of the amount of the loan request are committed to the project.

e. Evidence relating to the need for the loan, including a detailed description showing that other sources of assistance, including the sale of bonds, are insufficient, unavailable, or that use of other sources of assistance impose an excessive hardship upon the applicant.

f. A description of how the proposed project will retain, promote or expand business and industry, including the expected number of new jobs that will be created.

g. Project budget.

25.5(3) Evaluation of the application will be based on the application contents and other relevant evidence presented with respect to the information described in subrule 25.5(2), paragraphs "a-g".

25.5(4) Review and rating of applications. The office for planning and programming shall conduct a preliminary review of each application to determine that the proposed project is consistent with the program purpose of enhancing local economic development, that it is an eligible activity, that the project cannot be completed without the assistance of the requested loan and that funds shall be matched with local cash resources equal to not less than fifty percent of the amount loaned. Applications which do not meet these criteria will not be considered for funding. Applications which meet the minimum criteria will be rated, based on a point system, on the following factors to determine order of funding:

a. The degree to which the proposed project is needed by the community for economic development. A maximum of one hundred points may be awarded.

b. The degree of economic impact the project will have as measured by the number of jobs created or retained and other appropriate factors. A maximum of one hundred points may be awarded.

c. The degree to which the proposed project will create job opportunities for women and minorities. A maximum of twenty-five points may be awarded.

d. The most recent twelve month unemployment rate for the applicant city or for the county in which the applicant city is situated, based upon data available from the Iowa job service department. A maximum of twenty-five points may be awarded.

e. The percentage of total project funds from local cash resources. A maximum of twenty-five points may be awarded.

f. The proposed payback schedule and the security of loan payback. A maximum of twenty-five points may be awarded.

630—25.6(70GA,SF548) Administration of loans.

25.6(1) Loan agreement. Upon approval of each application, the office for planning and programming shall prepare a loan agreement, which shall include the terms and conditions of the loan, including the loan amount, proposed project, local and private contributions, origination fee, and terms of repayment. The office for planning and programming may, at its discretion, negotiate with the applicant concerning certain terms and conditions, but the final determination concerning

such terms and conditions shall be decided by the office for planning and programming. This loan agreement must be executed by the director of the office for planning and programming or his designee and the mayor or other duly authorized official of the recipient city. All loan proceeds shall be disbursed after the loan agreement has been executed and as close to the start of the project as practical.

25.6(2) Loan amount and interest. The maximum amount of any loan under this program shall be two hundred fifty thousand dollars. All loans shall be repaid in equal annual installments with the first installment due no later than five years after execution of the loan agreement. All loans shall be interest free.

25.6(3) Loan fee. An origination fee of six-tenths of one percent of the loan amount shall be charged to each recipient of loan funds. Said fee shall be paid to the state office for planning and programming from local funds prior to receipt of loan funds.

25.6(4) Interest earned. Any interest earned by the recipient on loan proceeds shall be contributed to the program.

25.6(5) Administrative costs. Not more than ten percent of the loan proceeds shall be used for administrative costs. Administrative costs include technical services, reports, plans and specifications, notices, consequential damages or costs, publication, printing and provisions for contingencies.

25.6(6) Reporting and audit requirements. The office for planning and programming may require loan recipients to submit quarterly progress reports on the status of the project. All recipients shall have audited project expenditures including loan proceeds and local cash match. This audit may be part of the next regular city audit following project completion and shall be paid for by the city. Any city that is not regularly audited shall conduct an audit on the expenditure of the loan proceeds and local match within sixty days after the project is completed and said costs may be included as local cash match to the extent they may be accurately estimated at the time of submission of the loan application. Audits shall be submitted to OPP within thirty days after completion.

630—25.7(70GA,SF548) Timing of loans. In order to promote sound administration and effectuate the intent of the Act, the office for planning and programming may set one or more deadlines for loan applications, enter into loan agreements, and make loans of some or all of the funds appropriated under the Act.

630—25.8(70GA,SF548) Annual report. The office for planning and programming shall submit to the governor and the General Assembly an annual report setting forth the details of the operation of the program. The report shall cover the operations of the program on a fiscal year basis, from July 1 to June 30.

630—25.9(70GA,SF548) Prior costs. Costs of any kind, related to any project that were incurred before execution of the loan agreement shall not be included as local cash resources, and loan proceeds shall not be used to pay for or reimburse such costs.

630—25.10(70GA,SF548) Cost variations. In the event project cost is less than the cost specified in the approved project budget, then for the amount of the difference, loan funds shall be returned to OPP in the same ratio as loan funds to project cost in the originally approved budget.

PLANNING AND PROGRAMMING[630] (cont'd)

In the event project costs exceed the cost specified in the approved budget the city may apply for additional loan amounts up to the maximum amount. OPP shall review the application for additional loan amounts in accord with rule 25.5(70GA,SF548).

630—25.11(70GA,SF548) Ineligible activity. No loans shall be made for projects intended to facilitate the relocation of industrial or commercial plants or facilities from one Iowa city to another unless OPP finds that good cause exists for the relocation or unless OPP finds that such relocation does not significantly and adversely affect the level of unemployment or the economic base of the city from which such industrial or commercial plant or facility is to be relocated.

These rules are intended to implement 1983 Iowa Acts, Senate File 548, Division VIII (sections 42 to 52).

