



IOWA ADMINISTRATIVE BULLETIN

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Pages 1045 to 1120

CONTENTS IN THIS ISSUE

Pages 1053 to 1118 include ARC 6199 to ARC 6235

AGENDA

Administrative rules review committee 1048

AGING, COMMISSION ON THE[20]

Notice, Grants to area agencies, amendments to
chs 1, 4, and 9 ARC 6218 1053

Filed, Timeframe for the use of funds, 9.1(4)
ARC 6219 1085

DELAYS

Water, Air and Waste Management[900] Flood
plain development, 70.2, 71.2(4), 71.11(1)"a"
and "d" 1119

FAIR BOARD[430]

Notice, Records, 1.6 ARC 6202 1056

HAZARDOUS CHEMICALS INFORMATION INTERAGENCY COORDINATING COUNCIL[462]

Notice, Operations of interagency council, ch 1
ARC 6214 1056

HEALTH DATA COMMISSION[465]

Filed, Administrative hearings, 2.1, 2.7, 2.8(1)
ARC 6203 1085

HEALTH DEPARTMENT[470]

Notice Terminated, Advanced emergency medical
care, 132.14, 132.8(1), 132.8(8) ARC 6199 1057

Notice, Funeral directors, 146.5(1), 146.5(10)
ARC 6204 1058

Filed, Homemaker-home health aide services,
80.1, 80.2(2), 80.2(4), 80.3 ARC 6217 1086

Filed, Birth certificates, 95.1 ARC 6200 1087

HUMAN SERVICES DEPARTMENT[498]

Notice, Skilled nursing facilities, 78.12(11), 79.1(2)
ARC 6221 1058

Notice Amended, Purchase of service, 150.3(11)
ARC 6222 1058

Filed Emergency after Notice, ADC, schedule of
needs, 41.8(2) ARC 6225 1079

Filed Emergency, Supplemental assistance,
51.4(1), 51.4(2), 51.7, 52.1(1), 52.1(2) ARC 6226 1080

Filed, Assistance programs — reductions, amendments
to chs 52, 54, 78, 79, 81, 150, 156 and 177
ARC 6223 1088

Filed Emergency, Skilled nursing facilities,
78.12(11), 79.1(2) ARC 6220 1081

Filed, Medical assistance advisory council,
79.7(5)"a" and "b" ARC 6224 1091

Filed Emergency after Notice, Medically needy,
86.10(1), 86.10(2), 86.12(1), 86.17 ARC 6227 1082

Filed Emergency, Family and adult service
programs, 130.3(1)"d"(2) ARC 6228 1082

INSURANCE DEPARTMENT

Notice of proposed workers' compensation rate filing .. 1059

IOWA LOTTERY AGENCY[526]

Notice, Experimental retailer incentive programs,
4.18 ARC 6206 1059

Filed Emergency, Experimental retailer
incentive programs, 4.18 ARC 6205 1083

LABOR, BUREAU OF[530]

Notice, Hazardous chemical risks — right to know,
chs 110, 120, 130 and 140 ARC 6215 1059

MERIT EMPLOYMENT DEPARTMENT[570]

Filed, Pay plan, selection, probationary period,
temporary assignments, disciplinary actions, hearings,
decisions, holidays, amendments to chs 4, 7, 9,
10, 11, 12 and 14 ARC 6234 1092

NURSING, BOARD OF[590]

Filed, Registered nurses, 6.4(2) ARC 6207 1094

PHARMACY EXAMINERS, BOARD OF[620]

Filed, Patient med paks, 6.15 ARC 6216 1094

PLANNING AND PROGRAMMING[630]

Notice, Child care grants program, ch 27 ARC 6233 .. 1071

Filed, Job training partnership Act, amendments to
ch 19 ARC 6235 1095

PUBLIC HEARINGS

Summarized list 1051

REAL ESTATE COMMISSION[700]

Notice, License renewal, CE, 3.3(2) ARC 6201 1074

REVENUE DEPARTMENT[730]

Notice, School district surtax, setoffs — income tax
refunds and rebates, 42.1, 43.3(3) to 43.3(5)
ARC 6229 1074

Filed, Interest, 10.2(5) ARC 6230 1108

Filed, Exempt sales, 17.19 ARC 6231 1108

Filed, Penalty and interest, 52.5(1), 58.5(1)
ARC 6232 1109

TRANSPORTATION, DEPARTMENT OF[820]

Notice, Gender and related editorial
corrections, amendments to (04,C) ch 1,
(04,C) ch 2, (06,C) ch 1, (06,F) ch 7,
(07,E) chs 1 and 2, (07,F) chs 3 and 7, (08,E) ch 2
ARC 6208 1076

Filed, Denials, cancellations, suspensions and
revocations, (07,C) ch 6 ARC 6209 1109

Filed, OWI and implied consent, drivers licenses,
financial responsibility, amendments to
(07,C) chs 11, 13 and 14 ARC 6210 1111

WATER, AIR AND WASTE MANAGEMENT[900]

Filed Emergency, Commission, quorum, 2.6
ARC 6211 1083

Filed, Emission standards, 23.1(2), 23.1(3)
ARC 6212 1113

Filed, Hazardous waste, 140.1, 140.6, 141.1 to
141.3, 141.5, 141.6, ch 149 ARC 6213 1116

PREFACE

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

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

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

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

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

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

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
14	Friday, December 13, 1985	January 1, 1986
15	Friday, December 27, 1985	January 15, 1986
16	Friday, January 10, 1986	January 29, 1986

SUBSCRIPTION INFORMATION

Iowa Administrative Bulletin

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

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RULEMAKING SCHEDULE

Schedule for Rulemaking 1985

FILING DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Jan. 11	Jan. 30	Feb. 19	Mar. 6	Mar. 27	May 1	July 29
Jan. 25	Feb. 13	Mar. 5	Mar. 20	Apr. 10	May 15	Aug. 12
Feb. 8	Feb. 27	Mar. 19	Apr. 3	Apr. 24	May 29	Aug. 26
Feb. 22	Mar. 13	Apr. 2	Apr. 17	May 8	June 12	Sep. 9
Mar. 8	Mar. 27	Apr. 16	May 1	May 22	June 26	Sep. 23
Mar. 22	Apr. 10	Apr. 30	May 15	June 5	July 10	Oct. 7
Apr. 5	Apr. 24	May 14	May 29	June 19	July 24	Oct. 21
Apr. 19	May 8	May 28	June 12	July 3	Aug. 7	Nov. 4
May 3	May 22	June 11	June 26	July 17	Aug. 21	Nov. 18
May 17	June 5	June 25	July 10	July 31	Sep. 4	Dec. 2
May 31	June 19	July 9	July 24	Aug. 14	Sep. 18	Dec. 16
June 14	July 3	July 23	Aug. 7	Aug. 28	Oct. 2	Dec. 30
June 28	July 17	Aug. 6	Aug. 21	Sep. 11	Oct. 16	Jan. 13 '86
July 12	July 31	Aug. 20	Sep. 4	Sep. 25	Oct. 30	Jan. 27 '86
July 26	Aug. 14	Sep. 3	Sep. 18	Oct. 9	Nov. 13	Feb. 10 '86
Aug. 9	Aug. 28	Sep. 17	Oct. 2	Oct. 23	Nov. 27	Feb. 24 '86
Aug. 23	Sep. 11	Oct. 1	Oct. 16	Nov. 6	Dec. 11	Mar. 10 '86
Sep. 6	Sep. 25	Oct. 15	Oct. 30	Nov. 20	Dec. 25	Mar. 24 '86
Sep. 20	Oct. 9	Oct. 29	Nov. 13	Dec. 4	Jan. 8 '86	Apr. 7 '86
Oct. 4	Oct. 23	Nov. 12	Nov. 27	Dec. 18	Jan. 22 '86	Apr. 21 '86
Oct. 18	Nov. 6	Nov. 26	Dec. 11	Jan. 1 '86	Feb. 5 '86	May 5 '86
Nov. 1	Nov. 20	Dec. 10	Dec. 25	Jan. 15 '86	Feb. 19 '86	May 19 '86
Nov. 15	Dec. 4	Dec. 24	Jan. 8 '86	Jan. 29 '86	Mar. 5 '86	June 2 '86
Nov. 29	Dec. 18	Jan. 7 '86	Jan. 22 '86	Feb. 12 '86	Mar. 19 '86	June 16 '86
Dec. 13	Jan. 1 '86	Jan. 21 '86	Feb. 5 '86	Feb. 26 '86	Apr. 2 '86	June 30 '86
Dec. 27	Jan. 15 '86	Feb. 4 '86	Feb. 19 '86	Mar. 12 '86	Apr. 16 '86	July 14 '86

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

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

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

NOTICE

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

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

The Administrative Rules Review Committee will hold a special meeting Tuesday, January 7, 1986, 10:00 a.m., and Wednesday, January 8, 1986, 9:00 a.m., in Committee Room 24, State Capitol. The following rules will be reviewed:
A supplemental agenda will appear in the Iowa Administrative Bulletin January 1, 1986.

DIVISION I

Rules under Notice and Emergency Filed Rules

Bulletin

AGING, COMMISSION ON THE[20]

Grants to area agencies, 1.7(1)"ab," 4.9(1), 4.9(3), 4.9(6), 4.9(7), 9.11(2), 9.14(2) ARC 6218 12/18/85

AGRICULTURE DEPARTMENT[30]

Moisture measuring devices, 55.54 ARC 6165 12/4/85

BEER AND LIQUOR CONTROL DEPARTMENT[150]

Volume discount on wine purchases, 14.8 and notice ARC 6128 terminated ARC 6172, also filed emergency
ARC 6171 12/4/85

COMMERCE COMMISSION[250]

Practice and procedure, written appearances, 7.2(1) ARC 6177 12/4/85

Electric energy automatic adjustment, 7.4(1)"d"(5), 20.9, notice ARC 5790 terminated ARC 6176 12/4/85

Form of briefs, 7.7(13)"e" ARC 6178 12/4/85

Telephone utility cable within or between two or more buildings on the same premises, 16.5(5), 16.5(31), 16.5(33), 22.1(3),
22.3(2)"g"(3), 22.11(4), 22.11(5) ARC 6182 12/4/85

Peak alert annual notice, 20.11(1) ARC 6181 12/4/85

Resale of local communications services, 22.17 ARC 6183 12/4/85

I-SAVE program, cost recovery and auditor qualification, 27.3(1), 27.6(2) ARC 6184 12/4/85

CONSERVATION COMMISSION[290]

Mussel regulations, 12.1(1), 12.1(3), 12.1(4) ARC 6156 12/4/85

FAIR BOARD[430]

Records, 1.6 ARC 6202 12/18/85

HAZARDOUS CHEMICALS INFORMATION INTERAGENCY COORDINATING COUNCIL[462]

Operations, ch 1 ARC 6214 12/18/85

HEALTH DEPARTMENT[470]

Advanced emergency medical care, 132.14, 132.8(1)"f," 132.8(8)"n," notice ARC 6012 terminated ARC 6199 12/18/85

Funeral directors, transportation of dead, 146.5(1), 146.5(10) ARC 6204 12/18/85

HUMAN SERVICES DEPARTMENT[498]

Community mental health and mental retardation services fund, 32.2(1), 32.2(2)"a"(1), 32.2(3), 32.2(4), 32.3, 32.4 ARC 6185 12/4/85

ADC, income, 41.7(1), 41.7(9)"f," filed emergency after notice ARC 6191 12/4/85

ADC, need standards, 41.8(2), filed emergency after notice ARC 6225 12/18/85

Supplementary assistance, eligibility, 51.4(1), 51.4(2), 51.7, 52.1(1), 52.1(2), filed emergency ARC 6226 12/18/85

Food stamp program, 65.27 ARC 6186 12/4/85

Medical and health services, method and level of disbursements, 77.26, 78.29, 79.1(2), 80.2(2)"y" and "z" ARC 6187 12/4/85

Medical and health services, skilled nursing facilities — reimbursement, 78.12(11), 79.1(2) ARC 6221, also filed emergency
ARC 6220 12/18/85

Title XIX waiver services, 83.5(2) ARC 6188 12/4/85

Medically needy, 86.10(1), 86.10(2), 86.12(1), 86.17, filed emergency after notice ARC 6227 12/18/85

Juvenile detention and shelter care homes, standards, 105.3(3)"i," 105.10(3)"h," 105.15(1), 105.15(3)"b" to "d," 105.16(4)
ARC 6189 12/4/85

Family and adult service program, eligibility, 130.3(1)"d"(2), filed emergency ARC 6228 12/18/85

IOWA LOTTERY AGENCY[526]

Operation — experimental retailer incentive programs, 4.18 ARC 6206, also filed emergency ARC 6205 12/18/85

LABOR, BUREAU OF[530]

Hazardous chemical risk right to know, worker right to know, community right to know, public safety/emergency response
right to know, chs 110, 120, 130, 140 ARC 6215 12/18/85

PLANNING AND PROGRAMMING[630]

Child care grants program, ch 27 ARC 6233 12/18/85

PUBLIC INSTRUCTION DEPARTMENT[670]

Issuance of certificates and endorsements, renewals of certificates, conversion information, advisory committees,
standards for teacher education programs, standards for graduate teacher education programs, chs 70 to 72, 75 to 77
ARC 6122 (carried over from December meeting) 11/6/85Requirements for special education endorsements, occupational and postsecondary certification, chs 73 and 74
ARC 6147 (carried over from December meeting) 11/20/85

REAL ESTATE COMMISSION[700]

Continuing education requirements, 3.3(2) ARC 6201 12/18/85

REVENUE DEPARTMENT[730]

Sales and use tax — filing returns, payment of tax, penalty and interest, 12.1, 12.3, 12.13, 30.3, 30.4, 30.4(3), 30.4(4)

ARC 6174 12/4/85
 Adjustments to computed tax, assessments and refunds, 42.1, 43.3(3), 43.3(4), 43.3(5) **ARC 6229** 12/18/85
 Property, omitted assessments, 71.25 **ARC 6175** 12/4/85

TRANSPORTATION, DEPARTMENT OF[820]Gender and related editorial corrections, (04,C)1.4(2), (04,C)2.4, (06,C)1.4(2), (06,C)1.4(5), (06,F)7.3(2), (07,E)1.2, 1.2(1) and 1.2(2), (07,E)2.2(3), (07,F)3.1(4)"a," (07,F)3.7(1)"h," (07,F)7.6(2)"b," (08,E)2.2 **ARC 6208** 12/18/85**VOTER REGISTRATION COMMISSION[845]**Forms and instructions, 2.1(8) **ARC 6197** 12/4/85**WATER, AIR AND WASTE MANAGEMENT[900]**Operation of commission, quorum and voting requirements, 2.6, filed emergently **ARC 6211** 12/18/85**DIVISION II**

Filed Rules

Bulletin

AGING, COMMISSION ON THE[20]Timeframe for the use of funds, 9.1(4) **ARC 6219** 12/18/85**COLLEGE AID COMMISSION[245]**Iowa guaranteed student loan program, Chapter II, Section B, amendments to ch 10 **ARC 6169** 12/4/85Iowa guaranteed student loan program, Chapter VI, Section J, amendments to ch 10 **ARC 6168** 12/4/85Iowa guaranteed student loan program, Chapter XIV, Section B, amendments to ch 10 **ARC 6167** 12/4/85**CONSERVATION COMMISSION[290]**Docks and dock management areas, chs 33 and 34 **ARC 6157** 12/4/85Park user fee, ch 51 **ARC 6158** 12/4/85Public/private cost sharing to acquire natural areas with unique or unusual features, ch 78 **ARC 6159** 12/4/85Wild turkey spring hunting regulations, ch 111 **ARC 6160** 12/4/85**HEALTH DATA COMMISSION[465]**Administrative hearings, 2.1, 2.7, 2.8(1) **ARC 6203** 12/18/85**HEALTH DEPARTMENT[470]**Birth defects institute, MSAFP testing program, 4.1, 4.6 **ARC 6170** 12/4/85Homemaker-home health aide services, 80.1, 80.2(2), 80.2(4), 80.3 **ARC 6217** 12/18/85Birth certificates — when filing fee required, 95.1 **ARC 6200** 12/18/85Magnetic resonance imaging services standards, 203.12 **ARC 6166** 12/4/85**HUMAN SERVICES DEPARTMENT[498]**ADC, application, recoupment, 40.1, 40.7(4), 41.5(2), 41.7(9)"a"(5) and "k," 46.7(5) **ARC 6190** 12/4/85Assistance programs — reductions, 52.1(3), 54.3(15), 78.2(2)"a," 79.1(2), 79.1(3)"g," 81.6(16)"b," "c," and "e," 150.3(5)"p" and "r," 156.6(1), 156.7(1), 177.4(3), 177.9(3) **ARC 6223** 12/18/85Federal surplus food program, institutional food program, food losses, 73.13, 74.19(2), 74.22 **ARC 6192** 12/4/85Medical care, payment for transportation, 78.13(10) **ARC 6193** 12/4/85Medical assistance advisory council, procedures, 79.7(5)"a" and "b" **ARC 6224** 12/18/85Child care centers, records, 109.2(1)"h" **ARC 6194** 12/4/85Child day care, fees, 130.4(3) **ARC 6195** 12/4/85Social services block grant, 153.1, 153.2(1), 153.2(4), 153.3(3), 153.5(6), 153.6, 153.7 **ARC 6196** 12/4/85**INSURANCE DEPARTMENT[510]**Life and health self-funded plans, 35.20 **ARC 6198** 12/4/85**MERIT EMPLOYMENT DEPARTMENT[570]**Pay plan, certification and selection, probationary period, temporary, assignments, disciplinary actions, appeal hearings, administrative decisions, holidays, 4.5(6), 4.7, 7.9, 9.1, 9.2(2), 10.3, 11.2(4), 12.3(5) to 12.3(7), 12.4, 14.10(6) **ARC 6234** 12/18/85**NURSING, BOARD OF[590]**Registered nurses, 6.4(2) **ARC 6207** 12/18/85**PHARMACY EXAMINERS, BOARD OF[620]**Licensure, foreign pharmacy graduates, 1.15 **ARC 6161** 12/4/85Patient med paks, 6.15 **ARC 6216** 12/18/85**PLANNING AND PROGRAMMING[630]**Iowa job training partnership Act, amendments to ch 19 **ARC 6235** 12/18/85**PUBLIC INSTRUCTION DEPARTMENT[670]**Extracurricular interscholastic competition, 9.20(2), 9.20(5), 9.20(7), 9.20(8) **ARC 6163** 12/4/85

REVENUE DEPARTMENT[730]

Interest, calendar year 1986, 10.2(5) ARC 6230	12/18/85
Exempt sales, nonprofit corporations, 17.19 ARC 6231	12/18/85
Penalty and interest, 52.5(1), 58.5(1) ARC 6232	12/18/85

TRANSPORTATION, DEPARTMENT OF[820]

Denials, cancellations, suspensions and revocations, (07,C)6.22, 6.37, 6.38 ARC 6209	12/18/85
OWI and implied consent, driver licenses, financial responsibility, (07,C)11.3(2)"b," 11.4(2)"b," 13.3(2)"a"(1) to (3), 13.9(2), 13.13(10)"a" to "c," "e" and "g," 13.13(12)"a," 13.20, 13.21, 14.2, 14.4(1), 14.4(2), 14.5(1), 14.5(2)"a"(2), 14.6(4), 14.6(6) ARC 6210	12/18/85
Registration of motor vehicle weighing 55,000 pounds or more, (07,D)11.20 ARC 6164	12/4/85

WATER, AIR AND WASTE MANAGEMENT[900]

Emission standards for contaminants, 23.1(2), 23.1(3) ARC 6212	12/18/85
Fees for the transportation, treatment and disposal of hazardous wastes, 140.1, 140.6, 141.1 to 141.3, 141.5, 141.6, ch 149 ARC 6213	12/18/85

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
AGING, COMMISSION ON[20] Grants to area agencies, amendments to 1.7(1), 4.9, 9.11, 9.14 IAB 12/18/85 ARC 6218	Auditorium Wallace State Office Bldg. E. 9th and Grand Ave. Des Moines, Iowa	January 8, 1986 1:00 p.m.
BEER AND LIQUOR CONTROL DEPARTMENT[150] Private wine sales, amendments to ch 14 IAB 12/4/85 ARC 6172 (See ARC 6171) Wine and liquor tastings, menus to retailers IAB 12/4/85 ARC 6173	Conference Room Central Office 1918 S.E. Hulsizer Ave. Ankeny, Iowa Conference Room Central Office 1918 S.E. Hulsizer Ave. Ankeny, Iowa	December 30, 1985 1:00 p.m. December 30, 1985 1:00 p.m.
COMMERCE COMMISSION[250] Transfer of utility property, 7.4(13) IAB 12/4/85 ARC 6179 (See IAB 10/9/85 ARC 6024) Gas and electric utilities, second payment plans, service limiters, 19.4(10), 20.4(11), 20.4(23) IAB 12/4/85 ARC 6180 (See IAB 10/9/85 ARC 6025)	Conference Room First Floor Lucas State Office Bldg. Des Moines, Iowa Dubuque Co. Courthouse 720 Central Dubuque, Iowa Conference Room First Floor Lucas State Office Bldg. Des Moines, Iowa	January 2, 1986 10:00 a.m. January 6, 1986 7:00 p.m. January 13, 1986 7:00 p.m.
Resale of local communications services, 22.17 IAB 12/4/85 ARC 6183	Conference Room First Floor Lucas State Office Bldg. Des Moines, Iowa	January 10, 1986 10:00 a.m.
COMPTROLLER, STATE[270] Auditing claims, amendments to ch 1 IAB 11/20/85 ARC 6126 Deferred compensation program, ch 4 IAB 11/20/85 ARC 6130	State Comptroller Hoover Bldg. Level A Des Moines, Iowa State Comptroller Hoover Bldg. Level A Des Moines, Iowa	December 18, 1985 3:00 p.m. December 19, 1985 10:00 a.m.
CONSERVATION COMMISSION[290] Mussels-methods and seasons, 12.1 IAB 12/4/85 ARC 6156	Bob Roach Little Theatre Strahan Hall Community College Muscatine, Iowa City Hall Basement Guttenberg, Iowa	January 8, 1986 7:30 p.m. January 9, 1986 7:30 p.m.

HAZARDOUS CHEMICALS INFORMATION INTERAGENCY COORDINATING COUNCIL[462]

Operations and procedures of interagency council
IAB 12/18/85 ARC 6214

Auditorium
Wallace State Office Bldg.
Des Moines, Iowa

January 20, 1986
9:00 a.m.

HUMAN SERVICES DEPARTMENT[498]

Medicaid—Nurse-midwives,
77.26, 78.29, 79.1(2)
IAB 12/4/85 ARC 6187

Des Moines District Office
Conference Room
3609½ Douglas
Des Moines, Iowa

December 30, 1985
1:00 p.m.

Purchase of service,
150.3(11)
IAB 12/18/85 ARC 6222
(See IAB 11/6/85 ARC 6113)

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

January 8, 1986
1:00 p.m.

IOWA LOTTERY AGENCY[526]

Retailer incentive program,
4.18
IAB 12/18/85 ARC 6206
(See also ARC 6205, herein)

Agency Office
2015 Grand Ave.
Des Moines, Iowa

January 7, 1986
1:00 p.m.

LABOR, BUREAU OF[530]

Hazardous chemical risks right to know, ch 110; worker right to know, ch 120; community right to know, ch 130; public safety/emergency response right to know, ch 140
IAB 12/18/85 ARC 6215

Auditorium
Wallace State Office Bldg.
E. 9th and Grand Ave.
Des Moines, Iowa

January 20, 1986
9:00 a.m.

PLANNING AND PROGRAMMING[630]

Child care grants program, ch 27
IAB 12/18/85 ARC 6233

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

January 7, 1986
10:00 a.m.

REAL ESTATE COMMISSION[700]

Preliminary education and continuing education, 3.3(2)
IAB 12/18/85 ARC 6201

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

January 16, 1986
9:00 a.m.

TRANSPORTATION DEPARTMENT[820]

RISE Program, [06,Q] ch 4
IAB 11/6/85 ARC 6086
(See ARC 6085)

Department of Transportation Complex
800 Lincoln Way
Ames, Iowa

January 7, 1986

Editorial corrections and gender changes to [04,C] chs 1, 2; [06,C] ch 1; [06,F] ch 7; [07,E] chs 1, 2; [07,F] chs 3, 7; [08,E] ch 2
IAB 12/18/85 ARC 6208

Department of Transportation Complex
Ames, Iowa

February 4, 1986

ARC 6218

AGING, COMMISSION ON THE [20]
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.3(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 17A.3, the Iowa Commission on the Aging hereby gives Notice of Intended Action to amend rule 4.9(249B) relating to grants to area agencies and associated references in subrules 1.7(1), 9.11(20), and 9.14(2).

These amendments update the definition of "low income," provide a formula and method for the allocation of Administration on Aging Title III funds to area agencies on aging and clarify language in subrules concerning the use of funds.

The Older Americans Act 305(d)(1) requires that the Commission publish specific information regarding this formula to assist the public's review and comment, and that this information be printed in conjunction with these rules.

Background

The federal Older Americans Act (OAA305(a)(2)(c)) requires the Iowa Commission on the Aging (Commission) to establish an intrastate funding formula for the allocation of federal Title III funds to area agencies on aging. The federal moneys awarded under the formula are used by area agencies on aging to fund the provision of supportive, nutrition, and multipurpose senior center services. The federal Act requires the formula to be based on the best available data regarding the geographic distribution of persons aged 60 and older (OAA305(a)(2)(c)). A federal regulation requires the formula to reflect the geographic distribution of persons aged 60 and older in the greatest economic and social need with particular attention to low-income minority elders (45CFR1321.17).

Greatest economic need is defined as the need resulting from an income level at or below poverty as determined by the Bureau of the Census. Greatest social need is related to noneconomic factors such as disabilities, isolation due to age, residence, or race/ethnicity, and vulnerability (OAA305(d)(2)).

The Commission is also required by the Older Americans Act to publish specific information regarding the formula to assist the public's review and comment (OAA305(d)(1)). The Commission is required to publish (1) a descriptive statement of the formula's assumption and goals, (2) a numerical statement of the formula, (3) a listing of the data used in the formula, and (4) a demonstration of the allocation of funds.

Development of the Formula

In August 1976, the Commission adopted its first intrastate funding formula which was based on the geographic distribution of persons aged 60 and older. In August 1977, the Commission modified the formula to include the geographic distribution of low-income older persons to reflect the distribution of economic need.

In June 1980, the Commission adopted the intrastate funding formula currently contained in Iowa Administrative Code 20—4.9(249B) which uses the geographic

distribution of persons aged 60 and over, low-income persons aged 60 or older living in urban counties, and all persons aged 60 and older living in rural counties as indicators of economic and social need in combination with equal block allocations for each area agency, and county block allocations multiplied by the number of counties in the area. A "hold harmless" clause included in the formula was implemented by allotting the amounts received by each area agency in FY 1980 (under the 1977 formula using 1970 Census data) first and then implementing new formula factors as the federal funding allotment to the state increased. The AAA block allocation was the first of new factors implemented followed by the county block allocation to the extent funds could support the \$3000 per county allocation. As a result of this incremental strategy and in light of relatively little growth in the federal funding allotment to the state, the rural and low-income factors have never had an effect on the awards to area agencies. The data for the population factors affecting the current distribution of federal Title III funds were obtained from the 1970 Census, and therefore no longer represent the best available.

The Iowa intrastate funding formula contains an indicator of greatest economic need (the low-income factor described above) and for the greatest social need (persons aged 60 and older living in rural counties). The first of these is not consistent with the federal Act's definition of greatest economic need in that it uses 125 percent of poverty income level. The latter is not, in the judgment of the Commission, sufficient. Many other states use factors in addition to the rural factor used by Iowa when considering the application of social need indicators to the intrastate funding formula and federal regulations require attention be given to low-income minority elders. The current formula, even if applied with current data without the effects of a "hold harmless" clause, does not fully express the intent of the Older Americans Act and federal regulations.

In September 1985, the Commission established a committee to study and recommend an intrastate funding formula. The committee, composed of representatives of area agency directors, area agency policy board members, the state advisory council (elected by area advisory councils), and the Commission, met in October 1985. The members of the committee reviewed and discussed the federal requirements and the effects of various alternative formulae on the area agencies on aging. The committee recommended a formula and a transition plan to the Commission in November. This recommendation was subsequently approved by the Commission for notice of intended action.

Goals and Assumptions

The goal of the intrastate funding formula is to allocate federal Title III funds to area agencies on aging based on the geographic distribution of the need for supportive and nutrition services.

A number of indicators have been selected to represent the need for supportive and nutrition services. These indicators have been used as factors in the formula. The Older Americans Act requires the use of a factor for the number of persons aged 60 and older (OAA305(a)(2)(c)). The data for this factor in this analysis were obtained from the "1985 Population Projection" by the Office for Planning and Programming and represent an estimate of the number of persons, aged 60 and older, residing in each planning and service area in 1985.

AGING, COMMISSION ON THE[20] (cont'd)

Economic Need Factor

Poverty 60+ - This indicator is the number of persons residing in the area's community, aged 60 and older, with incomes at or below the poverty level in 1979 and is assumed to reflect the geographic distribution of economically needy older Iowans. The source of the data used for this factor in the analysis is the 1980 Census.

Social Need Factors

75+ Persons - This is the number of persons, aged 75 and older, estimated to reside in the area in 1985 and is assumed to be an element in the geographic distribution of social need. The data for this analysis were obtained from the "1985 Population Projection." Due to the higher rates of disability and institutionalization encountered by persons over age 75, this factor represents frail or vulnerable elderly.

Rural 75+ - This is the number of persons, aged 75 and older, residing in the rural portions of the area in 1980 and is assumed to be an element in the geographic distribution of social need. Rural portions of an area are places other than those with a population of 2500 or more. The data for this analysis were obtained from the 1980 Census. This is used as an indicator of the needs presented by both advanced age (increased disability) and rural life (isolation, lack of transportation).

Minority 60+ - This is the number of minority persons, aged 60 and older, residing in the area in 1980 and is assumed to be an element in the geographic distribution of social need. Minority status is essentially self-defined and does not represent specific biologic stock. The data for this analysis were taken from the 1980 Census. This factor is used to indicate the ethnic/cultural isolation sometimes associated with older minorities, as well as the barriers to service encountered by older minorities.

In addition to supportive and nutrition services, planning, administration, co-ordination and advocacy for older people by area agencies on aging receive financial support from Title III. The following factors are included as indicators of the need for administrative funding.

AAA Base - This factor is an allocation for each area agency to be used for area administration or services equal to one-fourth of one percent of the Title III funds available for allotment to the area agencies or \$24,000, whichever is greater. It is assumed that each area agency will require similar financial resources to accomplish its administrative functions.

County Base - This factor is an allocation equal to three one-hundredths of one percent of the Title III funds available for allotment to area agencies or \$3,000, whichever is greater, multiplied by the number of counties served by the area.

Numerical Statement of the Formula

The proposed intrastate funding formula consists of three distinct elements. The first, subrule 4.9(1), paragraph "a" of the proposed rule, equals one-fourth of one percent (.0025) of the Title III funds available for allocation or \$24,000, whichever is greater. The second, subrule 4.9(1), paragraph "b" of the proposed rule, equals three one-hundredths of one percent (.0003) of the Title III funds available for allotment to area agencies or \$3,000, whichever is greater, multiplied by the number of counties in the area. Subrule 4.9(1), paragraph "c," of the proposed rule provides for the calculation of a weighted population for each area agency and for the state, as a whole. The funds remaining after applying subrule 4.9(1), paragraphs "a" and "b," would be allocated based on the proportion that each area's weighted population bears to

the weighted population for the state as a whole. The weighted populations are calculated by multiplying the number of persons representing each indicator of economic and social need, including those persons aged 60 and older, by a defined weight and summing the results.

The sum of these paragraphs is modified by subrule 4.9(1), paragraph "d," which limits the annual percentage decrease in Title III funding to two percent or less. This provision eases the transition in funding that would result from an abrupt change in the distribution of economic and social need.

Social and Economic Data

The social and economic data used for the demonstration of the formula in this analysis are, in the judgment of the Commission, the best available for this purpose. The data are listed for each area agency and for the state as a whole in Table I.

Demonstration of the Formula

For the purposes of this demonstration, it is assumed that the amount of Title III funds available for allotment to area agencies will remain unchanged from the level for FY 1986 (\$8,815,000). The demonstration illustrates the amounts that will be awarded to area agencies, assuming the above social and economic data and the federal funding level remain static. The projection takes the transition clause subrule 4.9(1), paragraph "d," into account. Therefore, it will require some years before the full redistributive effects of the formula will be attained. This demonstration projects funding forward to the extent needed to illustrate the full application of the formula in Table II. To better illustrate the distributive effects of the formula and the effects of the distribution of social and economic need, Table III illustrates the funding levels per person aged 60 and over for each area agency over the course of the transition period.

Any interested person may make written suggestions or comments on these proposed rules. Written comments should be received no later than 4:30 p.m., January 7, 1985. Such written material should be directed to the Executive Director, Iowa Commission on the Aging, 914 Grand Avenue, Suite 236, Des Moines, Iowa 50319.

A public hearing will be held as follows:

Des Moines	January 8, 1986 1:00 - 3:30 p.m. Wallace State Office Building East Ninth & Grand Avenue
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In addition, the following informational meetings have been scheduled:

Storm Lake	December 20, 1985 1:00 - 3:30 p.m. Second Floor Hearing Room Buena Vista County Court House 400 Erie Street
Atlantic	January 3, 1986 1:00 - 3:30 p.m. Recreation Room, Heritage House 1200 Brookridge Circle
Waterloo	January 6, 1986 1:00 - 3:30 p.m. Senior Activity Center 7th & Franklin Streets
Washington	January 7, 1986 10:00 a.m. - 12:30 p.m. United Methodist Church Fellowship Hall 206 West Second Street

AGING, COMMISSION ON THE[20] (cont'd)

Each of these facilities is accessible to the disabled.

Persons who wish to make oral presentations should contact the Executive Director at least two days prior to the date of the public hearing.

This rule is intended to implement Iowa Code chapter 249B.

The following amendments are proposed:

ITEM 1. Subrule 1.7(1), paragraph "ab" is amended to read as follows:

ab. "Low-income" means any person or persons whose actual individual or family income is less than one hundred twenty-five percent of the poverty guidelines issued annually by the U.S. Office of Management and Budget (1981).

ITEM 2. Subrule 4.9(1) is rescinded in its entirety and the following new subrule is inserted in lieu thereof:

4.9(1) Title III allotments to area agencies. From AoA Title III funds available to the commission for allotment to area agencies in each fiscal year for supportive and nutrition services, the executive director shall award funds to area agencies subject to the provisions of this subrule based on the best available population data.

a. Each area agency shall receive one-fourth of one percent of the Title III funds available for allotment, or \$24,000, whichever is greater, to be used for area administration or for services.

b. Each area agency shall receive three-hundredths of one percent of the Title III funds available or \$3,000, whichever is greater, for each county in their planning and service area, to be used for area administration or services.

c. Each area agency shall receive a proportion of the Title III funds available for allotment remaining after the application of paragraphs "a" and "b" equal to the proportion of the area agency's weighted population to the weighted population of the state. The weighted population shall be the sum of the number of persons residing in the planning and service area of the state with the following characteristics multiplied by the following weights:

Factor	Weight
1. Persons aged 60 and older	1
2. Persons aged 75 and older	1
3. Minority persons aged 60 and older	5
4. Low-income persons aged 60 and older	5
5. Persons aged 75 and older residing in nonurban places	1

d. Unless the amount of Title III funds available for allotment to area agencies is less than the amount available for allotment to area agencies in the previous fiscal year, no area agency shall receive an award less than the amount produced by the application of paragraphs "a," "b," and "c" or less than 98 percent of the award to the area agency for the previous year unless the amount produced by the application of paragraphs "a," "b," and "c" is greater than the award to the area agency for the previous year.

ITEM 3. Subrule 4.9(3) is amended to read as follows:

4.9(3) State funds for area administration. Sums appropriated each state fiscal year for area administration shall be distributed as equal amounts of match for federal administrative funds distributed under 4.9(1) "a" and "b." and "c". These funds must be used as match for

federal funds used for area administration. No area agency shall be allotted a base grant less than the state funds received by the area for state fiscal year 1981, unless that state allotment to the commission is reduced below that level.

ITEM 4. Subrule 4.9(6) is rescinded in its entirety and subsequent subrules renumbered accordingly.

ITEM 5. Subrule 4.9(7) is renumbered and amended to read as follows:

4.9(7)(6) Title V Employment program awards. Adjustments in the amount of employment funds are subject to the availability and utilization of funds. ; and shall be made through the revision of contracts.

ITEM 6. Subrule 9.11(2) is amended to read as follows:

9.11(2) Area agency administration. The area agency may use not more than the amount received under 4.9(1) "a," 4.9(1) "b," 4.9(1) "c," 4.9(3), and at least the amount of local match prescribed in 9.14(2) for area administration costs. The area agency acting as AoA employment subproject sponsors, but which are not host agencies, may use not more than five percent of the sum of the categories, enrollee wages and fringe benefits and other enrollee costs under 4.9(7) for area administration total allocation.

ITEM 7. Subrule 9.14(2) is amended as follows:

9.14(2) Area plan administration. An area agency may use its federal allotment under section rule 4.9(1) "b" and 4.9(1) "c" 4.9(249B) to pay not more than seventy-five percent of the cost of administering area plans. Local match must pay at least twenty-five percent of the cost.

TABLE I
Best Available Social and Economic Data

Area Agency	60+ Persons	75+ Persons	60+ Minor	60+ Pover.	75+ Rural
	1985	1985	1980	1980	1980
Area One	20,900	7,700	56	2,775	4,220
Elderbridge	80,500	28,800	403	8,805	14,387
Iowa Lakes	31,900	11,400	82	3,566	5,435
Simpco	33,200	11,600	322	3,780	3,928
Hawkeye Valley	62,100	20,800	955	5,731	8,062
Scenic Valley	22,800	7,700	83	2,654	1,920
Great River	38,600	12,300	709	3,359	1,359
Heritage	54,900	18,200	468	4,917	6,049
Crossroads	88,000	28,900	2,186	7,234	5,740
SW Eight	39,400	13,700	342	4,485	5,634
Area XIV	15,100	5,800	38	2,568	4,000
Seida	35,500	13,100	234	5,047	5,735
SE Iowa	23,700	8,200	390	2,377	2,775
Total State	546,600	188,200	6,268	57,298	69,244

TABLE II
Projected Area Agency Funding

Area Agency	FY 1986	FY 1987	FY 1988	FY 1989	FY 1990
	Award	Award	Award	Award	Award
Area One	373,549	378,416	380,967	382,500	382,601
Elderbridge	1,292,286	1,310,132	1,319,485	1,325,105	1,325,476
Iowa Lakes	518,901	530,725	536,923	540,647	540,892
Simpco	550,885	545,445	545,445	545,445	545,445
Hawkeye Valley	933,131	949,660	958,323	963,528	963,870
Scenic Valley	364,208	367,450	369,149	370,170	370,237
Great River	600,657	588,644	576,871	565,334	564,029
Heritage	822,007	820,883	820,883	820,883	820,883
Crossroads	1,312,244	1,289,571	1,289,571	1,289,571	1,289,571
SW Eight	645,122	649,976	652,520	654,049	654,149
Area XIV	315,333	319,155	321,158	322,362	322,441
Seida	679,796	666,200	652,876	644,577	644,577
SE Iowa	406,881	398,743	390,829	390,829	390,829
Total State	8,815,000	8,815,000	8,815,000	8,815,000	8,815,000

AGING, COMMISSION ON THE[20] (cont'd)

TABLE III

Area Agency Funding per 60+ Resident

Area Agency	FY 1986 Award Per Capita	FY 1987 Award Per Capita	FY 1988 Award Per Capita	FY 1989 Award Per Capita	FY 1990 Award Per Capita
Area One	\$17.87	\$18.11	\$18.23	\$18.30	\$18.31
Elderbridge	\$16.05	\$16.27	\$16.39	\$16.46	\$16.47
Iowa Lakes	\$16.27	\$16.64	\$16.83	\$16.95	\$16.96
Simpco	\$16.59	\$16.43	\$16.43	\$16.43	\$16.43
Hawkeye Valley	\$15.03	\$15.29	\$15.43	\$15.52	\$15.52
Scenic Valley	\$15.97	\$16.12	\$16.19	\$16.24	\$16.24
Great River	\$15.56	\$15.25	\$14.94	\$14.65	\$14.61
Heritage	\$14.97	\$14.95	\$14.95	\$14.95	\$14.95
Crossroads	\$14.91	\$14.65	\$14.65	\$14.65	\$14.65
SW Eight	\$16.37	\$16.50	\$16.50	\$16.56	\$16.60
Area XIV	\$20.88	\$21.14	\$21.27	\$21.35	\$21.35
Seida	\$19.15	\$18.77	\$18.39	\$18.16	\$18.16
SE Iowa	\$17.17	\$16.82	\$16.49	\$16.49	\$16.49
Total State	\$16.13	\$16.13	\$16.13	\$16.13	\$16.13
Maximum	\$20.88	\$21.14	\$21.27	\$21.35	\$21.35
Minimum	\$14.91	\$14.65	\$14.65	\$14.65	\$14.61
Range	\$5.97	\$6.48	\$6.61	\$6.70	\$6.74

ARC 6214

HAZARDOUS CHEMICALS INFORMATION INTERAGENCY COORDINATING COUNCIL[462]

NOTICE OF INTENDED ACTION

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

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

Pursuant to Iowa Code section 17A.3, the Hazardous Chemicals Information Interagency Coordinating Council gives Notice of Intended Action to adopt rules, chapter 1, relating to the operations and procedures of the interagency council.

