IOWA ADMINISTRATIVE BULLETIN

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Pages 7904 to 7970 include **ARC 7742C** to **ARC 7755C**

PREFACE

The Iowa Administrative Bulletin is published biweekly pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; usury rates [535.2(3)"a"]; agricultural credit corporation maximum loan rates [535.12]; and other items required by statute to be published in the Bulletin.

PLEASE NOTE: Underscore indicates new material added to existing rules; ~~strike through~~ indicates deleted material.

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CITATION of Administrative Rules

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, paragraph, subparagraph, or numbered paragraph).

This citation format applies only to external citations to the Iowa Administrative Code or Iowa Administrative Bulletin and does not apply to citations within the Iowa Administrative Code or Iowa Administrative Bulletin.

441 IAC 79	(Chapter)
441 IAC 79.1	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)"a"	(Paragraph)
441 IAC 79.1(1)"a"(1)	(Subparagraph)
441 IAC 79.1(1)"a"(1)"1"	(Numbered paragraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

IAB Vol. XII, No. 23 (5/16/90) p. 2050, ARC 872A

NOTE: In accordance with Iowa Code section 2B.5A, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).

Schedule for Rulemaking
2024

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

ISSUE NUMBER	SUBMISSION DEADLINE	ISSUE DATE
22	**Friday, April 12, 2024**	**May 1, 2024**
23	**Friday, April 26, 2024**	**May 15, 2024**
24	**Wednesday, May 8, 2024**	**May 29, 2024**

PLEASE NOTE:

Rules will not be accepted by the Publications Editing Office after **12 o'clock noon** on the filing deadline unless prior approval has been received from the Administrative Rules Coordinator and the Administrative Code Editor.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

†To allow time for review by the Administrative Rules Coordinator prior to the Notice submission deadline, Notices should generally be submitted in RMS four or more working days in advance of the deadline.

****Note change of filing deadline****

COLLEGE STUDENT AID COMMISSION[283]

Iowa tuition grant program, ch 12 IAB 4/3/24 **Regulatory Analysis**	State Board Room Grimes State Office Bldg. Des Moines, Iowa	April 24, 2024 9 a.m.

ECONOMIC DEVELOPMENT AUTHORITY[261]

Iowa energy center grant program, ch 404 IAB 4/3/24 **ARC 7746C**	1963 Bell Avenue Des Moines, Iowa Registration information for online participation may be found at www.iowaeda.com/red-tape-review/	April 23, 2024 11:30 to 11:45 a.m. April 29, 2024 2 to 2:15 p.m.

HUMAN SERVICES DEPARTMENT[441]

Contracting out department of human services employees and property, rescind ch 2 IAB 3/20/24 **ARC 7724C**	Microsoft Teams ID: 266 326 244 672 Passcode: RSVaFR Microsoft Teams ID: 260 668 126 347 Passcode: jcaKdL	April 10, 2024 11 to 11:30 a.m. April 15, 2024 12 noon to 12:30 p.m.
Foster care placement and services, amendments to ch 202 IAB 3/20/24 **ARC 7739C**	Microsoft Teams ID: 227 039 897 635 Passcode: bTZJ9E Microsoft Teams ID: 241 334 884 463 Passcode: C9aN7m	April 9, 2024 11:30 a.m. to 12 noon April 12, 2024 11:30 a.m. to 12 noon

IOWA FINANCE AUTHORITY[265]

General, ch 1 IAB 3/20/24 **Regulatory Analysis**	1963 Bell Ave. Des Moines, Iowa	April 9, 2024 1 p.m.
Iowa main street loan program, ch 11 IAB 3/20/24 **Regulatory Analysis**	1963 Bell Ave. Des Moines, Iowa	April 9, 2024 1:15 p.m.
Waivers from administrative rules, ch 18 IAB 3/20/24 **Regulatory Analysis**	1963 Bell Ave. Des Moines, Iowa	April 9, 2024 1:30 p.m.

LABOR SERVICES DIVISION[875]

Posting, inspections, citations and proposed penalties, ch 3 IAB 4/3/24 **Regulatory Analysis**	Conference Room 124 6200 Park Ave., Suite 100 Des Moines, Iowa	April 23, 2024 9:20 to 9:40 a.m.
Recording and reporting occupational injuries and illnesses, ch 4 IAB 4/3/24 **Regulatory Analysis**	Conference Room 124 6200 Park Ave., Suite 100 Des Moines, Iowa	April 23, 2024 9 to 9:20 a.m.

NURSING BOARD[655]

Certified professional midwives, ch 16 IAB 3/20/24 **Regulatory Analysis**	6200 Park Ave. Des Moines, Iowa	April 9, 2024 9 a.m.

PUBLIC HEALTH DEPARTMENT[641]

Tobacco use prevention and control funding process, rescind ch 152; criteria for awards or grants, rescind ch 176; advisory bodies of the department, rescind ch 191 IAB 3/20/24 **ARCs 7725C** to **7727C**	Microsoft Teams ID: 266 326 244 672 Passcode: RSVaFR Microsoft Teams ID: 260 668 126 347 Passcode: jcaKdL	April 10, 2024 11 to 11:30 a.m. April 15, 2024 12 noon to 12:30 p.m.