[Filed emergency 7/1/83, effective 7/1/83]

[Published 7/20/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/20/83.

ARC 3900

PUBLIC BROADCASTING DEPARTMENT[645]

Pursuant to the authority of 1983 Iowa Acts, Senate File 356, section 13, the Iowa Department of Public Broadcasting emergency adopts Chapter 1 entitled "Organization".

This legislation provides for the Iowa Department of Public Broadcasting; transfers funds and accounts; and transfers property and records to the new department.

The Iowa Department of Public Broadcasting finds that notice and public participation are impracticable as 1983 Iowa Acts, Senate File 356, requires implementation on July 1, 1983. Therefore this rule is filed pursuant to Iowa Code section 17A.4(2).

The Iowa Department of Public Broadcasting finds these rules are required by statute and therefore these rules are filed pursuant to Iowa Code section 17A.5(2)"b"(1) to become effective July 1, 1983.

Therefore this rule is intended to implement the 1983 Iowa Acts, Senate File 356, on July 1, 1983.

CHAPTER 1 ORGANIZATION

645—1.1(70GA,SF356) Establishment of the Iowa department of public broadcasting and the Iowa public broadcasting board. By an Act of the 1983 Session of the 70th General Assembly, the Iowa department of public broadcasting was created and the Iowa public broadcasting board (hereinafter referred to as the board) was organized under 1983 Iowa Acts, Senate File 356.

The Iowa department of public broadcasting is created to plan, establish, and operate an educational radio and television facility and other educational communication services as necessary to aid in accomplishing the educational objectives of the state. The board is composed of nine members selected in the following manner: Three members appointed by the state board of public instruction, three members appointed by the state board of regents, three members appointed by the governor, at

least one of whom shall be from a regionally accredited private four-year college or university. The board is required by the Code of Iowa to meet at least four times a year. Meeting times and location are established by the board president. Agenda items are established by the department's executive director and mailed to the board members. Meetings shall be preceded by public notice as provided in Iowa Code chapter 28A and shall be held in open session unless closed sessions are expressly permitted by law.

Five board members must be present to transact the board's business in accordance with the board's bylaws. The board is governed by parliamentary procedures contained in Roberts Rules of Order, Revised Edition.

Public notice of board meetings are posted at the network facility as well as mailed to the media and interested persons.

1.1(1) Designation of system. The television system is designated as Iowa public television.

Persons wishing to obtain information pertaining to the Iowa department of public broadcasting, the board or its facility should write: C. David Bolender, Director of Administration, Iowa Department of Public Broadcasting, 2801 Bell Avenue, Des Moines, Iowa 50321 or call: 515-281-4500.

The public may inspect the files of the network during regular business hours, 8:00 a.m. to 5:00 p.m., Monday to Friday. In accordance with FCC regulations, copies of the public file are available upon request with a charge for reproducing the materials.

1.1(2) Organization. The executive director, under the authority of the board, shall be responsible for the operation of the Iowa department of public broadcasting. The executive director for ease of administration, has organized the agency into five departments.

a. The director of administration administers the planning and execution of the department's budget and accounting functions; co-ordinates the department's administrative planning; supervises departmental purchases, storage and issuance of all equipment. The director of administration administers the recruitment selection and development of employees, investigates grievances and disciplinary situations; and serves as an agent for retirement funds, group insurance and other employee benefits. All programs and transactions administered shall be conducted on the basis of merit and fitness without discrimination or favor because of political or religious opinions or affiliations or national origin, race, sex, handicap, or age except as prescribed or permitted under state and federal law. The director of administration assists the executive director in the administration of agency policies and procedures.

b. The director of educational services organizes, develops, directs, and implements plans and programs in the areas of instructional television, in-school utilization of television programs, business and industry programming, adult and higher education courses.

c. The director of engineering directs the design, procurement, installation, and maintenance of all radio and television equipment by planning, developing, and regulating all engineering facilities for the Iowa department of public broadcasting as well as supervision of all educational telecommunications activity.

d. The programming director administers all facets of the production and programming aspects of the Iowa department of public broadcasting.

e. The director of community relations and development administers fund raising, development, promotion, and public information activities.

PUBLIC BROADCASTING DEPARTMENT[645] (cont'd)

Directors shall complete other projects and activities as assigned by the executive director.

[Filed emergency 7/1/83, effective 7/1/83]
[Published 7/20/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/20/83.

ARC 3892

RAILWAY FINANCE AUTHORITY[695]

Pursuant to the authority of Iowa Code subsection 307B.7(2), the Iowa Railway Finance Authority Board on June 28, 1983, emergency adopted an amendment to 695—chapter 4 entitled "Projects".

This amendment rescinds a paragraph of ARC 3766 which contains the misunderstood term "nonquantifiable benefits" and, at the request of the administrative rules review committee, inserts a clarification of the term with examples of its application.

Under Iowa Code subsection 17A.4(2), the Iowa railway finance authority board finds that notice and public participation are unnecessary because the rule has been published under notice and open to public participation since March 30, 1983. In addition, the board finds that it would be contrary to the public interest to delay clarification of the phrase.

Under Iowa Code section 17A.5(2)"b", the Iowa railway finance authority board finds that this amendment will confer a benefit on the public by clarifying the terminology and providing examples of its use. The board also

finds that it will be beneficial to the public for the clarification to be effective at the same time as the related rules so that the procedures for railroad assistance projects can function when funds become available on July 1, 1983, as the legislature intended.