These rules were approved on November 13, 1985, by the interagency council established by Iowa Code section 455D.16 as amended by 1985 Iowa Acts, chapter 128.

A public hearing to accept comments on this Notice of Intended Action is scheduled for January 20, 1986, at 9:00 a.m. at the Henry A. Wallace State Office Building, Auditorium, East 9th Street and Grand Avenue, Des Moines, Iowa. Written comments by any interested person may be submitted at the public hearing or by mail to Interagency Council, Deputy Labor Commissioner, Iowa Bureau of Labor, 307 East Seventh Street, Des Moines, Iowa 50319. Written comments postmarked by January 22, 1986, will be considered.

These rules are intended to implement Iowa Code chapters 88 and 455D.

ARC 6202

FAIR BOARD[430]

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 173.14(8) and chapter 17A, the Iowa State Fair Board proposes to amend 430—Chapter 1, Iowa Administrative Code.

The new rule 1.6(173) clarifies retention and storage of records for the State Fair.

Interested persons may present written comments or statements on the proposed amendment not later than 1:30 p.m., January 8, 1986, to Secretary/Manager, Iowa State Fair, Statehouse, Des Moines, Iowa 50319, at the Administration Building, Iowa State Fairgrounds, Des Moines, Iowa.

The Iowa state fair board approved the new rule at their regular meeting on November 20, 1985.

This rule implements Iowa Code section 173.14.

Chapter 1 is amended by adding the following new rule:

430—1.6(173) Records. The Iowa state fair board will retain its records in accordance with the standards of the records management manual of the Iowa state records commission.

CHAPTER 1

OPERATIONS OF INTERAGENCY COUNCIL

462—1.1(17A,455D) Scope and definitions. This chapter governs the conduct of business by the hazardous chemicals information interagency coordinating council. The definitions in rule 530—110.2(88,455D) are adopted by reference.

462—1.2(17A,455D) Membership. The interagency council is composed of three voting members consisting of the designee of the commissioner of public health, the designee of the labor commissioner, and the designee of the executive director of the department of water, air and waste management. There are six nonvoting advisory members consisting of the designee of the director of the office of disaster services, the designee of the chief officer of the division of public protection of the department of public safety, the designee of the head of the state hygienic laboratory, a person representing business and industry, a person representing labor, and a person representing the public generally.

462—1.3(17A,455D) Time of meetings. The interagency council shall meet at least semiannually, at the call of the chairperson, or upon written request of a majority of the voting members of the interagency council. The interagency council establishes the second Wednesday of November as an annual meeting. It is the responsibility of the chairperson to establish the date of all other meetings, and provide notice of all meeting dates, locations, and agenda.

HAZARDOUS CHEMICALS INFORMATION INTERAGENCY COORDINATING COUNCIL[462] (cont'd)

1.3(1) Call of the chairperson. The chairperson shall notify the members of the interagency council of the date, time and location of all meetings and state the agenda.

1.3(2) Request of the interagency council. The chairperson shall schedule a meeting upon the receipt of a written request from a majority of the voting members of the interagency council. The request shall state the reason for the meeting and the proposed agenda.

462—1.4(17A,455D) Place of meetings. Meetings will generally be held in the offices of the bureau, 307 East Seventh Street, Des Moines, Iowa. The interagency council may meet at other locations from time to time, if so, the meeting place will be specified in the agenda.

462—1.5(17A,455D) Notification of meetings.

1.5(1) Form of notice. Notice of meetings is given by posting and distributing the agenda. The agenda lists the time, date, place and topics to be discussed at the meeting.

1.5(2) Posting of agenda. The agenda for each meeting will be posted at the office of the bureau at least seven days prior to the meeting.

1.5(3) Distribution of agenda. Agenda will be mailed to anyone who files a request with the chairperson. The request should state whether the agenda for a particular meeting is desired, or whether the agenda for all meetings is desired.

1.5(4) Amendment to agenda. Any amendments to the agenda after posting and distribution under subrules 1.5(2) and 1.5(3) will be posted, but not distributed. The amended agenda will be posted at the bureau's office at least twenty-four hours prior to the meeting unless, for good cause, such notice is impossible or impractical, in which case as much notice as is reasonably possible will be given.

1.5(5) Supporting material. Written materials provided to the interagency council with the agenda may be examined and copied. Copies of the materials may be distributed at the discretion of the chairperson to persons requesting the materials. The chairperson may require a fee to cover the reasonable cost to the agency to provide the copies.

462—1.6(17A,455D) Attendance and participation by the public.

1.6(1) Attendance. All meetings are open to the public. The interagency council may exclude the public from portions of the meeting in accordance with Iowa Code section 21.5.

1.6(2) Participation.

a. Items on agenda. Persons who wish to address the interagency council on a matter on the agenda should notify the chairperson at least three days before the meeting. Presentations to the interagency council may be made at the discretion of the chairperson.

b. Items not on agenda. Because Iowa Code section 21.4 requires the interagency council to give notice of its proposed agenda, the interagency council discourages persons from raising matters not on the agenda. Persons who wish to address the interagency council on a matter not on the agenda should file a request with the chairperson to place the matter on the agenda of a subsequent meeting.

1.6(3) Coverage by press. Cameras and recording devices may be used during meetings provided they do not interfere with the orderly conduct of the meeting. The chairperson may order the use of these devices be discontinued if they cause interference, and may exclude those persons who fail to comply with that order.

462—1.7(17A,455D) Quorum and voting requirements.

1.7(1) Quorum. Two voting members constitute a quorum.

1.7(2) Unanimous voting. All votes relating to the expansion of the federal occupational safety and health administration's list of hazardous chemical or reporting required under this chapter and the expansion of the list of hazardous wastes reported to the department of water, air and waste management under 42 U.S.C. secs. 6921—6934 as amended to January 1, 1981, or information required concerning the wastes shall be by a unanimous vote of the three voting members.

1.7(3) Majority voting. The nine members of the interagency council shall vote on all issues presented to the council on issues not covered by subrule 1.7(2). All such votes shall be determined by a majority of the interagency council members present.

1.7(4) Voting procedures. All actions requiring a unanimous vote shall be by a roll call vote. The chairperson shall rule on all other votes as to whether the vote will be by voice vote or roll call. A roll call vote shall be taken at the request of any member of the interagency council.

462—1.8(17A,455D) Minutes, transcripts and recording of meetings.

1.8(1) Recordings. The chairperson shall record by mechanized means each meeting, and shall retain the recording for at least one year. Recordings of closed sessions shall be sealed and retained at least one year.

1.8(2) Transcripts. Transcripts of meetings will not routinely be prepared. The chairperson will have transcripts of meeting prepared upon receipt of a request for a transcript and payment of a fee to cover the cost of preparing the transcript.

1.8(3) Minutes. The chairperson shall keep minutes of each meeting. Minutes shall be reviewed and approved by the interagency council, and maintained for at least five years. The approved minutes shall be signed by the chairperson.

462—1.9(17A,455D) Officers and election.

1.9(1) Officers. The officers of the commission are the chairperson and vice chairperson.

1.9(2) Elections. Election of officers shall take place at the annual meeting in November. The chairperson shall be one of the three voting members. The chairperson shall preside at meetings. If the chairperson or vice chairperson does not serve out the elected term, a special election shall be held to elect a new officer to serve out the remainder of the term.

ARC 6199

HEALTH DEPARTMENT[470]

TERMINATION OF NOTICE

Pursuant to the authority of Iowa Code subsection 17A.4(1), paragraph "b," the Iowa State Department of Health hereby terminates the proposed amendments to Chapter 132, "Advanced Emergency Medical Care," Iowa Administrative Code. Published as **ARC 6012** in the October 9, 1985, Iowa Administrative Bulletin, these amendments were filed under Notice of Intended Action

HEALTH DEPARTMENT[470] (cont'd)

to solicit public comment. A public hearing was held October 30, 1985, at 10:00 a.m. in the 3rd Floor Conference Room, Lucas State Office Building, Des Moines, Iowa. No one appeared at that time nor had any oral or written comments been received regarding the proposed amendments. This termination of notice is necessary because these amendments were also emergency adopted and implemented as **ARC 5996**, published in the October 9, 1985, Iowa Administrative Bulletin and became effective September 11, 1985.

ARC 6204**HEALTH DEPARTMENT[470]****BOARD OF MORTUARY SCIENCE 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 Mortuary Science Examiners gives Notice of Intended Action to amend Chapter 146, "Funeral Directors," of the Iowa Administrative Code.

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

Any interested person may make written comments concerning the proposed rules not later than January 7, 1986, addressed to Irene G. Howard, Director, Professional Licensure, Iowa State Department of Health, Lucas State Office Building, Des Moines, Iowa 50319.

The proposed amendments are intended to implement Iowa Code section 156.1.

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

146.5(1) Transportation of bodies to educational institutions. All dead bodies transported by common carrier shall be embalmed before shipment if the condition of the body permits embalming. Embalming is not required if the body is transported by an Iowa licensed funeral director or the next of kin. If embalming is not possible, or if the body is in a state of decomposition, it shall be shipped only after enclosure in a strong, tightly sealed outer receptacle.

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

ARC 6221**HUMAN SERVICES
DEPARTMENT[498]****NOTICE OF INTENDED ACTION**

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 78, "Amount, Duration, and Scope of Medical and Remedial Services," and Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," appearing in the Iowa Administrative Code.

The substance of the rules is being submitted as an Emergency Adopted and Implemented Rule, **ARC 6220**, published in the Iowa Administrative Bulletin on December 18, 1985.

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

Consideration will be given to all written data, views, or arguments thereto, received by the Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114, on or before January 8, 1986.

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

ARC 6222**HUMAN SERVICES
DEPARTMENT[498]****AMENDED NOTICE OF INTENDED ACTION**

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services proposes to amend Chapter 150, "Purchase of Service," appearing in the Iowa Administrative Code.

The Department of Human Services commenced rule-making to implement a pilot project establishing a prospective payment system for purchase of service providers. The Notice of Intended Action was published in the Iowa Administrative Bulletin on November 6, 1985, as **ARC 6113**.

On November 25, 1985, the Iowa Association of Rehabilitation and Residential Facilities, an organization representing seventy-five rehabilitation and residential facilities, requested a public hearing on the proposed rules.

A public hearing has been scheduled for January 8, 1986, at 1:00 p.m. in the First Floor Conference Room, Hoover State Office Building, Des Moines, Iowa 50319. Oral presentations may be made by appearing at that meeting. Written comments will also be accepted at that time.

This rule is intended to implement Iowa Code section 234.6 and 1985 Iowa Acts, House File 771, section 11.

INSURANCE DEPARTMENT**NOTICE OF PROPOSED
WORKERS' COMPENSATION RATE FILING**

Pursuant to Iowa Code section 515A.6(7), notice is hereby given that the National Council on Compensation Insurance has made a rate filing which affects premium rates for workers' compensation insurance.

This filing proposes a 25.2% increase in premium level. The minimum premium multiplier is increased from the current 95 to proposed 105. Maximum minimum premium is increased from present \$650 to \$700.

A companion filing for employers' liability rates and rating value is also proposed. These rates are identical to the proposed rates for workers' compensation insurance.

The filing has a proposed effective date of February 1, 1986. An affected workers' compensation policyholder or established organization with one or more workers' compensation policyholders among its members may request a hearing on this filing before the Commissioner. Such request must be filed within fifteen days of the date of this publication and shall be made to the undersigned at the Insurance Department of Iowa, Lucas State Office Building, Ground Floor, Des Moines, Iowa 50319.

ARC 6206**IOWA LOTTERY AGENCY[526]****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 1985 Iowa Acts, chapter 33, the Iowa Lottery hereby gives Notice of Intended Action to amend Chapter 4, "Operation of the Lottery," Iowa Administrative Code, to permit the commissioner to conduct experimental retailer incentive programs.

The substance of the rule was submitted as an emergency adopted and implemented rule, **ARC 6205**, published in the Iowa Administrative Bulletin on December 18, 1985. The purpose of this notice is to solicit public comment on the rule, which is incorporated here by reference.

Any interested person may make written suggestions or comments on the rule prior to January 7, 1986. Written comments or suggestions should be directed to Nichola Schissel, Iowa Lottery, 2015 Grand Avenue, Des Moines, Iowa 50312. Persons who want to convey their views orally should contact Nichola Schissel at (515) 281-7870 or at the address above. A public hearing will be held on Tuesday, January 7, 1986, at 1:00 p.m. at 2015 Grand Avenue, Des Moines, Iowa. Persons may present their views at this public hearing either orally or in writing.

This rule implements 1985 Iowa Acts, chapter 33, section 110.

ARC 6215**LABOR, BUREAU OF[530]****NOTICE OF INTENDED ACTION**

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

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

Pursuant to Iowa Code sections 17A.3, 88.5 and chapter 455D, the Labor Commissioner gives Notice of Intended Action to adopt rules, Chapters 110, 120, 130, and 140, relating to hazardous chemical risks right to know covering worker right to know, community right to know and emergency response department right to know. The worker right to know provision is based on the federal OSHA regulation, 29 C.F.R. 1910.1200, hazard communication standard. These rules also address the administrative procedures associated with administration of Iowa Code chapters 88 and 455D. These rules revoke the previously adopted federal hazard communication standard.

These rules were presented on November 13, 1985, to the hazardous chemicals information interagency council established at Iowa Code section 455D.16, as amended by 1985 Iowa Acts, chapter 128.

A public hearing to accept comments on this Notice of Intended Action is scheduled for January 20, 1986, at 9:00 a.m. at Henry A. Wallace State Office Building, Auditorium, East 9th Street and Grand Avenue, Des Moines, Iowa. Written comments by any interested person may be submitted at the public hearing or by mail to Deputy Labor Commissioner, Iowa Bureau of Labor, 307 East Seventh Street, Des Moines, Iowa 50319. Written comments postmarked by January 22, 1986, will be considered.

The Bureau of Labor is proposing alternative definitions for the term "information in sufficient specificity" in 530—110.2(88,455D). The agency requests comments on the definitions and reasons for the commenter's selection of a definition. Additional definitions would also be considered. The agency is aware that federal OSHA is presently considering an amendment to the trade secret portion of the federal hazard communication standard, 29 C.F.R. 1910.1200. At such time as federal OSHA amends the federal standard, the state would make a similar amendment.

The agency has determined that this Notice of Intended Action may have an impact on small business. The agency has considered the factors listed in Iowa Code section 17A.31. The agency will issue a regulatory flexibility analysis as provided in Iowa Code section 17A.31, if a written request is filed by delivery or by mailing postmarked no later than January 20, 1986, to Deputy Labor Commissioner, Bureau of Labor, 307 East Seventh Street, Des Moines, Iowa 50319. The request may be made by the administrative rules review committee, the governor, a political subdivision, at least 25 persons who qualify as a small business under Iowa Code chapter 17A, or an organization of small business representing at least 25 persons which is registered with the bureau of labor under Iowa Code chapter 17A.

These rules are intended to implement Iowa Code chapters 88 and 455D.

LABOR, BUREAU OF[530] (cont'd)

ITEM 1. Amend rule 530—10.20(88) by striking the following:
 “48 Fed. Reg. 53340 (November 25, 1983)”.

ITEM 2. Add new Chapters 110, 120, 130, and 140 as follows:

CHAPTER 110

HAZARDOUS CHEMICAL RISKS RIGHT TO
KNOW—GENERAL PROVISIONS**530—110.1(88,455D) Purpose, scope and application.**

110.1(1) Purpose. The purpose of Chapters 110, 120, 130, and 140 is to implement Iowa Code chapter 455D. The rules in Chapter 110 are to ensure that the hazards of all chemicals produced or imported by chemical manufacturers or importers are evaluated and that the information is transmitted to affected employers. This chapter is enforced under Iowa Code chapters 88 and 455D.

Chapter 120 provides that information concerning chemical hazards is transmitted to affected employers and employees. This transmittal of information is to be accomplished by means of a comprehensive hazard communication program, which is to include container labeling and other forms of warning, material safety data sheets and employee training. This division is enforceable under Iowa Code chapter 88.

Chapter 130 addresses the procedures for the public to gain access to information on hazardous chemicals used in the community, the administrative procedures to determine the extent of the information required to be presented, and the actions to compel the release of the information when the employer does not voluntarily release the information.

Chapter 140 addresses the procedures by which an employer submits information to the local fire department on the hazardous chemicals at the employer's workplace.

110.1(2) Scope, application and exemptions. These chapters require chemical manufacturers or importers to assess the hazards of chemicals which they produce or import, and all employers, except those exempted in subrule 110.1(3), to provide information to their employees about the hazardous chemicals to which they are exposed, by means of a hazard communication program, labels and other forms of warning, material safety data sheets, and information and training. In addition, this section requires distributors to transmit the required information to employers.

110.1(3) Exemption of employers — laboratories. These rules apply to any chemical which is known to be present in the workplace in such a manner that employees may be exposed under normal conditions of use or in a foreseeable emergency.

These rules apply to laboratories only as follows:

a. Employers shall ensure that labels on incoming containers of hazardous chemicals are not removed or defaced;

b. Employers shall maintain any material safety data sheets that are received with incoming shipments of hazardous chemicals, and ensure that they are readily accessible to laboratory employees; and

c. Employers shall ensure that laboratory employees are apprised of the hazards of chemicals in their workplaces in accordance with rule 120.6(88,455D).

110.1(4) Exemption of employers — educational research laboratories. Except for Iowa Code section 455D.9, 530—chapter 120 does not apply to research

laboratories at a public or private educational institution provided the educational research laboratory submits a plan for supervision and handling of hazardous chemicals and for the development of training programs for employees.

a. Components of a plan for research laboratories:

(1) Education training component. A research laboratory shall submit a plan of the supervision and training program for the employees who work in an educational research laboratory. This plan shall be designed to inform the employees in writing and orally of the nature of the hazardous chemicals to which they are exposed during the course of their employment and the potential health risks which the hazardous chemicals pose. Training shall be provided in the proper and safe procedures for handling all categories of hazardous chemicals under all circumstances. It is recognized that, due to the magnitude of the number of hazardous chemicals that the employee will encounter, it is not possible to detail a specific training program for each chemical. The plan is to provide an alternative training for research laboratory employees of the physical and health hazards involved with the chemicals while providing comprehensive training in the areas of the general principles and the methods used for monitoring of exposure levels, the recognition of signs and symptoms of exposure, the scientific procedures for safe handling, and the protective devices that the employee can use in a laboratory setting. Training programs set forth in the plan shall be made available to each new employee and shall have provisions for refresher course at least on an annual basis.

(2) Classification of hazardous chemicals. Educational research laboratories may devise a scheme for the labeling of containers by means of a code or a number system. The code or number system will enable the employee to readily make a cross-reference to a hazardous substance material list and other hazardous chemical reference materials which will provide the employee with the chemical name and information which would normally be contained in an MSDS. An educational research laboratory may also employ a system of classification which would provide standard handling procedures for certain categories of hazardous chemicals where the categories would be determined by both the magnitude and the nature of their physical risks and health hazards. In the event that the educational research laboratory employs a system of standard precautionary handling techniques based on categories of hazardous chemicals, the prescribed safety techniques for each category shall provide the minimum safety requirements for the chemical in that category which requires the greatest degree of precaution.

b. Standard for review. In reviewing the contents of a plan submitted by an educational research laboratory, the applicable standard for approval shall be whether the plan would provide the employee with a commensurate level of knowledge, safety, and precaution required by subrule 530—120.6(2).

c. Procedure. An educational research laboratory meeting the criteria for the exemption set forth in Iowa Code section 455D.11, subsection 2, shall make application for approval of a plan by:

(1) Submitting evidence of the status of the applicant as a research laboratory in conjunction with a private or public educational institution; and

(2) Submitting comprehensive plans meeting the requirements of 110.1(4)“a.” The commissioner may conduct an

LABOR, BUREAU OF[530] (cont'd)

inspection prior to a determination of the plan. The commissioner shall notify the applicant by certified mail of the action upon the application. Any applicant who is aggrieved by the initial decision may:

1. Request a period of sixty days in which to make revisions and resubmit an amended plan; or

2. Request a full evidentiary hearing before the commissioner. Upon notice and hearing, the acceptance or rejection of the plan shall be a final agency action pursuant to Iowa Code chapter 17A.

d. Technically qualified person. A technically qualified person shall be available to observe the techniques used by the employee when handling hazardous chemicals within the designated laboratory area or areas. The technically qualified person shall also be immediately available to assist, advise, and inform employees about the techniques of handling and using hazardous chemicals. A technically qualified person is qualified by virtue of education or experience, has familiarity with all types and classes of hazardous chemicals used within the laboratory and possesses the technical qualifications to serve as a consultant on hazardous chemicals for other employees in the research laboratory.

A technically qualified person shall have a minimum of twenty semester hours in chemistry.

The technically qualified person shall have successfully completed training as specified in 530—120.6(2) and annually shall complete at least eight hours of training as designated and approved in writing by the director or responsible person in charge of the laboratory.

110.1(5) Exemption of employers — agricultural activities and pesticide applicators. Iowa Code section 455D.4 provides an exemption for agricultural activities including certain types of pesticide applicators and dealers. Notwithstanding the exemptions for commercial applicators, certified applicators, certified private applicators, and certified commercial applicators in Iowa Code section 455D.4, subsection 1, the Act shall apply to any employer who has a "misbranded" pesticide as defined in 7 U.S.C. 136(q). The Act shall also apply to any person who uses a hazardous chemical which is not a pesticide registered pursuant to 7 U.S.C. 136a(c) or exempted under 7 U.S.C. 136a(b). Thus, status as a licensed pesticide applicator in and of itself does not exempt an applicator under the Act. The exemption does not apply to Iowa Code section 455D.9.

110.1(6) Exemption of employers — transportation. Iowa Code section 455D.5 provides an exemption to the transportation of hazardous chemicals if the transportation and means of transportation is regulated by federal law or regulation. The exemption does not apply to Iowa Code section 455D.9. For purposes of this section, chemicals shall be deemed in transportation if:

a. The means of transportation is via land surface and the chemical is in the actual physical possession of a carrier and not in the possession or control of the consignee;

b. The means of transportation is via water, and the vessel transporting the chemical is underway and not secured in the possession or control of the consignee; or

c. The means of transportation is via air, whenever the hazardous chemical is in the possession of the carrier and not in the possession or control of the consignee.

110.1(7) Exemptions. This chapter and 530—120 do not require labeling of the following chemicals:

a. Any pesticide as such term is defined in the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136

et seq.), when subject to the labeling requirements of the Act and labeling regulations issued under that Act by the Environmental Protection Agency;

b. Any food, food additive, color additive, drug, or cosmetic, including materials intended for use as ingredients in such products (e.g., flavors and fragrances), as such terms are defined in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) and regulations issued under that Act, when they are subject to the labeling requirements of that Act and labeling regulations issued under that Act by the Food and Drug Administration;

c. Any distilled spirits (beverage alcohols), wine, or malt beverage intended for nonindustrial use, as such terms are defined in the Federal Alcohol Administration Act (27 U.S.C. 201 et seq.) and regulation issued under that Act, when subject to the labeling requirements of that Act and labeling regulations issued under that Act by the Bureau of Alcohol, Tobacco, and Firearms; and

d. Any consumer product or hazardous substance as those terms are defined in the Consumer Product Safety Act (15 U.S.C. 2051 et seq.) and Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) respectively, when subject to a consumer product safety standard or labeling requirement of those Acts, or regulations issued under those Acts by the Consumer Product Safety Commission.

e. These rules do not apply to:

1. Any hazardous waste as such term is defined by the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6901 et seq.), when subject to regulations issued under that Act by the Environmental Protection Agency;

2. Tobacco or tobacco products;

3. Wood or wood products;

4. Articles; and

5. Foods, drugs, or cosmetics intended for personal consumption by employees while in the workplace.

530—110.2(88,455D) Definitions.

"Act" means the hazardous chemical risk right to know Act, Iowa Code chapter 455D.

"Article" means a manufactured item:

1. Which is formed to a specific shape or design during manufacture;

2. Which has end use function(s) dependent in whole or in part upon its shape or design during end use; and

3. Which does not release, or otherwise result in exposure to, a hazardous chemical under normal conditions of use.

"Bureau" means the Iowa bureau of labor.

"Chemical" means any element, chemical compound or mixture of elements or compounds.

"Chemical manufacturer" means an employer with a workplace where chemical(s) are produced for use or distribution.

"Chemical name" means the scientific designation of a chemical in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry (IUPAC) or the Chemical Abstracts Service (CAS) rules of nomenclature, or name which will clearly identify the chemical for the purpose of conducting a hazard evaluation.

"Combustible liquid" means any liquid having a flashpoint at or above 100°F (37.8°C), but below 200°F (93.3°C), except any mixture having components with flashpoints of 200°F (93.3°C), or higher, the total volume of which

LABOR, BUREAU OF [530] (cont'd)

makes up ninety-nine percent or more of the total volume of the mixture.

"Commissioner" means the labor commissioner or designee.

"Common name" means any designation or identification such as code name, code number, trade name, brand name or generic name used to identify a chemical other than by chemical name.

"Compressed gas" means:

1. A gas or mixture of gases having, in a container, an absolute pressure exceeding 40 psi at 70°F (21.1°C);

2. A gas or mixture of gases having, in a container, an absolute pressure exceeding 104 psi at 130°F (54.4°C) regardless of the pressure at 70°F (21.1°C); or

3. A liquid having a vapor pressure exceeding 40 psi at 100°F (37.8°C) as determined by ASTM D-323-72.

"Container" means any bag, barrel, bottle, box, can, cylinder, drum, reaction vessel, storage tank, or the like that contains a hazardous chemical. For purposes of this section, pipes or piping systems are not considered to be containers.

"Designated representative" means an individual or organization to whom an employee gives written authorization to exercise such employee's rights under 530—chapter 120. A recognized or certified collective bargaining agent shall be treated automatically as a designated representative without regard to written employee authorization.

"Distributor" means a business, other than a chemical manufacturer or importer, which supplies hazardous chemical to other distributors or to manufacturing purchasers.

"Educational research laboratory" means a specially designed area used primarily for research development and testing activity in conjunction with a public or private educational institution and which is not primarily involved in the production of goods for commercial sale in which hazardous chemicals are used by or under the direct supervision of a technically qualified person.

"Emergency response department" means any governmental department or nonprofit volunteer association of state certified emergency medical technicians which might be reasonably expected to be required to respond to an emergency involving a hazardous chemical, including, but not limited to, local fire, police, medical rescue, disaster and public health departments.

"Employee" means an individual employed by an employer in a workplace in this state who may be exposed to hazardous chemicals under normal operating conditions or foreseeable emergencies.

"Employer" means a person engaged in a business in this state where chemicals are either used, or produced for use or distribution.

"Explosive" means a chemical that causes a sudden, almost instantaneous release of pressure, gas, and heat when subjected to sudden shock, pressure, or high temperature.

"Exposure" or "exposed" means that an employee is subjected to a hazardous chemical in the course of employment through any route of entry (inhalation, ingestion, skin contact or absorption, etc.), and includes potential (e.g., accidental or possible) exposure.

"Flammable" means a chemical that falls into one of the following categories:

1. "Aerosol, flammable" means an aerosol that, when tested by the method described in 16 CFR 1500.45, yields a flame projection exceeding 18 inches at full valve

opening, or a flashback (a flame extending back to the valve) at any degree of valve opening;

2. "Gas, flammable" means:

A gas that, at ambient temperature and pressure, forms a flammable mixture with air at a concentration of thirteen percent by volume or less; or

A gas that, at ambient temperature and pressure, forms a range of flammable mixtures with air wider than twelve percent of volume, regardless of the lower limit;

3. "Liquid, flammable" means any liquid having a flashpoint below 100°F (37.8°C), except any mixture having components with flashpoints of 100°F (37.8°C) or higher, the total of which make up ninety-nine percent or more of the total volume of the mixture.

4. "Solid, flammable" means a solid, other than a blasting agent or explosive as defined in subsection 29 C.F.R. 1910.109(a), that is liable to cause fire through friction, absorption of moisture, spontaneous chemical change, or retained heat from manufacturing or processing, or which can be ignited readily and when ignited burns so vigorously and persistently as to create a serious hazard. A chemical shall be considered to be a flammable solid if, when tested by the method described in 16 C.F.R. 1500.44, it ignites and burns with a self-sustained flame at a rate greater than one-tenth of an inch per second along its major axis.

"Flashpoint" means the minimum temperature at which a liquid gives off a vapor in sufficient concentration to ignite when tested as follows:

1. Tagliabue Closed Tester (See American National Standard Method of Test for Flash Point by Tag Closed Tester, Z11.24-1979 (ASTM D 56-79)) for liquids with a viscosity of less than 45 Saybolt Universal Seconds (SUS) at 100°F (37.8°C), that do not contain suspended solids and do not have a tendency to form a surface film under test; or

2. Pensky-Martens Closed Tester (see American National Standard Method of Test for Flash Point by Pensky-Martens Closed Tester, Z11.7-1979 (ASTM D 93-79)) for liquids with a viscosity equal to or greater than 45 SUS at 100°F (37.8°C), or that contain suspended solids, or that have a tendency to form a surface film under test; or

3. Setaflash Closed Tester (see American National Standard Method of Test for Flash Point by Setaflash Closed Tester (ASTM D 3278-78)).

Organic peroxides, which undergo autoaccelerating thermal decomposition, are excluded from any of the flashpoint determination methods specified above.

"Foreseeable emergency" means any potential occurrence such as, but not limited to, equipment failure, rupture of containers, or failure of control equipment which could result in an uncontrolled release of a hazardous chemical into the workplace.

"Hazard warning" means any words, pictures, symbols, or combination thereof appearing on a label or other appropriate form of warning which convey the hazards of the chemical(s) in the container(s).

"Hazardous chemical" means any chemical which is a physical hazard or a health hazard.

"Health hazard" means a chemical for which there is statistically significant evidence based on at least one study conducted in accordance with established scientific principles that acute or chronic health effects may occur in exposed employees. The term "health hazard" includes chemicals which are carcinogens, toxic or highly toxic agents, reproductive toxins, irritants, corrosives, sen-

LABOR, BUREAU OF [530] (cont'd)

sitizers, hepatoxins, nephrotoxins, neurotoxins, agents which act on hematopoietic system, and agents which damage the lungs, skin, eyes, or mucous membranes. Appendix A (available from the bureau) provides further definitions and explanations of the scope of health hazards covered by this rule, and Appendix B (available from the bureau) describes the criteria to be used to determine whether or not a chemical is to be considered hazardous for purposes of this chapter.

"Identity" means any chemical or common name which is indicated on the material safety data sheet (MSDS) for the chemical. The identity used shall permit cross-references to be made among the required list of hazardous chemicals, the label and the MSDS.

"Immediate use" means that the hazardous chemical will be under the control of and used only by the person who transfers it from a labeled container and only within the work shift in which it is transferred.

"Importer" means the first business with employees within the Customs Territory of the United States which receives hazardous chemicals produced in other countries for the purpose of supplying them to distributors or manufacturing purchasers within the United States. INFORMATION IN SUFFICIENT SPECIFICITY, OPTION NO. 1.

"Information in sufficient specificity" shall include, but not be limited to the following:

1. A plane view scale diagram for each facility of the employer presented upon an eight and one-half inch by eleven inch sheet of paper which shows the permanent location of each hazardous chemical within the employer's facility, as well as easily recognizable reference points such as doorways, stairways, and windows. The scale of the diagram shall also be shown. If the employer's facility has more than one floor, a diagram shall be submitted for each floor.

2. For each hazardous chemical on the list submitted to the fire department, the employer shall indicate all known toxic or hazardous by-products of combustion which shall include all information concerning combustion by-products from the MSDS(s) available to the employer.

3. For each hazardous chemical which appears on the list submitted to the fire department, the employer shall indicate any information which would constitute a "special hazard" pursuant to chapter 5 of NFPA 704-1980.

4. A list of hazardous chemicals which are consistently generated by, used by, stored at or transported from the employer's facility.

INFORMATION IN SUFFICIENT SPECIFICITY, OPTION NO. 2.

"Information in sufficient specificity" means list of hazardous chemicals which are consistently generated by, used by, stored at, or transported from the employer's facility which includes:

1. Information presented on the Material Safety Data Sheet, and

2. The NFPA numerical hazard rating in health, flammability, and reactivity as well as any information which constitutes a special hazard pursuant to chapter 5 of NFPA 704-1980. Employers may also post international hazardous material symbols in this space such as the skull and crossbones to indicate a poisonous material.

"Interagency council" means the hazardous chemicals information interagency coordinating council established in Iowa Code section 455D.16.

"Interested person" means any person who is not an employee of the employer from whom information has been requested.

"Label" means any written, printed, or graphic material displayed on or affixed to containers of hazardous chemicals.

"Material safety data sheet (MSDS)" means written or printed material concerning a hazardous chemical which is prepared in accordance with rule 530—120.5(88,455D).

"Mixture" means any combination of two or more chemicals if the combination is not, in whole or in part, the result of a chemical reaction.

"Organic peroxide" means an organic compound that contains the bivalent-O-O-structure and which may be considered to be a structural derivative of hydrogen peroxide where one or both of the hydrogen atoms has been replaced by an organic radical.

"Oxidizer" means a chemical other than a blasting agent or explosive as defined in 530—10.20(88), specifically 29 C.F.R. 1919.109(a), that initiates or promotes combustion in other materials thereby causing fire either of itself or through the release of oxygen or other gases.

"Permanently stored hazardous material" means a substance that is located in an area designated by the employer or located in an area which is established through common use and practice as being the location where the hazardous chemical is stored or can be obtained.

"Physical hazard" means a chemical for which there is scientifically valid evidence that it is a combustible liquid, a compressed gas, explosive, flammable, an organic peroxide, an oxidizer, pyrophoric, unstable (reactive) or water-reactive.

"Produce" means to manufacture, process, formulate, or repackage.

"Purchaser" means an employer with a workplace in this state who purchases a hazardous chemical for use within that workplace.

"Pyrophoric" means a chemical that will ignite spontaneously in air at a temperature of 130°F (54.4°C) or below.

"Responsible party" means someone who can provide additional information on the hazardous chemical and appropriate emergency procedures, if necessary. A chemical manufacturer or importer shall be deemed a responsible party.

"Review commission" means Iowa occupational safety and health review commission established at Iowa Code section 88.10.

"Specific chemical identity" means the chemical name, Chemical Abstracts Service (CAS) Registry Number, or any other information that reveals the precise chemical designation of the substance.

"Technically qualified person" means an individual who meets the qualifications specified in 110.1(4)"d."

"Trade secret" means any confidential formula, pattern, process, device, information or compilation of information (including chemical name or other unique chemical identifier) that is used in an employer's business, and that gives the employer an opportunity to obtain an advantage over competitors who do not know or use it.

"Unstable (reactive)" means a chemical which in the pure state, or a produced or transported, will vigorously polymerize, decompose, condense, or will become self-reactive under conditions of shocks pressure or temperature.

"Use" means to package, handle, react, or transfer.

LABOR, BUREAU OF[530] (cont'd)

"Water-reactive" means a chemical that reacts with water to release a gas that is either flammable or presents a health hazard.

"Work area" means a room or defined space in a workplace where hazardous chemicals are produced or used, and where employees are present.

"Workplace" means an establishment at one geographical location containing one or more work areas.

530—110.3(88,455D) Hazard determination.

110.3(1) Chemical manufacturers and importers shall evaluate chemicals produced in their workplaces or imported by them to determine if they are hazardous. Employers are not required to evaluate chemicals unless they choose not to rely on the evaluation performed by the chemical manufacturer or importer for the chemical to satisfy this requirement. Employers who mix or otherwise combine chemicals are chemical manufacturers of that resultant chemical.

110.3(2) Chemical manufacturers, importers or employers evaluating chemicals shall identify and consider the available scientific evidence concerning such hazards. For health hazards, evidence which is statistically significant and which is based on at least one positive study conducted in accordance with established scientific principles is considered to be sufficient to establish a hazardous effect if the results of the study meet the definitions of health hazards in rule 110.2(88,455D). Appendix A (available from the bureau) shall be consulted for the scope of health hazards covered, and Appendix B (available from the bureau) shall be consulted for the criteria to be followed with respect to the completeness of the evaluation, and the data to be reported.

110.3(3) The chemical manufacturer, importer or employer evaluating chemicals shall treat the following sources as establishing that the chemicals listed in them are hazardous:

a. 29 CFR Part 1910, Subpart Z, Toxic and Hazardous Substances, Occupational Safety and Health Administration (OSHA); or

b. "Threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment," American Conference of Government Industrial Hygienists (ACGIH)(1985 edition).

The chemical manufacturer, importer, or employer is still responsible for evaluating the hazards associated with the chemicals in these source lists in accordance with the requirements of the standard.

110.3(4) Chemical manufacturers, importers and employers evaluating chemicals shall treat the following sources as establishing that a chemical is a carcinogen or potential carcinogen for hazard communication purposes:

a. National Toxicology Program (NTP), "Annual Report on Carcinogens" (latest edition);

b. International Agency for Research on Cancer (IARC) Monographs (latest editions); or

c. 29 CFR Part 1910, Subpart Z, Toxic and Hazardous Substances, Occupational Safety and Health Administration.

NOTE.—The "Registry of Toxic Effects of Chemical Substances" published by the National Institute for Occupational Safety and Health indicates whether a chemical has been found by NTP or IARC to be a potential carcinogen. The original document referenced in RTECS must be consulted in all instances. RTECS should be regarded as a locator document only.

110.3(5) The chemical manufacturer, importer or employer evaluating chemicals shall determine the hazards of mixtures of chemicals as follows:

a. If a mixture has been tested as a whole to determine its hazards, the results of such testing shall be used to determine whether the mixture is hazardous;

b. If a mixture has not been tested as a whole to determine whether the mixture is a health hazard, the mixture shall be assumed to present the same health hazards as do the components which comprise one percent (by weight or volume) or greater of the mixture, except that the mixture shall be assumed to present a carcinogenic hazard if it contains a component in concentrations of 0.1 percent or greater which is considered to be a carcinogen under subrule 110.3(4);

c. If a mixture has not been tested as a whole to determine whether the mixture is a physical hazard, the chemical manufacturer, importer, or employer may use whatever scientifically valid data is available to evaluate the physical hazard potential of the mixture; and

d. If the employer has evidence to indicate that a component present in the mixture in concentrations of less than one percent (or in the case of carcinogens, less than 0.1 percent) could be released in concentrations which would exceed an established bureau (OSHA) permissible exposure limit or ACGIH Threshold Limit Value or Short-Term Exposure Level, or could present a health hazard to employees in those concentrations, the mixture shall be assumed to present the same hazard.