PUBLIC SAFETY DEPARTMENT[661]

Motor carrier safety, hazardous materials—adoption by reference of federal regulations, 22.1(1) IAB 3/20/24 **ARC 7723C**	First Floor Public Conference Room 125 Oran Pape State Office Bldg. Des Moines, Iowa	April 9, 2024 8 to 8:30 a.m.

TRANSPORTATION DEPARTMENT[761]

Outdoor advertising, ch 117 IAB 3/20/24 **Regulatory Analysis**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 354 741 910	April 11, 2024 10 to 10:30 a.m.
Interstate motor carriers, commercial driver's licenses—adoption by reference of federal regulations, 529.1, 607.10(1), 800.4(1), 800.15(4)"a," 800.20(1), 810.1(1), 911.5(1) IAB 4/3/24 **ARC 7745C**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 819571984	April 26, 2024 10 to 10:30 a.m.

UTILITIES DIVISION[199]

Reorganization, ch 32 IAB 4/3/24 **ARC 7743C**	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	April 23, 2024 9 to 10 a.m. May 8, 2024 9 to 10 a.m.
Restoration of agricultural lands during and after pipeline construction, ch 9; intrastate gas pipelines and underground gas storage, ch 10 IAB 4/3/24 **Regulatory Analyses**	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	May 7, 2024 9 a.m.
Electric lines, ch 11 IAB 4/3/24 **Regulatory Analysis**	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	April 29, 2024 2 to 4:30 p.m.

UTILITIES DIVISION[199](cont'd)

Service supplied by water, sanitary sewage, and storm water drainage utilities, ch 21 IAB 4/3/24 **Regulatory Analysis**	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	April 30, 2024 2 to 4:30 p.m.
Iowa electrical safety code, ch 25 IAB 4/3/24 **Regulatory Analysis**	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	April 23, 2024 2 p.m.
Ratemaking principles proceeding, ch 41 IAB 4/3/24 **Regulatory Analysis**	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	April 24, 2024 9 a.m. April 30, 2024 9 a.m.
Crossing of railroad rights-of-way, ch 42 IAB 3/20/24 **Regulatory Analysis**	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	April 24, 2024 10 a.m.

The following list will be updated as changes occur.

"Umbrella" agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory "umbrellas."

Other autonomous agencies are included alphabetically in SMALL CAPITALS at the left-hand margin.

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Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 283—Chapter 12
"Iowa Tuition Grant Program"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 256.178 and 256.189
State or federal law(s) implemented by the rulemaking: Iowa Code sections 256.183 through 256.190

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

April 24, 2024
9 a.m.

State Board Room
Grimes State Office Building
Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the College Student Aid Commission no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

David Ford, Bureau Chief
Bureau of Iowa College Aid
400 East 14th Street
Des Moines, Iowa 50319
Email: david.ford@iowa.gov

Purpose and Summary

The Commission plans to rescind and adopt a new Chapter 12 pursuant to Executive Order 10 (January 10, 2023). New Chapter 12 is proposed to ensure the Commission meets the requirements set forth in law by adopting rules for the administration of the Iowa Tuition Grant. The proposed rulemaking establishes the eligibility criteria and awarding of funds for the grant and describes the process, procedures and duties of the Commission; applicants; and institutions.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

- Classes of persons that will bear the costs of the proposed rulemaking:

In general, the proposed rulemaking does not impose requirements that would add administrative burden beyond the provisions already established in law. This rulemaking defines the processes that will be utilized to ensure eligible applicants receive grants and articulates the awarding of funds and general provisions of eligibility to align with other state-funded scholarships and grants. This rulemaking stipulates that the Commission will periodically review compliance of the eligible institutions participating in the grant (subrule 12.5(4)). This requirement is not specifically established in law. The Commission currently performs compliance reviews based on a risk assessment of all colleges/universities participating in all state-funded scholarship and grant programs. Typically, the Commission reviews the three to five colleges/universities that score highest on the risk assessment. This rulemaking does not increase the number of eligible institutions that will be selected for a compliance review. Thus, there would be no significant additional enforcement cost tied to this provision. However, the Commission and eligible institutions bear the costs involved with compliance reviews.

In addition, a long-standing administrative rule provision, which is incorporated into the new chapter, provides summer grant awards only to students who are enrolled in Commission-approved accelerated programs of study that incorporate summer attendance. This provision limits the cost of summer grants and ensures that only students who will not exhaust grant eligibility prior to completing their degree qualify for a grant during the summer term of enrollment. The three institutions with approved accelerated programs and Commission staff bear the cost of this provision.

- Classes of persons that will benefit from the proposed rulemaking:

Iowa residents, eligible institutions, and the Commission will benefit from the rulemaking since the rulemaking clarifies the processes by which Iowans will apply for and qualify for the grant, while also illustrating the duties of the eligible institutions, the Commission, and applicants in the administration of the grant.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

Other than compliance reviews, the rulemaking does not impose measurable costs beyond those imposed by law. Compliance reviews are performed at the institution level, covering all state-funded financial aid programs for which an institution disburses funds. Since the review itself covers multiple programs, the Commission cannot assign a direct cost to a specific program. Staff spend an estimated cumulative total of 40 hours on a compliance review for an institution, a fraction of which could be assigned to a specific program. Data obtained from institutions suggests that institutional staff spend less than ten hours collecting the required documents, transmitting them to the Commission, answering questions, responding to findings, and developing corrective action plans, of which time a fraction could be assigned to an individual program.