Accordingly, this rule amendment shall become effective immediately upon filing with the administrative rules coordinator on June 29, 1983, and shall be published in the July 20, 1983 Iowa Administrative Bulletin and Supplement to the Iowa Administrative Code.

The amendment is intended to implement Iowa Code chapter 307B. It is being submitted simultaneously under a Notice of Intended Action as ARC 3893.

Pursuant to the authority of Iowa Code subsection 307B.7(2), rules 695—chapter 4 entitled "Projects" are hereby amended.

Rescind subrule 4.3(3), paragraph "a" of ARC 3766 and insert in lieu thereof the following:

a. The net present value of the proposed project is positive, or the benefits to the public, shipper(s), and carrier(s) which have no determinable precise monetary value are judged by staff to outweigh a negative calculation. The benefits with no determinable precise monetary value may include, but are not limited to, the following:

(1) Safety impacts; e.g. reduced likelihood of accidents involving personal injury or hazardous cargoes.

(2) Economic development impacts; e.g. increase in employment opportunities or increase in industrial development.

(3) Environmental impacts; e.g. changes in ambient noise levels or air quality.

[Filed emergency 6/29/83, effective 6/29/83]

[Published 7/20/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/20/83.

ARC 3913

ARC 3920

CONSERVATION COMMISSION[290]

Pursuant to the authority of Iowa Code sections 107.24, 109.38, and 109.39, the State Conservation Commission on June 3, 1983, adopted the following amendments to Chapter 109, "Common Snipe, Virginia Rail, Sora, Woodcock, and Ruffed Grouse Seasons", Iowa Administrative Code.

Notice of Intended Action was published in IAB March 30, 1983, as ARC 3649.

These rules give the regulations for hunting common snipe, Virginia rail, sora, woodcock, and ruffed grouse, and include season dates, bag limits, possession limits, shooting hours, and areas open to hunting.

There are no changes from the Notice.

These rules are intended to implement the provisions of Iowa Code sections 109.38, 109.39, and 109.48, and shall become effective September 1, 1983.

ITEM 1. Rule 290—109.1(109) is amended to read as follows:

290—109.1(109) Common snipe season. Open season for hunting common snipe shall be from September 4 ~~3~~ through December 19 ~~18, 1982~~ 1983. Shooting hours shall be from sunrise to sunset each day. Daily bag limit eight birds; possession limit sixteen birds. Entire state open.

ITEM 2. Rule 290—109.2(109) is amended to read as follows:

290—109.2(109) Virginia rail and sora season. Open season for hunting Virginia rail and sora shall be from September 4 ~~3~~ through November 12 ~~11, 1982~~ 1983. Shooting hours shall be from sunrise to sunset each day. Daily bag limit fifteen and possession limit twenty-five in aggregate of both species. Entire state open.

ITEM 3. Rule 290—109.3(109) is amended to read as follows:

290—109.3(109) Woodcock season. Open season for hunting woodcock shall be from September 18 ~~17~~ through November 21 ~~20, 1982~~ 1983. Shooting hours shall be from sunrise to sunset each day. Daily bag limit five; possession limit ten. Entire state open.

ITEM 4. Rule 290—109.4(109) is amended to read as follows:

290—109.4(109) Ruffed grouse season. Open season for hunting ruffed grouse shall be from October 9 ~~8, 1982~~ 1983, through January 31, ~~1983~~ 1984. Shooting hours shall be from sunrise to sunset each day. Bag limit three; possession limit six.

109.4(1) Portion of the state open to hunting. The area open to hunting shall be that portion of the state lying north and east of a line described as follows: Beginning at Sabula, Iowa; thence west along State Highway 64 to U.S. Highway 151; thence west along U.S. Highway 151 to State Highway 13; thence north along State Highway 13 to U.S. Highway 20; thence west along U.S. Highway 20 to U.S. Highway 63; thence north along U.S. Highway 63 to the state line.

109.4(2) Reserved.

[Filed 7/1/83, effective 9/1/83]

[Published 7/20/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/20/83.

HEALTH DEPARTMENT[470]

BOARD OF PHYSICAL AND OCCUPATIONAL THERAPY EXAMINERS

Pursuant to the authority of Iowa Code sections 147.76 and 148B.7, the Board of Physical and Occupational Therapy Examiners adopts amendments to chapters 137 and 138 of the Iowa Administrative Code. The Board adopted the amendments June 7, 1983.

Notice of Intended Action regarding the proposed action was published in the Iowa Administrative Bulletin May 11, 1983 as ARC 3729.

The rules provide an alternative method of reinstatement for physical therapists and require that both applicants for a license as a physical therapist and an occupational therapist include on the application the name of the supervising licensee.

The rules are the same as published under notice except that the word "working" was substituted for the word "employed" in the first sentences of subrules 137.2(7) and 138.201(5).

The rules shall become effective August 25, 1983.

The rules are intended to implement Iowa Code sections 147.76, 148A.3(4), 148B.7, and 258A.2(2) "f".

ITEM 1. Rule 470—137.2(147) is amended by adding the following new subrule:

137.2(7) An applicant, who will be working in the scope of physical therapy prior to his or her licensure, shall include on the application form the name of the licensed physical therapist who will be providing supervision of the applicant until the applicant is licensed. In the event that there is a change of the licensed physical therapist providing supervision, the applicant shall submit the name of the person providing supervision in writing to the board within seven days after the change in supervision takes place.