110.3(6) Chemical manufacturers, importers, or employers evaluating chemicals shall describe in writing the procedures they use to determine the hazards of the chemical they evaluate. The procedures shall be made available as specified in subrule 530—120.2(2).

530—110.4(88,455D) Labels and other forms of warning.

110.4(1) The chemical manufacturer, importer, or distributor shall ensure that each container of hazardous chemicals leaving the workplace is labeled, tagged or marked with the following information:

a. Identity of the hazardous chemical(s);

b. Appropriate hazard warnings; and

c. Name and address of the chemical manufacturer, importer, or other responsible party.

110.4(2) Chemical manufacturers, importers, or distributors shall ensure that each container of hazardous chemicals leaving the workplace is labeled, tagged, or marked in accordance with this rule in a manner which does not conflict with the requirements of the Hazardous Materials Transportation Act (18 U.S.C. 1801 et seq.) and regulations issued under that Act by the Department of Transportation.

110.4(3) If the hazardous chemical is regulated by the bureau in an OSHA substance-specific health standard, the chemical manufacturer, importer, distributor or employer shall ensure that the labels or other forms of warning used are in accordance with the requirements of that standard.

110.4(4) The chemical manufacturer, importer, distributor or employer need not affix new labels to comply with this rule or 530—120.4(88,455D) if existing labels already convey the required information.

530—110.5(88,455D) Material safety data sheets.

110.5(1) Chemical manufacturers and importers shall obtain or develop a material safety data sheet for each hazardous chemical they produce or import.

LABOR, BUREAU OF[530] (cont'd)

110.5(2) Each material safety data sheet shall be in English and shall contain at least the following information:

a. The identity used on the label, and except as provided for in rule 110.6(88,455D) on trade secrets:

(1) If the hazardous chemical is a single substance, its chemical and common name(s);

(2) If the hazardous chemical is a mixture which has been tested as a whole to determine its hazards, the chemical and common name(s) of the ingredients which contribute to these known hazards, and the common name(s) of the mixture itself; or

(3) If the hazardous chemical is a mixture which has not been tested as a whole:

1. The chemical and common name(s) of all ingredients which have been determined to be health hazards, and which comprise one percent or greater of the composition, except that chemicals identified as carcinogens under subrule 110.3(4) shall be listed if the concentrations are 0.1 percent or greater; and,

2. The chemical and common name(s) of all ingredients which have been determined to present a physical hazard when present in the mixture;

b. Physical and chemical characteristics of the hazardous chemical (such as vapor pressure, flash point);

c. The physical hazards of the hazardous chemical, including the potential for fire, explosion, and reactivity;

d. The health hazards of the hazardous chemical, including signs and symptoms of exposure, and any medical conditions which are generally recognized as being aggravated by exposure to the chemical;

e. The primary route(s) of entry;

f. The bureau's (OSHA) permissible exposure limit, ACGIH Threshold Limit Value or Short-Term Exposure Level, and any other exposure limit used or recommended by the chemical manufacturer, importer, or employer preparing the material safety data sheet, where available;

g. Whether the hazardous chemical is listed in the National Toxicology Program (NTP) "Annual Report on Carcinogens" (latest edition) or has been found to be a potential carcinogen in the International Agency for Research on Cancer (IARC) "Monographs" (latest editions), by the bureau, or interagency council;

h. Any generally applicable precautions for safe handling and use which are known to the chemical manufacturer, importer or employer preparing the material safety data sheet, including appropriate hygienic practices, protective measures during repair and maintenance of contaminated equipment, and procedures for clean-up of spills and leaks;

i. Any generally applicable control measures which are known to the chemical manufacturer, importer or employer preparing the material safety data sheet, such as appropriate engineering controls, work practices, or personal protective equipment;

j. Emergency and first-aid practices;

k. The date of preparation of the material safety data sheet or the last change to it; and

l. The name, address and telephone number of the chemical manufacturer, importer, employer or other responsible party preparing or distributing the material safety data sheet, who can provide additional information on the hazardous chemical and appropriate emergency procedures, if necessary.

110.5(3) If no relevant information is found for any given category on the material safety data sheet, the chemical manufacturer, importer or employer preparing

the material safety data sheet shall mark it to indicate that no applicable information was found.

110.5(4) Where complex mixtures have similar hazards and contents (i.e., the chemical ingredients are essentially the same, but the specific composition varies from mixture to mixture), the chemical manufacturer, importer or employer may prepare one material safety data sheet to apply to all of these similar mixtures.

110.5(5) The chemical manufacturer, importer or employer preparing the material safety data sheet shall ensure that the information recorded accurately reflects the scientific evidence used in making the hazard determination. If the chemical manufacturer, importer or employer become newly aware of any significant information regarding the hazards of a chemical, or ways to protect against the hazards, this new information shall be added to the material safety data sheet within three months. If the chemical is not currently being produced or imported the chemical manufacturer or importer shall add the information to the material safety data sheet before the chemical is introduced into the workplace again.

110.5(6) Chemical manufacturers or importers shall ensure that distributors and purchasers of hazardous chemicals are provided an appropriate material safety data sheet with their initial shipment, and with the first shipment after a material safety data sheet is updated. The chemical manufacturer or importer shall either provide material safety data sheets with the shipped containers or send them to the purchaser prior to or at the time of the shipment. If the material safety data sheet is not provided with the shipment, the purchaser shall obtain one from the chemical manufacturer, importer, or distributor as soon as possible.

110.5(7) Distributors shall ensure that material safety data sheets, and updated information, are provided to other distributors and purchasers of hazardous chemicals.

530—110.6(88,455D) Trade secrets.

110.6(1) The chemical manufacturer, importer or employer may withhold the specific chemical identity, including the chemical name and other specific identification of a hazardous chemical, from the material safety data sheet, provided that:

a. The claim that the information withheld is a trade secret can be supported;

b. Information contained in the material safety data sheet concerning the properties and effects of the hazardous chemical is disclosed;

c. The material safety data sheet indicates that the specific chemical identity is being withheld as a trade secret; and

d. The specific chemical identity is made available to health professionals, in accordance with the applicable provisions of this rule.

110.6(2) Where a treating physician or nurse determines that a medical emergency exists and the specific chemical identity of a hazardous chemical is necessary for emergency or first-aid treatment, the chemical manufacturer, importer, or employer shall immediately disclose the specific chemical identity of a trade secret chemical to that treating physician or nurse, regardless of the existence of a written statement of need or a confidentiality agreement. The chemical manufacturer, importer, or employer may require a written statement of need and confidentiality agreement, in accordance with the provisions of subrules 110.6(3) and 110.6(4), as soon as circumstances permit.

LABOR, BUREAU OF[530] (cont'd)

110.6(3) In nonemergency situations, a chemical manufacturer, importer, or employer shall, upon request, disclose a specific chemical identity, otherwise permitted to be withheld under subrule 110.6(1), to a health professional (i.e., physician, industrial hygienist, toxicologist, or epidemiologist) providing medical or other occupational health services to exposed employee(s) if:

a. The request is in writing;
 b. The request describes with reasonable detail one or more of the following occupational health needs for the information:

(1) To assess the hazards of the chemicals to which employees will be exposed;

(2) To conduct or assess sampling of the workplace atmosphere to determine employee exposure levels;

(3) To conduct preassignment of periodic medical surveillance of exposed employees;

(4) To provide medical treatment to exposed employees;

(5) To select or assess appropriate personal protective equipment for exposed employees;

(6) To design or assess engineering controls or other protective equipment for exposed employees; and

(7) To conduct studies to determine the health effects of exposure.

c. The request explains in detail why the disclosure of the specific chemical identity is essential and that, in lieu thereof, the disclosure of the following information would not enable the health professional to provide the occupational health services described in 110.6(3)"b":

(1) The properties and effects of the chemical;

(2) Measures for controlling worker's exposure to the chemical;

(3) Methods of monitoring and analyzing worker exposure to the chemical; and

(4) Methods of diagnosing and treating harmful exposures to the chemical;

d. The request includes a description of the procedures to be used to maintain the confidentiality of the disclosed information; and

e. The health professional, and the employer or contractor of the health professional's services (i.e., downstream employer, labor organization, or individual employer), agree in a written confidentiality agreement that the health professional will not use the trade secret information for any purpose other than the health need(s) asserted and agree not to release the information under any circumstances other than to the bureau, as provided in subrule 110.6(6), except as authorized by the terms of the agreement or by the chemical manufacturer, importer, or employer.

110.6(4) The confidentiality agreement authorized by 110.6(3)"d":

a. May restrict the use of the information to the health purposes indicated in the written statement of need;

b. May provide appropriate legal remedies in the event of a breach of the agreement, including stipulation of a reasonable pre-estimate of likely damages; and

c. May not include requirements for the posting of a penalty bond.

110.6(5) Nothing in 530—chapters 110 and 120 is meant to preclude the parties from pursuing noncontractual remedies to the extent permitted by law.

110.6(6) If the health professional receiving the trade secret information decides that there is a need to disclose it to the bureau, the chemical manufacturer, importer, or employer who provided the information shall be informed by the health professional prior to, or at the same time as, the disclosure.

110.6(7) If the chemical manufacturer, importer, or employer denies a written request for disclosure of a specific chemical identity, the denial must:

a. Be provided to the health professional within thirty days of the request;

b. Be in writing;

c. Include evidence to support the claim that the specific chemical identity is a trade secret;

d. State the specific reasons why the request is being denied; and

e. Explain in detail how alternative information may satisfy the specific medical or occupational health need without revealing the specific chemical identity.

110.6(8) The health professional whose request for information is denied under subrule 110.6(3) may refer the request and the written denial of the request to the bureau for consideration.

110.6(9) When a health professional refers the denial to the bureau under subrule 110.6(8), the bureau shall consider the evidence to determine if:

a. The chemical manufacturer, importer, or employer has supported the claim that the specific chemical identity is a trade secret;

b. The health professional has supported the claim that there is a medical or occupational health need for the information; and

c. The health professional has demonstrated adequate means to protect the confidentiality.

110.6(10) If the bureau determines that the specific chemical identity requested under subrule 110.6(3) is not a bona fide trade secret, or that it is a trade secret, or that it is a trade secret but the requesting health professional has a legitimate medical or occupational health need for the information, has executed a written confidentiality agreement, and has shown adequate means to protect the confidentiality of the information, the chemical manufacturer, importer, or employer will be subject to citation by the bureau.

If a chemical manufacturer, importer, or employer demonstrates to the bureau that the execution of a confidentiality agreement would not provide sufficient protection against the potential harm from the unauthorized disclosure of a trade secret specific chemical identity, the commissioner may issue an order or impose additional limitations or conditions upon the disclosure of the requested chemical information as may be appropriate to assure that the occupational health services are provided without an undue risk of harm to the chemical manufacturer, importer, or employer.

110.6(11) If following the issuance of a citation and any protective orders, the chemical manufacturer, importer, or employer continues to withhold the information, the matter is referable to the review commission for enforcement of the citation. In accordance with review commission rules, the review commission may review the citation and supporting documentation in camera or issue appropriate protective orders.

110.6(12) Notwithstanding the existence of a trade secret claim, a chemical manufacturer, importer, or employer shall, upon request, disclose to the commissioner any information which this rule requires the chemical manufacturer, importer, or employer to make available. Where there is a trade secret claim, the claim shall be made no later than at the time the information is provided to the commissioner so that suitable determinations of trade secret status can be made and the necessary protections can be implemented.

LABOR, BUREAU OF[530] (cont'd)

110.6(13) Nothing in this rule shall be construed as requiring disclosure under any circumstances of process or percentage of mixture information which is a trade secret.

530—110.7(88,455D) Effective dates. Compliance with this chapter shall be achieved within the following time periods:

1. Chemical manufacturers and importers shall label containers of hazardous chemicals leaving their workplaces, and provide material safety data sheets with initial shipments by November 25, 1985.

2. Distributors shall be in compliance with all provisions of this chapter applicable to them by November 25, 1985.

3. Employers shall be in compliance with all provisions of this chapter by May 25, 1986.

These rules are intended to implement Iowa Code sections 455D.4, 455D.5, 455D.8 and 455D.11.

Chapters 111 to 119, Reserved.

CHAPTER 120 WORKER RIGHT TO KNOW

530—120.1(88,455D) Worker right to know. The provisions of this chapter relate to all employers to the extent not exempted by subrules 530—110.1(2) and 110.1(3) or rule 530—120.8(455D). To the extent an employer is a chemical manufacturer and has information relative to trade secrets, the rules in 530—chapter 110 are also applicable to employers. The employer's duty shall extend to a person who would normally be deemed an independent contractor, in circumstances where the employer furnishes or specifies that a hazardous chemical shall be used at the workplace. The employer-contractor relationship does not include those situations when a client, patient, customer or other person obtains professional services from a licensed person on a fee service basis.

530—120.2(88,455D) Hazard determination. Procedures for hazard determinations are at rule 530—110.3(88,455D).

120.2(1) Employers are not required to evaluate chemicals unless they choose not to rely on the evaluation performed by the chemical manufacturer or importer for the chemical.

120.2(2) The written procedures describing the procedures used to determine the hazards of the chemical prepared by the chemical manufacturers, importers, or employers are to be made available, upon request, to employees, their designated representatives, and the commissioner. The written description may be incorporated into the written hazard communication program required under rule 120.3(88,455D).

530—120.3(88,455D) Written hazard communication program.

120.3(1) Employers shall develop and implement a written hazard communication program for their workplaces which at least describes how the criteria specified in rules 530—110.4(88,455D), 110.5(88,455D), and 120.4(88,455D) to 120.6(88,455D) for labels and other forms of warning, material safety data sheets, and employee information and training will be met, and shall also include the following:

a. A list of the hazardous chemicals known to be present using an identity that is referenced on the appropriate material safety data sheet (the list may be compiled for the workplace as a whole or for individual work areas);

b. The methods the employer will use to inform employees of the hazards of nonroutine tasks (for example, the cleaning of reactor vessels), and the hazards associated with chemicals contained in unlabeled pipes in their areas; and

c. The methods the employer will use to inform any contractor employers with employees working in the employer's workplace of the hazardous chemical their employees may be exposed to while performing their work, and any suggestions for appropriate protective measures.

120.3(2) The employer may rely on an existing hazard communication program to comply with these requirements, provided that it meets the criteria established in rule 120.3(88,455D).

120.3(3) The employer shall make the written hazard communication program available, upon request, to employees, their designated representatives and the commissioner during working hours, in accordance with the requirements with rule 530—10.20(88), specifically 29 C.F.R. 1910.20(e). The employer shall indicate upon the poster furnished by the bureau under rule 120.7(88,455D) the specific location of the written hazard communication program at the employer's worksite.

530—120.4(88,455D) Labels and other forms of warning. Procedures for labels and other forms of warnings are at 530—110.4(88,455D).

120.4(1) Except as provided in subrules 120.4(2) and 120.4(3), the employer shall ensure that each container of hazardous chemicals in the workplace is labeled, tagged, or marked with the following information:

a. Identity of the hazardous chemical(s) contained therein, and

b. Appropriate hazard warnings.

120.4(2) The employer may use signs, placards, process sheets, batch tickets, operating procedures, or other such written materials in lieu of affixing labels to individual stationary process containers, as long as the alternative method identifies the containers to which it is applicable and conveys the information required by subrule 120.4(1) to be on a label. The written materials shall be readily accessible to the employees in their work area throughout each work shift.

120.4(3) The employer is not required to label portable containers into which hazardous chemicals are transferred from labeled containers, and which are intended only for the immediate use of the employee who performs the transfer.

120.4(4) The employer shall not remove or deface existing labels on incoming containers of hazardous chemicals, unless the container is immediately marked with the required information.

120.4(5) The employer shall ensure that labels or other forms of warning are legible, in English, and prominently displayed on the container, or readily available in the work area throughout each work shift. Employers having employees who speak other languages may add the information in their language to the material presented, as long as the information is presented in English as well.

530—120.5(88,455D) Material safety data sheets procedures are at 530—110.5(88,455D).

120.5(1) Employers shall have a material safety data sheet for each hazardous chemical which they use.

120.5(2) The employer shall maintain copies of the required material safety data sheets for each hazardous

LABOR, BUREAU OF[530] (*cont'd*)

chemical in the workplace, and shall ensure that they are readily accessible during each work shift to employees when they are in their work area(s).

120.5(3) Material safety data sheets may be kept in any form, including operating procedures, and may be designed to cover groups of hazardous chemicals in a work area where it may be more appropriate to address the hazards of a process rather than individual hazardous chemicals. However, the employer shall ensure that in all cases the required information is provided for each hazardous chemical, and is readily accessible during each work shift to employees when they are in their work area(s).

120.5(4) Material safety data sheets shall also be made readily available, upon request, to designated representatives, and to the commissioner, in accordance with the requirements of rule 530—10.20(88), specifically 29 C.F.R. 1910.20(e).

530—120.6(88,455D) Employee information and training. Employers shall provide employees with information and training on hazardous chemicals in their work area at the time of their initial assignment, and whenever a new hazard is introduced into their work area.

120.6(1) Information. Employees shall be informed of:

- a. The requirements of 530—chapters 110 and 120;
- b. Any operations in their work area where hazardous chemicals are present; and
- c. The location and availability of the written hazard communication program, including the required list(s) of hazardous chemicals, and material safety data sheets required by this chapter.

120.6(2) Training. Employee training shall include at least:

- a. Methods and observations that may be used to detect the presence or release of hazardous chemicals in the work area (such as monitoring conducted by the employer, continuous monitoring devices, visual appearance or odor of hazardous chemicals when being released, etc.);
- b. The physical and health hazards of the chemicals in the work area including the effects of chronic and acute exposure;
- c. The measures employees can take to protect themselves from these hazards, including specific procedures the employer has implemented to protect employees from exposure to hazardous chemicals, such as appropriate work practices, emergency procedures, personal protective equipment to be used and a description of any biological monitoring program (such as blood leads); and
- d. The details of the hazard communication program developed by the employer, including an explanation of the labeling system and the material safety data sheet, and how employees can obtain and use the appropriate hazard information.

120.6(3) Training format. The employer may present the training program to the employee in any format; however the employer shall preserve a written summary and synopsis of the training, a cassette tape recording of an oral presentation, or a video tape recording of an audio video presentation of the training relied upon by the employer for compliance with subrule 120.6(2), and shall allow employees and their designated representatives access to the written synopsis, tape recording, or video tape recording for purposes of review.

120.6(4) Review by the bureau. The training program shall be available for review and approval upon inspection by the bureau. Upon request by the commissioner, the

employer shall make available the written synopsis, cassette tape recording, or video tape recording used or prepared by the employer. The commissioner may conduct an inspection to review an actual training program or review the employer's records of a training program.

120.6(5) Training exemption. This rule does not apply to an employee employed by a retail sector employer within Standard Industrial Classification (SIC) codes 53 and 54 provided the hazardous chemical is a consumer product as that term is defined in the Consumer Product Safety Act (15 U.S.C. 2015 et seq.), the employee only handles the packaged consumer product for sale purposes, and the employee does not use the chemical in the course of employment.

530—120.7(88,445D) Posting of notices, availability of the Act and rules. In addition to the notices required in subrule 530—3.1(1), the employer shall post and keep posted a separate notice furnished by the bureau informing the employees of the protections and obligations of the Act and rules which shall also be posted and maintained in the same manner as IOSH notices set forth in subrule 3.1(1). The notice shall be available as set forth in subrule 3.1(3).

530—120.8(88,455D) Discrimination. Iowa Code section 455D.9 provides that the employer shall not discharge or in any other manner discriminate against an employee because the employee has filed a complaint, brought an action under the Act, or has co-operated in bringing an action against an employer.

120.8(1) Complaint procedure. An employee shall file a written complaint to the bureau setting forth the alleged violation of Iowa Code section 455D.9 within thirty days of the alleged violation.

120.8(2) Unprotected activity — employer action predicated on nondiscriminatory grounds. Actions taken by an employer or others which adversely affect an employee may be predicated upon nondiscriminating grounds. An employee's engagement in activities protected by the Act does not automatically render an employee free from discharge or discipline for legitimate reasons or from adverse actions dictated by nonprohibitive considerations. The protection only applies when an adverse action occurs because the employee has engaged in a protected activity.

120.8(3) Substantial reason standard. To establish a violation of Iowa Code section 455D.9, the employee's engagement in protected activity need not be the sole consideration behind discharge or other adverse action. If the protected activity was a substantial reason for the action or if a discharge or other adverse action would not have taken place "but for" engagement protected activity, Iowa Code section 455D.9 has been violated. Ultimately the issues as to whether a discharge was because of protected activity will be determined on the basis of the facts of the particular case.

120.8(4) Procedure. Upon receipt of a written complaint, the commissioner shall commence an investigation to determine whether the provisions of Iowa Code section 455D.9 have been violated. If the commissioner determines a violation has occurred, the commissioner shall bring an action in the appropriate district court against the employer.

530—120.9(88,455D) Conduct of inspections.

120.9(1) Inspection of records. In addition to rule 530—3.5(88), compliance safety and health officers shall have the authority to examine material safety data sheets,

LABOR, BUREAU OF[530] (cont'd)

hazard communication program, hazard chemical lists submitted to the fire department, and information in sufficient specificity furnished to fire departments. However, noncompliance with the provisions of 530—chapter 130, community right to know, and 530—chapter 140, emergency response right to know, of the Act, shall not be grounds for the compliance safety and health officer to issue a citation.

120.9(2) Trade secrets, exemption and procedure. When at the commencement of an inspection, the employer identifies a hazardous chemical or mixture as a trade secret, the compliance safety and health officer shall label all information obtained in such areas which could reveal the trade secret, including all negatives and prints or photographs, and specific chemical identity as "confidential-trade/government secrets" and shall not disclose the chemical identity except in accordance with the provisions of Iowa Code section 88.12. The employer shall have the burden of proof to demonstrate to the compliance safety and health officer that the hazardous chemical can be qualified as a trade secret and meet all criteria for trade secrets set forth in rule 530—110.6(88,455D).

120.9(3) Confidentiality preserved. In the event that a compliance safety and health officer finds that a hazardous chemical or mixture does not qualify as a trade secret, the officer shall preserve the confidentiality of its identity until the employer has exhausted the administrative remedies and has either failed to file a timely appeal or has failed to prevail upon a trade secret determination as a final agency action under Iowa Code chapter 17A.

530—120.10(88,455D) Trade secret, medical emergency. In the event that a trade secret is involved in an employee exposure to a hazardous chemical that led to a medical emergency, the commissioner may issue a subpoena to obtain the identity of a chemical and the most recent update of the MSDS when the immediate release of such information is necessary for emergency medical treatment. The subpoena shall be issued to the employer upon notice to the commissioner from the attending physician (or other authorized personnel) that a request for this information has been denied and a medical emergency does exist in accordance with subrule 530—110.6(2).

530—120.11(88,455D) General procedures for citation, penalties, and appeal. In the event that an investigation reveals a violation of this chapter, the commissioner shall issue a citation in accordance with Iowa Code section 88.7 and follow the procedure for enforcement of Iowa Code section 88.8. The review commission may assess penalties pursuant to Iowa Code section 88.14.

530—120.12(88,455D) Effective date. Employers shall be in compliance with the provisions of this chapter by May 25, 1986, including initial training for all current employees. Chapter 455D imposes a duty upon the employer to comply with Iowa Code sections 455D.8 to 455D.11 as soon as the employer has information necessary to comply. For purposes of this rule, that point in time shall be defined as whichever first occurs; the employer received a material safety data sheet either when the employer came in possession of the hazardous chemical or at a later time when the MSDS is submitted to the employer by a manufacturer, importer, or distributor; or the first time when the employer has actual knowledge that a chemical in the workplace is first classified as hazardous chemical pursuant to rule 530—110.3(88,455D).

These rules are intended to implement Iowa Code sections 455D.8 to 455D.10.

Chapters 121 to 129, Reserved.

CHAPTER 130
COMMUNITY RIGHT TO KNOW

530—130.1(455D) Employer's duty. Upon request, an employer has a duty to inform the public of the presence of hazardous chemicals in the community and the potential health and environmental hazards that the chemicals pose.

530—130.2(455D) Records accessibility.

130.2(1) Records do not need to be accessible to public if the information is a trade secret or the employer has notified the bureau in writing that certain information should not be accessible to the public for reasons that the information is not relevant to public health and safety or the release of the information is proven to cause damage to the employer.

130.2(2) Accessible records include the material safety data sheets. The employer shall also provide information concerning the quantity of each hazardous chemical stored or used. Quantity information may include the manner of purchase such as in gallon containers, barrels, tankers, etc. Additionally, the employer shall provide information specifying the quantity as less than five hundred pounds, between five hundred pounds and one thousand pounds, between one thousand pounds and five thousand pounds, or in excess of five thousand pounds.

530—130.3(455D) Application for exemption. To obtain an order from the commissioner pursuant to Iowa Code section 455D.13, subsection 2, and rule 130.2(455D), an employer shall make a written application to the commissioner setting forth the specific grounds for the claimed exemption. Upon receipt of an application, the commissioner shall give the applicant notice and opportunity to be heard at a full evidentiary hearing before the commissioner.

530—130.4(455D) Burden of proof and criteria.

130.4(1) Trade secrets. The employer-applicant shall have the burden of proof in showing that the information claimed exempted qualifies as a trade secret.

a. At the discretion of the commissioner, official notice may be taken that similar information of the employer-applicant has been deemed a trade secret for the purpose of rule 530—110.6(88,455D) and the commissioner may summarily grant the exemption based on the official notice.

b. The criteria for determining a trade secret under this rule shall be identical to that under rule 530—110.6(88,455D).

130.4(2) Relevance of public health and safety/damage to employer. The employer-applicant shall have the burden of proof in showing that the information is not relevant to public health and safety or that the release of the information would damage the employer. Notification in writing by the employer is not, in and of itself, sufficient to allow the employer to obtain the exemption.

530—130.5(455D) Formal ruling. The commissioner shall issue a formal ruling upon application. The ruling shall set forth findings of fact and conclusions of law and grant or deny the application. The ruling shall be the final agency action for purposes of Iowa Code chapter 17A.

LABOR, BUREAU OF[530] (*cont'd*)

530—130.6(455D) Requests for information. An interested person may request information from an employer. If the request is denied by the employer, the requesting party may then file an application for information with the bureau. The application will set forth the information being requested and that information was refused by the employer or that the employer denies access or that the employer alleged that no records were kept. The applicant shall state the interest in the information requested to be received. The Request for Information Form is available from the bureau for filing a request for information and may be used by an interested person.

530—130.7(455D) Filing with bureau. Upon receipt of application for information, the bureau shall determine if the applicant has a legitimate interest, and if so, the bureau shall make a written demand upon the employer to provide the requested information to the bureau. If the employer complies, the bureau shall forward copies to the interested person. Requests for the information under rule 130.6(455D) will be kept confidential. The bureau shall not disclose the name of the interested person to any person.

530—130.8(455D) Grounds for complaint against the employer. The commissioner may cite the employer on a formal written complaint on any of the following grounds:

130.8(1) The bureau has not received a reply within thirty days of the request for information pursuant to rule 130.6(455D);

130.8(2) The bureau receives a written complaint of an interested person who has personal knowledge or reason to believe that the records that are required to be kept by an employer are incomplete in that the employer is in actual possession of hazardous chemicals; or

130.8(3) The bureau finds on an IOSH inspection that the employer's records materially distort the information given the public or an emergency response group so as to pose a serious hazard to community health, environment, or emergency response personnel.

530—130.9 (455D) Investigation or inspection upon complaint. Within fifteen days of determining that there are grounds for a complaint, the commissioner shall either notify the employer in writing of the grounds of the complaint and request information or conduct an unannounced inspection of the employer's workplace at reasonable times and in a reasonable manner. Within thirty days of initiating an investigation or inspection, the bureau may find that the complaint is invalid and unfounded and shall so inform the interested person and the employer in writing.

530—130.10(455D) Order to comply.

130.10(1) If after conducting an investigation or inspection of the employer's workplace the commissioner finds that the complaint is meritorious, the commissioner shall issue an order to comply to the employer which shall set forth with specificity the employer's noncompliance with the Act or rules. The commissioner shall give the employer a period of thirty days to take remedial steps for compliance. The commissioner may establish a shorter period of time if justification is provided in the order to comply.

130.10(2) An employer may request an evidentiary hearing on the order to comply at any time prior to the time set forth for compliance in the order to comply.

130.10(3) If the employer has not requested a hearing, the commissioner, after the time set forth for compliance

with the order to comply, may re-examine records submitted by the employer or may reinspect the premises. If the employer has not taken the necessary remedial steps required by the order to comply, the commissioner, upon notice and evidentiary hearing, may issue a decision on the order to comply which shall be deemed a final agency action pursuant to Iowa Code chapter 17A.

130.10(4) In the event that the employer fails to comply with a decision on the order to comply, the commissioner may commence an action in the Iowa District Court for injunctive and other equitable relief that may be just and equitable.

530—130.11(455D) Effective date. The rules in this chapter shall become effective on May 25, 1986.

These rules are intended to implement Iowa Code sections 455D.12 and 455D.13.

Chapters 131 to 139, Reserved.

**CHAPTER 140
PUBLIC SAFETY/EMERGENCY RESPONSE
RIGHT TO KNOW**

530—140.1(455D) Signs required and adoption by reference. The employer shall post signs which shall comply with this rule. An employer need not comply with the sign posting requirements of subrule 140.1(2) if the building, structure, or location within the building or structure does not contain a significant amount of the hazardous chemical as defined in subrule 140.4(1). The National Fire Protection Association's standard system for identifying fire hazards of chemicals based on NFPA standard 704-1980 is adopted by reference.

140.1(1) Size. The signs shall be at least seven and one-half inches on each side. The sign shall have four spaces each at least three and three-fourths inches on a side. Numbers and symbols within each of the four spaces shall be at least three inches in height.

140.1(2) Location. If a building or structure has a floor space of five thousand square feet or less, an employer shall post signs on the outside of the building or structure identifying the type of each hazardous chemical contained in the building or structure. If the building has more than five thousand square feet, the employer shall post a sign at the place within the building where each hazardous chemical is permanently stored to identify the type of hazardous chemical. If the hazardous chemical is moved within the building, the employer shall also move the sign or post an additional sign at the location where the hazardous chemical is moved. This subrule applies to significant amounts of a hazardous chemical as defined in subrule 140.4(1).

140.1(3) Categories. The signs shall identify hazards of a chemical in terms of three principal categories, namely, "health," "flammability," and "reactivity (instability)"; and indicate the order of severity numerically by five divisions ranging from four, indicating a severe hazard, to zero, indicating no special hazard. This information is to be presented by a spatial system of diagrams with "health" always being on the left; "flammability" at the top; and "reactivity (instability)" on the right. Supplementing the spacing arrangement, color backgrounds or number are used for the three categories with blue representing "health" hazard, red representing "flammability," and yellow representing "reactivity (instability)." The fourth space shall be at the bottom and used to indicate unusual reactivity or other special hazard warnings in black and white colors.

LABOR, BUREAU OF[530] (cont'd)

530—140.2(455D) Employer variance applications. An employer may make application to the commissioner for less stringent sign posting requirements.

140.2(1) The employer shall make written application for a variance.

140.2(2) The employer shall have the burden of proof to show that compliance imposes an undue hardship on the employer and that the less stringent sign posting requirements as proposed by the employer offer substantially the same degree of notice and protection to emergency responders as if Iowa Code section 455D.14 were strictly applied.

140.2(3) Procedure. The employer application which shall be procedurally processed in the same manner as an application for exemption under subrule 530—130.5(5).

530—140.3(455D) Agreement between an employer and fire department. In instances where the number of signs exceeds five, and where the posting of a sign for each hazardous chemical would be ambiguous, repetitive, or where space is limited by the physical characteristics of the structure, the employer may enter into a written agreement with the fire chief of the local fire department which provides for the posting of signs for the most hazardous chemical in each principal category as set forth in subrule 140.1(2). The agreement is subject to the approval of the bureau pursuant to the procedure for a variance, as specified in rule 140.2(455D). If the variance is approved, the employer shall post in the same location as the required posted signs a sign stating: "Signs not posted for all hazardous chemicals." The sign shall be in block letters at least three inches in height.

530—140.4(455D) Significant amounts.

140.4(1) Definition. A chemical meeting any of the following criteria shall be considered a "significant amount" of hazardous chemicals:

a. Any amount of a hazardous chemical which is classified according to the U. S. Department of Transportation as:

- (1) A Class A explosive,
- (2) A Class B explosive,
- (3) A Class A poison,
- (4) A Class B poison,
- (5) A flammable solid with a "dangerous when wet" warning, or
- (6) A yellow III label radioactive material.

b. The aggregate amount of hazardous chemical stored, placed, or used at the workplace is greater than or equal to 55 gallons of liquid or 500 pounds of nonliquid where the numerical rating of the hazardous chemical based on the NFPA 704-1980 system results in a

- (1) Health rating of greater than or equal to 2,
- (2) Flammability rating greater than or equal to 2, or
- (3) Reactivity rating of greater than or equal to 1.

If the hazardous chemical in both a liquid and nonliquid state, the aggregate amount measurement shall be made considering the combined poundage.

140.4(2) The requirements of this rule shall be superseded by other state or federal laws where those regulations are more restrictive.

530—140.5(455D) Information submitted to local fire department. The employer shall submit to the local fire department a list of hazardous chemicals which are consistently generated by, used by, stored at, or transported from the employer's facility. The employer shall submit updated information as it becomes available to the em-

ployer. The employer shall submit information in sufficient specificity as defined in rule 530—110.2(88,455D). This subrule shall not apply to hazardous chemicals which are not in significant amounts. The employer shall send the information by certified mail.

530—140.6(455D) Recommended communications. It is recommended that local fire departments and employers meet to collaborate on the types and amounts of hazardous chemicals as well as any unusual hazards which may be encountered by emergency response personnel.

530—140.7(455D) Procedure for noncompliance. If an employer fails to comply with the requirements of this chapter, the fire chief in the jurisdiction of the employer may file a written complaint with the commissioner.

530—140.8(455D) Notice of noncompliance. The commissioner may rely on the information provided by the fire chief and immediately issue a notice of noncompliance to the employer.

140.8(1) Opportunity for hearing. The notice of noncompliance shall be sent by certified mail and shall set forth that the employer may have an opportunity to be heard, upon demand by the employer. In the event the employer demands a hearing, the commissioner may conduct an investigation or an inspection pursuant to 530—chapter 3.

140.8(2) In the event the employer does not demand a hearing within thirty days of the receipt of notice of noncompliance, the commissioner shall, without further notice, issue an order for compliance which shall be a final agency action pursuant to Iowa Code chapter 17A.

140.8(3) In the event the issue of noncompliance comes for hearing before the commissioner, the commissioner may, at the conclusion of the hearing, issue an order for compliance which shall be a final agency action pursuant to Iowa Code chapter 17A or dismiss the complaint.

530—140.9(88,455D) Effective date. The rules in this chapter shall become effective on May 25, 1986.

These rules are intended to implement Iowa Code sections 455D.14 and 455D.15.

ARC 6233**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 1985 Iowa Acts, chapter 33, section 301, subsection 3, paragraph "d," the Office for Planning and Programming hereby gives Notice of Intended Action to create Chapter 27, "Child Care Grants Program."

The new chapter is designed to implement a child care grants program as provided by 1985 Iowa Acts, chapter 33. This grant program will fund before and after school

PLANNING AND PROGRAMMING[630] (*cont'd*)

programs using school facilities, infant care programs, child care information and referral centers and on-site employer day care. Start-up funding of up to ten thousand dollars will be available to eligible applicants.

Interested persons may offer written suggestions and comments on the proposed rules by writing to the Child Care Grants Program, Office for Planning and Programming, 523 E. 12th Street, Des Moines, Iowa 50319 prior to January 7, 1986. A public hearing on these proposed rules will be held on January 7, 1986, at 10:00 a.m. in the Office for Planning and Programming conference room. Individuals wishing to present oral comments should contact JoAnn Callison at OPP to be placed on the agenda.

CHAPTER 27
CHILD CARE GRANTS PROGRAM

630—27.1(71 GA, ch 33) Purpose. The purpose of the child care grants program is to make grants available for start-up funding for before and after school programs using school facilities, infant care programs, child care information and referral centers, and on-site employer day care.

630—27.2(71 GA, ch 33) Program description. Any eligible organization, as defined by these rules, may apply for a grant under the child care grants program. In any year in which money is available to the office for planning and programming under 1985 Iowa Acts, chapter 33, section 301, subsection 3, paragraph "d," the agency shall provide start-up funding for certain selected programs to provide child care services. The grants will be awarded on a competitive basis. Proposed projects will be evaluated based on the criteria outlined in these rules. The office for planning and programming (OPP) shall administer the program in consultation with other appropriate state agencies and organizations.

630—27.3(71 GA, ch 33) Definitions. The following definitions apply to this chapter unless the context otherwise requires:

"Administering agency" or "agency" means the office for planning and programming.

"Administrative costs" are those reasonable and necessary costs and charges associated with the planning and execution of the proposed project or program, not to exceed five percent of total program costs.

"Allowable cost" means a cost which is reasonable and necessary for the proper and efficient execution of the program.

"Application" means a request for program funds including the required forms and attachments.

"Before and after school care" refers to care services provided during the hours preceding the start of the regular school day and immediately following the close of the school day as well as care services during the summer months and holiday periods.

"CCG" refers to the child care grants program.

"Child" means a person under eighteen years of age.

"Eligible activity" refers to child care activities that start up one of the following: Before and after school programs using school facilities, infant care programs, child care information and referral centers, and on-site employer day care.

"Eligible applicant" means any profit or nonprofit organization incorporated in Iowa, a school system approved by the department of public instruction, a child care center licensed by the department of human services,

or a state agency. Two or more eligible applicants may submit a joint application.

"Grant" means funds received through the child care grants program as evidenced by a grant agreement with the office for planning and programming.

"Grantee" means any eligible applicant receiving funds under this program.

"Infant" means a child of two weeks to twenty-four months old.

"Infant care" means the protection and care of infants in licensed child care centers.

"Information and referral center" means a nonprofit organization that provides information on child care options and referral to licensed and registered child care facilities in a community.

"Joint application" means an application submitted by more than one eligible applicant to complete a single project for the benefit of all those applying.

"Licensed centers" means those child care centers or day care homes issued a full or provisional license by the department of human services.

"On-site employer day care" means child care provided by an employer for the employer's employees at the employer's business site, or adjacent to the business site of the employer. At least fifty-one percent of the attendees must be children of the employer's employees.

"Proposed project" means an eligible activity for which an eligible applicant has submitted an application to receive grant funds.

"Registered facility" means a family day care home or group day care home registered with the department of human services.

"RFP" means a request for proposal issued by OPP to solicit program proposals from eligible applicants.

"Start-up" refers to the establishment of a new child care program or service specified in these rules and includes significant expansion of an existing child care program or service specified in these rules.

630—27.4(71 GA, ch 33) Program administration.

27.4(1) Request for proposal. The office for planning and programming will distribute annually an RFP which fully describes the child care grants program and procedures for applying for program funds.

27.4(2) Timing of grants. Funding under the child care grants program is contingent upon the availability of funds allocated to the administering agency in 1985 Iowa Acts, chapter 33, section 301, subsection 3. Grants will be awarded annually when moneys are available. Eligible projects will be selected for funding on a competitive basis. The OPP reserves the right to not grant all appropriated funds if there is an insufficient number of acceptable applications submitted to adequately achieve the purposes of the child care grants program.

27.4(3) Application forms. Eligible applicants shall submit applications to the Child Care Grants Program, Office for Planning and Programming, 523 East 12th Street, Des Moines, Iowa 50319. Applications shall be in the form prescribed by the agency and contain information identified in rule 630—27.5(71GA, ch 33).