ITEM 2. Chapter 138 is amended by adding the following new rule:

470—138.11(258A) Alternative method of reinstatement. Individuals who at one time had an active license in Iowa as a physical therapist and have been given inactive status or have permitted the Iowa license to lapse may also be reinstated by interstate endorsement. All the requirements listed in rule 470—137.4(147) shall be met. The original license number of the individual shall be reissued.

ITEM 3. Rule 470—138.201(148B) is amended by adding the following new subrule:

138.201(5) An applicant, who will be working in Iowa in the scope of occupational therapy prior to his or her licensure, shall include on the application form the name of the licensed occupational therapist who will be providing supervision of the applicant until the applicant is licensed. In the event that there is a change in the licensed occupational therapist providing supervision, the applicant shall submit the name of the person providing supervision in writing to the board within seven days after the change in supervision takes place.

[Filed 7/1/83, effective 8/25/83]

[Published 7/20/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/20/83.

ARC 3921**HEALTH DEPARTMENT[470]
BOARD OF PSYCHOLOGY EXAMINERS**

Pursuant to the authority of Iowa Code section 258A.2, the Board of Psychology Examiners hereby rescinds subrule 140.103(3). The board adopted the rescission May 21, 1983.

Notice of Intended Action regarding the proposed action was published in the Iowa Administrative Bulletin March 30, 1983 as ARC 3661.

The rule change removes the requirement that a licensee apply for credit of educational activity within thirty days after completion of the activity.

The rule change is the same as published under Notice of Intended Action.

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

The rule change shall become effective August 25, 1983.

Subrule **140.103(3)** is rescinded.

[Filed 7/1/83, effective 8/25/83]

[Published 7/20/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/20/83.

ARC 3897**LABOR, BUREAU OF[530]**

The Labor Commissioner, pursuant to the authority of Iowa Code sections 88.5 and 17A.3(1), hereby amends rules relating to inspections under the Occupational Safety and Health Act. The amendments relate to 1) the striking of subrule 3.2(2) and the addition of a new 3.2(2) that deals with when compulsory process may be sought in advance of an attempted inspection or investigation; 2) the amendment of subrule 3.2(3) which defines the meaning of compulsory process; 3) an amendment of subrule 3.5(2) which describes what is included in the term "employ other reasonable investigative techniques"; 4) the amending of 3.6(3) to allow a compliance safety and health officer to permit the accompaniment of a third party who is not an employee of the employer during an inspection under certain circumstances; 5) the insertion of a new 3.6(4) allowing a compliance safety and health officer the right to deny accompaniment to persons during an inspection; 6) the insertion of a new rule at 530—3.7(88) which deals with complaints by employees; 7) the insertion of a new rule at 530—3.9(88) which deals with imminent danger; and minor renumbering changes to reflect renumbering of rules.

Notice of Intended Action was published in the May 11, 1983, IAB as ARC 3749. These rules are intended to implement Iowa Code chapter 88 and shall become effective September 1, 1983.

ITEM 1. Amend 530—3.2(88) by striking subrule 3.2(2) and inserting in lieu thereof the following:

3.2(2) Compulsory process shall be sought in advance of an attempted inspection or investigation if, in the judgment of the labor commissioner or a designee, circumstances exist which make such preinspection process desirable or necessary. Some examples of circumstances in which it may be desirable or necessary to seek compul-

sory process in advance of an attempt to inspect or investigate include (but are not limited to):

a. When the employer's past practice either implicitly or explicitly puts the commissioner on notice that a warrantless inspection will not be allowed, or,

b. When an inspection includes the use of special equipment or when the presence of an expert or experts is needed in order to properly conduct the inspection, and procuring a warrant prior to an attempt to inspect would alleviate the difficulties or costs encountered in coordinating the availability of such equipment or expert.

ITEM 2. Amend subrule 3.2(3) to read as follows:

3.2(3) For purposes of this rule, the term "compulsory process" shall mean the institution of any appropriate action, including ex parte application for an inspection warrant or its equivalent. *Ex parte inspection warrants shall be the preferred form of compulsory process in all circumstances where compulsory process is relied upon to seek entry to a workplace under this rule.*

ITEM 3. Amend subrule **3.5(2)** by inserting at the end thereof the words:

As used herein the term "employ other reasonable investigative techniques" includes, but is not limited to, the use of devices to measure employee exposures and the attachment of personal sampling equipment such as dosimeters, pumps, badges and other similar devices to employees in order to monitor their exposures.

ITEM 4. Amend 530—3.6(88) by striking 3.6(3) and inserting in lieu thereof the following:

3.6(3) The representative(s) authorized by employees shall be an employee(s) of the employer. However, if in the judgment of the compliance safety and health officer, good cause has been shown why accompaniment by a third party who is not an employee of the employer (such as an industrial hygienist or a safety engineer) is reasonably necessary to the conduct of an effective and thorough physical inspection of the workplace, such third party may accompany the compliance safety and health officer during the inspection.

ITEM 5. Amend 530—3.6(88) by adding the following new subrule:

3.6(4) Compliance safety and health officers are authorized to deny the right of accompaniment under this rule to any person whose conduct interferes with a fair and orderly inspection.