27.4(4) An eligible applicant may receive only one start-up funding grant per project category per grant period.

27.4(5) Joint applications. Joint applications from two or more organizations will be accepted, but no more than one ten thousand dollar grant will be awarded per application.

PLANNING AND PROGRAMMING[630] (cont'd)

630—27.5(71 GA, ch 33) Contents of application. Each application for an Iowa child care grant shall contain the following information:

27.5(1) A study documenting a need for the service or program for which the grant is sought;

27.5(2) A plan for the implementation of the service or program which shall include:

- a. A listing of other sources of income;
- b. The staff positions to be employed and job descriptions for each; and
- c. The method to make the service or program self-supporting within three years;

27.5(3) The grant period, not to exceed three years, for which funding is requested;

27.5(4) A description of the proposed service or program including a time schedule for implementing the proposed project or grant;

27.5(5) The amount of grant funds requested and if the grant period is more than one year, the amount of funding sought per year;

27.5(6) A budget for the proposed service or program;

27.5(7) A designation as to whether or not the service or program existed prior to the effective date of the CCG.

630—27.6(71 GA, ch 33) Project specifications.

27.6(1) Before and after school care. To be eligible to operate a before and after school program the following criteria must be met:

a. The program must be administered by a school system approved by the department of public instruction, a day care center licensed by the department of human services, or a community-based nonprofit organization;

b. The services provided must use school facilities; and

c. The services provided must be targeted at the kindergarten through eighth grade population, but does not need to provide service to each age group within that targeted population.

27.6(2) Infant care.

a. The program must be administered by a licensed center;

b. The option of full day care must be provided for infants; and

c. Preference will be given to projects serving infants under eighteen months.

27.6(3) On-site employer day care.

a. The day care program must be sponsored by the employer(s);

b. The day care facility must serve at least fifty-one percent of the employer's employees;

c. The day care program must be for the benefit of the employers' employees; and

d. The services must be provided at the business site, or adjacent to the business site, of the employer(s).

27.6(4) Information and referral centers.

a. Applications will be accepted from local nonprofit day care associations, governmental entities and private licensed centers, employers, or nonprofit community-based organizations;

b. The applicant must maintain a facility for operation of the referral center;

c. Referrals on the center's list must be registered or licensed by the department of human services;

d. The center must ensure that the general public has access to the referral center services during normal business hours; and

e. Only one grant will be awarded per county and only in counties not served by an information and referral center.

630—27.7(71 GA, ch 33) Review and rating of applications.

27.7(1) Preliminary project review. The administering agency shall conduct a preliminary review of each timely submitted application to verify that the application is complete, the applicant eligible and that the project proposal is consistent with the purpose of the child care grants program. Applications which do not satisfy the above criteria will not be considered for funding.

27.7(2) Child care project review committee. A five member project review committee, designated by the director of the agency, will review and rate the submitted applications and make its recommendations for project funding to the director. The director will review the committee's recommendations and issue a final decision.

27.7(3) Rating criteria. The following criteria will be used by the child care project review committee to evaluate all eligible project proposals:

	<u>Points</u>
a. Feasibility of plan for implementation	25
(1) Availability of other sources of income	
(2) Staff to be employed	
(3) Reasonableness of method to make project self-supporting within three years	
(4) Time schedule for implementing project budget	
(5) Budget	
(6) New or expansion of existing project	
b. Experience of applicant	10
c. Demonstrated need for project in the geographical area served	25
d. Co-ordination with other existing services	10
e. Overall quality of project in comparison to other proposals	10
f. Effectiveness of plan for using the funds and the ability of the applicant to administer the program	10
g. The community support demonstrated	10
Total Points	100

630—27.8(71 GA, ch 33) Grant agreement.

27.8(1) After approval of each grant award, the agency shall prepare a grant agreement which shall include the terms and conditions of the grant. The grant agreement shall be signed by the director, or designee, of the administering agency and the duly authorized recipient, or agent, of the grantee.

27.8(2) Payments will be made by the agency on a reimbursement basis upon submission of proper documentation and approval by the agency.

630—27.9(71 GA, ch 33) Allowable costs.

27.9(1) Grant funds shall only be used as prescribed in the terms and conditions of the grant agreement.

27.9(2) No more than five percent of the total project costs may be used for administrative costs.

27.9(3) An allowable cost is a cost which is reasonable and necessary for the proper and efficient execution of the project.

630—27.10(71 GA, ch 33) Reporting requirements.

27.10(1) The agency may require grantees to submit periodic progress reports. Progress and final reporting

PLANNING AND PROGRAMMING[630] (cont'd)

requirements, including the specific information requested, due date(s) and, if applicable, the necessary forms, will be specified in the grant agreement.

27.10(2) Any grant of \$5,000 or over will be required to have an on-site financial compliance audit of their grant project expenditures. All grants of less than \$5,000 may be required to submit documentation of expenses for the purpose of a desk audit or may be required to have an on-site audit of grant project expenditures.

630—27.11(71 GA, ch 33) Monitoring. The agency or agency designee will monitor the grantee's project at reasonable intervals to determine how well the purposes and goals of the project are being met. Grantees shall make available to the agency monitor all records and source documents relating to the grant project.

630—27.12(71 GA, ch 33) Termination. Project funding may be terminated, in whole or in part, by the administering agency upon ten days' written notice when the grantee or any of its subcontractors fails to comply with the terms and conditions of the grant agreement. In emergency situations, if the director determines it is necessary to protect the integrity of the funds or ensure the proper operation of the project, the director may immediately terminate or suspend funding in whole or in part.

ARC 6201**REAL ESTATE COMMISSION[700]****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 117.9 and 258A.2, the director of the Iowa Real Estate Commission, as designee of the commission, hereby gives Notice of Intended Action to amend Iowa Administrative Code Chapter 3, "Prelicense Education and Continuing Education."

The proposed rule requires that a portion of the total continuing education requirement be in specific areas of study.

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

The real estate commission has determined that the proposed rule will not have an impact on small business within the meaning of Iowa Code section 17A.31.

Any interested persons may make written suggestions or comments on this proposed rule no later than January 15, 1986, to the director, Iowa Real Estate Commission, 1223 E. Court Avenue, Suite 205, Des Moines, Iowa 50319. Persons who wish to convey their views orally should contact the director at 515/281-3183 or at the above address. Also there will be a public hearing on January 16, 1986, at 9:00 a.m. at the above address. 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 director prior to the date of the public hearing in order to be scheduled.

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

Subrule 3.3(2) is amended as follows:

3.3(2) As a requirement of license renewal in an active status, each real estate licensee shall complete a minimum of thirty-six hours of approved programs, courses or activities. The continuing education must be completed during the three calendar years of the license term and cannot be carried over to another license term. *Beginning with the three-year license term which begins January 1, 1986, and ends December 31, 1988, and thereafter, twelve of the required hours shall include six hours on real estate license law, three hours on trust account rules and procedures, and three hours on affirmative marketing. Courses to satisfy this twelve-hour requirement must be specifically approved by the commission as meeting this requirement and shall be taken from an approved sponsor(s).*

ARC 6229**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 42 "Adjustments to Computed Tax" and Chapter 43 "Assessments and Refunds," Iowa Administrative Code.

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

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

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

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

The Department has determined the proposed amendments will not have an impact on small business as defined in Iowa Code section 17A.31(1).

Any interested person may make written suggestions or comments on this proposed amendment on or before January 17, 1986. Such written comments should be

REVENUE DEPARTMENT[730] (cont'd)

directed to the Policy Section, Technical Services Division, Iowa Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to orally convey their views should contact Clair R. Cramer, Policy Section, Technical Services Division, Iowa Department of Revenue, at 515/281-4250 or at Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by January 10, 1986.

The following amendments are proposed.

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

730—42.1(422) School district surtax. Iowa law provides for the implementation of an income surtax for increasing local school *district* budgets. The surtax must be approved by the voters of a school district in a special election. ~~and The surtax rate shall be~~ is determined by the state comptroller ~~on the basis of the revenue to be raised by the surtax for the particular school district with the surtax.~~

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

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

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

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

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

After the department of human services has been notified of a taxpayer's entitlement to a refund or a

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

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

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

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

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

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

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

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

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

REVENUE DEPARTMENT[730] (cont'd)

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

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

43.3(5) District court debts setoff. Effective on or after July 1, 1986, once all outstanding tax liabilities collectible by the department of revenue are satisfied; any claims received from the department of human services for delinquent child support, or for debts related to a child receiving foster care, or for amounts owed the state for public assistance overpayments are satisfied; and any claims for defaulted college loans which the college aid commission has been trying to collect have been satisfied; the balance of an overpayment or rebate from an individual's income tax return will be set off against the individual's debt to the Iowa district court, if the department has been properly notified by the clerk of district court pursuant to Iowa Code section 421.17.

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

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

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

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

ARC 6208

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

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

Pursuant to the authority of Iowa Code section 307.10, the Department of Transportation hereby gives Notice of Intended Action to amend 820—[04,C] Chapter 1 entitled "Iowa Airport Registration," [04,C] Chapter 2 entitled "Aircraft Registration," [06,C] Chapter 1 entitled "Primary Road Access Control," [06,F] Chapter 7 entitled "Junkyard Control," [07,E] Chapter 1 entitled "Motor Vehicle Lighting Devices and Other Safety Equipment," [07,E] Chapter 2 entitled "Emergency Equipment on Privately Owned Motor Vehicles and the Issuance of Permits for the Use Thereof," [07,F] Chapter 3 entitled "Truck Operators and Contract Carriers," [07,F] Chapter 7 entitled "Interstate Motor Vehicle Fuel Permits," and [08,E] Chapter 2 entitled "Special Great River Road Fund."

These amendments delete references to gender and contain related editorial corrections. In addition, the amendments in item 6: (1) Correct rule 820—[07,E]1.2(321) so that it agrees with, but does not duplicate, rule 820—[07,D]11.16(321); (2) remove a reference to the obsolete motor vehicle inspection law.

On February 4, 1986, at their regular meeting at the Department of Transportation Complex, 800 Lincoln Way, Ames, Iowa, the Transportation Commission shall consider the adoption of these proposed administrative rules. This action shall be in accord with Iowa Code chapter 17A and 820—[01,B]Chapter 1, Iowa Administrative Code.

Any person or agency may submit written comments concerning these proposed rules or may submit a written request to make an oral presentation at the Commission meeting. These comments or requests shall:

1. Include the name, address and telephone number of the person or agency authoring the comment or request.
2. Reference the number and title of the proposed rule as given in this Notice which is the subject of the comment or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to the Department of Transportation, Office of Financial/Operational Analysis, 800 Lincoln Way, Ames, Iowa 50010.
5. Be delivered to this office or postmarked no later than January 21, 1986.

The Department shall notify a person or agency properly requesting an oral presentation of the time of day scheduled for the presentation.

Proposed rulemaking actions:

Pursuant to the authority of Iowa Code section 307.10, rules 820—[04,C]Chapter 1 entitled "Iowa Airport Registration," [04,C] Chapter 2 entitled "Aircraft Registration," [06,C]Chapter 1 entitled "Primary Road Access Control," [06,F] Chapter 7 entitled "Junkyard Control," [07,E] Chapter 1 entitled "Motor Vehicle Lighting Devices and Other Safety Equipment," [07,E] Chapter 2 entitled

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

"Emergency Equipment on Privately Owned Motor Vehicles and the Issuance of Permits for the Use Thereof," [07,F] Chapter 3 entitled "Truck Operators and Contract Carriers," [07,F] Chapter 7 entitled "Interstate Motor Vehicle Fuel Permits," and [08,E] Chapter 2 entitled "Special Great River Road Fund" are hereby amended.

ITEM 1. Amend subrule [04,C] 1.4(2) as follows:

1.4(2) Registrations and temporary registrations issued by the division ~~will shall~~ bear the signature of the director of the Iowa department of transportation or his designated representative. The director of the aeronautics division or a designee is hereby so designated.

ITEM 2. Amend the first paragraph of rule [04,C] 2.4(328) as follows:

820—[04,C]2.4(328) **Special aircraft registration certificates.** A registered aircraft dealer who is operating a specific aircraft under the provisions of a "Special Certificate" may transfer this certificate to another aircraft in ~~his the dealer's~~ inventory; ~~in the event that if~~ ownership of the first aircraft is being transferred; ~~or in the event that or if~~ future use of the first aircraft will be for hire or principally for transportation of persons or property.

ITEM 3. Amend subrule [06,C] 1.4(2) as follows:

1.4(2) Construction or modification of entrances. All work performed on a primary highway under the terms of an entrance permit (form 640004) shall be subject to the conditions on the permit itself along with accompanying plans, drawings, sketches, or other attachments. The applicant or the applicant's contractor shall have a copy of the entrance permit available at the site during construction. During the period of time the entrance is being constructed or modified, care must be taken to ensure the safety of ~~workmen~~ the workers on the site and the traveling public. The work shall be accomplished in a manner that will minimize interference with normal highway operations. Special care must be taken during the construction or modification of the entrance and development of abutting property to avoid tracking mud or other material onto the primary highway.

ITEM 4. Amend subrule [06,C] 1.4(5) as follows:

1.4(5) Reservations. The department reserves the right to inspect and approve any construction within the right-of-way. In the event of faulty workmanship or materials, the department shall have the right to revoke the permission as set forth in the entrance permit for such construction and deny use of the entrance until such time as the conditions are corrected. If the work performed by the applicant does not conform to the specifications, the department may make the necessary changes and charge the cost thereof to the party responsible, and may take court action if deemed necessary.

ITEM 5. Amend subrule [06,F] 7.3(2) as follows:

7.3(2) Removal of junkyards established after July 1, 1972. Any junkyard established and any portion of any junkyard expanded after July 1, 1972, and any junkyard abandoned or discontinued, except those junkyards or any portion of any junkyard which meets the requirements of rule 7.2(306C) of these rules this chapter, shall be screened or removed by the owner at no expense to the department. Required screening shall be maintained by the owner at his own the owner's expense so long as the junkyard remains subject to these rules.

ITEM 6. Amend the first paragraph of rule [07,E] 1.2(321) and subrules 1.2(1) and 1.2(2) as follows:

820—[07,E]1.2(321) **Equipment requirements for specially constructed, and reconstructed and kit motor vehicles, other than motorcycles.** The following standards are minimum requirements for construction constructing and equipping of specially constructed, motor vehicles as defined in section 321.1(12) of the Code, and reconstructed and kit motor vehicles, other than motorcycles as defined in section 321.1(13).

1.2(1) Definitions. The definitions in Iowa Code section 321.1 and rules 820—[07,D] chapter 11 are hereby made part of this chapter.

1.2(2) Application. As outlined in rule 820—[07,D] 11.16(321), the applicant shall submit the required application forms and exhibits to the county treasurer. The vehicle and ownership documents shall be examined by the department. If the department determines that the motor vehicle complies with this rule, that it is in safe operating condition, that the integral parts and components have been identified as to ownership, and that the application forms have been completed properly, the department shall assign an identification number to the vehicle and certify that the motor vehicle is eligible for titling and registration. Certification. Upon application for title as a specially constructed or reconstructed vehicle, the owner of the vehicle shall submit the vehicle for examination to an officer of the motor vehicle division of the department, as required in section 321.23. If upon examination, that officer finds the vehicle in compliance with these standards, he shall so certify the vehicle as properly equipped and eligible for registration.

Nothing in this chapter shall be construed as exempting any such vehicle from the requirements of section 321.238 as it pertains to motor vehicle inspection.

ITEM 7. Amend subrule [07,E] 2.2(3) as follows:

2.2(3) Volunteer firemen firefighters may display and use a flashing blue light on their privately owned vehicles. However, a permit must be obtained from the department before such this display or use is authorized.

ITEM 8. Amend subrule [07,F] 3.1(4), paragraph "a," as follows:

a. A motor carrier holding a certificate of convenience and necessity as defined in Iowa Code chapter 325, and a regular route common carrier as defined in sec. 203(14) of the Interstate Commerce Act, who also holds a truck operator permit, shall not use said this permit as a means to extend his the carrier's motor carrier or interstate common carrier authority, nor shall he operate his the carrier use the truck operator permit to operate to or from any point held covered under his the carrier's motor carrier or interstate common carrier authority.

ITEM 9. Amend subrule [07,F] 3.7(1), paragraph "h," as follows:

h. Complaints must be filed by the party in interest and may be filed by any person in his the person's own behalf or in behalf of a class of persons similarly situated.

ITEM 10. Amend subrule [07,F] 7.6(2), paragraph "b," as follows:

b. If a permit holder disputes the findings of an investigation or audit by the department, he or she the permit holder may request a hearing to present further evidence, information or records to support the claim.

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

The written request for hearing shall be directed to the attention of the Director, Office of Operating Authority, Motor Vehicle Division, 5238 N.W. Second Avenue, Des Moines, Iowa 50313, within thirty days of the date of notice of audit results issued by the department.

ITEM 11. Amend the signature lines of **Appendix A** and **Appendix B** to **820—[08,E]2.2(312)** by deleting the word "Chairman" and by inserting in lieu thereof "Chairperson."

HUMAN SERVICES DEPARTMENT[498] (cont'd)

CHART FOR DETERMINING INCOME IN KIND
(all figures are on a per person basis)

Number of Persons	1	2	3	4	5	6	7	8	9	10 or More
Shelter	46.65 44.00	48.31 45.76	32.84 31.03	26.37 24.93	21.54 20.40	18.39 17.41	16.17 15.31	14.62 13.83	13.26 12.55	13.00 12.17
Utilities	25.30 23.90	24.02 22.75	15.62 14.76	12.06 11.40	9.67 9.16	8.08 7.65	7.53 7.13	6.66 6.30	6.03 5.70	5.90 5.55
Supp. & Repl.	10.68 10.09	8.20 7.77	5.33 5.04	4.13 3.90	3.53 3.34	2.99 2.83	2.57 2.43	2.29 2.16	2.04 1.93	2.00 1.85
Food	43.84 41.42	47.73 45.21	44.34 41.89	40.66 38.45	36.95 34.99	35.88 33.97	34.65 32.80	34.03 32.21	33.90 32.07	33.21 31.74
Clothing	12.64 11.94	14.07 13.33	13.46 12.72	13.47 12.73	13.33 12.62	13.20 12.50	13.02 12.32	12.73 12.05	12.72 12.03	12.46 11.90
Per. Care & Supp.	7.59 7.17	8.20 7.77	8.13 7.68	8.16 7.69	7.94 7.52	7.81 7.40	7.55 7.15	7.50 7.10	7.06 6.60	6.92 6.61
Med. Cab. Supp.	1.68 1.59	1.68 1.59	1.68 1.59	1.68 1.59	1.68 1.59	1.68 1.59	1.68 1.59	1.68 1.59	1.68 1.59	1.68 1.59
Communi- cations	14.62 13.81	8.79 8.32	5.60 5.29	4.22 3.90	3.36 3.10	2.80 2.65	2.40 2.27	2.11 1.99	1.87 1.77	1.83 1.59

[Filed emergency after Notice 12/2/85, effective 1/1/86]
[Published 12/18/85]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 12/18/85.

ARC 6226

HUMAN SERVICES
DEPARTMENT[498]

Pursuant to the authority of Iowa Code section 217.6, the Department of Human Services hereby amends Chapter 51, "Eligibility," and Chapter 52, "Payment," appearing in the Iowa Administrative Code. The Commissioner is authorized to recommend to the Council on Human Services for adoption such rules as are necessary to carry into practice the programs of the various divisions.

This amendment implements the January 1, 1986 Supplemental Security Income (SSI) cost-of-living adjustments and resource limitation increases.

On November 4, 1985, the Department received confirmation from the Social Security Administration that the Social Security cost-of-living increase which will become effective January 1, 1986, is established at three and one-tenth percent. The Department has decided to pass along the full amount of this increase to recipients of state supplementary assistance. Therefore, the SSI increase for an individual of \$11.00 resulted in an increase in the care allowance in a family life home from \$363.20 to \$374.20. The benefit rate for an essential person increased by \$5.00 from \$163.00 to \$168.00, resulting in the same increase for a dependent person.

The Deficit Reduction Act of 1984 increased the SSI resource limitations for a recipient from \$1,600.00 to \$1,700.00 and for a couple from \$2,400.00 to \$2,550.00 effective January 1, 1986.

The Department of Human Services finds that notice and public participation regarding these rules is impracticable and contrary to the public interest. These rules merely pass along an increase established at the federal level and if the Department were to follow regular rule-making procedures, it would be several months before the public will feel the benefits of this rule. Therefore, these rules are filed pursuant to Iowa Code section 17A.4(2).

The Department of Human Services finds that these rules confer a benefit on the public by passing along the SSI increase to state supplementary assistance recipients. Therefore, these rules are filed pursuant to Iowa Code section 17A.5(2)"b"(2).

The Council on Human Services adopted these rules November 27, 1985.

These rules are intended to implement Iowa Code sections 249.3 and 249.4.

These rules will become effective January 1, 1986.

ITEM 1. Amend rule 498—51.4(249) as follows:

Amend subrule 51.4(1) as follows:

~~51.5(1)~~ 51.4(1) Income. Income of a dependent relative shall be less than ~~\$163.00~~ \$168.00. When the dependent's income is from earnings, an exemption of \$65.00 shall be allowed to cover work expense.

Amend subrule 51.4(2) as follows:

51.4(2) Resources. The resource limitation for a recipient and a dependent child or parent shall be ~~\$1,600.00~~ \$1,700.00. The resource limitation for a recipient and a dependent spouse shall be ~~\$2,400.00~~ \$2,550.00. The resource limitation for a recipient, spouse, and dependent child or parent shall be ~~\$2,400.00~~ \$2,550.00.

HUMAN SERVICES DEPARTMENT[498] (cont'd)

ITEM 2. Amend rule 498—51.7(249) as follows:

498—51.7(249) Income from providing room and board. In determining profit from furnishing room and board or providing family life home care, ~~\$163.00~~ \$168.00 per month shall be deducted to cover the cost, and the remaining amount treated as earned income.

This rule is intended to implement Iowa Code sections 249.3 and 249.4.

ITEM 3. Amend rule 498—52.1(249) as follows:

Amend subrule 52.1(1) as follows:

52.1(1) Protective living arrangement. The following assistance standards have been established for state supplementary assistance for individuals living in a protective living arrangement:

Family life home certified under rules in chapter 111.

\$363.20	\$374.20	care allowance
44.00		personal allowance
\$407.20	\$418.20	Total

Amend subrule 52.1(2) as follows:

52.1(2) Dependent relative. The following assistance standards have been established for state supplementary assistance for dependent relatives residing in a recipient's home.

a. Aged or disabled client and a dependent relative	\$488.00	\$504.00
b. Aged or disabled client, eligible spouse, and a dependent relative	\$651.00	\$672.00
c. Blind client and a dependent relative	\$510.00	\$526.00
d. Blind client, aged or disabled spouse and a dependent relative	\$673.00	\$694.00
e. Blind client, blind spouse and a dependent relative	\$695.00	\$716.00

[Filed emergency 12/2/85, effective 1/1/86]

[Published 12/18/85]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 12/18/85.

The Department chose to establish separate classifications for hospital-based and free-standing (nonhospital-based) facilities to avoid a disproportionate negative effect for hospital-based facilities.

Following application of the annual index, a ceiling of allowable cost shall be established at the sixtieth percentile for each classification. The sixtieth percentile was chosen as it will obtain savings in payment to skilled nursing facilities in the amount required by Executive Order No. 19.

The Department of Human Services finds that notice and public participation are impracticable and contrary to the public interest at this time. Federal funding is contingent upon making an immediate change in the methodology of payment for skilled care. Our current reimbursement rate is not approvable by HCFA. While there are a variety of options available to the Department for acceptable payment methodologies, the methodologies in these rules seemed to be the least disruptive to apply on an interim basis. The entire skilled nursing facility reimbursement methodology is under the reimbursement study contract. Therefore, these rules are filed pursuant to rule 498—1.5(17A) and Iowa Code section 17A.4(2).

The Department of Human Services finds that federal requirements necessitate these rules be effective by January 1, 1986. These rules confer a benefit on the public by avoiding the loss of federal funding. To the maximum extent possible, all reasonable efforts have been made to give actual and timely notice to facilities affected by these rules. Therefore, these rules are filed pursuant to Iowa Code section 17A.5(2)"b"(2).

These rules are also being filed as a Notice of Intended Action, ARC 6221, herein.

These rules were adopted by the Council on Human Services on November 27, 1985.

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

These rules shall become effective January 1, 1986.

ITEM 1. Rescind subrule 78.12(11) and insert the following in lieu thereof:

78.12(11) Skilled nursing facility reimbursement shall be prospective based on a per diem rate calculated for each facility by establishing a base year per diem to which an annual index is applied.

a. The base year per diem rate shall be the medical assistance cost per diem as determined using the facility's 1984 fiscal year-end cost report. The base per diem rate for facilities enrolled since 1984 will be determined using the facility's first finalized cost report. Determination of allowable costs for the base year will be made using Medicare methods in place on December 31, 1984.

b. The Skilled Nursing Facility Market Basket Index will be applied annually to reflect health care costs of skilled nursing facilities.

c. Skilled nursing facilities shall be classified as either hospital-based or free-standing (nonhospital-based). A hospital-based facility is a skilled nursing facility under the management and administration of a hospital regardless of where the skilled beds are physically located.

d. A ceiling of allowable cost shall be established at the sixtieth percentile for each classification based on calendar year 1984 data. The allowable cost shall be weighted by medical assistance patient days.

e. A skilled nursing facility serving a disproportionate share of medical assistance recipients shall be exempt from the payment ceiling. For skilled nursing facilities, a

ARC 6220

HUMAN SERVICES
DEPARTMENT[498]

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services hereby amends Chapter 78, "Amount, Duration, and Scope of Medical and Remedial Services," and Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," appearing in the Iowa Administrative Code.

The Health Care Financing Administration (HCFA) is requiring Iowa to establish a new method of reimbursement for skilled nursing facilities.

This amendment provides for a new reimbursement methodology for skilled nursing facilities. The new methodology will be prospective based on a base year rate to which an annual index will be applied.

The annual index which will be used is the Skilled Nursing Facility Market Basket Index as developed by Data Resources, Inc. This index includes both forecasted and historical data.

HUMAN SERVICES DEPARTMENT[498] (cont'd)

disproportionate share of medical assistance recipients shall exist when the total cost of services rendered to medical assistance recipients in any one provider fiscal year is greater than or equal to fifty-one percent of the total facility's total allowable cost for the same fiscal year. The department will determine which providers qualify for this exemption.

f. The current method for submitting billings and cost reports shall be maintained. All cost reports will be subject to desk review audit and if necessary a field audit.

ITEM 2. Amend subrule 79.1(2), institutional category, number 4, as follows:

Institutional	Basis of reimbursement	Upper limit
4. Skilled nursing facilities	Medicare less 7.86% Prospective reimbursement. See 78.12(11)	Per diem rate for facility in effect 6/30/85

[Filed emergency 12/2/85, effective 1/1/86] [Published 12/18/85]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 12/18/85.

ARC 6227

HUMAN SERVICES DEPARTMENT[498]

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services hereby amends Chapter 86, "Medically Needy," appearing in the Iowa Administrative Code.

The Council on Human Services adopted these rules November 27, 1985. Notice of Intended Action regarding these rules was published in the Iowa Administrative Bulletin on October 23, 1985, as ARC 6079. That amendment proposed the following changes to the medically needy program: (1) Coverage be extended to Supplemental Security Income (SSI) related persons, (2) the income level for a one-member household be raised to that of a two-member household as permitted by federal regulation, (3) resource levels be raised to correspond to the change in SSI resource levels effective January 1, 1986, and (4) income levels be raised to correspond to the increase in Aid to Dependent Children schedule of basic needs effective January 1, 1986.

At the time the Notice was filed the Department intended that the rules would be filed emergency after notice to be effective January 1, 1986. However, in order to achieve a year-end balanced budget while fully meeting the 3.85 percent across-the-board cut, the Council on Human Services adopted a spending plan which recommends to the General Assembly we delay the expansion of the medically needy program to SSI related persons until April 1, 1986. The remaining changes placed under Notice need not be delayed.

Therefore, this amendment implements all of the changes proposed in the Notice except the extension of coverage to SSI related persons. That change will be adopted through the regular rulemaking procedure at a later date.

The Department of Human Services finds that these rules confer a benefit on clients by passing along the increase in SSI resource levels, passing along the increase in ADC income levels, and increasing the income level for a one-member household to that of a two-member household. The deletion of the rules terminating the program will eliminate possible confusion. Therefore, these rules are filed pursuant to Iowa Code section 17A.5(2)"b"(2).

These rules are identical to those published under Notice as Item 7 (subrules 86.10(1) and 86.10(2), Item 8 and Item 9.

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

These rules shall become effective January 1, 1986.

ITEM 1. Amend rule 498—86.10(249A) as follows:

Amend subrule 86.10(1) as follows:

86.10(1) The resource limitation for a single individual shall be \$1,500.00 prior to January 1, 1985 and shall be \$1,600.00 thereafter \$1,700.00.

Amend subrule 86.10(2) as follows:

86.10(2) The resource limitation for two or more persons shall be \$2,250.00 prior to January 1, 1985 and shall be \$2,400.00 thereafter \$2,550.00.

ITEM 2. Amend subrule 86.12(1) as follows:

86.12(1) The MNIL is based on one hundred thirty-three and one-third percent of the ADC schedule of basic needs calculated according to federal formula based on family size as follows:

Number of Persons	1	2	3	4	5	6	7	8	9	10
	208	408	488	558	625	691	758	825	891	975
	433	433	508	591	658	725	800	875	941	1,033

Each additional person 108.

ITEM 3. Rescind and reserve rule 498—86.17(249A).

[Filed emergency after Notice 12/2/85, effective 1/1/86] [Published 12/18/85]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 12/18/85.

ARC 6228

HUMAN SERVICES DEPARTMENT[498]

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services hereby amends Chapter 130, "General Provisions," appearing in the Iowa Administrative Code. The Department has the authority to formulate such rules as may be necessary to administer the family and adult service programs.

This amendment increases the current income guidelines used to determine financial eligibility for persons receiving services funded with social services block grant funds. The guidelines are increased by three and one-tenth percent effective January 1, 1986, in accordance with the direction of the General Assembly.

1985 Iowa Acts, House File 771, section 9, mandated that the Department increase income guidelines by the same percentage and at the same time that federal social security benefits are increased due to a recognized

HUMAN SERVICES DEPARTMENT[498] (cont'd)

increase in the cost of living. On October 25, 1985, the Social Security Administration announced that the Federal benefit rates will be increased by a cost-of-living adjustment (COLA) of three and one-tenth percent effective January 1, 1986.

The Department of Human Services finds that notice and public participation is impracticable because there is not adequate time to implement the regular rulemaking process and to carry out 1985 Iowa Acts, House File 771, section 9, by January 1, 1986. Therefore, this amendment is filed pursuant to Iowa Code section 17A.4(2).

The Department of Human Services finds that these amendments confer a benefit on clients by providing that clients who receive increases in income and those clients with higher incomes may be eligible for services. Therefore, this amendment is filed pursuant to Iowa Code section 17A.5(2)"b"(2).

The Council on Human Services adopted this rule November 27, 1985.

This rule is intended to implement Iowa Code section 234.6 and 1985 Iowa Acts, House File 771, section 9.

This rule shall become effective January 1, 1986.

Amend subrule 130.3(1), paragraph "d," subparagraph (2), as follows:

(2) Income eligible status. The monthly gross income according to family size is no more than the following amounts:

Family Size	For Child Day Care:		All Other Services:	
	Monthly Gross	Monthly Income	Monthly Gross Income	Below
1 Member	\$ 550	567	\$ 437	451
2 Members	716	738	571	589
3 Members	884	911	706	728
4 Members	1,053	1,086	839	865
5 Members	1,221	1,259	974	1,004
6 Members	1,390	1,433	1,108	1,142
7 Members	1,422	1,466	1,133	1,168
8 Members	1,454	1,499	1,158	1,194
9 Members	1,485	1,531	1,184	1,221
10 Members	1,516	1,563	1,209	1,246

When a family has more than ten members, for each additional person add three percent of the amount for a family of four to the ten member amount.

[Filed emergency 12/2/85, effective 1/1/86]
[Published 12/18/85]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 12/18/85.

ARC 6205

IOWA LOTTERY AGENCY[526]

Pursuant to the authority of the 1985 Iowa Acts, chapter 33, the Iowa Lottery adopts and implements, by emergency filing, an amendment to Chapter 4, "Operation of the Lottery," Iowa Administrative Code to permit the commissioner to conduct experimental retailer incentive programs.

In accordance with Iowa Code section 17A.4(2), the agency finds that public notice and participation is unnecessary and contrary to the public interest in that the economic condition of the State of Iowa and the condition

of the state treasury require immediate implementation of this rule to produce the revenue identified in the enabling Act to be distributed for economic development.

In accordance with Iowa Code section 17A.5(2)"b"(2) the agency also finds that the usual effective date of this rule, thirty-five days after publication, should be waived and the rule made effective on December 2, 1985, upon filing with the Administrative Rules Coordinator as it confers a benefit upon the public to ensure effective compliance with the agency's legislative mandate.

The Iowa Lottery Board adopted this rule on November 21, 1985.

This rule implements 1985 Iowa Acts, chapter 33, section 110.

This rule is also being published as a Notice of Intended Action, ARC 6206, to solicit public comment.

Amend Chapter 4 by adding the following new rule:

526—4.18(71GA, ch 33) Experimental retailer incentive programs. The commissioner may conduct experimental retailer incentive programs in limited geographic areas and of limited duration for the purpose of determining the effectiveness of various retailer incentive programs. The commissioner shall spend no more for a specific program than an amount equal to one percent of the total gross sales of the retailers participating in the experimental incentive program. The commissioner shall notify the lottery board of an experimental incentive program within thirty days following the implementation of the program.

This rule is intended to implement 1985 Iowa Acts, chapter 33, section 110.

[Filed emergency 11/27/85, effective 12/2/85]
[Published 12/18/85]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 12/18/85.

ARC 6211

WATER, AIR AND WASTE MANAGEMENT[900]

WATER, AIR AND WASTE MANAGEMENT COMMISSION

Pursuant to the authority of Iowa Code section 455B.105, the Water, Air and Waste Management Commission amends Chapter 2 relating to meetings of the Commission. Rule 900—2.6(455B) is amended to conform to Iowa Code section 455B.104(3). Reduction of the Commission from 13 to 11 voting members this year has rendered the current rule language inconsistent with the statute. In adopting this rule, the Commission wishes to reaffirm its position, consistent with opinion of the Attorney General (Osenbaugh), August 7, 1981, that a majority of the total membership of the Commission is required to vote affirmatively to take action, not just a majority of the quorum present at a particular meeting.

In compliance with Iowa Code section 17A.4(2), the Commission finds that public notice and participation would be unnecessary and contrary to the public interest since this is a ministerial action to conform the Commission's rules of practice to the law.

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

The Commission also finds pursuant to Iowa Code section 17A.5(2)"b"(2) that the normal effective date of this rule, 35 days after publication, should be waived and the rule be made effective upon filing with the Administrative Rules Coordinator, November 27, 1985, as it confers a benefit upon the public to have the rules in compliance with the statute.

This rule implements Iowa Code chapter 455B.

Amend rule 900—2.6(455B) as follows:

900—2.6(455B) Quorum and voting requirements.

2.6(1) Quorum. ~~Seven~~ *A majority of the voting members of the commission* constitutes a quorum.

2.6(2) Voting. The concurrence of ~~seven commissioners~~ *a majority of the voting members of the commission* is

required to determine any matter before the commission for action, except for a vote to close a meeting which requires the concurrence of either ~~nine commissioners~~ *two-thirds of the voting members of the commissioners* or the concurrence of all members *present* if less than ~~nine two-thirds~~ are present.

[Filed emergency 11/27/85, effective 11/27/85]

[Published 12/18/85]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 12/18/85.

ARC 6219

AGING, COMMISSION ON[20]

Pursuant to the authority of Iowa Code section 17A.3, the Iowa Commission on the Aging hereby adopts amendments to rule 9.1(249B) "Grants to Area Agencies," Iowa Administrative Code.

The amendment to rule 9.1(249B) provides timeframes for the use of funds received by area agencies.

The addition of new subrule 9.1(4) "Timeframe for use of funds" also provides guidelines for budgeting sections of area agencies annual applications for award and implementation procedures.

Notice of Intended Action was published in the Iowa Administrative Bulletin, Volume VIII, Number 8, October 9, 1985, as ARC 6038.

A public hearing was held on November 5, 1985. No written or oral comments were received. The Commissioners adopted the rules at their regular meeting on November 15, 1985, with no changes to the noticed rules. This rule becomes effective January 22, 1986.

This rule is intended to implement Iowa Code chapter 249B.

The following amendment is adopted.

Rule 9.1(249B) is amended by adding the following new subrule:

9.1(4) Timeframe for use of funds. Area agency allotments are budgeted in the area agency annual application for award to be expended for the fiscal year July 1 through June 30 annually. In addition, budgets will include funds identified in 4.9(1) through 4.9(8), in accordance with requirements identified in chapter 9.

a. Funds displayed in the annual application for award budget summary must be expended during the identified fiscal year with the exception that twenty-five percent of the total cash budget may be carried over for use in the subsequent fiscal year.

b. The total cash budget shall include AoA Title III funds, AoA Title V funds, state funds, program income, local public funds and other local cash.

c. AoA Title III carryover funds shall be included in the budget summary of the annual application for award.

d. Program income funds that are to be carried over from the prior fiscal year and program income forecast to be received for the fiscal year identified in the annual application for award shall be included in the budget summary of each year's annual application.

e. The forecast of program income for the plan year identified in the annual application must be at least eighty-five percent of the program income earned in the most recently completed fiscal year.

f. In the fiscal year 1989 and subsequent fiscal years, agencies having carryover funds exceeding twenty-five percent of the prior year cash budget shall have a reduction in their AoA Title III fund advance equal to the excess carryover.

g. Area agencies which exceed the twenty-five percent carryover limit for three consecutive years will not receive the AoA Title III cash advance.

[Filed 11/27/85, effective 1/22/86]

[Published 12/18/85]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 12/18/85.

ARC 6203

HEALTH DATA COMMISSION[465]

Pursuant to the authority of Iowa Code sections 145.1, 135.11, and 505.8, the Health Data Commission adopts technical amendments to the Commission's organizational rules, specifically Chapter 2, "Administrative Hearings." These amendments were adopted by the Health Data Commission at its November 25, 1985, meeting.

Notice of Intended Action was published in the October 9, 1985, Iowa Administrative Bulletin as ARC 6017.

These amendments are identical to those published as Notice of Intended Action.

These amendments will become effective January 22, 1986.

These amendments are intended to implement Iowa Code section 17A.3(1), paragraphs "a" and "b."

ITEM 1. Rule 465—2.1(70GA, HF196) is amended to read as follows:

465—2.1(70GA, HF196 145) Scope. A hearing shall be granted to any person aggrieved by final agency action of the commission when the right to a hearing is granted by statute or constitution including but not limited to disputes as to the accuracy of provider information prepared for dissemination pursuant to 1983 Iowa Acts, House File 196, section 2, subsection 2, paragraph "c" Iowa Code section 145.3(3)"c."

ITEM 2. Rule 465—2.7(70GA, HF196), first unnumbered paragraph, is amended to read as follows:

465—2.7(70GA, HF196 145) Subpoenas. When reasonably necessary for the full presentation of a case, the hearing officer or the commission may, sua sponte, or shall, upon the request of a party, issue subpoenas for the attendance and testimony of witnesses and for the production of books, records, correspondence, papers and other documents which are relevant and material to any matter in issue at the hearing. Parties who desire the issuance of a subpoena shall file with the hearing officer or the commission a written request therefor, designating the witnesses or documents to be produced, and describing the address or location thereof.

ITEM 3. Subrule 2.8(1) is amended to read as follows:

2.8(1) Unless required for the disposition of ex parte matters specifically authorized by statute, the hearing officer or the members of the commission shall not communicate directly or indirectly with any party or their representative, nor shall such party or their representative communicate directly or indirectly with the hearing officer or the members of the commission concerning any issues of fact or law in a contested case unless:

a. Each party or their representative is given prior written notice of the communication. Such notice shall contain a summary of the communication, if oral, or a copy of the communication if written, and the time, place and means of such communication.

b. After such notice, all parties shall have the right, upon written demand, to respond to such communication, including the right to be present and heard if the communication is oral and not completed. If the communication is written, or if oral and completed, any other person has the additional right to a special hearing for the purpose of responding to the ex parte communication.

HEALTH DATA COMMISSION[465] (cont'd)

time and place of the communication and provided a reasonable opportunity to participate in the communication.

[Filed 11/26/85, effective 1/22/86]
[Published 12/18/85]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 12/18/85.

ARC 6217**HEALTH DEPARTMENT[470]**

Pursuant to the authority of Iowa Code section 135.11(15), the Iowa State Department of Health hereby adopts amendments to Chapter 80, "Homemaker-Home Health Aide Services," Iowa Administrative Code.

These rule changes were published as Notice of Intended Action in Iowa Administrative Bulletin, Volume VIII, Number 4, August 14, 1985, as ARC 5820.

Changes from the amendments published as Notice of Intended Action are as follows:

The original item 1 was done emergency so all the items change by one number.

New item 1 - no change.

New item 2 - 80.2(2) Totally rewritten including change from \$25,000 to \$10,000.

New item 3 - 80.2(4) Sentence added to end to further amplify.

New item 4 - 80.3(1)"b" Clarifying words added.

80.3(3) Words added to "a" which were inadvertently omitted.

80.3(3)"b" (home helpers) added for clarification in "b."

80.3(3)"d" Rewritten to clarify regarding home helpers.

80.3(4)"b" Rewritten to clarify.

80.3(4)"c" Rewritten to broaden and clarify.

The Iowa State Board of Health adopted these rule changes at its regularly scheduled meeting of November 13, 1985.

These rules are intended to implement Iowa Code section 135.11(15).

These rules will become effective on January 22, 1986.

ITEM 1. Amend rule 470—80.1(135) by adding a new paragraph as follows:

The department will not reimburse for a case when two separate homemaker-home health aides from two different agencies are in the same home unless prior approval by the department has been given.

ITEM 2. Rescind subrule 80.2(2) in its entirety and insert in lieu thereof the following:

80.2(2) Income and resources shall be considered in the application of the sliding fee scale. Income generated by resources shall be considered income, not resources. An individual receiving homemaker-home health aide service who has an annual income of current SSI guidelines or less and resources less than \$10,000 in cash, savings, stocks and bonds shall be provided the service at no fee. For each additional family member living in the home, \$600 shall be added to the annual base income figure for the purpose of determining if the service is to be provided at no fee. After the \$10,000 of resources in cash, savings, stocks and bonds has been reached, a county may choose to specify additional types of resources to be

considered. Counties and provider agencies may provide more no-fee service than is required by this paragraph.

ITEM 3. Rescind subrule 80.2(4) in its entirety and insert in lieu thereof the following:

80.2(4) Payments received from recipients of service based on the sliding fee scale shall be used to support homemaker-home health aide service. Reimbursement for the fiscal year will be based on the state approved cost report and contractual conditions. Hours charged to and paid or credited by another third party payor shall not be vouched to state funds.

ITEM 4. Rescind rule 470—80.3(135) in its entirety and insert in lieu thereof the following:

470—80.3(135) Standards. In order to receive state homemaker-home health aide funds the provider agency must meet the following standards.

80.3(1) The agency shall have the necessary legal authority to operate in conformity with federal, state and local laws and regulations.

a. There shall be a governing authority and structure which is responsible for establishing policy and ensuring effective control of services and finances.

b. The governing authority shall employ or contract for an agency administrator to whom authority and responsibility for overall agency administration is delegated.

c. The agency shall be in compliance with all legislation relating to prohibition of discriminatory practices.

80.3(2) The agency shall have a personnel management system.

a. There shall be written job description and qualifications for each category.

b. There shall be established wage scales for each job category.

c. There shall be written personnel policies which include at least: Recruitment and selection processes, benefits, leaves and absences, hours of employment or method of scheduling, evaluation, discipline or termination, grievance procedure/appeals process.

d. The personnel management system for chore service need not include paragraphs "a" to "c" above and subrules 80.3(3) and 80.3(4), but the responsible agency shall assure that each chore person has adequate skill for each case to which the chore person is assigned. The agency shall also provide sufficient supervision to assure the tasks are completed correctly and efficiently.

80.3(3) The agency shall assure that each homemaker-home health aide has received adequate training for each case to which the aide is assigned. In general the training required shall fit one of three patterns as set out in paragraphs "a" to "c" in this subrule. In-service training shall also be required as set out in paragraph "d" of this subrule.

a. Those workers providing general homemaker-home health aide service shall complete a training program equivalent in content and depth to "A Model Curriculum and Teaching Guide for the Instruction of the Homemaker - Home Health Aide" - DHHS Publication No. (HSA) 80-5508, (1984-Third printing) prior to assignment. The minimum qualifications for instructors shall follow suggestions in the Model Curriculum. At least sixty classroom hours of training are required. The fifteen-hour practicum/on the job training (OJT) portion of the Model Curriculum must be completed by the end of the first six months of employment. The Iowa state

HEALTH DEPARTMENT[470] (cont'd)

department of health has a Practicum/(OJT) format available upon request. Any deviations from the Model Curriculum content and estimated hours shall be submitted to the Iowa state department of health for prior approval. The department has a statement on guidelines regarding content and depth. This is available on request.

An exception to this pattern is: An individual who has a geriatric aide certificate, nurse aide certificate, LPN, RN, a bachelor's degree or associate degree in social work, sociology, home economics or other health or human service field can be assigned prior to the fulfilling of the training requirements if the following conditions are met:

(1) Placement is appropriate to prior training, such as geriatric or nurses aide training to provide personal care; social work training to provide protective service; home economics training to provide home management and meal preparation.

(2) Orientation is conducted, which includes adaptation of the individual's knowledge and skills from prior training to the home setting and to the role of the homemaker-home health aide.

(3) Within the first six months of employment, the trainee completes an additional twenty to forty specified hours of training as determined by the department.

(4) A seven and one-half to fifteen-hour practicum will be required based on prior training within the first six months of employment.

b. Those workers (home helpers) providing only routine household maintenance services for self-directing clients shall complete at a minimum a sixteen-hour training course, adapted from the Model Curriculum, outline available on request from the department.

c. Those workers providing only child protective homemaker-home health aide service shall have a specialized training program subject to the approval of the Iowa state department of health.

d. Twelve hours of in-service training shall be required per year. At least two hours per year of this in-service shall cover the topics of observing, documenting, ethics, confidentiality, and liability. Home helpers shall attend at least two hours per year of in-service covering the topics of observing, documenting, ethics, confidentiality and liability but are not required to attend the entire twelve hours specified above.

80.3(4) Case management/supervision of service shall be provided in every case by an agency case or service manager or related professional person.

a. The case management shall include assessment of the need for service, development of the case plan, written assignment of duties, review of homemaker-home health aide progress notes, appropriate referral and plan for termination.

b. Supervisory home visits with the homemaker-home health aide shall be made a minimum of once every three months; or a home visit to each case by an agency person or appropriate professional person quarterly and a supervisory visit with the primary homemaker-home health aide in each home at least every other quarter and an individual face-to-face case conference with the homemaker-home health aide during quarters when the aide is not supervised in the home. This shall be documented on the supervisory notes in each case record.

c. The following qualifications for service management and case management are effective July 1, 1987:

(1) Education, experience, and special requirements for a homemaker-home health aide service manager, who

is responsible for administrative supervision of the homemaker-home health aide, are the following:

Licensure as a registered nurse; or

Three years of full-time equivalent experience in general administration or work experience involving direct contact with people in overcoming their social, economic, psychological, or health problems and attendance within one year of employment at a course equivalent in content and depth to "Supervision in Home Care" published by the National Home Caring Council, Inc., 1982 Library of Congress Catalog Card No. 82-80036; or

An equivalent combination of education and experience substituting thirty semester hours of accredited college coursework in a health or human service field for one year of the required experience with a maximum substitution of three years; or

An employee with current continuous experience in an agency that includes the equivalent of thirty-six months of full-time experience as a homemaker-home health aide shall be considered as qualifying, provided the employee attends within one year of employment a course equivalent in content and depth to "Supervision in Home Care" published by the National Home Caring Council, Inc. 1982 Library of Congress Catalog Card No. 82-80036.

An individual continuously employed as a service manager in an agency from January 1, 1986 through July 1, 1987 shall be considered qualified to hold the position of service manager in that agency.

(2) Education, experience and special requirements needed for a homemaker-home health aide case manager, who is responsible for the case management aspects as stated in subrule 80.3(4), paragraph "a," are the following:

A B.A. or B.S. degree in social work, sociology or home economics or other health or human service field with one year of supervisory or managerial experience; or

A licensed registered nurse with one year of supervisory or managerial experience; or

A homemaker-home health aide service manager not possessing these qualifications may provide case management under the supervision of an individual possessing the required qualifications.

(3) A licensed practical nurse is to be excluded from service manager and case manager positions unless all the conditions of nursing board subrule [590] 6.6(1) are also met.

[Filed 11/27/85, effective 1/22/86]

[Published 12/18/85]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 12/18/85.

ARC 6200**HEALTH DEPARTMENT[470]**

Pursuant to the authority of Iowa Code sections 135.11(15) and 144.3, the Iowa State Department of Health hereby adopts an amendment to Chapter 95, "Certificate of Birth — Registration Fee," Iowa Administrative Code.

This amendment was published as Notice of Intended Action on October 9, 1985, in Iowa Administrative Bulletin, Volume VIII, Number 8, as **ARC 6003**.

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

HEALTH DEPARTMENT[470] (cont'd)

This rule change was adopted by the Iowa State Board of Health at its regularly scheduled meeting of November 13, 1985.

This rule is intended to implement 1985 Iowa Code Supplement section 144.13A.

This rule will become effective January 22, 1986.

Amend rule 470—95.1(144) by striking the introductory paragraph and inserting in lieu thereof the following:

470—95.1(144) Birth certificates — when filing fee required. Registration of a certificate of birth shall be the following for the purpose of a registration fee being charged pursuant to 1985 Iowa Code Supplement section 144.13A: Birth certificate filed pursuant to Iowa Code section 144.13; delayed certificates of birth established for persons less than eighteen years of age, pursuant to Iowa Code section 144.15 or 144.18; birth certificates established for foreign-born adoptees pursuant to Iowa Code section 144.23.

[Filed 11/26/85, effective 1/22/86]

[Published 12/18/85]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 12/18/85.

ARC 6223**HUMAN SERVICES
DEPARTMENT[498]**

Pursuant to the authority of Executive Order No. 19, the authority of Iowa Code sections 8.19, 8.31, 8.32, 8.33, and 8.38, and the Constitutional requirements of Article III, section 24, and Article VII, the Department of Human Services hereby amends Chapter 52, "Payment," Chapter 54, "Facility Participation," Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Chapter 81, "Intermediate Care Facilities," Chapter 150, "Purchase of Service," Chapter 156, "Payments for Foster Care and Foster Parent Training," and Chapter 177, "In-Home Health Related Care," appearing in the Iowa Administrative Code.

The Council on Human Services adopted these rules on November 27, 1985. Notice of Intended Action regarding these rules was published in the Iowa Administrative Bulletin on October 23, 1985, as **ARC 6047**.

These rules were also filed emergency October 1, 1985, as **ARC 6046**, effective November 1, 1985, and filed without Notice October 1, 1985, as **ARC 6048**, effective December 1, 1985, in the Iowa Administrative Bulletin October 23, 1985, and are rescinded effective February 1, 1986.

The following rule amendments are intended to implement the mandated reductions in line item appropriations by reducing the spending obligations of the Department.

Chapters 52 and 54 - Reduce monthly state supplementary assistance payments to recipients in residential care facilities by 5.18 percent.

Chapter 78 - Reduce medical assistance reimbursement for the professional fee to pharmacists by 9.75 percent.

Chapter 79 - Reduce medical assistance reimbursement to physicians and hospitals by 5.36 percent. Reduce the reimbursement by 7.86 percent rather than the current 2.50 percent to all other medical providers except rural health clinics, intermediate care facilities, intermediate care facilities for the mentally retarded, the Iowa Veterans Home, state mental health institutes and all products reimbursed at acquisition cost.

Chapter 81 - Eliminate the incentive factor and cut the inflation factor by one-half in determining the prospective payment rate for intermediate care facilities. Legislation permitted the Department to increase payment to intermediate care facilities to the fifty-fifth percentile of December 31, 1985, unaudited compilation of financial and statistical reports which is estimated to be \$30.71 per day effective January 1, 1986. These rules reduce the planned-for January 1, 1986, increase in reimbursement rate for intermediate care facilities to the fiftieth percentile of the December 31, 1985, compilation or \$30.50 per day, whichever is higher. The determination of whichever is higher will be made after the December 31, 1985, compilation is received.

Chapter 150 - Reduce payments for shelter care, independent living supervision, foster family supervision and foster group care by 3.39 percent. Reduce payments for family-centered services by 3.85 percent. Reduce payments for family planning services by 3.23 percent. Reduce payments for protective child day care by 2.93 percent. Reduce payments for local purchased services (e.g., adult residential care, adult residential treatment, adult day care, other child day care, community support services/mental health, work activity, sheltered workshop, and transportation) by 1.33 percent. Reduce payment for any services to state cases by 5.78 percent.

Chapter 156 - Reduce payment to foster family homes and subsidized adoption cases by 3.39 percent.

Chapter 177 - Reduce payment for in-home health related care by 5.18 percent.

Subrule 78.2(2), paragraph "a," was revised at the request of the Iowa Pharmacists Association to reinstate the language relating to the seventy-fifth percentile of fees charged to the private paying public.

Subrule 79.1(2) was revised to add a change in the skilled nursing facility reimbursement which was adopted emergency effective January 1, 1986.

These rules are intended to implement Iowa Code sections 234.6, 234.38, 249.4, and 249A.4.

These rules shall become effective February 1, 1986.

ITEM 1. Amend the first paragraph of subrule 52.1(3) by adding the following sentences:

After the rate is established as determined above, state supplementary assistance payments made to recipients shall be reduced by a factor of five and eighteen-hundredths percent. The facility shall make no charge to the recipient to defray this reduction.

ITEM 2. Amend subrule 54.3(15) by adding the following paragraph:

After the rate is established as determined above, state supplementary assistance payments made to recipients shall be reduced by a factor of five and eighteen-hundredths percent. The facility shall make no charge to the recipient to defray this reduction.

ITEM 3. Amend subrule 78.2(2), paragraph "a," as follows:

a. In accordance with 42CFR 447.331-333, the basis of payment for legend drugs shall be the pharmacist's usual,

HUMAN SERVICES DEPARTMENT[498] (cont'd)

customary, and reasonable charge, but payment shall not exceed the current cost average wholesale price of the drug as defined by the department of human services plus a the professional fee which represents the seventy-fifth percentile of fees charged to the private paying public by Iowa pharmacies, not to exceed \$3.78, less nine and seventy-five hundredths percent. This professional fee shall be applicable to services rendered on or after September 1, 1981. The determination of the seventy-fifth percentile of pharmacist's fees shall be made annually and shall be based on periodic studies of pharmacy fees conducted by the department of human services. The maximum allowable reimbursable cost for drug products for which there is available a lower cost alternative equivalent product shall be established at the average wholesale price of the lower cost equivalent product dispensed. If a physician certifies in the physician's handwriting that, in the physician's medical judgment, a specific brand is medically necessary for a particular recipient, the maximum allowable reimbursement does not apply and the department will pay the average wholesale price cost of the brand name product. If a physician does not certify in the physician's handwriting that, in the physician's judgment a specific brand is medically necessary, and if a lower cost equivalent product is not substituted by the pharmacy, the department will pay for the product an amount equal to the upper level of the range of average wholesale prices of equivalent products.

Equivalent products shall be defined as those products which meet therapeutic equivalence standards as published in the Federal Food and Drug Administration document "Approved Prescription Drug Products with Therapeutic Equivalence Evaluations" and which are normally available from drug wholesalers servicing pharmacies in this state as determined by surveys of these wholesalers.

ITEM 4. Amend rule 498—79.1(249A) as follows:

Amend subrule 79.1(2) as follows:

79.1(2) Basis of reimbursement of specific provider categories.

<u>Institutional</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
1. Home health agencies	Medicare less 2.5% 7.86%	Reimbursement rate for agency in effect 6/30/85
2. Rehabilitation agencies	Medicare less 2.5% 7.86%	Reimbursement rate for agency in effect 6/30/85
3. Rural health clinics	Medicare	Medicare upper limits
4. Skilled nursing facilities	Medicare less 2.5% Prospective reimbursement. (See 78.12(11))	Per diem rate for facility in effect 6/30/85
5. Hospitals	Prospective reimbursement. (See 79.1(3))	Per diem rate for hospital in effect 6/30/85

6. Family planning clinics	Prospective rate per clinic visit determined on basis of financial and statistical data submitted annually by clinic less 2.5% 7.86%	Reimbursement rate for clinic in effect 6/30/85
7. Intermediate care facilities	See 81.10(1), 498—81.6(249A)	Per diem rate for facility in effect 6/30/85
8. Intermediate care facilities for the mentally retarded	See 498—82.5(249A)	
9. Iowa Veterans Home	Medicare (skilled) Intermediate (ICF) but not subject to the provisions of 81.6(16)	
10. State mental health institutes	Retrospective per diem rate based on Medicare principles	
	<u>Non-institutional</u>	<u>Basis of reimbursement</u>
1. Ambulance	Medicare less 2.5% 7.86%	<u>Upper limit</u> Medicare rate for provider in effect 6/30/85
2. Chiropractors	Medicare less 2.5% 7.86%	Medicare rate for provider in effect 6/30/85
3. Medical equipment and prosthetic devices	Medicare (See 79.1(6) less 2.5% 7.86%	Reimbursement rate for provider in effect 6/30/85
4. Podiatrists	Medicare less 2.5% 7.86% (service) Fixed fee less 2.5% 7.86% (orthotics)	Reimbursement rate for provider in effect 6/30/85
5. Physical therapists	Medicare less 2.5% 7.86%	Reimbursement rate for provider in effect 6/30/85
6. Dentists	Medicare less 2.5% 7.86%	Reimbursement rate for provider in effect 6/30/85
7. Laboratories	Medicare less 2.5% 7.86%	Reimbursement rate for provider in effect 6/30/85
8. Psychologists	Fixed fee based on the fortieth percentile of psychologist profiles compiled for the fiscal year ending June 30, 1983 less 2.5% 7.86%	Reimbursement rate for provider in effect 6/30/85

HUMAN SERVICES DEPARTMENT[498] (cont'd)

9. Optometrists	Fixed fee based on the twenty-eighth percentile of optometrist profiles compiled for the fiscal year ending June 30, 1983, plus maximum 3% increase effective 11/1/84 less 2.5% 7.86%. Optical Fixed fee for lenses, frames, and other optical materials at product acquisition cost	Reimbursement rate for provider in effect on 6/30/85 for professional services
10. Opticians	Fixed fee less 2.5% 7.86%. plus Fixed fee for lenses, frames, and other optical materials at product acquisition cost	Reimbursement rate for provider in effect 6/30/85 for professional services
11. Orthopedic shoes	Fixed fee less 2.5% 7.86%	Reimbursement rate for provider in effect 6/30/85
12. Physicians (doctors of medicine or osteopathy)	Statewide Statewide prevailing fee for recognized specialties as determined by Medicare methodology, less 5.36%	Reimbursement rate for provider in effect 6/30/85
13. Prescribed drugs	See 78.2(2), (3), and (4) Product costs and professional fee as determined according to 78.2(2)	Reimbursement rate for provider in effect 6/30/85 for professional services
14. Hearing aids	Fixed fee less 2.5% 7.86% plus product acquisition cost	Reimbursement rate for provider in effect on 6/30/85 for professional services
15. Audiologists	Fixed fee less 2.5% 7.86%	Reimbursement rate for provider in effect 6/30/85
16. Community mental health centers	Physicians (see item 12 above) Psychologists, social workers, psychiatric nurses (fixed fee less 7.86%)	Reimbursement rate for center in effect 6/30/85
17. Screening centers	Fixed fee less 2.5% 7.86%	Reimbursement rate for center in effect 6/30/85
18. Maternal health centers	Fixed fee less 2.5% 7.86%	Reimbursement rate for center in effect 6/30/85
19. Ambulatory surgical centers	Medicare less 7.86%	Reimbursement rate for center in effect 6/30/85

20. Genetic consultation clinics	Fixed fee less 2.5% 7.86%	Reimbursement rate for clinic in effect 7/1/85
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Amend subrule 79.1(3) by adding the following new paragraph:

g. The reimbursement rate established for each hospital is subject to a reduction of five and thirty-six hundredths percent.

ITEM 5. Amend subrule 81.6(16) by rescinding and reserving paragraph "b." Amend paragraphs "c" and "e" as follows:

c. The reimbursement rate shall be established by determining, on a per diem basis, the allowable cost plus *one-half* the established inflation factor ~~plus the established incentive factor~~, subject to the maximum allowable cost ceiling.

e. Beginning July 1, 1984, through December 31, 1985, the basis for establishing the maximum medical assistance reimbursement rate for intermediate care facilities shall be the sixty-sixth percentile of participating facilities' per diem rates as calculated in the June 30, 1984, report of "unaudited compilation of various costs and statistical data."

Notwithstanding the above, facilities which file their cost reports between July 1, 1985, and December 31, 1985, shall be limited to their Medicaid rate in effect on June 30, 1985.

Beginning January 1, 1986, the basis for establishing the maximum medical assistance reimbursement rate for intermediate care facilities shall be the ~~fifty-fifth~~ *fiftieth* percentile of participating facilities' per diem rates as calculated in the December 31, 1985, report of "unaudited compilation of various costs and statistical data-" or \$30.50 per day, whichever is higher.

ITEM 6. Amend subrule 150.3(5) as follows:

Add new unnumbered paragraphs to "p."

For services offered beginning November 1, 1985, a reduction will be made to reflect the mandated state budget reduction. The amount of the reduction for each type of service and client is listed at paragraph "r" below.

Payments for claims submitted for services will be reduced by the specified percent for each agency provider unless by October 15, 1985, the provider elects a rate reduction in the amount specified in paragraph "r." Family and group day care and foster care maintenance costs are subject to the reduction, but are not subject to the election.

Add the following new paragraph:

r. For services beginning November 1, 1985, the following reductions will apply:

(1) Payments for shelter care, independent living supervision, foster family supervision, and foster group care will be reduced three and thirty-nine hundredths percent.

(2) Payments for family-centered services will be reduced three and eighty-five hundredths percent.

(3) Payments for family planning services will be reduced three and twenty-three hundredths percent.

(4) Payments for protective child day care will be reduced two and ninety-three hundredths percent.

(5) Payments for local purchased services (e.g., adult residential care, adult residential treatment, adult day care, other child day care, community support services/mental health, work activity, sheltered workshop,

HUMAN SERVICES DEPARTMENT[498] (cont'd)

and transportation) will be reduced one and thirty-three hundredths percent.

(6) Subparagraphs (1) to (5) above notwithstanding, payments for services to state cases will be reduced five and seventy-eight hundredths percent.

ITEM 7. Amend subrule 156.6(1) as follows:

156.6(1) A monthly payment for care in a foster family home licensed in Iowa shall be made to the operator of the foster care facility based on the following schedule.

Age of child	Monthly rate
0 through 5	\$163 \$157
6 through 11	207 200
12 through 15	251 242
16 and over	262 253

ITEM 8. Amend subrule 156.7(1) as follows:

156.7(1) When a child has a special need for care and supervision because of a physical, mental, emotional, social, or educational handicap which requires activities on the part of the foster parent above and beyond those normally required in caring for a child, an additional amount may be authorized upon recommendation of the social worker and with the approval of the local administrator. The amount shall be based on the severity of the child's handicap and the degree of extra effort required on the part of the foster parents.

The additional payment may be ~~fifty-one~~ *forty-nine* dollars per month for a mild handicap requiring a moderate degree of extra effort by the foster parents, ~~seventy-three~~ *seventy-one* dollars per month for a moderate handicap requiring a substantial extra effort by the foster parents, or ~~ninety-three~~ *ninety* dollars per month for a severe handicap requiring almost constant extra effort on the part of the foster parents.

ITEM 9. Amend subrule 177.4(3) as follows:

177.4(3) Maximum costs. The maximum cost of service shall be \$343.60. *The amount paid by the department of human services as stated in the Provider Agreement, Form SS-1511-0, shall be reduced by five and eighteen-hundredths percent. The provider shall accept the payment made and shall make no additional charges to the recipient or others. The amount of client participation is not affected by the reduction.*

ITEM 10. Amend subrule 177.9(3) as follows:

177.9(3) Provider agreement. The client and the provider shall enter into an agreement, using Form SS-1511-0, Provider Agreement, prior to the provision of service. *The reduction of five and eighteen-hundredths percent shall be applied to the maximum amount paid by the department of human services as stated in the Provider Agreement by using Form 470-1999, Amendment to Provider Agreement.*

[Filed 12/2/85, effective 2/1/86]
[Published 12/18/85]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 12/18/85.

Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," appearing in the Iowa Administrative Code. The Commissioner shall make rules to administer the medical assistance program.

The Council on Human Services adopted this rule on November 27, 1985. Notice of Intended Action regarding this rule was published in the Iowa Administrative Bulletin on October 9, 1985, as ARC 6006.

The General Assembly created a Medical Assistance Advisory Council to advise and consult with the Department. The Council by law shall consist of twenty-eight members: One representative from the Iowa Medical Society, the Iowa Society of Osteopathic Physicians and Surgeons, the Iowa State Dental Society, the Iowa State Nurses Association, the Iowa Pharmacists Association, the Iowa Podiatry Society, the Iowa Optometric Association, the Community Mental Health Centers Association of Iowa, the Iowa Psychological Association, the Iowa Hospital Association, the Iowa Osteopathic Hospital Association, Opticians' Association of Iowa, Inc., the Iowa Health Care Association, the Iowa Assembly of Home Health Agencies, the Iowa Council of Health Care Centers, and the Iowa Association of Homes for the Aging, together with one person designated by the Iowa State Board of Chiropractic Examiners, two state representatives, one from each major political party, two state senators, one from each major political party, the president of the Association for Retarded Citizens, four representatives appointed by the Governor, the Commissioner of Public Health and the Dean of the College of Medicine, University of Iowa.

Current rules define a quorum as two-thirds of the voting members. In the past it has proven very difficult to obtain a quorum to vote on recommendations to the Department. The varying concerns of the Council members make it difficult to formulate agendas of equal interest to all Council members.

This amendment changes the quorum from two-thirds to fifty percent of the voting members. The recommendations of the Council are advisory only and it is felt that fifty percent representation would be adequate. Since the Council is advisory only, it is not subject to the quorum requirements in Iowa Code section 17A.2, subsection 1.

At the recommendation of the Administrative Rules Review Committee subrule 79.7(5), paragraph "b," is also being revised to clarify the intent that when a quorum is present, a position is carried by two-thirds of the members present.

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

This rule shall become effective February 1, 1986:

Amend subrule 79.7(5), paragraphs "a" and "b," as follows:

a. A quorum shall consist of ~~two-thirds~~ *fifty percent* of the voting members.

b. Where a quorum is present, a position is carried by ~~a majority~~ *two-thirds* of the council members present.

[Filed 12/2/85, effective 2/1/86]
[Published 12/18/85]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 12/18/85.

ARC 6224

**HUMAN SERVICES
DEPARTMENT[498]**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services hereby amends

ARC 6234

**MERIT EMPLOYMENT
DEPARTMENT[570]**

Pursuant to the authority of Iowa Code section 19A.9, the Iowa Merit Employment Department adopts amendments to Chapter 4 "Pay Plan," Chapter 7 "Certification and Selection," Chapter 9 "Probationary Period," Chapter 10 "Promotion, Transfer, Temporary Assignment and Voluntary Demotion," Chapter 11 "Separations, Disciplinary Actions and Reduction in Force," Chapter 12 "Grievances, Appeals and Hearings," and Chapter 14 "Vacation and Leave," appearing in Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 9, 1985, as **ARC 6036**. The Iowa Merit Employment Commission adopted these rules at a regularly scheduled meeting on November 14, 1985.

The language is clarified for rules dealing with special and extraordinary duty pay under a section now titled temporary assignments in chapters 4 and 10.

Certification rules are being amended to allow departments to eliminate the names of applicants previously interviewed who are not interested in working for that agency. The names of applicants so removed will continue to be referred to other departments, but not to the requesting agency.

Rules on discharge are amended to include a procedure for a face-to-face encounter prior to the discharge, in accordance with a recent decision of the Supreme Court of the United States, Cleveland Board of Education Petitioner v. James Loudermill et al. No. 83—1362.

Chapter 12 rules on hearing scheduling and postponement are amended to include clarifying language and incorporated administrative procedures. The rule on administrative decisions is changed to require a written statement be submitted by the appellant when requesting reconsideration of hearing denial.

Changes from Notice of Intended Action include: The rules pertaining to overtime provisions have been removed and will be submitted for final action separately. They will be revised based on the recent change in FLSA standards which provides for compensatory leave in lieu of pay for overtime worked.

These rules are intended to implement Iowa Code section 19A.9.

These rules will become effective on January 22, 1986. The following amendments are adopted:

ITEM 1. Subrule 4.5(6) is rescinded and the following adopted in lieu thereof:

4.5(6) Pay for temporary assignments.

a. A permanent employee assigned to special duty may receive extra pay only when the assignment is to a class in a higher pay grade or from a nonsupervisory to a supervisory class in the same pay grade. Pay shall be set in accordance with the rules governing pay upon promotion to the class to which assigned for the duration of the assignment. When extra pay is granted, the class to which the employee is temporarily assigned shall be controlling for all pay purposes including overtime, shift differential, standby, call back and leadworker pay eligibility.

b. A permanent employee assigned extraordinary duties may receive extra pay only when those duties are of a higher level than those in the class to which the

employee is assigned, or when supervisory duties are assigned to an employee who is allocated to a nonsupervisory class. This extra pay must be given in step increments, except for employees covered by the professional/managerial pay plan in which case it may be paid a percentage above their current salary. This extra pay may exceed the maximum pay for the class, and shall be paid only as long as the extraordinary duties are assigned.

c. Extra pay given as a result of an assignment to special duty or extraordinary duty shall not affect the employee's eligibility to receive a merit/step pay increase while on a temporary assignment. If granted a merit/step pay increase, the extra pay shall then be recalculated from the employee's new base salary. At the expiration of the assignment, the employee's pay shall revert to the employee's regular authorized pay.

Rule 570—4.7(19A) is rescinded and the number reserved for future use.

ITEM 2. Rule 570—7.9(19A) is rescinded and the following adopted in lieu thereof:

570—7.9(19A) Omission of names from referral.

7.9(1) If an appointing authority passes over the name of an applicant on three separate certificates in connection with three separate appointments for the same job class, from which another person with a lower certified score was hired, then the appointing authority may request that the director not refer that applicant to the appointing authority for that job class.

7.9(2) If an applicant declines or fails to respond to three offers to interview for the same job class in connection with three separate certificates for three different vacancies, then the appointing authority may request that the director not refer the applicant to the appointing authority for that job class.

7.9(3) If approved for removal, the director shall notify the applicant. The period of removal shall not exceed two years from the date removed. Appeal from removal shall be in accordance with 570—chapter 12.

ITEM 3. Rule 570—9.1(19A) is rescinded and the following adopted in lieu thereof:

570—9.1(19A) Duration. All original permanent appointments made as provided for in these rules shall require a six-month period of probationary status. If, during the period of probationary status the conditions under which the employee was originally certified are changed, the employee must be eligible for certification in accordance with 7.3(2).

A period of probationary status of six months may, at the discretion of the appointing authority with notice to the employee and the director, be required upon reinstatement, and all rules regarding probationary status shall apply during that period.

Subrule 9.2(2) is amended to read as follows:

9.2(2) A probationary employee may be disciplinarily demoted to a lower class in the same class series, in the same location, and under the same conditions under which the employee was originally certified. Otherwise, disciplinary demotion during the period of probationary status shall require eligibility for appointment from a list of eligibles in accordance with subrule 7.3(2). A probationary employee may be *disciplinarily* demoted to a work-test (division C) class without regard to class

MERIT EMPLOYMENT DEPARTMENT[570] (cont'd)

series, location or other similar conditions as long as the employee meets the minimum qualifications required for the class. The total required period of probationary status shall include the time spent in the higher class. The pay shall be set in accordance with subrule 4.5(7).

ITEM 4. Rule 570—10.3(19A) is rescinded and the following adopted in lieu thereof:

570—10.3(19A) Temporary assignments.

10.3(1) An appointing authority may assign a permanent employee to special duty when that employee is temporarily needed in a position in another class. This assignment shall be without prejudice to the employee's rights in or to the regularly assigned position. Unless there is a statutory requirement to the contrary, the employee need not be qualified for, nor certified to the class to which temporarily assigned.

10.3(2) An appointing authority may temporarily assign a permanent employee duties that are extraordinary for the employee's class. These duties may be of a level higher than, lower than, or similar to the duties regularly assigned to the employee's class, and may be in addition to or in place of some or all of the employee's regularly assigned duties.

10.3(3) Additional pay may be requested by the appointing authority when:

a. A special duty assignment is to a class in a higher pay grade;

b. A special duty assignment is from a nonsupervisory to a supervisory class having the same pay grade;

c. Extraordinary duties are assigned that are of a level higher than the duties assigned to the class to which the employee is allocated; or

d. Supervisory duties are assigned to an employee whose regular assignment is in a nonsupervisory class.

Requests shall be submitted to the director in writing explaining the need and the period of time requested. If approved, the additional pay shall be in accordance with subrule 4.5(6).

10.3(4) An appointing authority may make temporary assignments without additional pay for a period not to exceed six pay periods in a calendar year without the approval of the director. Assignments beyond six pay periods shall require the approval of the director.

10.3(5) Temporary assignments shall not be authorized for any employee covered by a collective bargaining agreement unless determination has been made by the employment relations division that it is not prohibited.

ITEM 5. Subrule 11.2(4), introductory paragraph, is amended to read as follows:

11.2(4) Discharge. An appointing authority may discharge an employee. *Prior to being discharged, the appointing authority or designee will personally inform permanent employees of the pending discharge, and at that time the employee will have the opportunity to respond.* A written statement of the reasons for the discharge shall be sent to the permanent employees within twenty-four hours after the effective date of the ~~action~~ discharge and a copy shall be sent to the director by the appointing authority at the same time.

ITEM 6. Subrule 12.3(5) is rescinded and the following adopted in lieu thereof:

12.3(5) Scheduling of hearings. Appeals shall be scheduled by the director for hearing. All appeals involving suspension, reduction in pay step/rate within pay grade, disciplinary demotion, or discharge shall, unless

postponed or continued in accordance with subrule 12.3(6), be heard within thirty calendar days following the receipt of the request for hearing.

Subrule 12.3(6) is rescinded and the following adopted in lieu thereof:

12.3(6) Postponement or continuance of hearings. A scheduled hearing may be postponed or continued. A request to do so must be in writing and received at least five working days prior to the scheduled hearing date, unless otherwise approved. The parties shall be notified in writing of the decision on the request. If the request is denied, a request to reconsider the decision may be made to the person presiding at the hearing at the time of the hearing. All information concerning the request shall become part of the record.

Subrule 12.3(7) is adopted as follows:

12.3(7) Judicial review. The parties to an appeal hearing may obtain judicial review of the commission's decision in accordance with Iowa Code chapter 17A.

Rule 570—12.4(19A) is amended to read as follows:

570—12.4(19A) Administrative decisions. The ~~department director~~ may, ~~on jurisdictional or other grounds,~~ deny a request for hearing, ~~provided that~~ ~~the parties shall be~~ notified in writing of the reasons for the ~~decision denial.~~ The ~~requesting party appellant~~ may, within fourteen calendar days following the ~~issuance date~~ of the ~~department's~~ decision, seek a review of that decision by filing a written "request for reconsideration" with the commission. *The request for reconsideration must include a written statement including the rule that is alleged to have been violated and the remedy sought, and a copy sent to the other party.* The request for reconsideration will be placed on the commission's next available meeting agenda and the parties so notified.

By a majority of its members voting, the commission may affirm the department's decision, or reverse the decision and order the hearing to be scheduled. The decision by one or more commission members present to abstain from voting shall not constitute a vote for these purposes. All remedies provided for in rules 12.4(19A) and 12.2(19A) must be exhausted pursuant to Iowa Code subsection 17.19(1) in order to obtain judicial review.

ITEM 7. Subrule 14.10(6) is amended to read as follows:

14.10(6) ~~The maximum value of a holiday shall be eight hours.~~ *The value of a holiday shall be equal to the number of hours the employee is regularly scheduled to work but not less than eight hours for full-time employees.* Holidays shall be prorated for employees who are regularly scheduled to work less than eighty hours in the pay period, based upon the number of hours scheduled to work during the pay period in which the holiday falls. If an employee does not work on the holiday, the hours normally scheduled for that day shall be included when determining the number of pro rata holiday hours.

[Filed 12/3/85, effective 1/22/86]

[Published 12/18/85]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 12/18/85.

ARC 6207

NURSING, BOARD OF[590]

Pursuant to the authority of Iowa Code section 147.76, the Iowa Board of Nursing adopts an amendment to Chapter 6, "Nursing Practice for Registered Nurses/Licensed Practical Nurses," appearing in the Iowa Administrative Code.

The amendment delineates the skills training and education for which a registered nurse must provide documentation to the medical director of an ambulance or rescue squad in order for the nurse to become a member of the staff of an authorized service. The registered nurse must document skills training and education equivalent or superior to that required of a certified emergency medical technician or paramedic.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 9, 1985, as **ARC 6019**. This amendment is identical to that published under Notice of Intended Action.

This rule amendment implements Iowa Code section 147A.12.

This amendment will become effective on January 22, 1986.

Amend rule **590—6.4(152)** by adding the following new subrule:

6.4(2) A registered nurse may be a member of the staff of an ambulance or rescue squad authorized pursuant to Iowa Code chapter 147A.

a. The registered nurse shall document skills training and education equivalent or superior to that required of a certified advanced emergency medical technician or paramedic.

b. Documentation of the following education and skills training shall be reviewed and approved at the local level by the medical director of the ambulance or rescue squad.

(1) For all levels of certification the following shall be required:

Current basic cardiac life support (BCLS) certification in accordance with current American Heart Association standards.

Military antishock trouser (MAST).

Use of basic airway adjuncts including:

1. Oropharyngeal airway.
2. Nasopharyngeal airway.
3. Cannula, mask.
4. Demand valve unit.
5. Bag valve mask.
6. Pocket mask.

7. Initiation and use of portable O₂ tanks.

Application of traction and cervical immobilization.

Complete spinal and extremity immobilization.

Use of extrication equipment.

Immobilization of impaled object.

Voice radio communication.

Four advanced life support field responses.

Emergency driving.

Primary and secondary field assessment.

Overview of statutes and rules governing emergency medical services.

(2) For EMT-I, EMT-II and Paramedic, esophageal intubation shall be required.

(3) For EMT-D, EMT-II and Paramedic, recognition and treatment of ventricular fibrillation and operation of defibrillator shall be required.

(4) For EMT-II and Paramedic, the following shall be required:

Direct laryngoscopy.

Endotracheal intubation.

Current advanced cardiac life support (ACLS) in accordance with current American Heart Association standards.

c. The documentation may be reviewed by the board of medical examiners, the board of nursing, or state health department.

d. Exceptions to this subrule include:

(1) The registered nurse who accompanies and is responsible for a transfer patient.