ITEM 6. Insert a new rule at 530—3.7(88) as follows and renumber rule 530—3.7(88).

530—3.7(88) Complaints by employees.

3.7(1) Any employee or representative of employees who believe that a violation of the Act exists in any workplace where the employee is employed may request an inspection of the workplace by giving notice of the alleged violation to the commissioner or a designee. Any such notice shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employee or representative of employees. A copy shall be provided the employer or a agent by the commissioner's designee no later than at the time of inspection, except that, upon the request of the person giving such notice, the name and the names of individual employees referred to therein shall not appear in such copy or on any record published, released, or made available by the bureau of labor.

3.7(2) If upon receipt of notification the commissioner or a designee determines that the complaint meets the requirements set forth in subrule 3.7(1), and that there

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are reasonable grounds to believe that the alleged violation exists, an inspection shall be made as soon as practicable, to determine if the alleged violation exists. Inspections under this rule shall not be limited to matters referred to in the complaint.

3.7(3) Prior to or during any inspection of a workplace, any employee or representative of employees employed in the workplace may notify the compliance safety and health officer, in writing, of any violation of the Act which they have reason to believe exists in such workplace. Any such notice shall comply with the requirements of subrule 3.7(1).

ITEM 7. Insert new rule at 530—3.9(88) as follows and renumber the present 530—3.8(88) through 530—3.13 as 530—3.10(88) through 530—3.15(88).

530—3.9(88) Imminent danger. Whenever and as soon as a compliance safety and health officer concludes on the basis of an inspection that conditions or practices exist in any place of employment which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by the Act, the affected employees and employers shall be notified as provided in Iowa Code section 88.11(3). Appropriate citations and notices of proposed penalties may be issued with respect to an imminent danger even though, after being informed of the danger by the compliance safety and health officer, the employer immediately eliminates the imminence of the danger and initiates steps to abate such danger.

ITEM 8. Amend the newly numbered subrule **3.11(4)** by striking the words "3.9(1) and 3.9(2)" and inserting in lieu thereof the words "3.11(1) and 3.11(2)".

ITEM 9. Amend newly numbered subrule **3.13(2)**, paragraph "e" by striking the words "3.11(3)'a'" and inserting in lieu thereof the words "3.13(3)'a'".

ITEM 10. Amend newly numbered subrule **3.13(3)**, paragraph "a" by striking the words "3.11(2)'e'" and inserting in lieu thereof the words "3.13(2)'e'".

ITEM 11. Amend the newly numbered subrule **3.13(4)** by striking the words "3.11(3)'d'" and inserting in lieu thereof the words "3.13(3)'d'".

[Filed 7/1/83, effective 9/1/83]

[Published 7/20/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/20/83.

ARC 3898**LABOR, BUREAU OF[530]**

The Labor Commissioner, pursuant to the authority of Iowa Code sections 88.5 and 17A.3(1), hereby amends rules relating to reporting and recordkeeping under the Occupational Safety and Health Act. The amendments relate to an addition to the "Definitions" rule that deals with establishments classified in Standard Industrial Classification Codes (SIC) 52-89. A new rule is also added that exempts employers whose establishments are classified in SIC's 52-89 (excluding 52-54, 70, 75, 76, 79 and 80) from complying with all but two requirements of chapter 4.

The following additional actions have been taken:

Subrule 4.18(8), paragraph "b" — Change the word "actual" to "retail".

Rule 4.19(88) — Add a third paragraph under Item 2 amendments to chapter 4 reminding employers of establishments having SIC 52-89 of their continued obligation to report occupational disabilities for workers' compensation purposes.

Notice of Intended Action was published in the May 11, 1983, IAB as ARC 3750. These rules are intended to implement Iowa Code chapter 88 and shall become effective on September 1, 1983.

ITEM 1. Amend rule 530—4.18(88) by inserting new subrule 4.18(8) as follows:

4.18(8) Establishments classified in Standard Industrial Classification Codes (SIC) 52-89.

a. Establishments whose primary activity constitutes retail trade, finance, insurance, real estate and services are classified in SIC's 52-89.

b. Retail trades are classified as SIC's 52-59 and for the most part include establishments engaged in selling merchandise to the general public for personal or household consumption. Some of the retail trades are: Automotive dealers, apparel and accessory stores, furniture and home furnishing stores, and eating and drinking places.

c. Finance, insurance and real estate are classified as SIC's 60-67 and include establishments which are engaged in banking, credit other than banking, security dealings, insurance, and real estate.

d. Services are classified as SIC's 70-89 and include establishments which provide a variety of services for individuals, businesses, government agencies, and other organizations. Some of the service industries are: Personal and business services, in addition to legal, education, social, and cultural; and membership organizations.

e. The primary activity of an establishment is determined as follows: For finance, insurance, real estate, and service establishments, the value of receipts or revenue for services rendered by an establishment determines its primary activity. In establishments with diversified activities, the activities determined to account for the largest share of production, sales or revenue will identify the primary activity. In some instances these criteria will not adequately represent the relative economic importance of each of the varied activities. In such cases, employment or payroll should be used in place of the normal basis for determining the primary activity.