(2) The registered nurse who serves on a basic ambulance or rescue squad service.

e. Any registered nurse found to be staffing an authorized ambulance or rescue squad service who has not met the appropriate educational standards shall be subject to disciplinary proceedings initiated by the board of nursing as defined in the Iowa Administrative Code 590—chapter 4.

[Filed 11/27/85, effective 1/22/86]

[Published 12/18/85]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 12/18/85.

ARC 6216

PHARMACY EXAMINERS, BOARD OF[620]

Pursuant to the authority of Iowa Code sections 155.19 and 203A.15, the Iowa Board of Pharmacy Examiners adopted an amendment to Chapter 6, "Minimum Standards for the Practice of Pharmacy."

Notice of Intended Action was published in the August 28, 1985, Iowa Administrative Bulletin as **ARC 5864**. No oral or written comments were received from the general public. The rule was adopted at the October 15, 1985, meeting of the Iowa Board of Pharmacy Examiners.

The amendment establishes standards for the packaging and labeling of prescription containers identified as patient med paks.

The adopted rule differs from that published under the Notice of Intended Action as follows:

1. The rule number is 6.15(155,203A) rather than 6.14(155,203A).

2. Following suggestions from the Administrative Rules Review Committee, the word "therein" in subrules 6.15(3)"a"(3) and (4) was deleted. Also, the language in subrule 6.15(5)"c"(2) was reworded to again allow the word "therein" to be deleted.

This rule implements Iowa Code sections 155.1 and 203A.10, and will become effective on January 22, 1986.

620—Chapter 6 is amended by adding the following new rule:

620—6.15(155,203A) Patient med paks.

6.15(1) Definitions. Patient med pak. A patient med pak is a customized patient medication package prepared for a specific noninstitutionalized patient which comprises a series of immediate containers containing two or more prescribed solid oral dosage forms, each container being labeled with the time or the appropriate period for the patient to take its contents.

PHARMACY EXAMINERS, BOARD OF [620] (cont'd)

ARC 6235

PLANNING AND
PROGRAMMING [630]

6.15(2) Packaging requirements. Packaging for all nonsterile solid oral dosage forms stored and dispensed in patient med paks shall:

a. Preserve and protect the identity and integrity of the drug from the point of packaging to the point of dispensing.

b. When in containers used for packaging, be clean and free of extraneous matter when the drugs are placed into the package.

6.15(3) Labeling requirements.

a. The patient med pak shall be labeled with the following:

(1) Name of patient;

(2) A separate identifying serial number for each of the prescription orders for each of the drug products contained therein;

(3) The name, strength, physical description or identification, and the total quantity of each drug product;

(4) The directions for use and cautionary statements, if any, contained in the prescription order for each drug product;

(5) The name of the prescriber of each drug product;

(6) The date of preparation of the patient med pak and the expiration date (expressed as "do not use beyond" date) assigned to the patient med pak;

(7) The name and address of the dispensing pharmacy.

b. Patient med paks dispensed to patients shall be considered prescription containers and shall be labeled in accordance with the federal Food and Drug Administration (FDA) requirements and, where applicable, the requirements set forth in Iowa Code sections 155.35, 203A.10(12)"b," and board subrules 8.13(7) and 8.13(11).

6.15(4) Expiration dating (beyond-use dating). Expiration dating for nonsterile drugs repackaged by the pharmacy into patient med paks shall meet the following conditions: Not exceed ninety days from the date of repackaging except as provided in board subrule 6.11(5), paragraph "c."

6.15(5) General procedures. The following will apply when patient med paks are employed:

a. The pharmacist shall be responsible for determining the classification for containers set by USP Standard 671 used by the pharmacy to repackage nonsterile drugs into patient med paks.

b. Drugs dispensed to patients in patient med paks may not be returned to the pharmacy stock and reissued.

c. In addition to any individual prescription filing requirements, a record of each patient med pak shall be made and filed. Each record shall contain, as a minimum:

(1) Name and address of patient;

(2) The serial number for each prescription order which is part of the med pak;

(3) The date of preparation of the patient med pak and the expiration date that was assigned;

(4) The name or initials of the pharmacist who prepared the patient med pak.

d. There are no special exemptions for patient med paks from the requirements of the Poison Prevention Packaging Act.

e. Customized patient medication packages prepared for institutionalized patients shall be in accordance with board subrules 6.11(1) to 6.11(6).

[Filed 11/27/85, effective 1/22/86]

[Published 12/18/85]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 12/18/85.

Pursuant to the authority of Iowa Code sections 7A.3, 7B.3, chapter 17A, and Executive Order 47 (1982), the Office for Planning and Programming hereby adopts amendments to Chapter 19, "Iowa Job Training Partnership Act (JTPA)," Iowa Administrative Code.

The amendments to Chapter 19 add new definitions used in the JTPA program; create new rules applicable to service delivery designation, the JTPA Older Individuals Training Program and the JTPA State Education Coordination and Grants Program; rescind rule 630—19.7(17A,29USC 1501 et seq.) applicable to the private industry council and insert a new rule; and amend rules 630—19.9 (7A,29USC 1514) to 19.13(7B,29USC 1651 et seq.) which relate to the Title II and Title III plans.

Notice of Intended Action was published in the Iowa Administrative Bulletin August 14, 1985, as **ARC 5839**. A public hearing was held on September 3, 1985; no one appeared to offer an oral presentation. Written comments and suggestions were received until September 3, 1985.

JTPA service delivery area (SDA) 1 wrote to the agency objecting to proposed rule 630—19.8(1) which limits local elected official (LEO) participation on the private industry council (PIC). The Private Industry Council (PIC) for SDA 1 wrote to the agency to request clarification of the proposed rule. The PIC believed that paragraph "c" was conflicting with paragraph "b" and confusing.

In an effort to eliminate the perceived confusion, paragraph "c" has been rewritten. The revision does not alter the substance of the noticed rule; it combines the last two sentences of paragraph "b" and the contents of paragraph "c" to clarify that LEOs may participate on the PIC if they are not serving on the LEO consortium in an executive capacity or if they are serving on the PIC as an ex officio member.

These amendments are identical to those submitted as Notice of Intended Action except as follows: Grammatical changes to the proposed rules as suggested by a member of the ARRC; the definition "average wage at placement" was clarified by inserting the phrase "who entered employment" after "participants"; the last clause, under paragraph 1, in the "labor force status" definition was modified by changing "and" to "or"; the phrase "eligible applicant" in the definition of "participant pool" was corrected to "eligible participant"; the published definition for "termination status" inadvertently omitted "completed major level of education" which will be inserted after number two; three changes were made to 630—19.8(1): "six nonprivate sector" changed to "six public or private sector"; "approve the PIC/LEO agreement and vote" was changed to "approve the PIC/LEO agreement or vote"; and the last two sentences of subparagraph "b"(2) and paragraph "c" were revised for clarification; and 630—19.11(4)"b," second sentence was changed by deleting "program year".

These rules will become effective on January 22, 1986.

These amendments are intended to implement Executive Order 47 and Iowa Code chapters 7A and 7B.

The following amendments are adopted:

ITEM 1. Rule 630—19.3 (Executive Order 47, 29 USC 1501 et seq.) is amended by adding the following definitions in alphabetical sequence:

PLANNING AND PROGRAMMING[630] (cont'd)

"Administrative capacity" means the positions that have overall administrative responsibility for selection, hiring, placement, or supervisory responsibilities regarding participants served or staff hired under a grant agreement.

"Applicable credits" means an amount which can be allocated to a grant as a direct or indirect cost to offset or reduce an expense item.

"Audit trail" means the path of a transaction from its inception in the accounting system to its inclusion in the financial statements.

"Average wage at placement" means the total of all placement wages of all participants who entered employment at termination divided by the number of placements.

"Economic development agencies (EDA)" means agencies and institutions responsible for regulating, promoting, or assisting in local economic development, including local planning and zoning commissions or boards and community development agencies.

"Citizenship status" means designation of an applicant as a citizen or "eligible noncitizen" whose status permits permanent employment in the United States. For JTPA recordkeeping purposes, "eligible noncitizen" includes:

1. Nationals of the United States;
2. Lawfully admitted permanent resident aliens;
3. Lawfully admitted refugees and parolees;
4. Other individuals authorized by the Attorney General to work in the United States.

"Community based organizations (CBO)" means private nonprofit organizations which are representative of communities or significant segments of communities and which provide job training services. Examples include United Way of America, neighborhood groups and organizations, community action agencies, community development corporations, vocational rehabilitation organizations, rehabilitation facilities (as defined in Section 7(10) of the Rehabilitation Act of 1973), tribal governments, and agencies serving youth, the handicapped, displaced homemakers, or on-reservation Indians.

"Cost per entered employment (Adult)" means the total expenditures for adults divided by the number of adults who entered employment.

"Cost per positive termination (Youth)" means calculated as the total expenditures for youth divided by the number of youth who had a positive termination.

"Education status" means the educational status of an individual at the time of application:

1. School dropout. An individual who is neither attending any school nor subject to a compulsory attendance law and who has not received a secondary school diploma or a certificate from a program of equivalency for such a diploma.

2. Student (high school or less). An individual who is enrolled in an elementary or secondary school (including elementary, junior and senior high school or equivalent), or is between school terms and intends to return to school.

3. High school graduate or equivalent (no post-high school). An individual who has received a high school diploma or GED Certificate, but who has not attended any post-secondary vocational, technical, or academic school.

4. Post-high school attendee. An individual who is attending, or has attended, a post-secondary vocational, technical, or academic school.

"Employment generating activity (EGA)" means activities conducted for the purpose of encouraging ex-

pansion or creation of business which are not directly related to current employment and training opportunities for participants, but are intended to result in increased employment opportunities for JTPA eligible individuals.

"Entered employment rate (Adult and Youth)" means the number of adults (or youth) who entered employment at termination as a percentage of the number of adults (or youth) who terminated.

"Family of one" means the following individuals are considered to be a family of one:

1. A handicapped individual; and
2. An individual who receives less than fifty percent of support from the family, and who is not the principal earner nor the spouse of the principal earner.

"Family size" means the maximum number of family members at any one time during the six-month income determination period.

"Family status" means the family situation of the individual at the time of application:

1. Single head of household. A single, abandoned, separated, divorced or widowed individual who has responsibility for support of one or more dependent children.

2. Parent in two-parent family. A parent in a family of three or more where both parents are present.

3. Other family members. A member of a family of two or more persons who does not fit into any of the other categories.

4. Nondependent individual. The participant or individual is either: Living with family, 18 or older, receiving less than fifty percent maintenance from the family and not one of the parents of the family; or 14 or older and not living with family and is receiving less than fifty percent maintenance (e.g., shelter, food, clothing, etc.) from the family; or a foster child on behalf of whom state or local government payments are made.

"Food stamp recipient" means an individual who is receiving food stamps pursuant to the Food Stamp Act of 1977.

"Immediate family" means the following members of an individual's family: Wife, husband, son, daughter, mother, father, brother, sister, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild.

"Labor force status" means the labor force status of the individual at the time of application:

1. Employed. An individual who, during the seven consecutive days prior to the application, did any type of work including: As a paid employee; in the individual's own business, profession or farm, or fifteen or more hours as an unpaid worker in an enterprise operated by a member of the family; or an individual who is not working, but has a job or business from which the individual is temporarily absent because of illness, bad weather, vacation, labor-management dispute, or personal reasons, whether or not paid by the employer for time off, and whether or not seeking another job; or members of the Armed Forces who have not been discharged or separated and participants in registered apprenticeship programs.

2. Unemployed. An individual who did not work during the seven consecutive days prior to application for a JTPA program, who made specific efforts to find a job within the past four weeks prior to application, and who was available for work during the seven consecutive days prior to application (except for temporary illness).

PLANNING AND PROGRAMMING[630] (cont'd)

3. Not in labor force. A civilian fourteen years of age or over who is not classified as employed or unemployed. This term includes persons who never worked at a full-time job lasting two weeks or longer and "discouraged workers" who have been unemployed for a substantial length of time and are no longer actively seeking employment.

"Local factors" means the elements used to calculate local adjustments to performance standards. The factors vary for each performance measure, but are always of two types: Characteristics of participants and local economic conditions.

"Local training plan" — a written program of action approved by the Governor which delineates the method of operation and proposed budget for a JTPA program in a service delivery area. The four types of local training plans are:

1. The Job Training Plan (JTP) is the designation given to the plan for the Title IIA and IIB program.

2. The Title III Plan is the designation given to the plan which describes the Dislocated Worker Center program.

3. The Older Individuals Training Program (3%) Plan is the designation given to the plan which describes the program funded under Title IIA which serves individuals age fifty-five and over.

4. The State Education Coordination and Grants (8%) Plan is the designation given to the plan which describes the program funded under Title IIA to facilitate coordination of education and training services and provide education and training and related services to participants.

"Management information system (MIS)" means a system developed to record and process information used to report and evaluate program operations, activities, and delivery mechanisms.

"Metropolitan area" means a place of fifty thousand or more population, as defined in the most recent federal census or subsequent official update. If a county contains a metropolitan area of fifty thousand or more, the entire county is considered a part of the metropolitan area.

"Monitoring" means the review of financial and program records and activities to provide technical assistance and ensure compliance with the local job training plans, state policies and procedures, and federal law and regulations.

"Multiple regression analysis" means a type of statistical analysis that takes multiple factors into account simultaneously in a single equation to determine their combined effect.

"Participant carried over" means a participant for whom there was an active participant record on file at the end of the previous program year.

"Participant pool" means for Title IIB, a readily available supply of eligible participants from which individuals may be selected for enrollment into SYETP activities.

"Placement" means synonymous with entered unsubsidized employment.

"Positive termination rate" means the number of youth who have a positive termination (either entered employment, met one of the employability enhancement definitions, or attained youth employment competencies recognized by the PIC) as a percentage of the total number of youth who terminated.

"Procurement" means a process used to obtain or purchase property or service providers.

"Property management" means the maintenance of records relating to the purchase, use and disposition of property.

"Request for proposal (RFP)" means a process used to solicit offers to provide training or services.

"Selective service registrant" means those individuals required by Section 3(a) of the Military Selective Service Act to present themselves for registration.

"State administrative entity (SAE)" means the agency, the Office for Planning and Programming, administering the Job Training Partnership Act on behalf of the Governor.

"Substantial segment" means the groups of the population identified in terms of the following demographic characteristics: Age, sex, and ethnic group.

"Target groups" means any group possessing an employment barrier which is identified by the Act or a local training plan and which will therefore receive special consideration in the provision of employment and training services.

"Termination status" means the circumstances under which a participant is terminated:

1. Administrative separation. Participant dismissed for reasons such as poor attendance, insufficient progress, etc.

2. Attained youth employment competency. Participant successfully attained all competencies for which a deficiency was identified during assessment.

3. Completed major level of education.

4. Cannot locate. Unable to locate participant to determine status.

5. Completed program objective (age 14-15 only). Participant completed program objective as defined in approved exemplary youth project plan and, at the time of entry into JTPA, was less than sixteen years of age.

6. Completed training or program, not placed. Participant has successfully completed training or program paid for by JTPA, but has not found a job within allowable placement period.

7. Deceased.

8. Entered another employment and training program, non-JTPA. Participant enters another employment and training program not funded under JTPA.

9. Entered Armed Forces. Participant entered a branch of the United States Armed Forces or active duty.

10. Entered full-time school. Participant entered or continued school, either secondary or postsecondary, on a full-time basis.

11. Entered registered apprenticeship program. Participant entered an officially authorized apprenticeship program during which the participant will receive training in a skill with not less than two thousand hours of unsubsidized OJT and related theoretical instruction.

12. Entered unsubsidized employment. Participant entered full- or part-time employment not financed by JTPA.

13. Family care problems, including pregnancy. Participant has dependent care problems, including pregnancy, which prevent continued program enrollment or full-time employment.

14. Health problems. Participant had health problems which prevent continued program enrollment or full-time employment.

15. Ineligible. Participant was determined to not be eligible after enrollment.

16. Interpart transfer. Participant transfers from one program (i.e., A, B, 3%, 8%, 6%) under Title II to another Title II program.

PLANNING AND PROGRAMMING[630] (cont'd)

17. Intertitle transfer. Participant leaves one JTPA title to enter another JTPA title.

18. Laid off. Participant was laid off by employer and no other JTPA services will be provided.

19. Moved from area. Participant left the area and discontinued participation.

20. Other. Participant fits in no other category. To be used when no other definition is appropriate.

21. Refused to continue. Participant elected to discontinue participation.

22. Returned to full-time school. Participant returned to full-time school and, at the time of eligibility determination, the participant was not attending school and had not obtained a high school diploma or equivalent.

23. Title IIB participant pool, no activities or services provided. Participant terminated from Title IIB participant pool without participating in an activity or receiving a service.

24. Transportation problems. Participant is prohibited from continued program enrollment or obtaining or keeping full-time employment due to lack of private or public transportation to or from work location.

"Veteran status" means the veteran status at the time of application:

1. Veteran. An individual who served in the active military, naval, or air service and who was discharged or released therefrom under conditions other than dishonorable. NOTE: The term "active" means full-time duty in the Armed Forces, other than duty for training in the reserves or National Guard. Any period of duty for training in the reserves or National Guard, including authorized travel, during which an individual was disabled from a disease or injury incurred or aggravated in the line of duty, is considered "active" duty.

2. Recently separated veteran. A veteran whose last date of discharge or release from the Armed Forces occurred within twelve months of the date of application.

3. Disabled veteran. A veteran who is entitled to compensation under laws administered by the Veterans Administration, or an individual who was discharged or released from active duty because of a service connected disability.

4. Vietnam-era veteran. A veteran any part of whose active military, naval, or air service was during the Vietnam era (August 5, 1964 to May 7, 1975, per Presidential Proclamation 4373).

"Welfare entered employment" means the number of adult welfare recipients who entered employment at termination as a percentage of the number of adult welfare recipients who terminated.

"Win registrant" means ADC recipients who are required to, or have, registered for WIN in counties where a WIN program exists and, in counties where there is no WIN program, those who would be required to register if WIN existed in those counties.

ITEM 2. Insert new rule 19.6 as follows:

630—19.6 (Executive Order 47, 7A, 7B, 29 USC 1501 et seq.) Service delivery area redesignation.

19.6(1) An SDA will be redesignated by merging its counties into one or more other SDAs if the PIC and the appropriate chief elected official or officials fail to reach an agreement on the PIC/LEO agreement, the job training plan, or if all units of local government choose to opt-out of an SDA or if they are unable to find a grant recipient.

19.6(2) The governor may act as the chief elected official in an SDA that is to be redesignated until redesignation occurs.

19.6(3) Redesignation will occur no later than one hundred and twenty days after it has been determined that redesignation is necessary.

Renumber the existing rules 19.6(7A, 29USC 1501 et seq.) to 19.13(7B, 29USC 1651 et seq.) as 19.7 to 19.14.

ITEM 3. Rescind existing subrule 19.6(4) and insert in lieu thereof the following:

19.7(4) Elements of LEO agreements. In addition to conforming to Iowa Code chapter 28E, each JTPA 28E LEO agreement must contain the following elements:

a. Designation of the person or persons who will serve as the chief elected official(s) who will be responsible for the following:

1. Making appointments to the PIC;
2. Developing an agreement with the PIC;
3. Approving and signing local training plans; and
4. Negotiating with the PIC.

b. Apportionment of responsibility and liability among the participating units of government for any losses, expenses, and burdens which may result from the consortium involvement in the JTPA program.

ITEM 4. Rescind existing rule 19.7(17A, 29USC 1501 et seq.) and insert in lieu thereof:

630—19.8 (17A, 7A, 7B, 29 USC 1501 et seq.) Private industry council. Within each service delivery area there shall be established a private industry council formed in accordance with 29 USC 1512 and these rules, and functioning in accordance with 29 U.S.C. 1513. Appointees to nonprivate sector positions on a private industry council shall exclusively represent on that council one and only one organization or agency listed in 29 U.S.C. 1512(a)(2). Appointees to private sector positions on a private industry council shall exclusively represent the private sector.

19.8(1) Composition of the PIC.

a. To comply with the requirements of the JTPA there must be six public or private sector members on each PIC and the private sector representatives must constitute a majority of the membership. Thus, the PIC must have a minimum of thirteen members.

b. In order to maintain the partnership between the PIC and LEOs, certain LEOs may not serve on the PIC. Any local elected official who is:

(1) A member of a unit of government which is a party to a JTPA 28E LEO agreement and

(2) Has been designated as a chief elected official or is a member who serves in an executive capacity for the LEOs may not serve on the PIC. For the purpose of this subsection "executive capacity" means a member of an LEO Executive Board, Executive Committee, or other LEO executive body whereby that executive division has the authority to negotiate with the PIC, approve the PIC/LEO agreement or vote to approve/disapprove the SDA's job training plan developed by the PIC, or otherwise act on behalf of the LEOs in the partnership with the PIC.

c. It is permissible for local elected officials to serve on the PIC if:

1. The individual represents one of the seven groups designated in the Act and the individual is nominated and appointed in a manner consistent with the Act and the

PLANNING AND PROGRAMMING[630] (cont'd)

local elected official is not serving on a LEO board in an executive capacity as defined in "b"(2) above, or

2. The LEO is serving in an executive capacity, but is serving on the PIC as an ex officio member.

19.8(2) Selecting PIC members.

a. Whenever a new position is created or a vacancy occurs on a PIC because of a resignation, death, removal of a member for cause, end of tenure or other reason, the Director of the Division for Human Resources Coordination must be notified in writing of the position within seven days of the position becoming vacant. This notification must come from the chief elected official (CEO) or someone designated by the CEO to notify the state administrative entity.

b. The chief elected officials must appoint a new member to fill the position and submit a "Request for Private Industry Council Certification" to the state administrative entity within forty-five days of the position becoming open.

c. Printed copies of "Request for Private Industry Council Certification" forms shall be available from the Office for Planning and Programming, 523 East 12th Street, Des Moines, Iowa 50319. This form shall be used by the official(s) who appointed the private industry council in each service delivery area when applying for private industry council certification. All information requested by the form shall be supplied in full. When requested, the official(s) submitting the request for certification shall also submit copies of all letters of nomination for all nominees to the private industry council.

19.8(3) PIC nomination process.

a. Nominations to the nonprofit or public PIC positions must come from the interested organizations. For example, nominations to education positions must come from educational agencies and institutions and labor representative position nominees must come from recognized state and local labor organizations.

b. Nominations are good for ninety days. After the ninety-day period, nominations expire and must be resolicited.

19.8(4) Appointment and certification.

a. After selecting PIC members from the nominees submitted, local elected officials must submit those names to the state administrative entity for certification.

b. Since the composition of the membership of the PIC is mandated by law, whenever a PIC is not composed of the required representatives in the proportion required, the PIC is out of compliance with the Act.

c. If the appointment and request for certification is not completed within the forty-five-day time period, the PIC will be found in nonconformance and the procedure for PIC decertification will be initiated, unless the vacancy which needs to be filled is not necessary for compliance. (i.e., If the vacant position is one of two educational agency representatives, it would not have to be filled in order to make the PIC in compliance.)

d. A newly appointed PIC member may not vote on issues before the PIC until the state administrative entity certifies the appointment of that member.

e. No change in the size, membership, chair or composition of a PIC shall be valid and effective until approved in writing by the state administrative entity.

19.8(5) PIC decertification. If at any time the state administrative entity determines that a PIC does not conform with JTPA or state or federal regulations promulgated under JTPA, it shall give that PIC a written

"notice of nonconformance" which shall state the deficiency and shall allow a period of time in which to correct the deficiency. Failure to satisfy the "notice of nonconformance" within the time period allowed is grounds for the decertification of the PIC.

ITEM 5. Rescind existing rule 19.8(PL 97-300, 29USC 1501 et seq.) and insert in lieu thereof the following:

630—19.9(17A, 7A, 7B, 29 USC 1501 et seq.) Private industry council/local elected official agreement. The local JTPA program is operated as a partnership between the PIC and LEOs. This partnership is formed by an agreement between the PIC and LEOs which outlines procedures for developing the local job training plans for all JTPA titles and programs in the SDA and which provides for the selection of the grant recipient, administrative entity and Title III grantee.

19.9(1) Elements. The PIC/LEO agreement must include, at a minimum, the following elements:

a. Local training plan development procedure. The agreement must include a determination as to who (PIC members, elected officials, grant recipient staff, administrative entity staff, consultants, etc.) will be involved in the preparation of the various job training plans.

b. Selection of Title III grantee. The agreement must include the method by which the required request for proposal procedure to determine the Title III grantee will be implemented. The grantee chosen must meet one of the conditions for qualifications as a JTPA grantee which are listed in the administrative rules governing Title III.

c. Selection of the grant recipient and administrative entity for Title II. The agreement must specify which entity or entities will act as the grant recipient and administrative entity for the Title II programs or the process by which they will be chosen.

d. Policy guidance. The PIC and LEOs must agree on how policy guidance will be provided for the SDA's JTPA program. This effort could entail periodic meetings between representatives of each group to co-ordinate their policy recommendations for the administrative entity. Alternatively, either group could be designated to take the lead in guiding policy and establishing a systematic method to keep the other group informed and provide for its input.

e. Oversight. As with policy guidance, both the PIC and the LEOs are responsible for oversight of the program. The agreement must state who will conduct oversight, how and when it will occur. Oversight is defined as reviewing, monitoring, and evaluating the JTPA program within the SDA. The PIC and LEOs may perform the oversight function jointly or one body may take the lead and keep the other informed. In any event, the PIC may not be circumvented with regard to its oversight function.

f. Lines of communication. Regardless of how the LEOs and the PIC decide to co-ordinate individual responsibilities, the agreement must contain the method by which the PIC and the LEOs will keep each other informed. These procedures could include an indication of who is responsible for initiating communication, at what intervals, by what means (personal meetings, written reports, etc.), and issues that should be reviewed on a regular basis.

g. Development of the local job service plan. The Act requires the local job service plan to be developed jointly with the LEOs and the PIC of each SDA. The agreement

PLANNING AND PROGRAMMING[630] (cont'd)

must indicate the procedure for participating in the development of the job service plan.

h. Period of agreement. The period of time covered by the agreement must be stated.

19.9(2) Revisions or modifications.

a. This agreement should be reviewed and modified, as necessary, prior to the planning cycle each program year.

b. If the LEO/PIC Agreement is rewritten or modified, a copy of the agreement must be sent within thirty days of its execution to: Director, Division for Human Resources Coordination, Office for Planning and Programming, 523 East 12th Street, Des Moines, Iowa 50319.

ITEM 6. Amend existing rule 19.9(7A, 29USC 1514) as follows:

630—19.919.10(7A, 7B, 29 USC 1514) Job training plan. Pursuant to the agreement made in accordance with rule 19.89(17A, 7A, PL97-20, 7B, 29USC 1501 et seq.) there shall be developed for each service delivery area a job training plan which shall meet the requirements of 29 USC 1514 and these rules, and shall be signed by the chairperson of the PIC and the chief elected official(s).

19.910(1) Where submitted. The job training plan and all modifications thereto shall be submitted to the Director, Office for Planning and Programming, 523 East 12th Street, Des Moines, Iowa 50319.

19.910(2) Submittal date. The job training plan shall be submitted no later than eighty days prior to July 1 of the program year for which it was developed. *An original and four copies of the final plan must be submitted to the governor via the state administrative entity.*

19.910(3) Failure to submit or gain approval. A submitted plan which has been disapproved by the governor shall be revised and resubmitted for approval within twenty days from the date of disapproval.

a. *The plan will be approved or disapproved within thirty days of submittal.*

b. *If a plan is disapproved, it must be revised. The revision need only include the pages on which changes had to be made. The entire plan does not need to be resubmitted. The revision must be clearly marked as such and resubmitted within twenty days from the date of disapproval.*

c. *Resubmitted plans must be signed by the PIC chairperson and chief elected official. After resubmittal, the final determination approving or disapproving the plan will be made within fifteen days.*

ITEM 7. Amend existing subrules 19.9(4) and 19.9(5) as follows:

19.910(4 5) Modifications. Modifications to a job training plan may be made where such modifications they are:

a. Agreed to and signed by the PIC; and the local elected official(s) and the contractor;

b. Published no later than eighty days before it is effective; and

c. Not disapproved by OPP prior to implementation.

19.9(5) Submittal package. The job training plan submittal package shall contain one original and four copies of the job training plan. Proof of publication of the availability for review of the proposed and final job training plan, as required by 29 U.S.C. 1515, shall accompany each job training plan submitted.

ITEM 8. Amend existing subrule 19.9(6) as follows:

19.919.10(6.4) Local documentation. Each party to the job training plan shall ensure adherence to the job

training plan public review and comment process as mandated by 29 U.S.C. 1515 and shall document that adherence and retain copies of all written comments received as a result thereof. *Proof of publication of the availability for review of the proposed and final job training plan, as required by 29 U.S.C. 1515 shall accompany each job training plan submitted.*

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

ITEM 9. Amend existing subrule 19.10(1) and paragraphs "a" and "b" as follows:

19.10(1) 19.11(1) Grant recipient and administrative entity designation. The plan shall identify the grant recipient of funds from the state and administrative entity who will administer the program. *The roles of grant recipient and administrative entity may be assigned to separate organizations or a single entity may serve in both capacities. No plan shall be submitted or approved by the governor unless the grant recipient therein designated is a legal entity which:*

a. *Has the power to levy taxes in a political subdivision of the state and to spend funds to meet potential liabilities arising under JTPA in that service delivery area, or*

b. *Has an agreement with an entity possessing the powers to levy taxes in a political subdivision of the state and to spend funds whereby the agreement ensures that the tax levying entity pay the grantee's liabilities arising under the JTPA.*

ITEM 10. Renumber subrule 19.10(2) as 19.11(2) and amend paragraphs "a," "b"(1) and "d" as follows:

19.11(2) Description of programs and services.

a. **Service delivery system.** The plan shall provide contain a description of the delivery structure, the overall approach toward administering the job training programs employed in the service delivery area. *This should include details of whether all or part of the program will be subcontracted, and, if so, the subcontractors' roles and responsibilities within the program should be described.*

b. **Activities and services description by program.** Each plan shall provide information in sufficient detail to determine compliance with applicable laws and regulations on each program and each special project operated under Title II in the service delivery area. *There are four programs possible: Comprehensive adult, comprehensive youth, exemplary youth, summer youth employment and training. The plan must list the activities and services to be provided under each program. The job training plan must also outline any special programs or projects which will be operated in the SDA or describe the procedure by which programs or projects will be developed and implemented.*

(1) *If a plan provides for on-the-job training (OJT), the plan must describe a standardized system for determining the length of the OJT agreement which takes into account the skill level of the job and the participant and any exceptional barriers to employment of the participant. The JTPA specifies that an administrative entity shall not fund any occupational skills training program unless the level of skills provided in the program are in accordance with guidelines established by the PIC. Beginning with program year 1986 the plan must describe how the PIC will ensure that the level of skills provided in occupational skills training programs are appropriate.*

d. **Administrative services.** Each plan shall delineate its complaint procedure, which shall be consistent with rule 630—19.21(7A, 29USC 1501 et seq.), and shall

PLANNING AND PROGRAMMING[630] (cont'd)

delineate in compliance with Title VI of the Civil Rights Act of 1964, the Iowa Civil Rights Act of 1964, as amended, the Age Discrimination Act of 1975, Section 504 of the Rehabilitation Act of 1975, Title IX of the Education Amendments of 1972, and Executive Order 15 (Iowa 1982). Each JTP must include a statement assuring compliance with Title VII of the Civil Rights Act of 1964 as amended, the Age Discrimination in Employment Act of 1967 as amended, Executive Order 11246 as amended, Section 503 of the Rehabilitation Act of 1973 as amended, Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974, Section 504 of the Rehabilitation Act of 1973 as amended and Title VI of the Civil Rights Act.

ITEM 11. Amend renumbered subrule 19.11(3), paragraphs "c," "d" and "f" as follows:

c. *Applicant identification and Eligibility determination.* Each plan shall describe the procedures for determining eligibility in the application process including outreach efforts, applicant flow, documentation requirements, the position of those responsible for eligibility determinations and the steps in the process.

(1) *The administrative entity is responsible for all eligibility determinations within the SDA, but it may permit other organizations to make them if: It provides for reasonable safeguards, including provisions for reimbursement of costs incurred because of erroneous determinations made with insufficient care, and these are included in an approved job training plan.*

(2) *If an organization other than the administrative entity will be doing eligibility determination, the arrangement must be described in the job training plan.*

d. *Selection.* Each plan must describe a process, consistent with the federal laws mandate of servicing those who are most-in-need of and can benefit from employment and training opportunities, for selecting participants from those eligible applicants identified. Factors used in determining "most-in-need" and "benefit" shall be real, justifiable circumstances, applied uniformly for all Title II enrollments within the service delivery area and identified in the plan description. *The plan must describe factors which will be used to determine "who can benefit" and criteria which will be used in making judgments about "most-in-need."*

f. *Eligibility verification.* Each plan must describe a procedure for quarterly verification of the eligibility of a random sample of at least ten percent of all newly enrolled participants. The description shall identify the position of those responsible for the review, the time period in which it will be completed, and the method of documenting compliance with this verification requirement. *Quarterly, a random sample, by program, of at least ten percent of all participants newly enrolled during the quarter who are still active must receive a verification of all eligibility criteria. The procedure for performing and documenting verification (who, when and how) must be described in the plan.*

ITEM 12. Insert a new subrule 19.11(4) as follows:

19.11(4) Performance goals.

a. *National standards.* The Act requires that each plan set performance goals for each program year and summer program year. Performance goals must be developed by the PIC and LEOs using the standard methodology developed by the Department of Labor. That methodology is based on participant characteristics and local economic conditions.

- (1) The performance measures for Title IIA adult are:
 1. Entered employment rate
 2. Cost per entered employment
 3. Average wage at placement
 4. Welfare entered employment rate
- (2) The performance measures for Title IIA youth are:
 1. Entered employment rate
 2. Positive termination rate
 3. Cost per positive termination
- (3) The performance measures for the Title IIB summer youth employment and training program are:
 1. Entered employment rate
 2. Positive termination rate
 3. Cost per positive termination

(4) No national standards or methodology for developing standards have been established for Title IIB. The PIC and LEOs may use whatever performance goals they deem appropriate for Title IIB.

b. *State goals.* It is the policy of the agency, SJTCC and the governor to increase, or at a minimum, maintain the level of on-the-job training activity currently conducted in each SDA. Each area will be provided with benchmark figures based upon previous performance. These figures may be used to develop Title IIA OJT goals in the job training plan for each program year.

c. *Local goals.* The Act allows employment competencies recognized by the PIC as part of the performance measurements for youth programs. If youth competencies are being established in the SDA, the JTP must include either the competencies recognized by the PIC for this purpose or the method by which the PIC will identify them. The plan may also include additional performance goals established by the PIC and LEOs.

ITEM 13. Amend renumbered reserved subrule 19.11(5) "b" as follows:

b. *Describe the procedures which will be followed with regard to contract approval over \$25,000, and property approval over \$500.*

ITEM 14. Rescind existing subrule 19.10(7) and insert in lieu thereof:

19.11(7) Co-ordination. No elements of the JTP may conflict with the co-ordination criteria contained in the Governor's Coordination and Special Services Plan (GCSSP). The JTP must identify methods (who and how) which will be used to ensure compliance with the co-ordination criteria contained in the GCSSP.

ITEM 15. Amend existing subrule 19.10(9) as follows:

19.10(9) Financial management. Each job training plan shall describe the service delivery area grant recipient's and administrative entity's procedures conforming to the financial management standards and procedures section of these rules. The plan must detail the flow of funds from the state to the grant recipient and administrative entity to service providers and participants, including personnel positions responsible for the receipt of funds, the authorization of payments, claims review, and the recording of transactions, and signing of checks. The financial management section of the plan shall also:

a. Describe accounting procedures, including a description of registers, ledgers, time and attendance reports, source documentation requirements, inventory controls and check controls, which shall contribute to the overall fiscal integrity of the job training program in the service delivery area through accurate, complete, and current accounting records.

PLANNING AND PROGRAMMING[630] (cont'd)

b. Describe how and when audits, both financial and compliance, will be conducted and resolved in accordance with the financial management standards and procedures section of these rules. *The plan must also describe audit resolution procedures.*

c. Describe procedures for collection of overpayments, misspent funds and other debts which ensure prompt, appropriate, and aggressive actions will be taken to recover funds due.

ITEM 16. Amend existing subrule 19.10(10) as follows:

~~19.10~~**19.11(10)** Annual report. Each plan shall indicate what entity and personnel positions will be responsible for preparing and submitting by September 15 of each program year an annual report to the governor which shall include ~~a description of activities conducted during the program year, the participant's characteristics, and the service delivery area's performance in relation to established standards those elements outlined in the "State Reports" section of the Iowa JTPA Handbook distributed to each SDA.~~

ITEM 17. Amend renumbered rule 19.11(7A, 29USC 1514) by adding the following subrule:

19.11(11) Optional elements. The plan may also contain other elements to facilitate the LEO's and PIC's policy guidance and oversight function. The extent to which these optional elements are included in the SDA's plan is left to the discretion of the LEOs and PIC.

ITEM 18. Amend existing rule 19.11(7B, 29USC 1651 et seq.) as follows:

630—19.11(2) (7B, 29USC 1651 et seq.) Title III program.

19.12(1) Funds are allocated under Title III for the statewide operation of programs providing activities and services to dislocated workers. Programs will be operated in each service delivery area through a dislocated worker center which will be selected by the PIC and local elected officials through a request for proposal (RFP) process that meets state procurement standards ~~or by approving the continuation of the existing dislocated worker center through June 30, 1986.~~

19.12(2) *By March 3 of each program year, a notification that the Title III plan is being drafted must be published in at least one newspaper of general circulation within the SDA. The notification must solicit comments from appropriate local educational and other public agencies in the SDA and labor organizations in the area representing employees having the skills for which training is proposed.*

ITEM 19. Amend existing rule 19.12 as follows:

630—19.12(1) (7B, 29 USC 1651 et seq.) Title III dislocated worker center program plan. Pursuant to the agreement made in accordance with rule 19.9 (7A, PL 97-300, 29 USC 1501 et seq.) there shall be developed by the PIC and local elected officials a Title III plan which shall meet the requirements of 29 U.S.C. 1651 et seq. and these rules and shall cover one program year. The plan must be signed by the chairperson of the PIC and the chief elected official(s).

~~19.12~~**13(1)** Where ~~committed~~ submitted. The Title III plan and all modifications ~~thereto~~ shall be submitted to the Director, *Division for Human Resources Coordination, Office for Planning and Programming, 523 East 12th Street, Des Moines, Iowa 50319.*

~~19.12~~**13(2)** Submittal date. The Title III plan shall be submitted no later than eighty days prior to July 1 of the program year for which it was developed. *An original and four copies of the final plan must be submitted to the governor via the state administrative entity. The plan must be signed by the PIC chairperson and chief elected official. The submittal must include documentation that notification has been published as described in subrule 19.12(2).*

~~19.12~~**13(3)** Failure to submit or gain approval.

A submitted plan which has been disapproved by the governor shall be revised and resubmitted for approval within twenty days from the date of disapproval.

a. Failure to submit a plan within the timeline established under subrule 19.1213(2) or failure to gain approval of a plan by the first day of the program year for which it was developed shall empower the governor to directly contract for Title III services, consistent with 29 U.S.C. 1652-1657.

b. *The plan will be approved or disapproved within thirty days of submittal.*

c. *If a plan is disapproved, it must be revised. The revision need only include the pages on which changes had to be made. The entire plan does not need to be resubmitted. The revision must be clearly marked and resubmitted within twenty days from the date of disapproval.*

d. *Resubmitted plans must be signed by the PIC chairperson and chief elected official. After resubmittal, the final determination approving or disapproving the plan will be made within fifteen days.*

~~19.12~~**13(4)** Modifications. Modifications to a Title III plan may be made where ~~such modifications they are:~~

a. Agreed to by the PIC, the local elected official(s), the contractor and signed by those parties;

b. Submitted to OPP at least fifteen days prior to implementation; and

c. Not disapproved by OPP prior to implementation. This rule is intended to implement Executive Order 47, Iowa Code chapter 7A, and 29 U.S.C. 1651 et seq.

ITEM 20. Amend existing rule 19.13(7B, 29USC 1651 et seq.) as follows:

630—19.13(1) (7B, 29 USC 1651 et seq.) Title III dislocated worker center program plan elements. To be approved, each Title III plan shall comply with 29 U.S.C. 1651 et seq., Iowa Code chapters 7A, 7B and IAC chapter 19, and shall contain the following elements:

~~19.13~~**14(1)** *Dislocated worker center grantee Contractor designation.* Each plan shall identify the dislocated worker center ~~contractor grantee~~ that will receive funds from the state to operate the Title III program. ~~If a RFP procedure was A request for proposal (RFP) shall be used to select the dislocated worker center contractor, documentation of the procedure must be submitted with the plan. A copy of the RFP must accompany the submittal of the plan. No plan shall be submitted or approved by the governor unless the dislocated worker center contractor grantee designated therein is a legal entity which:~~

a. Has the power to levy taxes in a political subdivision of the state and to spend funds to meet potential liabilities arising under Title III in that service delivery area, or

b. *Has an agreement with an entity possessing the power to levy taxes in a political subdivision of the state and to spend funds whereby the agreement ensures that the tax levying entity pay the grantee's liabilities arising under the JTPA, or*

PLANNING AND PROGRAMMING[630] (cont'd)

c. Has submitted its most recent audit report and a financial statement which includes a current balance sheet showing assets exceeding liabilities by an amount equal to twenty-five percent of that service delivery area's annual Title III grant award, or

d. Agrees to purchase, with OPP approval, from non-JTPA funds audit exception insurance covering a minimum of twenty-five percent of the service delivery area's annual Title III grant award.

19.1814(2) Description of programs and services. Each plan shall contain a description of programs and services in detail sufficient to provide a comprehensive statement of Title III activities in the service delivery area. The description shall include:

a. Service delivery system. The plan shall provide a description of the delivery structure, the overall approach toward administering Title III services to be employed in the service delivery area. *This must include details of whether all or part of the program will be subcontracted, and, if so, the subcontractor's roles and responsibilities within the program must be described.*

b. Activities and services description by program. Each plan shall provide information in sufficient detail to determine compliance with applicable laws and regulations on each program and each special project operated under Title III in the service delivery area.

(1) If a plan provides for on-the-job training (OJT), the plan must describe a standardized system for determining the length of the OJT agreement which takes into account the skill level of the job and the participant and any exceptional barriers to employment of the participant.

(1) *The plan must list the activities and services which will be provided by the dislocated worker center. Special programs or projects which will be conducted in the SDA or the procedure for identifying and approving them must be described in the plan. The plan shall also describe what provisions will be made to react to plant closings or layoffs.*

(2) *The Act specifies that training may only be provided for occupations for which there is a demand in the area served or in another area to which participants are willing to relocate, or for occupations having high potential for sustained demand or growth. The plan must describe how the PIC will determine what job opportunities are in the area.*

(3) *No JTPA funds shall be used to fund any occupational skills training program unless the level of skills provided in the program are in accordance with guidelines established by the PIC. The plan must describe how the PIC will ensure that the level of skills provided in occupational skills training programs are appropriate.*

Renumber remaining subparagraphs.

ITEM 21. Amend renumbered subrule 19.14(2)"c" and "d" as follows:

c. Participant service levels. ~~Each plan shall make efforts to provide equitable services among substantial segments of the eligible population and describe how this level of service is determined, monitored and maintained. Where a program intends to target groups of individuals having specific barriers to employment, a description of those efforts and goals should be included in the plan. Additionally, the following data must be provided:~~

1. The number of participants in each program;
2. The estimated duration of participant involvement in each program;
3. The estimated cost per participant in each program.

(1) *The plan must include an estimate of the total number of eligible individuals in the following four categories combined:*

1. *Those who have been terminated or laid-off are eligible for or have exhausted their entitlement to unemployment compensation, and are unlikely to return to their previous industry or occupation;*

2. *Those who have received a notice of termination or lay-off from employment will be entitled to unemployment compensation at the time of lay-off or termination, and are unlikely to return to their previous industry or occupation; and*

3. *Those who have been terminated, or who have received a notice of termination of employment, as a result of any permanent closure of a plant or facility; and*

4. *Those who are long-term unemployed and have limited opportunities for employment or re-employment in the same or a similar occupation in the area in which they reside, including any older individuals who may have substantial barriers to employment by reason of age. The data necessary to complete this requirement will be released annually via JTP Issuance.*

(2) *For all programs, the Act requires that efforts be made to provide equitable service among substantial segments of the eligible population. A description of how this level of service is planned, monitored, and maintained must be included.*

(3) *The plan must describe specific efforts which will be made to serve dislocated farmers.*

(4) *If other groups with specific barriers to employment are to be targeted, a description of these efforts and goals must also be included in the plan.*

(5) *The following information concerning participant service levels must be included:*

1. *The number of participants.*
2. *The average cost per participant.*
3. *The average length of participant involvement.*
4. *The number of dislocated farmers.*

d. Administrative services. ~~Each plan shall delineate its complaint procedure, which shall be consistent with rule 630—19.21(7A,17A,29USC 1601 et seq.); and shall delineate in compliance with Title VI of the Civil Rights Act of 1964, the Iowa Civil Rights Act of 1965, as amended, the Age Discrimination Act of 1975, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, and Executive Order 115 (Iowa 1983). Each JTP must include a statement assuring compliance with Title VII of the Civil Rights Act of 1964 as amended, the Age Discrimination in Employment Act of 1967 as amended, Executive Order 11246 as amended, Section 503 of the Rehabilitation Act of 1973 as amended, Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974, Section 504 of the Rehabilitation Act of 1973 as amended and Title VI of the Civil Rights Act.~~

ITEM 22. Amend renumbered subrule 19.14(2) by adding the following:

e. Co-ordination.

(1) The plan must describe co-ordination efforts with other JTPA programs in the SDA in the areas of:

1. Applicant and participant referral;
2. Types of activities and services provided;
3. Job development and placement;
4. Any other matters of mutual concern or interest.

(2) No elements of the plan may conflict with the co-ordination criteria contained in the Governor's Coordi-

PLANNING AND PROGRAMMING[630] (cont'd)

nation and Special Services Plan (GCSSP). The plan must identify methods (who and how) which will be used to ensure compliance with the co-ordination criteria contained in the GCSSP.

ITEM 23. Amend existing subrule 19.13(3), introductory paragraph, and paragraph "a" as follows:

19.1314(3) Participant eligibility, selection and verification description. Each Title III plan shall describe the method by which each program applicant's eligibility will be determined and each participant's eligibility reviewed and verified.

a. Eligibility determination.

(1) Each plan shall describe the procedures for determining eligibility, including outreach efforts, applicant flow, documentation requirements, the position of those responsible for eligibility determinations and the steps in the process.

(2) *Normally, the dislocated worker center grantee is responsible for all Title III eligibility determinations within the SDA, but it may permit other organizations to make them if it provides for reasonable safeguards, including provisions for reimbursement of costs incurred because of erroneous determinations made with insufficient care, and these are described in the Title III plan.*

ITEM 24. Amend renumbered subrule 19.14(3)"d" as follows:

d. Eligibility verification. ~~Each plan must describe a procedure for quarterly verification of the eligibility of a random sample of at least ten percent of all newly enrolled participants. At least quarterly, a random sample of at least ten percent of all participants newly enrolled during the quarter who are still active must receive a detailed verification of all eligibility criteria. Each plan shall include a~~ The description which shall identify the position of those responsible for the review, the time period in which it will be completed (e.g., monthly, quarterly, initially), and the method of documenting compliance with this verification requirement.

ITEM 25. Amend renumbered subrule 19.14(4) as follows:

19.1314(4) Performance goals.

a. *The performance measures for the Title III Dislocated Worker Center Program are: Entered employment and cost per entered employment.*

b. *A Title III Performance Standards Conversion chart has been developed to assist in establishing performance standards for Title III. Refer to the Performance Measurement subsection of the Iowa JTPA Handbook for this chart and additional information on Title III performance standards.*

c. *The plan may include any locally developed goals or performance standards established by the PIC and LEOs.*

ITEM 26. Amend existing subrule 19.13(5) as follows:

19.1314(5) Service provider selection. Each plan must describe the process by which service providers will be selected. The process shall:

a. Take into account the factors listed in 29 U.S.C. 1517;

b. *Describe the procedure for approving contracts over \$25,000 and property over \$500;*

c. Describe procedures which follow OMB Circular A-102, Attachment O, when selecting service providers through the request for proposal, sole source or other methods allowable thereunder:

d. *These procedures must comply with the state administrative entity's procurement procedure requirements;*

de. Describe efforts that will be made to avoid conflict of interest or the appearance of conflict of interest in awarding of service provider contracts.

ITEM 27. Amend existing subrule 19.13(6) as follows:

19.1314(6) Budgets.

a. Each plan shall include a budget for one year and reflect the limits on allowable costs as required by the Act and local policies.

b. *Section 304 of the Act requires that an amount be expended from public or private nonfederal sources equal to the amount made available under this title. Each grantee is required to provide local match of thirty-five percent of the grant amount. This match must be in addition to the state's share of unemployment compensation which will be used at the state level for matching. The plan must describe how this matching requirement will be met.*

ITEM 28. Amend existing subrule 19.13(8), introductory paragraph, as follows:

19.1314(8) Financial management. ~~Each Title III plan shall describe the dislocated worker contractor's procedures conforming to the financial management standards and procedures section of these rules. The plan must detail the flow of funds from the state through the dislocated worker center to service providers and participants, including personnel positions responsible for the receipt of funds, the authorization of payments, claims review and the recording of transactions. If the dislocated worker center grantee is an entity other than the Title II grant recipient, the plan must describe the system by which the grantee will receive and disburse funds. The financial management section of the plan shall also:~~

ITEM 29. Amend renumbered rule 19.14(7B, 29USC 1651 et seq.) by adding the following subrule:

19.14(9) Optional elements. The plan may also contain other elements to facilitate the LEO's and PIC's policy guidance and oversight function. The nature and extent to which these elements are included in the plan is left to the discretion of the LEOs and the PIC.

ITEM 30. Amend chapter 19 by adding new rules as follows:

630—19.15 (7A, 7B, Executive Order 47) The older individuals training program plan (3% plan). The older individual training program plan is the basic policy document for the three percent programs within the SDA. Major policy decisions are made in the course of its development and it later will be used to measure the progress of the local programs. The goal of the three percent plan is to assure the training and placement of older individuals in employment opportunities with private business concerns.

19.15(1) Distribution requirements. By March 3 of each program year, a notification that the older individual training program plan is being drafted must be published in a newspaper of general circulation within the SDA. The notice must solicit comments from appropriate local educational and other public agencies in the SDA, and labor organizations in the area representing employees having the skills for which training is proposed. The appropriate area agency on aging must be provided with a copy of the draft plan for review and comment at least two weeks prior to the plan being signed by the PIC and LEOs.

PLANNING AND PROGRAMMING[630] (cont'd)

19.15(2) Required elements of the older individuals training program plan.

a. Grantee designation. The plan must identify the grantee that will receive funds from the state to operate the program. The grantee must be same as the grant recipient for the Title IIA Adult and Youth Program.

b. Description of programs and services. The plan must include a complete and detailed description of the activities and services that will be provided through this program in the SDA. The following information must be included:

(1) Service delivery system. The plan must provide a description of how services will be delivered in the SDA. This must include details of whether all or part of the program will be subcontracted and, if so, the subcontractor's roles and responsibilities with the program must be described.

(2) Activities and services descriptions by program. The plan must list the activities and services which will be provided. Special programs or projects which will be conducted in the SDA or the procedure for identifying and approving them must be described in the plan.

When developing training programs for older individuals, they must be designed to assure the training and placement of older individuals in employment opportunities with private business concerns.

In addition, no JTPA funds shall be used to fund any occupational skills training program unless the level of skills provided in the program are in accordance with guidelines established by the PIC. The plan must describe how the PIC will ensure that the level of skills provided in occupational skills training programs are appropriate.

Consideration must also be given to training programs for older individuals which train for jobs in growth industries and jobs reflecting the use of new technological skills. The plan must describe what efforts will be made to provide training for older individuals in such jobs.

Provision of needs-based payments (NBP) and support services (SS) require locally developed procedures or formulas to determine the need for participation and for levels of payment. If NBP or SS will be provided in the SDA, detailed information about these procedures must be included in the plan.

For needs-based payments, the plan must describe a formula or procedure, based upon individual participant circumstances, by which eligibility for and the amount of needs-based payment will be equitably determined. The determination must be documented and maintained in each participant's file. Recognizing that an individual's needs may change over time, the policy may permit redeterminations of need that could result in adjustments to a participant's needs-based payment. In such cases, the redetermination must also be documented and maintained in the participant's file.

The needs-based payment formula or procedure should take into account such factors as the participant's or the participant's family's cost of housing, food, health care, child care, transportation, clothing, etc., during the training period. It should also take into account income available to meet subsistence needs, including any specific supportive service paid by other agencies, but must take into account Support Services paid by JTPA.

Although the needs-based payment description does not need to include specific amounts or limitations on needs-based payments, the circumstances or system by which such amounts or limitations may be established or changed must be described. Further, a system for

reducing payments due to nonattendance must be detailed.

For support services, the plan must describe a procedure for determining who will receive these services and how much they will receive. This procedure must take into consideration any needs-based payment made to the participant.

(3) Participant service levels. For all programs, the Act requires that efforts be made to provide equitable service among substantial segments of the eligible population. A description of how this level of service is planned, monitored, and maintained must be included in the plan.

If certain groups with specific barriers to employment are to be targeted, a description of these efforts and goals must also be included in the plan.

The following information concerning participant service levels must be included:

1. The number of participants to be served;
2. The average cost per participant; and
3. The average length of participant involvement.

c. Co-ordination. The plan must describe co-ordination efforts with other JTPA programs in the SDA in the areas of:

- (1) Applicant and participant referral;
- (2) Types of activities and services provided;
- (3) Job development and placement; and
- (4) Any other matters of mutual concern or interest.

No elements of the plan may conflict with the co-ordination criteria contained in the Governor's Co-ordination and Special Services Plan (GCSSP). The plan must identify methods (who and how) which will be used to ensure compliance with the co-ordination criteria contained in the GCSSP.

The plan must include a description of the co-ordination arrangements agreed upon by the Area Agency on Aging and the Older Individual Training Program Grantee. If agreement on a co-ordination arrangement is not reached, the plan must state the reasons for the lack of agreement.

d. Participation eligibility and selection.

(1) Applicant identification and eligibility determination procedures. The plan must describe the steps in the application process including outreach efforts, intake, and eligibility determination.

Normally, the older individual training program grantee is responsible for all older individual training program eligibility determinations within the SDA, but it may permit other organizations to make them if it provides for reasonable safeguards, including provisions for reimbursement of costs incurred because of erroneous determinations made with insufficient care, and such an arrangement is included in the plan.

(2) Selection. Under JTPA employment and training opportunities are to be provided to those who can benefit from, and who are most-in-need of, such opportunities. Therefore, the factors to be used to determine "who is most-in-need" and "who can benefit" must be described in the plan.

(3) Eligibility verification procedures. Quarterly, a random sample of at least ten percent of all participants newly enrolled during the quarter who are still active must receive a detailed verification of all eligibility criteria. The plan must include when this verification will be completed (i.e. monthly, quarterly, upfront, etc.).

e. Performance goals. The performance measures for the older individuals training program are: Entered employment rate and cost per entered employment rate.

PLANNING AND PROGRAMMING[630] (cont'd)

The cost per entered employment must not exceed \$3,000. The plan may include any locally developed goals or performance standards established by the PIC and LEOs.

f. Service provider selection. Each plan must describe the process by which service providers will be selected. The process shall:

(1) Take into account the factors listed in 29 U.S.C. 1517;

(2) Describe procedures which follow OMB Circular A-102, Attachment O, when selecting service providers through the request for proposal, sole source or other methods allowable;

(3) These procedures must comply with the state administrative entity's procurement procedure requirements; and

(4) The plan must describe the efforts that will be made to ensure the avoidance of conflict of interest or the appearance of conflict of interest.

g. Budgets. The plan must include a budget for the program year. All budgets must reflect the limits on allowable costs as described in the cost limitations subsection of the Iowa JTPA Handbook.

h. Optional elements. The plan may also contain other elements to facilitate the LEO's and PIC's policy guidance and oversight function. The nature and extent to which these optional elements are included in the plan is left to the discretion of the LEOs and the PIC.

19.15(3) Plan submittal, review and approval process.

a. An original and four copies of the final plan must be submitted to the governor via the state administrative entity no later than April 12. The plan must be signed by the PIC chairperson and chief elected official. The submittal must include documentation that notification has been published as described in 19.15(1) and documentation that a copy of the plan was sent the appropriate area agency on aging within the timeframe allowed.

b. The state administrative entity will provide a copy of each plan to the Iowa commission on aging. The Iowa commission on aging will review the plans and provide written comments to the state administrative entity. This review does not include approval or disapproval authority. All written comments will be presented to the state job training coordinating council.

c. The plan will be approved or disapproved within thirty days of submittal.

d. If the plan is disapproved, it must be revised. The revision need only include the pages on which changes had to be made. The entire plan does not need to be resubmitted. The revision must be clearly marked and resubmitted within twenty days from the date of disapproval. Resubmitted plans must be signed by both the PIC chairperson and chief elected official. After resubmittal, the final determination approving or disapproving the plan will be made within fifteen days.

19.15(4) Modifications.

a. Modifications to the plan may be submitted if such modifications are signed by the PIC chairperson and the chief elected official. Performance goals may not be modified.

b. Modifications must be submitted to the state administrative entity for approval at least fifteen days prior to implementation.

630—19.16 (7A, 7B, Executive Order 47) The state education co-ordination and grants program plan (8% plan). The state education co-ordination and grants

program plan is the basic policy document for the SDA's portion of the eight percent programs. Major policy decisions are made in the course of its development and it later will be used to measure the progress of the local programs.

If a plan is not submitted or if no co-operative agreement is reached on the use of these funds, the governor may use the funds allocated to that SDA for development and implementation of the governor's co-ordination and special services plan.

The Act states that these funds "may be used to provide education and training, including vocational education services, and related services to participants under Title II." The plan, therefore, should emphasize educational activities and services.

19.16(1) Distribution requirements. By March 3 of each program year a notification that the plan is being drafted must be published in a newspaper of general circulation within the SDA. The notification must solicit comments from appropriate local educational and other public agencies in the SDA and labor organizations in the area representing employees having the skills for which training is proposed.

19.16(2) Required elements of the plan.

a. Program operator. The plan must identify the administrative entity for the SDA which will be entering into a contract with the department of public instruction. The administrative entity must be the same as the one for the Title IIA adult and youth program.

b. Description of programs and services. The plan must include complete and detailed description of the activities and services that will be provided through this program in the SDA. The plan must include the following information:

(1) Service delivery system. The plan must provide a description of how services will be delivered in the SDA. This must include details of whether all or part of the program will be subcontracted, and, if so, the subcontractor's roles and responsibilities within the program must be described.

(2) Activities and services descriptions by program. The plan must list the activities and services which will be provided. Special programs or projects which will be conducted in the SDA or the procedure for identifying and approving such projects or programs must be described in the plan.

No JTPA funds shall be used to fund any occupational skills training program unless the level of skills provided in the program are in accordance with guidelines established by the PIC. The plan must describe how the PIC will ensure that the level of skills provided in occupational skills training programs are appropriate.

Provision of needs-based payments (NBP) and support services (SS) require locally developed procedures or formulas to determine the need for participation and for levels of payment. If NBP or SS will be provided in the SDA, detailed information about these procedures must be included in the plan.

For needs-based payments, the plan must describe a formula or procedure, based upon individual participant circumstances, by which eligibility for and the amount of needs-based payment will be equitably determined. The determination must be documented and maintained in each participant's file. Recognizing that an individual's needs may change over time, the policy may permit redeterminations of need that could result in adjustments to a participant's needs-based payment. In such cases, the

PLANNING AND PROGRAMMING[630] (cont'd)

redetermination must also be documented and maintained in the participant's file.

The needs-based payment formula or procedure should take into account such factors as the participant's or the participant's family's cost of housing, food, health care; child care, transportation, clothing, etc. during the training period. It should also take into account income available to meet subsistence needs, including any specific supportive service paid by other agencies, but must take into account support services paid by JTPA.

Although the needs-based payment description does not need to include specific amounts or limitations on needs-based payments, the circumstances or system by which such amounts or limitations may be established or changed must be described. Further, a system for reducing payments due to nonattendance must be detailed.

For support services, the plan must describe a procedure for determining who will receive these services and how much they will receive. This procedure must take into consideration any needs-based payment made to the participant.

(3) Participant service levels. For all programs, the Act requires that efforts be made to provide equitable service among substantial segments of the eligible population. A description of how this level of service is planned, monitored, and maintained must be included in the plan. If certain groups with specific barriers to employment are to be targeted, a description of these efforts and goals must also be included in the plan.

The following information concerning participant service levels must be included:

1. The number of participants to be served by quarter*;
2. The estimated average length of participant involvement; and
3. The estimated average cost per participant.

*This quarterly breakout will be used for monitoring and no modification will be required if deviations occur.

c. Co-ordination. Each plan must be developed and implemented in close co-ordination with the LEO/PIC plan of service for JTPA Title IIA Adult and Youth Program in the SDA. The plan must include a description of co-ordination efforts in the areas of:

- (1) Applicant and participant referral;
- (2) Types of activities and services provided;
- (3) Job development and placement; and
- (4) Any other matters of mutual concern or interest.

No elements of the plan may conflict with the co-ordination criteria contained in the Governor's Co-ordination and Special Services Plan (GCSSP). The plan must identify methods (who and how) which will be used to ensure compliance with the co-ordination criteria contained in the GCSSP.

The plan must describe any efforts currently planned to co-ordinate joint planning or exchange of information about JTPA state education co-ordination and grants (8%) program activities with the local vocational area planning council(s). If no specific co-ordination efforts are anticipated, the plan must so indicate.

d. Participation eligibility and selection.

(1) Eligibility. Not less than seventy-five percent of the funds available to an SDA must be expended for economically disadvantaged individuals. Up to twenty-five percent of an SDA's budget for the program year may be expended for noneconomically disadvantaged individuals, if they have encountered barriers to employment and if the barriers or procedures to identify

the barriers are described in the plan. The same employment barriers or procedure to identify barriers which justify enrollment described in the Title II plan for the ten percent noneconomically disadvantaged guideline must be used.

(2) Applicant identification and eligibility determination procedures. The plan must describe the steps in the application process including outreach efforts, intake, and eligibility determination.

Normally, the administrative entity will be responsible for all eligibility determinations within the SDA, but it may permit other organizations to make such determinations if it provides for reasonable safeguards, including provisions for reimbursement of costs incurred because of erroneous determinations made with insufficient care, and such an arrangement is included in the approved plan.

(3) Selection. Under JTPA employment and training opportunities are to be provided to those who can benefit from, and who are most-in-need of, such opportunities. Therefore, the factors to be used to determine "who is most-in-need" and "who can benefit" must be described in the plan.

(4) Eligibility verification procedures. At a minimum, quarterly; a random sample of at least ten percent of all participants newly enrolled during the quarter who are still active must receive a detailed verification of all eligibility criteria. The plan must include when this verification will be completed (i.e. monthly, quarterly, upfront, etc.).

e. Performance standards. The performance measures for the state education co-ordination and grants program are:

- (1) Entered employment rate (adult);
- (2) Average wage at placement (adult);
- (3) Welfare entered employment rate (adult);
- (4) Entered employment rate (youth); and
- (5) Positive termination rate (youth).

The standard methodology developed for the Title IIA Adult and Youth Program will be used to determine performance standards for the five measures listed above. The plan may also include any locally developed goals or performance standards established by the PIC and LEOs.

f. Selecting service providers. The plan must explain how service providers will be selected. The process shall:

(1) Take into account the factors listed in 29 U.S.C. 1517;

(2) Describe procedures which follow OMB Circular A-102, Attachment O, when selecting service providers through the request for proposal, sole source or other methods available thereunder;

(3) Comply with the state administrative entity's procurement procedure requirements;

(4) Ensure that proper consideration is given to community-based organizations as service providers, ensure that appropriate education agencies are given the opportunity to provide educational services, and ensure that small and minority business and women's business enterprises are afforded the opportunity to provide services; and

(5) Describe the efforts that will be made to ensure the avoidance of conflict of interest or the appearance of conflict of interest.

g. Budgets. The plan must include a budget for one year. All budgets must reflect the limits on allowable costs as described in the "cost limitations" subsection of the Iowa JTPA Handbook. Section 123(b) of the Act

PLANNING AND PROGRAMMING[630] (cont'd)

requires an equal match of funds from non-JTPA sources. Administrative entities and other subrecipients of these funds must assist the department of public instruction in identifying this match. The plan must describe how this matching requirement will be met.

h. Optional elements. The plan may contain additional elements pertaining to local use of the eight percent funds.

19.16(3) Plan submittal, review and approval process.

a. An original and four copies of the plan must be submitted to the governor via the director of OPP no later than April 12. The plan must be signed by the PIC chairperson and chief elected official. The submittal must include documentation that notification has been published.

b. The plans will be approved or disapproved within thirty days of submittal.

c. If the plan is disapproved, it must be revised. The revision need only include the pages on which changes had to be made. The entire plan does not need to be resubmitted. The revision must be clearly marked as such and resubmitted within twenty days from the date of disapproval. Resubmitted plans must be signed by the administrative entity, the PIC chairperson and the chief elected official. After resubmittal, the final determination approving or disapproving the plan will be made within fifteen days. If, at this point, the plan is still unapproved, funds for the state education co-ordination and grants program for the SDA may revert to the state administrative entity for distribution.

d. Staff members of the department of public instruction and the office for planning and programming will jointly review each plan and make recommendations for approval or disapproval. These agencies will also review jointly any plan revisions.

19.16(4) Modifications.

a. Modifications to plans may be submitted if such modifications are signed by the administrative entity, PIC chairperson, and chief elected official.

b. Modifications must be submitted to the state administrative entity for approval at least fifteen days prior to implementation.

These rules are intended to implement Executive Order 47, Iowa Code chapters 7A, 7B, and 29 U.S.C. 1501 et seq.

[Filed 12/3/85, effective 1/22/86]

[Published 12/18/85]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 12/18/85.

ARC 6230**REVENUE DEPARTMENT[730]**

Pursuant to the authority of Iowa Code section 421.14, the Iowa Department of Revenue hereby adopts amendments to Chapter 10, "Interest," Iowa Administrative Code.

Notice of Intended Action was published in Iowa Administrative Bulletin, Volume VIII, Number 9, on October 23, 1985, as **ARC 6069**.

This amendment is made in order to implement Iowa Code section 421.7. This Code section requires the director of revenue to determine the interest rate for each calendar year. The director has determined that the rate of interest

on interest bearing taxes arising under Iowa Code Title XVI shall be nine percent for the calendar year 1986. The interest rate is two percent below the average prime rate charged by banks on short-term business loans as published in the Federal Reserve Bulletin for the twelve-month period ending September 30, 1985. For the past twelve months, the average prime rate was eleven percent.

The nine percent annual rate is equivalent to an interest rate of 0.8 percent per month on all outstanding taxes. The rate will be applied to all taxes owing or becoming payable on or after January 1, 1986. Under Iowa law, each fraction of a month is considered a whole month when interest is computed. When required to pay interest on taxpayer's refunds, the Department will also pay interest at the nine percent rate on refunds owing or becoming payable on or after January 1, 1986.

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

With the exception of deleting the word "is" from the third sentence after the phrase "regardless whether the tax" these rules are identical to those published under Notice of Intended Action. The amendments will become effective January 22, 1986, after filing with the administrative rules coordinator and publication in the Iowa Administrative Bulletin.

This rule is intended to implement Iowa Code section 421.7.

The following amendment is adopted:

Rule 730—10.2(421) is amended by adding the following new subrule 10.2(5):

10.2(5) Calendar year 1986. The interest upon all unpaid taxes which are due as of January 1, 1986, will be nine percent per annum (0.8% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after, January 1, 1986. In addition, this interest rate will accrue on tax refunds which by law accrue interest, regardless whether the tax to be refunded is due before, on, or after January 1, 1986. This interest rate of nine percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 1986.

[Filed 12/2/85, effective 1/22/86]

[Published 12/18/85]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 12/18/85.

ARC 6231**REVENUE DEPARTMENT[730]**

Pursuant to the authority of Iowa Code sections 421.14 and 422.68(1), the Iowa Department of Revenue hereby adopts amendments to Chapter 17, "Exempt Sales," Iowa Administrative Code.

Notice of Intended Action was published in Iowa Administrative Bulletin, Volume VIII, Number 2, on July 17, 1985, as **ARC 5703**.

1985 Iowa Acts, chapter 247, created an exemption from sales and use tax for certain nonprofit corporations. The rule is intended to implement the exemption.

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

REVENUE DEPARTMENT[730] (cont'd)

ARC 6232

REVENUE DEPARTMENT[730]

With the exception of adding a quote to 17.19(2), these rules are identical to those published under Notice of Intended Action. The amendments will become effective January 22, 1986, after filing with the administrative rules coordinator and publication in the Iowa Administrative Bulletin.

The amendment is intended to implement Iowa Code section 422.25 as amended by 1985 Iowa Acts, chapter 247.

The following new rule is adopted:

Amend 730—chapter 17 by adding the following new rule:

730—17.19(422,423) Gross receipts from the sale or rental of tangible personal property or from services performed, rendered, or furnished to certain non-profit corporations exempt from tax.

17.19(1) After July 1, 1985, the gross receipts from the sale or rental of tangible personal property or from services performed, rendered or furnished to the following nonprofit corporations are exempt from tax.

a. Residential care facilities and intermediate care facilities for the mentally retarded and residential care facilities for the mentally ill licensed by the department of health under Iowa Code chapter 135C.

b. Residential facilities for mentally retarded children licensed by the department of human services under Iowa Code chapter 237.

c. Rehabilitation facilities that provide accredited rehabilitation services to persons with disabilities which are accredited by the commission on accreditation of rehabilitation facilities or the accreditation council for services for mentally retarded and other developmentally disabled persons and adult day care services approved for reimbursement by the department of human services.

d. Community mental health centers accredited by the department of human services under Iowa Code chapter 225C.

17.19(2) The exemption does not apply to tax paid on the purchase of building materials by a contractor which are used in the construction, remodeling or reconditioning of a facility used or to be used for one or more of the uses set forth in subrule 17.19(1). (Barnett to Priebe, state senator and chair of the administrative rules review committee, 11/12/85) #85-11-6-(c).

17.19(3) Taxes payable on transactions occurring between July 1, 1980, and July 1, 1985, involving the retail sale or rental of tangible personal property or from services performed, rendered, or furnished to a nonprofit corporation described in subrule 17.19(1) and which have not been paid by the nonprofit corporation are no longer due and payable after July 1, 1985, and these taxes are not to be collected notwithstanding any other provision of the Code.

This rule is intended to implement Iowa Code section 422.45 as amended by 1985 Iowa Acts, chapter 247.

[Filed 12/2/85, effective 1/22/86]

[Published 12/18/85]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 12/18/85.

Pursuant to the authority of Iowa Code sections 421.14 and 422.68(1), the Iowa Department of Revenue hereby adopts amendments to Chapter 52, "Filing Returns, Payment of Tax, Penalty and Interest" and Chapter 58, "Filing Returns, Payment of Tax, Penalty and Interest, and Allocation of Tax Revenues," Iowa Administrative Code.

Notice of Intended Action was published in Iowa Administrative Bulletin, Volume VIII, Number 9, on October 23, 1985, as ARC 6072.

Iowa Code section 422.85 requires estimated tax payments for the taxes imposed by Iowa Code sections 422.33 and 422.60. Iowa Code sections 422.33 and 422.60 impose the Iowa minimum tax as well as the regular corporation income and franchise tax. The current rules are in conflict with the Code, therefore, they are being amended to require estimated tax payments for the Iowa minimum tax.

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

These rules are identical to those published under Notice of Intended Action. The amendments will become effective January 22, 1986, after filing with the administrative rules coordinator and publication in the Iowa Administrative Bulletin.

The amendments are intended to implement Iowa Code chapter 422.

The following amended rules are adopted:

ITEM 1. Amend subrule 52.5(1) to read as follows:

52.5(1) Penalty and interest. In computing penalty and interest for failure to file a timely return or to pay the minimum tax, refer to subrules 52.6(4) and 52.6(5). ~~No~~ *Effective for tax years beginning on or after January 1, 1986*, estimate payments are required for minimum tax.

ITEM 2. Amend subrule 58.5(1) to read as follows:

58.5(1) Penalty and interest. In computing penalty and interest for failure to file a timely return or to pay the minimum tax, refer to subrules 58.6(4) and 58.6(5). ~~No~~ *Effective for tax years beginning on or after January 1, 1986*, estimate payments are required for minimum tax.

[Filed 12/2/85, effective 1/22/86]

[Published 12/18/85]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 12/18/85.

ARC 6209

TRANSPORTATION,
DEPARTMENT OF[820]

07 MOTOR VEHICLES

Pursuant to the authority of Iowa Code section 307.10, the Transportation Commission on November 19, 1985, adopted administrative rules 820—[07,C] Chapter 6 entitled "Denials, Cancellations, Suspensions and Revocations." The Transportation Commission also rescinded, effective January 22, 1986, the same chapter which has been in effect since September 13, 1985, under emergency rulemaking provisions.

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

A Notice of Intended Action for these rules was published in the October 9, 1985, Iowa Administrative Bulletin as **ARC 6001**.

Chapter 6 implements the requirements of 1985 Iowa Acts, chapter 197, regarding the suspension of a person's driver license or permit for nonpayment of a fine, penalty, surcharge or court costs. Chapter 6 also includes rules on service of notice, hearings and appeals for this type of suspension.

These rules are identical to the ones published under Notice and to the ones adopted under emergency rulemaking provisions except for the following:

Subparagraph 6.22(1)"a"(2) has been reworded to more accurately express the conditions specified in Iowa Code subsection 321.210A(3) of 1985 Iowa Acts, chapter 197, regarding inability to pay.

Paragraph 6.22(4)"a" has also been reworded for accuracy to state that at this point in the procedure the person has only received a notice of suspension.

The first paragraph of subrule 6.38(2) has been reworded to state explicitly that either party has the right to appeal.

In subrule 6.38(1) the word "contest" has been substituted for the word "protest". Paragraphs 6.38(2) "a" and "b" have been added for clarity and emphasis although the substance of these additions is merely a repetition of the current department rule on appeals in contested cases, specifically 820—[01,B]3.9(17A).

These rules are intended to implement Iowa Code chapter 321 as amended by 1985 Iowa Acts, chapter 197.

These rules are to be published as adopted in the December 18, 1985, Iowa Administrative Bulletin and Supplement to the Iowa Administrative Code to be effective January 22, 1986; and the identically numbered rules adopted under emergency rulemaking procedures as **ARC 6000** are to be rescinded effective January 22, 1986.

Pursuant to the authority of Iowa Code section 307.10, the following rules are adopted:

ARTICLE C
DRIVER LICENSING

CHAPTER 6
DENIALS, CANCELLATIONS, SUSPENSIONS
AND REVOCATIONS

820—[07,C]6.1 to 6.21 Reserved.

820—[07,C]6.22(321) Suspension for nonpayment of fine, penalty, surcharge or court costs.

6.22(1) Report to the department.

a. The department shall suspend a person's privilege to operate motor vehicles in Iowa:

(1) When the department is notified by a clerk of the district court on Form No. 431037 that the person has been convicted on or after July 1, 1985, of violating a law regulating the operation of motor vehicles, that the person has failed to pay the fine, penalty, surcharge or court costs arising out of the conviction, and that sixty days have elapsed since the person received a notice of nonpayment from the clerk of the district court, and

(2) When, in accordance with subrule 6.22(2), the person has not timely raised the defense of inability to pay or the department or the clerk of the district court determines that the person is able to pay the fine, penalty, surcharge and court costs.

b. The department shall consider parking violations to be violations of laws regulating the operation of motor vehicles.

6.22(2) Ability to pay.

a. The department shall presume that a person is able to pay the fine, penalty, surcharge and court costs when it receives the "Notice to Suspend" copy of Form No. 431037 from the clerk of the district court.

b. The department shall not consider inability to pay as a defense to license suspension unless:

(1) The person files Form No. 431038 with the clerk of the district court within forty-five days after the person receives notice of nonpayment from the clerk of the district court,

(2) Form No. 431038 includes the clerk's determination as to whether the person is able to pay, and

(3) The clerk of the district court forwards Form No. 431038 to the department.

c. If the steps in subparagraphs 6.22(2)"b"(1) to (3) are followed, the department shall record on Form No. 431038 its determination as to whether the person is able to pay and return Form No. 431038 to the clerk of the district court.

d. If the department and the clerk of the district court disagree on the person's ability to pay, the person shall be considered to be able to pay the fine, penalty, surcharge and court costs.

e. The department shall suspend the person's privilege to operate motor vehicles in Iowa after review of Form No. 431038 when the department receives the "Notice to Suspend" copy of Form No. 431037 from the clerk of the district court and is notified by the clerk of the district court that:

(1) The clerk has notified the person that the person is considered to be able to pay the fine, penalty, surcharge and court costs,

(2) The person has not paid the fine, penalty, surcharge or court costs, and

(3) Sixty days have elapsed since the person received the notice of ability to pay from the clerk of the district court.

6.22(3) Service of suspension notice, suspension, and reinstatement.

a. The department shall serve the person with a notice of suspension in accordance with rule 6.37(321).

b. The suspension period shall begin thirty days after the notice of suspension is served.

c. A person whose license or permit has been suspended under this rule is not eligible for a work permit.

d. The suspension shall continue until the department has issued a notice terminating the suspension. The department shall terminate the suspension when it is notified by the clerk of the district court that all appropriate payments have been made.

e. If the person is otherwise eligible for licensing, the person shall not be required to pay a reinstatement fee, file proof of financial responsibility, or pass an examination in order to regain operating privileges.

6.22(4) Hearing and appeal process.

a. A person who has received a notice of suspension may request an informal settlement or a contested case hearing as outlined in rule 6.38(321). The request must be received by the department within twenty days after the notice of suspension is served.

b. Informal settlements, hearings, and appeals shall be conducted as outlined in rule 6.38(321). The proceedings shall be limited to a determination of whether the facts required by 1985 Iowa Acts, chapter 197, section 3, and this rule are true. The merits of the conviction shall not be considered.

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

c. If properly submitted, a request for an informal settlement or a contested case hearing or an appeal of the hearing officer's proposed decision shall serve to stay the suspension pending the outcome of the settlement, hearing or appeal.

This rule is intended to implement Iowa Code chapter 17A and section 321A.17, and 1985 Iowa Acts, chapter 197, sections 3 and 5.

820—[07,C]6.23 to 6.36 Reserved.

820—[07,C]6.37(321) Service of denial, cancellation, suspension or revocation notice.

6.37(1) The department shall send a notice of denial, cancellation, suspension or revocation by certified mail with a return acknowledgment required to the person's address as shown on departmental records.

6.37(2) If service by mail is unsuccessful, or in lieu of service by mail, the notice may be delivered by a peace officer, a departmental employee, or any person over eighteen years of age.

6.37(3) The person serving the notice shall certify the delivery, specifying the name of the receiver, the address and the date, or shall certify nondelivery.

6.37(4) The department shall pay fees for personal service of notice by a sheriff as specified in Iowa Code section 331.655. The department may also contract for personal service of notice when the department determines that it is in the best interests of the state.

6.37(5) The denial, cancellation, suspension or revocation shall become effective on the date specified in the notice.

This rule is intended to implement Iowa Code sections 321.16, 321.211, and 331.655, and 1985 Iowa Acts, chapter 121.

820—[07,C]6.38(321) Hearing and appeal process.