ITEM 2. Amend chapter 4 by adding the following new rule:

530—4.19(88) Establishments classified in Standard Industrial Classification Codes (SIC) 52-89 (except 52-54, 70, 75, 76, 79 and 80). An employer whose establishment is classified in SIC's 52-89 (excluding 52-54, 70, 75, 76, 79 and 80) need not comply, for such establishments, with any of the requirements of this part except the following:

1. Obligation to report under 530—4.8(88) concerning fatalities or multiple hospitalization accidents;

2. Obligation to maintain a log of occupational injuries and illnesses under 530—4.14(88), upon being notified in writing by the bureau of labor that the employer has been selected to participate in a statistical survey of occupational injuries and illnesses; and

3. Obligation to report to the Iowa industrial commissioner under 530—subrule 4.4(2) any occupational injury or illness which temporarily disables an employee

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for more than three days or which results in permanent total disability, permanent partial disability, or death.

[Filed 7/1/83, effective 9/1/83]

[Published 7/20/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/20/83.

ARC 3899**LABOR, BUREAU OF[530]**

Pursuant to the authority of Iowa Code section 91A.9(4), the Commissioner of Labor hereby adopts rules relating to the general administration of the wage collection division, 530—chapter 35 IAC. These rules are intended to clarify the intent of Iowa Code chapter 91A and designate procedures by which chapter 91A will be enforced by the Labor Commissioner.

Notice of Intended Action was published in the May 11, 1983, IAB as ARC 3751.

The following change has been made: Subrule 35.1(3) — change the word "his" to "a" in accordance with a policy of gender neutrality.

These rules are intended to implement Iowa Code chapter 91A, and shall become effective on September 1, 1983.

The following new chapter is adopted:

**CHAPTER 35
WAGE COLLECTION PAYMENT**

530—35.1(91A) Definitions.

35.1(1) "Bureau" as used herein shall mean the Iowa bureau of labor.

35.1(2) "Claim for wages" as used herein shall mean the printed form available upon request from the bureau.

35.1(3) "Commissioner" as used herein shall mean the commissioner of labor or a designee.

35.1(4) "Enforceable claim" as used herein shall mean a claim for wages which merits judicial proceedings and one which is collectable.

530—35.2(91A) Filing a claim. A claim for wages shall be made by filing a completed claim for wages form with the bureau located at 307 E. 7th, Des Moines, Iowa 50319. The claim for wages form is available upon request. The request may be made by telephoning, writing, or personally visiting the bureau.

530—35.3(91A) Investigation.

35.3(1) Upon receipt by the bureau of a completed and signed claim for wages form from an aggrieved employee, the commissioner shall commence investigation of the claim for wages and the allegations therein. The commissioner's investigation is not to be construed as a contested case as defined in Iowa Code chapter 17A.

35.3(2) The commissioner shall advise the employer in writing of the allegations contained in the claim for wages and shall request a response from the employer within fourteen days' time from the date of the letter. This period may be extended by the commissioner for good cause.

35.3(3) If the employer fails to answer the commissioner's request for response within the fourteen-day period, as extended by the commissioner, the commissioner may determine the employee's claim to be enforceable.

35.3(4) If the employer answers the commissioner's request for response within the established time, the commissioner shall notify the aggrieved employee of the employer's response and afford that employee an opportunity to present additional information in support of the employee's claim for wages. The employee shall submit the requested additional information within fourteen days from the date of the letter. This period may be altered by the commissioner for good cause.

35.3(5) Upon receipt of the requested additional information from the employee, the commissioner may determine additional information is required from the employer.

35.3(6) Upon receipt of all requested information, the commissioner may determine the employee's claim for wages to be enforceable and the commissioner shall notify the employee of that determination. Due to the budgetary constraints placed upon the bureau and its desire to provide the largest number of employees with assistance in the pursuit of claimed wages, the commissioner may determine that a claim is unenforceable by the bureau if the claim is of a complex nature requiring extensive legal discovery, proceedings, and the claim is for a substantial amount of wages. The fact that a claim for wages is unenforceable for such a reason in no way precludes the employee from seeking the services of a private attorney. The employee may have attorney's fees reimbursed should that employee prevail in court as provided by Iowa Code section 91A.8. Should the commissioner determine the claim is unenforceable by the bureau, the commissioner shall so notify the employee. The fact that the commissioner has determined a claim for wages is unenforceable in no way precludes the employee from pursuing the matter, or from seeking the services of a private attorney. The employee may have attorney's fees reimbursed should the employee prevail in court as provided by Iowa Code section 91A.8.

35.3(7) Upon a determination that a claim for wages is enforceable, the commissioner shall notify the employer of that determination in writing and afford the employer an opportunity to tender settlement within fourteen days of the writing prior to initiating judicial proceedings.

530—35.4(91A) Judicial proceedings. Upon filing a legal action, the commissioner shall be bound by the standard of conduct required by the code of professional responsibility for lawyers.

[Filed 7/1/83, effective 9/1/83]

[Published 7/20/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/20/83.

ARC 3891**PUBLIC SAFETY
DEPARTMENT[680]**

Pursuant to the authority of Iowa Code chapters 80 and 321B, the Iowa Department of Public Safety hereby adopts amendments to Chapter 7, "Devices and Methods to Test Blood for Alcohol or Drug Content", Iowa Administrative Code.

Notice of Intended Action was published in IAB 21, April 13, 1983.