6.38(1) Informal settlement or hearing. A person whose privilege to operate motor vehicles in Iowa has been denied, canceled, suspended or revoked under this chapter may contest the decision by requesting an informal settlement, by requesting a contested case hearing, or by using both procedures.

a. Request. All requests shall be submitted in writing to: Director, Office of Driver Services, Iowa Department of Transportation, Lucas State Office Building, Des Moines, Iowa 50319. The request shall include the complete addresses and telephone numbers of all persons involved and any attorneys representing them. A request shall be deemed "received" if it is properly addressed and postmarked within the time period specified in the denial, cancellation, suspension or revocation notice, or if it is delivered to the director of the office of driver services within this time period. A request which is not timely submitted shall not be considered.

b. Informal settlement. The matter may be informally settled under rule 820—[01,B]3.3(17A) and may be handled by telephone. If an informal settlement cannot be reached within a reasonable period of time, the department shall notify the person that there has been a failure to reach an informal settlement, that the denial, cancellation, suspension or revocation is sustained, and that the person may request a hearing in accordance with paragraph "a" of this subrule.

c. Contested case hearing. The hearing shall be conducted in accordance with Iowa Code chapter 17A and rules 820—[01,B] chapter 3, and may be conducted in whole or in part by telephone. If the person requests a contested case hearing but the person or the person's

representative fails to appear at the hearing, the hearing officer may either conduct the hearing, considering all evidence available, and render a decision on this evidence, or grant a continuance.

6.38(2) Appeal of proposed decision. A proposed decision by an administrative hearing officer in a contested case hearing shall become the final decision of the department and shall be binding on the department and the person who requested the hearing unless either appeals within twenty days from the date of issuance.

a. No additional evidence shall be presented on appeal, unless there is a showing of good cause for failure to present it earlier. The appeal shall be decided on the basis of the record made before the administrative hearing officer in the contested case hearing.

b. The appeal must state specifically the alleged errors in the administrative hearing officer's proposed decision.

c. The appeal shall be limited to conclusions of law.

d. The appeal shall be submitted in writing to: Director, Office of Driver Services, Iowa Department of Transportation, Lucas State Office Building, Des Moines, Iowa 50319. The appeal shall include the complete addresses and telephone numbers of all persons involved and any attorneys representing them. The appeal shall be deemed "received" if it is properly addressed and postmarked within twenty days after the date of issuance of the proposed decision, or if it is delivered to the director of the office of driver services within this time period.

e. The director of the office of driver services shall forward the appeal to the director of transportation or the director's designee.

f. Failure to timely appeal a proposed decision to the director shall be considered a failure to exhaust administrative remedies.

6.38(3) Final agency action. The director of transportation or the director's designee shall act on the appeal in accordance with subrule 820—[01,B]3.9(10). The decision of the director of transportation or the director's designee shall be the final decision of the department and shall constitute final agency action for the purposes of judicial review. No further steps are necessary to exhaust administrative remedies.

This rule is intended to implement Iowa Code chapter 17A and section 321.211.

[Filed 11/27/85, effective 1/22/86]

[Published 12/18/85]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 12/18/85.

ARC 6210

**TRANSPORTATION,
DEPARTMENT OF[820]**

07 MOTOR VEHICLES

Pursuant to the authority of Iowa Code section 307.10, the Transportation Commission, on November 19, 1985, adopted amendments to 820—[07,C] Chapter 11 entitled "OWI and Implied Consent," Chapter 13 entitled "Driver Licenses" and Chapter 14 entitled "Financial Responsibility."

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

A Notice of Intended Action for these rule amendments was published in the October 9, 1985, Iowa Administrative Bulletin as **ARC 6002**.

Items 6, 8, 10, 11 and 14 are being revised to reference the new administrative rule on service of notice, 820—[07,C]6.37(321). Changes from the current procedure include service of notice by certified mail instead of restricted certified mail as authorized by 1985 Iowa Acts, chapter 121, and optional service by other delivery methods. Items 1 and 2 delete references to a rescinded service of notice rule.

Items 7 and 9 are being revised to reference the new administrative rule on the hearing and appeal process, 820—[07,C]6.38(321). The new rule includes these changes: A description of properly "received" requests, the use of telephones for informal settlements, a time limit for reaching informal settlements, a hearing officer's option to hear or continue a contested case when the requester fails to appear, and the limiting of appeals of proposed decisions to conclusions of law.

Item 3 divides the driver license vision examination standards into two groups (with or without corrective lenses). The rule also reduces the maximum allowable speed to 35 m.p.h. for persons with a visual acuity of 20/70; this change is the result of an advisory from the Safe Transportation Committee of the Iowa Medical Society.

Item 5 amends the list of exceptions to moving traffic violations to comply with Iowa Code section 321.210.

Item 4 is an editorial simplification, Item 12 is a gender correction, Item 13 is a correction of office title and Iowa Code references, and Item 15 is a list of corrections to implementation clauses.

These rule amendments are identical to the ones published under Notice.

These rule amendments are intended to implement Iowa Code chapters 321, 321A and 321B and 1985 Iowa Acts, chapter 121.

These rule amendments are to be published as adopted in the December 18, 1985, Iowa Administrative Bulletin and Supplement to the Iowa Administrative Code to be effective January 22, 1986.

Pursuant to the authority of Iowa Code sections 307.10 and 321A.2, rules 820—[07,C] Chapter 11 entitled "OWI and Implied Consent," Chapter 13 entitled "Driver Licenses," and Chapter 14 entitled "Financial Responsibility" are hereby amended.

ITEM 1. Rescind paragraph 11.3(2)"b" and insert in lieu thereof the following:

b. The effective date of the revocation shall be as provided in Iowa Code section 321B.16.

ITEM 2. Rescind paragraph 11.4(2)"b" and insert in lieu thereof the following:

b. The effective date of the revocation shall be as provided in Iowa Code section 321B.13.

ITEM 3. Rescind subparagraphs 13.3(2)"a" (1) to (3), insert the following in lieu thereof, and renumber the remaining subparagraph accordingly:

(1) Without corrective lenses: If the visual acuity is 20/40 or better with both eyes or with the best eye, no restriction will be imposed. If the visual acuity is less than 20/40 but at least 20/50 with both eyes or with the best eye, the applicant shall be restricted to driving when headlights are not required. If the visual acuity is less than 20/50 but at least 20/70 with both eyes or the best eye, the applicant shall be restricted to driving when

headlights are not required and restricted to a maximum speed of 35 m.p.h.

(2) With corrective lenses: If the visual acuity is 20/40 or better with both eyes or with the best eye, the applicant shall be required to wear corrective lenses. If the visual acuity is less than 20/40 but at least 20/50 with both eyes or the best eye, the applicant shall be required to wear corrective lenses and shall be restricted to driving when headlights are not required. If the visual acuity is less than 20/50 but at least 20/70 with both eyes or the best eye, the applicant shall be required to wear corrective lenses, restricted to driving when headlights are not required, and restricted to a maximum speed of 35 m.p.h.

ITEM 4. Rescind subrule 13.9(2) and insert in lieu thereof the following:

13.9(2) Military extension. Military extensions are explained in Iowa Code section 321.198. A person eligible for a military extension should carry Form 430028 with the license. Form 430028 explains the military extension and is available from the department. When appearing before the department for license renewal, a person who had a military extension may be required to furnish documentation of military service and initial separation from active duty.

This rule is intended to implement Iowa Code sections 321.196 to 321.198.

ITEM 5. Amend paragraphs 13.13(10)"a," "b," "c," "e" and "g" as follows:

a. *Equipment violations as provided in Iowa Code section 321.210;*

b. *Parking violations regulations in cities as described in Iowa Code section 321.210;*

c. *Violations of Registration laws;*

e. *Careless driving pursuant to city ordinances Violations of the child restraint law as provided in Iowa Code section 321.210;*

g. *Violations of Wweights and measures laws;*

ITEM 6. Amend paragraph 13.13(12)"a" as follows:

a. A notice of suspension shall be ~~sent~~ served as described in rule ~~[07,C]13.21(321)~~ 820—[07,C]6.37(321).

ITEM 7. Rescind rule [07,C]13.20(321) and insert in lieu thereof the following:

820—[07,C]13.20(321) Hearing and appeal process. A person whose privilege to operate motor vehicles in Iowa has been denied, canceled, suspended or revoked under this chapter may protest the decision in accordance with rule 820—[07,C]6.38(321).

This rule is intended to implement Iowa Code chapter 17A and section 321.211.

ITEM 8. Rescind rule [07,C]13.21(321) and insert in lieu thereof the following:

820—[07,C]13.21(321) Service of denial, cancellation, suspension or revocation notice. The department shall serve a notice of denial, cancellation, suspension or revocation in accordance with rule 820—[07,C]6.37(321).

This rule is intended to implement Iowa Code sections 321.16, 321.211, and 331.655, and 1985 Iowa Acts, chapter 121.

ITEM 9. Rescind rule [07,C]14.2(321A) and insert in lieu thereof the following:

820—[07,C]14.2(321A) Hearing and appeal process. A person who is aggrieved by an action of the department implementing Iowa Code sections 321A.4 to 321A.11 may

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

protest the action in accordance with rule 820—[07,C] 6.38(321). The hearing officer in a contested case hearing may subpoena witnesses and conduct any investigation deemed necessary to:

14.2(1) Determine if the subject of the hearing is properly identified with the accident.

14.2(2) Determine if there is any reasonable possibility that judgment could be rendered against the subject of the hearing.

14.2(3) Determine if the subject of the hearing is entitled to any exceptions provided by law.

14.2(4) Determine if the security required following an accident is reasonable and make adjustments deemed necessary or proper.

This rule is intended to implement Iowa Code chapter 17A and section 321A.2.

ITEM 10. Rescind subrules 14.4(1) and 14.4(2) and insert in lieu thereof the following:

14.4(1) Suspension.

a. The effective date of the suspension shall be ten days after service of the suspension notice (Form No. 431010). The suspension notice shall be served as provided in rule 820—[07,C]6.37(321). The suspension notice shall notify the person of the following:

(1) The amount of security required as evidence of ability to satisfy any judgment resulting from the accident.

(2) Where to surrender the license and registrations.

(3) The methods by which compliance can be shown and suspension avoided.

(4) Entitlement to a hearing.

b. The duration of the suspension shall be as provided in Iowa Code section 321A.7. When the suspension is terminated, the department shall issue to the person a notice terminating the suspension (Form No. 431009).

14.4(2) Reserved.

ITEM 11. Rescind subrule 14.5(1) and insert in lieu thereof the following:

14.5(1) Suspension.

a. The effective date of the suspension shall be upon service of the suspension notice (Form No. 431010). The suspension notice shall be served as provided in rule 820—[07,C]6.37(321). The suspension notice shall notify the person of the following:

(1) The privilege to operate and register motor vehicles in Iowa is suspended until the judgment is satisfied and proof of financial responsibility is shown.

(2) Where to surrender the license and registrations.

(3) The methods by which proof of financial responsibility can be shown.

b. The duration of the suspension shall be as provided in Iowa Code section 321A.14. When the suspension is terminated, the department shall issue to the person a notice terminating the suspension (Form No. 431009).

ITEM 12. Amend subparagraph 14.5(2)"a"(2) as follows:

(2) A letter to the department from the creditor or his *the creditor's* attorney consenting to the issuance of license and registrations to the debtor ~~will~~ shall be accepted.

ITEM 13. Rescind subrule 14.6(4) and insert in lieu thereof the following:

14.6(4) Terminating the suspension upon filing of proof. A notice terminating the suspension (Form No. 431009) shall be issued by the department to any person otherwise eligible for licensing who was the subject of the

suspension requirements of Iowa Code section 321A.17 and this rule, or who was the subject of the suspension requirements of rule 14.5(321A) and has satisfied the judgment, when the person has shown future proof of financial responsibility by any of the methods described in subrule 14.6(2). The notice identifies the person by social security number, birth date and previous license number, and gives the reason for the last suspension or revocation. The notice terminating the suspension shall notify the person of the following:

a. An appearance before an Iowa driver license examiner is required. The person must pass the required examinations and pay the fees required by Iowa Code section 321.191.

b. Operating and registration privileges are restricted to the vehicles and coverage described on the notice.

ITEM 14. Rescind subrule 14.6(6) and insert in lieu thereof the following:

14.6(6) Suspension when future proof is canceled.

a. When a person's future proof is canceled, the person shall immediately refile future proof or surrender the license and registrations to the department.

b. If the person fails to refile, a suspension notice (Form No. 431010) shall be served in accordance with rule 820—[07,C]6.37(321). The effective date of the suspension shall be upon service of this notice. The suspension notice shall notify the person of the following:

(1) The date of cancellation of future proof.

(2) The privilege to operate and register motor vehicles in Iowa is suspended until future proof is refiled.

(3) Where to surrender the license and registrations.

(4) The methods by which future proof of financial responsibility can be re-established.

c. When the person refiles future proof, the department shall issue to the person a notice terminating the suspension (Form No. 431009).

ITEM 15. Rescind the Iowa Code sections in the implementation clauses for rules [07,C]14.3(321A) to [07,C]14.6(321A), and insert the following Code sections for each clause as follows:

14.3(321A): 321.266, 321A.4 to 321A.11, and 321A.31

14.4(321A): 321A.4 to 321A.11, and 321A.31

14.5(321A): 321A.12 to 321A.29, and 321A.31

14.6(321A): 321A.12 to 321A.29, 321A.31, and 321A.34

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ARC 6212

WATER, AIR AND WASTE MANAGEMENT[900]

WATER, AIR AND WASTE MANAGEMENT COMMISSION

Pursuant to the authority of Iowa Code section 455B.133 the Water, Air and Waste Management Commission amends Chapter 23, "Emission Standards for Contaminants" by adopting by reference recently promulgated federal regulations pertaining to new source performance standards and emission standards for hazardous air pollutants. Two amendments have been adopted.

Notice of Intended Action regarding these rules was published July 31, 1985, as ARC 5765.

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

Periodically, the Environmental Protection Agency, makes additions to its list of categories of major sources that cause or contribute significantly to air pollution which may reasonably be anticipated to endanger health or welfare. In conjunction with additions to the list of categories the EPA promulgates regulations establishing standards of performance for new sources within each category. Each standard establishes allowable emission limitations which are achievable only through the application of "the best demonstrated control technology and apply only to "new sources," the construction or modification of which is commenced after the date of the individually proposed rules.

The first amendment adds the following new categories of sources subject to the new source performance standards: Equipment leaks of volatile organic compounds (VOC) in petroleum refineries, flexible vinyl and urethane coating and printing, petroleum dry cleaners, electric arc furnaces and argon-oxygen decarburization vessels constructed after August 17, 1983, and wool fiberglass insulation manufacturing plants.

The second item amends subrule 23.1(3) which adopts by reference EPA rules promulgated as 40 C.F.R. Part 61. Part 61 sets forth emission standards for hazardous air pollutants. The amendment includes equipment leak standards for equipment that handles benzene, and a generalized equipment leak standard that would apply to volatile hazardous air pollutant standards promulgated under 40 C.F.R., Part 61 in the future.

Subpart designations are added to simplify cross references between state and federal regulations. Subpart designations as found in 40 C.F.R. Parts 60 and 61 have been added to subrules 23.1(1) and 23.1(2).

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.

A public hearing was held on these amendments on August 21 and a letter was received from the U.S. Environmental Protection Agency. For the most part EPA's comments relate to errors in the notice or changes in the affected facility language that have been made after adoption of the federal emission standards by the State. Beyond that, EPA made suggestions to clarify the rules and applicability of appendices to 40 C.F.R., Part 60. Most of their recommendations or equivalent wording have been incorporated into the adopted rule.

These rules are intended to implement Iowa Code section 455B.133.

The following amendments were adopted by the Commission on November 19, 1985, and will become effective on January 22, 1986.

ITEM 1. Subrule 23.1(2)(455B) is amended as follows:

23.1(2) New source performance standards. The federal standards of performance for new stationary sources, as defined in 40 Code of Federal Regulations Part 60 as amended through April 26, 1984 May 1, 1985, are adopted by reference and shall apply to the following affected facilities as defined in said part*. The corresponding 40 C.F.R. Part 60 subpart designation is in parentheses. Reference test methods (Appendix A), performance specifications (Appendix B), determination of emission rate change (Appendix C) and the general provisions (Subpart A) of 40 C.F.R. Part 60 also apply to the affected facilities.

a. Fossil fuel-fired steam generators. A fossil fuel-fired steam generating unit of more than 250 million BTU heat input for which construction is commenced after August 17, 1971. Any facility covered under paragraph "z" is not covered under this paragraph. (Subpart D)

b. Incinerators. An incinerator of more than 50 tons per day charging rate. (Subpart E)

c. Portland cement plants. Any of the following in a portland cement plant: Kiln; clinker cooler; raw mill system; finish mill system; raw mill dryer; raw material storage; clinker storage; finished product storage; conveyor transfer points; bagging and bulk loading and unloading systems. (Subpart F)

d. Nitric acid plants. A nitric acid production unit. (Subpart G)

e. Sulfuric acid plants. A sulfuric acid production unit. (Subpart H)

f. Asphalt concrete plants. An asphalt concrete plant. (Subpart I)

g. Petroleum refineries. Any of the following at a petroleum refinery: Fluid catalytic cracking unit catalyst regenerator; fluid catalytic cracking unit incinerator-waste heat boilers; and fuel gas combustion devices; and Claus sulfur recovery plants greater than 20 long tons per day. (Subpart J)

h. Secondary lead smelters. Any of the following in a secondary lead smelter: Pot furnaces of more than 250 kilograms (550 pounds) charging capacity; blast (cupola) furnaces; and reverberatory furnaces. (Subpart L)

i. Secondary brass and bronze ingot production plants. Any of the following at a secondary brass and bronze ingot production plant; reverberatory and electric furnaces of 1000/kilograms (2205 pounds) or greater production capacity and blast (cupola) furnaces of 250 kilograms per hour (550 pounds per hour) or greater production capacity. (Subpart M)

j. Iron and steel plants. A basic oxygen process furnace. (Subpart N)

k. Sewage treatment plants. An incinerator which burns the sludge produced by municipal sewage treatment plants. (Subpart O)

l. Steel plants. Either of the following at a steel plant: Electric arc furnaces and dust-handling equipment constructed after October 21, 1974, and on or before August 17, 1983. (Subpart AA)

m. Primary copper smelters. Any of the following at a primary copper smelter: Dryer, roaster, smelting furnace and copper converter. (Subpart P)

n. Primary zinc smelters. Either of the following at a primary zinc smelter: A roaster or a sintering machine. (Subpart Q)

o. Primary lead smelter. Any of the following at a primary lead smelter: Sintering machine, sintering machine discharge end, blast furnace, dross reverberatory furnace, and converter, and electric smelting furnaces. (Subpart R)

p. Primary aluminum reduction plants. Either of the following at a primary aluminum reduction plant: Pot-room groups and anode bake plants. (Subpart S)

q. Wet process phosphoric acid plants in the phosphate fertilizer industry. A wet process phosphoric acid plant, which includes any combination of the following: Reactors, filters, evaporators and hotwells. (Subpart T)

r. Superphosphoric acid plants in the phosphate fertilizer industry. A superphosphoric acid plant, which includes any combination of the following: Evaporators, hotwells, acid sumps and cooling tanks. (Subpart U)

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

s. Diammonium phosphate plants in the phosphate fertilizer industry. A granular diammonium phosphate plant, which includes any combination of the following: Reactors, granulators, dryers, coolers, screens and mills. (Subpart V)

t. Triple superphosphate plants in the phosphate fertilizer industry. A triple superphosphate plant which includes any combination of the following: Mixers, curing belts (dens), reactors, granulators, dryers, cookers, screens, mills and facilities which store run-of-pile triple superphosphate. (Subpart W)

u. Granular triple superphosphate storage facilities in the phosphate fertilizer industry. A granular triple superphosphate storage facility which includes any combination of the following: Storage or curing piles, conveyors, elevators, screens and mills. (Subpart X)

v. Coal preparation plants. Any of the following at a coal preparation plant which processes more than 200 tons per day: Thermal dryers; pneumatic coal cleaning equipment (air tables); coal processing and conveying equipment (including breakers and crushers); coal storage systems; and coal transfer and loading systems. (Subpart Y)

w. Ferroalloy production. Any of the following: Electric submerged arc furnaces which produce silicon metal, ferrosilicon, calcium silicon, silicomanganese zirconium, ferrochrome silicon, silvery iron, high carbon ferrochrome, charge chrome, standard ferromanganese, silicomanganese, ferromanganese silicon, or calcium carbide; and dust-handling equipment. (Subpart Z)

x. Kraft pulp mills. Any of the following in a kraft pulp mill: Digester system; brown stock washer system; multiple effect evaporator system; black liquor oxidation system; recovery furnace; smelt dissolving tank; lime kiln; and condensate *stripper* system. In pulp mills where kraft pulping is combined with neutral sulfite semi-chemical pulping, the provisions of the standard of performance are applicable when any portion of the material charged to an affected facility is produced by the kraft pulping operation. (Subpart BB)

y. Lime manufacturing plants. A rotary lime kiln or a lime hydrator used in the manufacture of lime at other than a kraft pulp mill. (Subpart HH)

z. Electric utility steam generating units. An electric utility steam generating unit that is capable of combusting more than 250 million BTUs per hour (73 megawatts) heat input of fossil fuel for which construction or modification is commenced after September 18, 1978, or an electric utility combined cycle gas turbine that is capable of combusting more than 250 million BTUs per hour (73 megawatts) heat input of fossil fuel in the steam generator. (Subpart Da)

aa. Stationary gas turbines. Any simple cycle gas turbine, regenerative cycle gas turbine or any gas turbine portion of a combined cycle steam/electric generating system that is not self-propelled. It may, however, be mounted on a vehicle for portability. (Subpart GG)

bb. Petroleum storage vessels. Any storage vessel for petroleum liquids constructed after June 11, 1973, and prior to May 19, 1978, having a storage capacity greater than 151,4126 liters (40,000 gallons). (Subpart K)

cc. Petroleum storage vessels. Any storage vessel for petroleum liquids constructed after May 18, 1978, having a storage capacity greater than 151,4126 liters (40,000 gallons). (Subpart Ka)

dd. Glass manufacturing plants. Any glass melting furnace. (Subpart CC)

ee. Automobile and light-duty truck surface coating operations at assembly plants. Any of the following in an automobile or light-duty truck assembly plant: Prime coat operations, guide coat operations, and topcoat operations. (Subpart MM)

ff. Ammonium sulfate manufacture. Any of the following in the ammonium sulfate industry: Ammonium sulfate dryers in the caprolactam by-product, synthetic, and coke oven by-product sectors of the industry. (Subpart PP)

gg. Surface coating of metal furniture. Any metal furniture surface coating operation in which organic coatings are applied. (Subpart EE)

hh. Lead-acid battery manufacturing plants. Any lead-acid battery manufacturing plant which uses any of the following: Grid casting, paste mixing, three-process operation, lead oxide manufacturing, lead reclamation, other lead-emitting operations. (Subpart KK)

ii. Phosphate rock plants. Any phosphate rock plant which has a maximum plant production capacity greater than four tons per hour including the following: Dryers, calciners, grinders, and ground rock handling and storage facilities, except those facilities producing or preparing phosphate rock solely for consumption in elemental phosphorus production. (Subpart NN)

jj. Graphic arts industry. Publication rotogravure printing. Any publication rotogravure printing press except proof presses. (Subpart QQ)

kk. Industrial surface coating — large appliances. Any surface coating operation in a large appliance surface coating line. (Subpart SS)

ll. Metal coil surface coating. Any of the following at a metal coil surface coating operation: Prime coat operation, finish coat operation, and each prime and finish coat operation combined when the finish coat is applied wet on wet over the prime coat and both coatings are cured simultaneously. (Subpart TT)

mm. Asphalt processing and asphalt roofing manufacturing. Any saturator, mineral handling and storage facility at asphalt roofing plants; and any asphalt storage tank and any blowing still at asphalt processing plants, petroleum refineries, and asphalt roofing plants. (Subpart UU)

nn. Equipment leaks of VOC in the synthetic organic chemicals manufacturing industry. Any pumps, compressors, pressure relief devices, sampling systems, valves and lines which handle volatile organic compounds (VOC). (Subpart VV)

oo. Beverage can surface coating. Any beverage can surface coating lines for two-piece steel or aluminum containers in which soft drinks or beer are sold. (Subpart WW)

pp. Bulk gasoline terminals. ~~Any~~ The total of all loading racks at bulk gasoline terminals which deliver liquid product into gasoline tank trucks. (Subpart XX)

qq. Pressure sensitive tape and label surface coating operations. Any coating line used in the tape manufacture of pressure sensitive tape and label materials. (Subpart RR)

rr. Metallic mineral processing plants. Any ore processing and handling equipment. (Subpart LL)

ss. Synthetic fiber production facilities. Any solvent-spun synthetic fiber process that produces more than 500 megagrams of fiber per year. (Subpart HHH)

Further amend subrule 23.1(2) by adding the following paragraphs.

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

tt. *Equipment leaks of VOC in petroleum refineries. A compressor and all equipment (defined in 40 C.F.R. Part 60.591) within a process unit constructed after January 4, 1983. (Subpart GGG)*

uu. *Flexible vinyl and urethane coating and printing. Each rotogravure printing line used to print or coat flexible vinyl or urethane products. (Subpart FFF)*

vv. *Petroleum dry cleaners. Petroleum dry cleaning plant with a total manufacturer's rated dryer capacity equal to or greater than 38 kilograms (84 pounds): Petroleum solvent dry cleaning dryers, washers, filters, stills, and settling tanks. (Subpart JJJ)*

ww. *Electric arc furnaces and argon-oxygen decarburization vessels constructed after August 17, 1983. Steel plants that produce carbon, alloy, or specialty steels: Electric arc furnaces, argon-oxygen decarburization vessels, and dust handling systems. (Subpart AAA)*

xx. *Wool fiberglass insulation manufacturing plants. Rotary spin wool fiberglass manufacturing line. (Subpart PPP)*

ITEM 2. Subrule 23.1(3) is amended as follows:

23.1(3) Emission standards for hazardous air pollutants. The federal standards of emissions for hazardous air pollutants, 40 Code of Federal Regulations Part 61 as amended through ~~April 26, 1984, May 1, 1985,~~ are adopted by reference, except 40 C.F.R. §61.145 through §61.147, and shall apply to the following affected pollutants ~~as defined in that part and facilities and activities listed below. The corresponding 40 C.F.R. Part 61 subpart designation is in parentheses. Reference test methods (Appendix B), compliance status information requirements (Appendix A), quality assurance procedures (Appendix C) and the general provisions (Subpart A) of Part 61 also apply to the affected activities or facilities.~~

a. **Asbestos.** Any of the following involving asbestos emissions: Asbestos mills, surfacing of roadways, manufacturing operations, *fabricating, insulating, waste disposal and spraying applications.* Demolition and renovation emissions as stated in 40 C.F.R. §61.145 through §61.147 are not included. *(Subpart M)*

b. **Beryllium.** Any of the following stationary sources: Beryllium extraction plants, ceramic plants, foundries, incinerators, and propellant plants which process beryllium ore, beryllium oxide, beryllium alloys, or beryllium-containing waste; and machine shops which process beryllium, beryllium oxides, or any alloy when such alloy contains more than 5 percent beryllium by weight. *(Subpart C)*

c. **Beryllium rocket motor firing.** Rocket motor test sites. *(Subpart D)*

d. **Mercury.** Any of the following involving mercury emissions: Mercury ore processing facilities, mercury cell chlor-alkali plants, sludge incineration plants, sludge drying plants, and a combination of sludge incineration plants and sludge drying plants. *(Subpart E)*

e. **Vinyl chloride.** Ethylene dichloride purification and the oxychlorination reactor in ethylene dichloride plants. Vinyl chloride formation and purification in vinyl chloride plants. Any of the following involving polyvinyl chloride plants: Reactor; stripper; mixing, weighing, and holding containers; monomer recovery system; sources following the stripper(s). Any of the following involving ethylene dichloride, vinyl chloride, and polyvinyl chloride plants: Relief valve discharge; fugitive emission sources. *(Subpart F)*

Further amend subrule **23.1(3)** by adding the following paragraphs:

f. *Equipment leaks of benzene (fugitive emission sources). Any pumps, compressors, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, flanges and other connectors, product accumulator vessels, and control devices or systems which handle benzene. (Subpart J)*

g. *Equipment leaks of volatile hazardous air pollutants (fugitive emission sources). Any pumps, compressors, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, flanges and other connectors, product accumulator vessels, and control devices or systems which handle volatile hazardous air pollutants. (Subpart V)*

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ARC 6213**WATER, AIR AND WASTE
MANAGEMENT[900]****WATER, AIR AND WASTE MANAGEMENT COMMISSION**

Pursuant to Iowa Code section 455B.412(3), the Water, Air and Waste Management Commission adopts amendments to Chapters 140 and 141 and adopts a new Chapter 149. These rules may impact small businesses.

This new Chapter 149 pertains to the assessment and collection of fees for the transportation, treatment and disposal of hazardous wastes. This chapter is intended to implement Iowa Code section 455B.423, which creates a hazardous waste remedial fund within the state treasury. A more complete discussion of the hazardous waste remedial fund is contained in the Notice of Intended Action, **ARC 5766**, published in the Iowa Administrative Bulletin July 31, 1985.

Fees imposed by these rules shall be paid to the Department on an annual basis and are due on April 15 for the previous calendar year. Forms, which must be completed and submitted with the fees, are available from the Department.

Chapter 140, specifically Item 1, rule 900—140.1(455B) and Item 2, rule 140.6(455B), is amended to describe the contents of Chapter 149 and to describe the form to be filed with the Department by facilities which are subject to Chapter 149.

Upon the request for public response to **ARC 5766**, the Commission received numerous comments regarding the federal RCRA rules adopted by reference by the Commission. The Commission has adopted the federal rules to May, 1984. Since that date many new important revisions to the federal program have been adopted which have an impact on the wastes subject to Iowa's hazardous waste fee schedule. In order to reduce to a minimum the discrepancy between the hazardous wastes regulated by EPA and the hazardous wastes which are subject to the Iowa fee schedule the Commission proposes to adopt the most recent federal rule revisions pertaining to the RCRA program by amending those rules referencing federal rules. These changes are contained in items 3 through 7. An amended Notice of Intended Action **ARC 6032** was published on October 9, 1985, to provide opportunity for public comment.

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

Since the publication of the amended Notice the EPA once more adopted amendments to the list of hazardous wastes regulated under RCRA. The EPA has added six wastes generated during the production of dinitrotoluene (DNT), toluenediamine (TDA), and toluene diisocyanate (TDI). In addition, EPA has added two compounds to the list of commercial chemical products; Amino-1-methylbenzene and Toluidine, and several toxicants to Appendix VIII of Part 261. The Commission adopts these amendments in Item 4.

In addition to the changes to the federal RCRA references, rule 900—149.9(455B), "Suspension of fees," was modified to make it clear that suspension of fees happens only after all fees due are collected for a given year. This change is consistent with legislative intent.

These rules are intended to implement Iowa Code section 455B.424.

The following amendments were adopted by the Commission on November 19, 1985, and will become effective January 22, 1986.

ITEM 1. Amend rule 900—140.1(455B) to include as the fourth unnumbered paragraph the following:

Chapter 149 contains the procedure for the assessment and collection of fees for transportation, treatment and disposal of hazardous waste.

ITEM 2. Amend Chapter 140 by adding the following rule:

900—140.6(455B) Form for the hazardous waste program—transportation, treatment and disposal fees. Any generator or the owner or operator of a hazardous waste treatment or disposal facility who transports, treats or disposes of hazardous waste is subject to the fees specified in rule 149.4(455B). Such a person must also complete and submit to the department WAWM Form 179, hazardous waste program—transportation, treatment and disposal fees.

ITEM 3. Amend the first paragraph of subrule 900—141.1(1) to read as follows:

900—141.1(455B) Hazardous waste management system: General.

141.1(1) The following is adopted by reference: 40 C.F.R. Part 260 as amended through March 26, 1984 July 15, 1985.

ITEM 4. Amend rule 900—141.2(455B) to read as follows:

900—141.2(455B) Identification and listing of hazardous waste. The following is adopted by reference: 40 C.F.R. Part 261 as amended through May 10, 1984 October 23, 1985.

Provided that any general reference to 40 C.F.R. Part 124 shall mean 141.13(455B) of these rules.

ITEM 5. Amend the introductory paragraph of rule 900—141.3(455B) as follows:

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 March 26, 1984 July 15, 1985.

ITEM 6. Amend the introductory paragraph of rule 900—141.5(455B) to read as follows:

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 June 30, 1983 July 15, 1985.

ITEM 7. Amend the introductory paragraph of rule 900—141.6(455B) to read as follows:

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 November 22, 1983 July 15, 1985.

ITEM 8. Adopt a new Chapter 149 as follows:

CHAPTER 149
FEES FOR TRANSPORTATION,
TREATMENT AND DISPOSAL OF
HAZARDOUS WASTE

900—149.1(455B) Authority, purpose and applicability.

149.1(1) Authority. Pursuant to Iowa Code section 455B.424, the department has authority to collect fees for the transportation, treatment, and disposal of a hazardous waste. Moneys collected or received by the department shall be transmitted to the treasurer of the state for deposit in the hazardous waste remedial fund.

149.1(2) Purpose. The purpose of these rules is to provide an orderly and efficient process for the assessment and collection of fees for certain activities involving hazardous wastes. These rules clarify the applicability of the fees and set forth a fee schedule, means of filing, and recordkeeping requirements.

149.1(3) Applicability. Unless subject to the criteria in rules 149.3(455B) and 149.9(455B) of this chapter, fees shall apply to the following persons:

a. Any person who generates a hazardous waste and transports hazardous wastes off the site of generation as is defined by Iowa Code section 455B.412(2) and chapter 141 of Iowa Administrative Code (IAC).

b. Any person who owns or operates a facility within Iowa which provides treatment or disposal of hazardous waste.

900—149.2 Reserved.

900—149.3(455B) Exclusions and effect on other fees.

149.3(1) Exclusions. A person shall be exempt from the payment of fees specified in rule 149.4(455B) if any one of the following criteria is met:

a. The person is a duly authorized agent of the state of Iowa or a political subdivision of the state.

b. The hazardous waste is reclaimed or reused for energy or materials.

c. The hazardous waste is transformed into new products which are not regulated as wastes.

d. The hazardous waste is created as a result of remedial actions at an abandoned or uncontrolled hazardous waste site.

e. The waste is the influent to a facility which is subject to regulation under rules in chapter 62, "Effluent and Pretreatment Standards: Other Effluent Limitations or Prohibitions" or chapter 64, "Wastewater Construction and Operation Permits." However, any hazardous waste created by such a treatment process is subject to the fees specified in this chapter.

f. The hazardous waste which due to its physical, chemical or biological properties decomposes spontaneously within twenty-four hours of generation to yield a

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

resultant waste which is no longer hazardous in accordance with 40 C.F.R. Part 261 as adopted by reference by rule 141.2(455B).

g. Hazardous waste which is generated outside the state of Iowa and transported through the state.

149.3(2) Other fees. A person exempt from payment of fees specified in rule 149.4(455B) is exempt only for the purpose of Iowa Code section 455B.424. Fees other than those specified in this chapter may still be assessed.

900—149.4(455B) Fee schedule.

149.4(1) Effective date. On and after July 1, 1985, fees shall begin to accrue for the transportation, treatment or disposal of hazardous waste within Iowa.

149.4(2) Hazardous wastes generated within Iowa. For hazardous waste generated within the state of Iowa, the generator shall be responsible for the following fees:

a. A fee of two dollars is assessed for each ton of hazardous waste destroyed or treated in Iowa to render the hazardous waste nonhazardous. However, hazardous residues resulting from such treatment are subject to all applicable fees.

b. A fee of ten dollars for each ton of hazardous waste transported offsite of generation.

The water content weight of any waste that is transported to another facility under the ownership of the generator for the purpose of waste treatment or recycling shall not be considered when computing the weight of the waste.

c. A fee of forty dollars is assessed for each ton of hazardous waste placed, deposited, dumped, or disposed of onto or into the land at a disposal facility in Iowa.

d. An Iowa facility which treats or disposes of hazardous waste is considered a generator for the purposes of paragraph 149.4(2)"b" if the wastes are subsequently transported off of the treatment or disposal facility site.

149.4(3) Waste generated outside of Iowa. For hazardous waste generated outside of the state of Iowa and imported into the state for treatment or disposal, the following fees shall be paid by the treatment or disposal facilities owner or operator:

a. A fee of two dollars is assessed for hazardous waste destroyed or treated at the disposal facility to render the hazardous waste nonhazardous. However, hazardous residues resulting from such treatment are subject to all applicable fees.

b. A fee of forty dollars is assessed for each ton of hazardous waste placed, deposited, dumped, or disposed of onto or into the land at a disposal facility in Iowa.

c. An Iowa facility which treats or disposes of hazardous waste is considered a generator for the purposes of paragraph 149.4(2)"b" if the wastes are subsequently transported off of the treatment or disposal facility site.

149.4(4) A person who is subject to the fee schedule set out in rule 149.4(455B) who generates, transports, treats or disposes of a fraction of a ton of hazardous waste shall pay a proportionate fee equal to the fraction of a ton.

900—149.5(455B) Form, manner, time and place of filing.

149.5(1) Form. Any person to whom this chapter applies must file a completed WAWM Form 179 as specified in rule 140.6(455B).

149.5(2) Manner, time and place. Fees are due on April 15 for the previous calendar year. The person shall present or mail the completed form with the appropriate fees to: Accounting, Department of Water, Air and Waste Management, Henry A. Wallace Building, 900 East Grand Avenue; Des Moines, Iowa 50319.

900—149.6(455B) Identification, sampling and analytical requirements.

149.6(1) The hazardous wastes to which the fee schedule listed in rule 149.4(455B) applies are those identified in 40 C.F.R. Part 261 through October 23, 1985, as adopted by reference by rule 900—141.2(455B).

149.6(2) For the purposes of Iowa Code subsection 455B.424(1), the weight of the waste less its water content is determined using the total solids method 209A (for liquids) or 209F (for sludges or semisolids), 16th Edition of Standard Methods for the Examination of Water and Wastewater, 1985.

149.6(3) Petitions for equivalent testing or analytical methods are addressed in 40 C.F.R. 260.21 as adopted by reference by subrule 141.1(1).

900—149.7(455B) Reporting and recordkeeping.

149.7(1) Manifests. Those persons subject to the manifesting requirements of 40 C.F.R. Part 262 as amended through July 15, 1985, as adopted by reference by 900—141.3(455B), shall maintain the manifests for the purpose of determining the amount of fees to be assessed as set out in rule 149.5(455B).

149.7(2) Operating records. Those persons who generate hazardous waste who are not subject to the manifesting requirements shall maintain operating records in accordance with rules 141.5(455B) and 141.6(455B).

149.7(3) A copy of completed WAWM Form 179 must be kept for a period of at least three years from the due date of the form.

149.7(4) All records required under this chapter must be furnished upon request, and made available at all reasonable times for inspection, by any officer, employee, or representative of the department who is duly designated by the executive director.

900—149.8(455B) Failure to pay fees. If the executive director finds that a person has failed to pay the fees assessed by this chapter, the executive director shall enforce the collection of the delinquent fees. A penalty of fifteen percent of the fee due in addition to the fee due shall be collected.

900—149.9(455B) Suspension of fees. If after collection of all fees due in a given year, the hazardous waste remedial fund has a balance in excess of six million dollars by July 1 of a calendar year, the department shall suspend the collection of fees. If the balance falls below three million dollars, the fee collection shall be reimposed commencing the beginning of the next calendar quarter. Notices of suspension of fees and reinstatement of fees shall be provided by the department.

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EFFECTIVE DATE DELAY

[Pursuant to §17A.4(5)]

AGENCY	RULE	EFFECTIVE DATE DELAYED
Water, Air and Waste Management Department[900]	70.2, 71.2(4), 71.11(1)"a" and "d" [IAB 11/20/85, ARC 6149]	Seventy days from effective date of December 25, 1985

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