PUBLIC SAFETY DEPARTMENT[680] (cont'd)

Pursuant to recommendations from the Administrative Rules Review Committee, changes from such notice are as follows:

7.6(1) deleted references to the type of approved device and inserted in lieu thereof, the standards by which devices are approved, that a list of approved devices will be maintained by the Department and that such a list is available by writing or contacting the Department.

This rule will become effective on August 25, 1983.

This rule is intended to implement Iowa Code chapter 321B.

The following amendments are adopted:

ITEM 1. Subrule 7.6(1) is amended to read as follows:

7.6(1) A peace officer desiring to perform preliminary screening tests of a person's breath shall use ~~one of the following devices:~~

a. ~~Alco Sensor H - Intoximeters, Inc., St. Louis, Missouri;~~

b. ~~Alco Sensor III - Intoximeters, Inc., St. Louis, Missouri;~~

an Iowa department of public safety division of criminal investigation criminalistics laboratory approved device. Such devices are approved for accuracy and precision using a Nalco Standard or breath simulating device. Requirements for accuracy and precision shall be set by the D.C.I. criminalistics laboratory on an ad hoc basis. Such standards shall include the fact that in all cases where the level is over .12% BAC, the device shall so indicate and in all cases when the level is under .08% BAC, the device shall so indicate. When available, devices shall meet the guidelines published and accepted by the National Highway Traffic and Safety Administration (NHTSA). Devices must be a type that can be calibrated on a monthly basis by officers in the field.

The division of criminal investigation criminalistics laboratory shall maintain a list of devices approved by the commissioner for use as preliminary breath screening devices. The list is available without cost by writing or contacting the Iowa Department of Public Safety, Division of Criminal Investigation Criminalistics Laboratory, Wallace State Office Building, Des Moines, Iowa 50319 or calling (515) 281-3666.

ITEM 2. Subrule 7.6(2) is amended as follows:

7.6(2) Any peace officer using ~~the an approved devices which are Alco Sensor H or Alco Sensor III~~ shall follow the instructions furnished by the manufacturer for use of such a device. Each unit shall be calibrated at least once per month using either a wet alcohol standard or a Nalco standard (minimum five cubic foot volume). The officer or officer's department shall keep a record of each calibration. This record shall include:

- The name of the officer performing the calibration.
- Date.
- The value and type of standard used.
- Unit type and identification number.

[Filed 6/29/83, effective 8/25/83]

[Published 7/20/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/20/83.

ARC 3907

REVENUE DEPARTMENT[730]

Pursuant to the authority of Iowa Code sections 421.14, 427.1(32), 425.8 and 426A.7, the Iowa Department of Revenue hereby adopts amendments to Chapter 80, "Property Tax Credits and Exemptions", Iowa Administrative Code.

Notice of Intended Action was published in IAB, Volume V, No. 24, on May 25, 1983 as ARC 3770.

Subrule 80.1(1) is amended to define "occupancy" for purposes of receiving the homestead tax credit. The subrule also provides that a claimant cannot simultaneously receive two homestead tax credits.

New subrule 80.7(4) provides examples of how new computers and machinery are to be assessed and how the state's reimbursement to local taxing districts is to be determined. New subrule 80.7(5) provides how such property is to be assessed if it also qualifies for a pollution control exemption.

Three changes have been made in the rules from those printed under Notice of Intended Action. The words "limited to" were added to subrules 80.7(4) and 80.7(5). Also, a new subrule 80.7(6) has been added. These changes are made to clarify that while the assessed valuation of machinery and computers acquired or initially leased after December 31, 1981 cannot exceed thirty percent of net acquisition cost, the assessed valuation may be lower to reflect the actual fair market value of the property.

The amendments will become effective August 24, 1983 after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin and Supplement to the Iowa Administrative Code.

These rules are intended to implement Iowa Code sections 425.1 to 425.15 and sections 427B.10 to 427B.14.

The following amendments are adopted.

ITEM 1. Subrule **80.1(1)** is amended by adding the following new paragraph:

g. For purposes of the homestead tax credit statute, the occupancy of the homestead may constitute actual occupancy or constructive occupancy. However, more than one homestead cannot be simultaneously occupied by the claimant and multiple simultaneous homestead tax credits are not allowable. (Op. St. Bd. Tax Rev. No. 212, February 29, 1980.) Generally, a homestead is occupied by the claimant if the premises constitute the claimant's usual place of abode. Once the claimant's occupancy of the homestead is established, such occupancy is not lost merely because the claimant, for some valid reason, is temporarily absent from the homestead premises with an intention of returning thereto (1952 O.A.G. 78).

ITEM 2. Rule 730—80.7(427B) is amended by adding the following new subrules:

80.7(4) Computation of taxpayer's value. Assume a machine is acquired in 1982 at a net acquisition cost of \$10,000 and that the acquisition qualifies for assessment under the new statute. Assume also that the actual depreciated value of the machine as of January 1, 1983 is \$9,000. The value on which taxes would be levied would

REVENUE DEPARTMENT[730] (cont'd)

be limited to \$3,000 ($\$10,000 \times .30$). The state's reimbursement to local taxing bodies would be equal to the actual tax rate times \$6,000 (the difference between depreciated actual value and thirty percent of net acquisition cost).

80.7(5) If all or a portion of the value of property assessed pursuant to Iowa Code sections 427B.10 to 427B.14 is eligible to receive an exemption from taxation, the amount of value to be exempt shall be subtracted from the net acquisition cost of the property before the taxpayer's value prescribed in Iowa Code section 427B.10 is determined. For any years for which the property does not qualify for exemption, the taxpayer's value shall be limited to thirty percent of the full net acquisition cost of the property. For example, if property has a net acquisition cost of \$30,000 and is eligible to receive a pollution exemption for \$15,000 of value, the taxable net acquisition cost would be \$15,000 and the taxpayer's value would be \$4,500 ($\$15,000 \times .30$). The state would reimburse local taxing districts for the tax not collected on the difference between \$4,500 and the depreciated actual value of that portion of the property subject to tax.

If after the ten-year pollution control exemption expires the property has not yet been depreciated to thirty percent of its net acquisition cost, the taxpayer's value would increase to thirty percent of the full net acquisition cost of the property. Thus, in the example above, the taxpayer's value would increase to \$9,000 ($\$30,000 \times 30\%$). The state's reimbursement would equal the tax not collected on the difference between \$9,000 and the depreciated actual value.

80.7(6) In the event the actual depreciated fair market value of property assessed pursuant to Iowa Code sections 427B.10 to 427B.14 is less than thirty percent of the net acquisition cost of the property, the taxpayer's assessed value would be equal to the actual depreciated fair market value.

[Filed 7/1/83, effective 8/24/83]

[Published 7/20/83]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/20/83.



State of Iowa
Executive Department

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

EXECUTIVE ORDER NUMBER TWO

WHEREAS, current social attitudes, economic conditions and changes in family and friendship patterns are presenting the current generation of widowed people with greater difficulties in coping with adjustment to being alone; and

WHEREAS, forty-five (45) percent of the deaths of Iowans in recent years have left a spouse to survive alone; and

WHEREAS, approximately 12,200 Iowans annually might benefit from a widowed person's reassurance network.

NOW THEREFORE, I, Terry E. Branstad, Governor of the State of Iowa, by virtue of the authority vested in me by the laws and Constitution of the State of Iowa, do hereby order that:

- I. A cooperative program between the Governor's Office and the Iowa Commission on the Aging shall be implemented, to be called the Assurance Network for Easing Widowhood (ANEW).
- II. A Governor's Committee on Widowed Persons, consisting of eight (8) persons who will serve in an advisory capacity to ANEW, shall be appointed by the Governor to serve at his pleasure. The chairperson shall be elected by the committee annually.
 - A. The Iowa Commission on the Aging will implement the program with advice from the Governor's Committee on Widowed Persons. The Commission will establish a support network statewide, working cooperatively with groups such as area agencies on aging, state and local schools and colleges, farm organization, volunteer, insurance, funeral home and employment groups, as well as local and national services for widowed persons.
 - B. The Iowa Commission on the Aging will develop resource listings and an organizational plan for local communities to assure a support network for Iowa's widowed persons, and respond to requests for assistance from local groups to establish a widowed person's program in their community.

- C. The ANEW program will provide an annual report to the Office of the Governor on the activities of the program during January of each year.



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 1st day of July in the year of our Lord one thousand nine hundred, eighty-three.

Terry E. Branstad
GOVERNOR

Attest:

Mary Jane Odell
SECRETARY OF STATE



IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

EXECUTIVE ORDER NUMBER THREE

WHEREAS, the proper management of hazardous waste has become an increasingly serious problem throughout this nation and the State of Iowa; and

WHEREAS, techniques for treatment, storage, and disposal of hazardous wastes are varied and are changing as new knowledge is gained; and

WHEREAS, the improper treatment, storage, and disposal of hazardous waste poses a severe environmental and public health threat to the people of the State of Iowa; and

WHEREAS, the State of Iowa through the Department of Water, Air and Waste Management has regulatory responsibilities for the safety and protection of the environment, as well as programmatic responsibilities for hazardous waste management in Iowa; and

WHEREAS, the State of Iowa does not currently have a long-range plan for managing and disposing of hazardous waste.

NOW THEREFORE I, Terry E. Branstad, Governor of the State of Iowa, by virtue of the authority vested in me by the laws and Constitution of the State of Iowa do hereby charge the Water, Air and Waste Management Commission to:

1. Establish a Select Advisory Panel on hazardous waste management to seek and receive the input, advice and expertise of various citizens and groups affected by and interested in hazardous waste management.
2. Drawing upon the input of the Select Advisory Panel, proceed as expeditiously as possible to:
 - a. Develop a model long-range hazardous waste management plan.
 - b. Develop recommendations for legislative and fiscal actions required to implement a hazardous waste management plan.
 - c. Develop recommended regulatory changes required to implement a hazardous waste management plan.

IOWA ADMINISTRATIVE BULLETIN

Iowa State Printing Division
Grimes State Office Building
Des Moines, Iowa 50319

Bulk Rate
U.S. Postage
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Permit No. 119f

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EXECUTIVE DEPARTMENT

IAB 7/20/83

I further charge the Water, Air and Waste Management Commission to prepare a final report as to their findings, conclusions and recommendations for transmittal to the Governor and the General Assembly by not later than January 1, 1985.

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 15th day of July in the year of our Lord one thousand nine hundred eighty-three.



Terry E. Branstad
GOVERNOR

Attest:

Mary Jane O'Neil
SECRETARY OF STATE