- Qualitative description of impact:

Performing compliance reviews is a core tenant of any program administered by the State of Iowa. Compliance reviews add accountability for all partners participating in a program, ensure proper communication and understanding of any requirement under the program, and can generally enhance the integrity of the program. While some costs are imposed by such a requirement, the qualitative impact is positive because compliance reviews ensure the funds are being disbursed to the target audience in a manner that is consistent across all participating institutions.

The proposed rulemaking requires an applicant institution to apply on or before October 1 prior to the academic year in which the institution plans to participate in the program. This application deadline will provide the Commission adequate time to update systems and train institutional staff who will be involved in the administration of the program and will provide adequate time for students who may attend the applicant institution to apply for funding.

The proposed rulemaking requires a summer grant recipient to be enrolled in a Commission-approved accelerated program of study that incorporates summer attendance. Institution staff must assess the student's degree audit to verify the number of credit hours completed during the previous academic year and to assess the applicant's eligibility to receive the grant until degree completion before the summer award is made.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

The Commission estimates that it takes approximately 40 hours to perform a compliance review. Given the average hourly wage of individuals involved in this process, the review would cost approximately $1,600 annually. Since a compliance review covers multiple programs, only a fraction of this cost could be assigned to a specific program.

- Anticipated effect on state revenues:

The proposed rulemaking is not anticipated to have any effect on state revenues beyond that of the legislation it is intended to implement.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

The benefit of the proposed rulemaking is to publicly illustrate the process that will be used to consistently administer and disburse the grants, articulate the awarding of funds and general provisions of eligibility, and ensure the future integrity of the grant through periodic compliance reviews. The cost of inaction would be confusion and inconsistency in the process and criteria to be used in the application and awarding of funds under the grant, as well as errors and irregularities in the award process that would remain unchecked without periodic compliance reviews.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The rulemaking proposes an efficient administrative method of collecting applications and disbursing funding, reducing any administrative burden that otherwise might be introduced.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

No other methods were seriously considered by the Commission since the method proposed is the most cost-efficient and seamless for all entities involved.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

The alternative methods were rejected because they would lead to additional burdens on students, eligible institutions, and the Commission.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The proposed rulemaking is not expected to have an impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 283—Chapter 12 and adopt the following **new** chapter in lieu thereof:

CHAPTER 12
IOWA TUITION GRANT PROGRAM

283—12.1(256) Basis of aid. Assistance available under the Iowa tuition grant program is tuition-restricted and is also based on the financial metric and financial need of Iowa residents enrolled at an accredited private institution.

283—12.2(256) Definitions.

"Accredited private institution" means a not-for-profit private institution that meets the criteria in Iowa Code section 256.183 and rule 283—12.5(256).

"Financial metric" means the same as defined in rule 283—10.2(256).

"Financial need" means the same as defined in rule 283—10.2(256).

"Full-time" means the same as defined in rule 283—10.2(256).

"Iowa resident" means the same as defined in rule 283—10.2(256).

"Located in Iowa" means a college or university is accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools, has made a substantial investment in a permanent Iowa campus and staff, and offers a full range of courses leading to the degrees offered by the institution as well as a full range of student services.

"Part-time" means the same as defined in rule 283—10.2(256).

"Program of study" means the same as defined in rule 283—10.2(256).

"Satisfactory academic progress" means the same as defined in rule 283—10.2(256).

283—12.3(256) Eligible applicant. An eligible applicant is an Iowa resident enrolled at least part-time in a program of study at an accredited private institution and who meets the award eligibility criteria and the following provisions:

12.3(1) Completes the applications the commission deems necessary on or before the date established by the commission.

12.3(2) Establishes financial need, has an eligible financial metric, meets satisfactory academic progress standards, and does not meet a condition in 283—subrule 10.3(1).

283—12.4(256) Awarding of funds.

12.4(1) *Selection criteria.* All eligible applicants will be considered for an award.

12.4(2) *Maximum award and extent of award.* Eligible applicants may receive no more than the equivalent of eight full-time awards.

a. The maximum award for full-time students will not exceed the student's financial need, and will be the lesser of:

(1) The difference between the tuition and mandatory fees charged by the accredited private institution less the average undergraduate tuition and fees charged by the state universities under the Iowa board of regents;

(2) The average undergraduate tuition and fees charged by the state universities under the Iowa board of regents; and

(3) The amount established by the commission that allows all eligible applicants to receive an award.

b. When awarded in combination with other tuition-restricted funds, the total amount of tuition-restricted funding, including an Iowa tuition grant, cannot exceed the total tuition and mandatory fees charged to the recipient.

c. A part-time student will receive a prorated award, as defined by the commission, that is calculated by dividing the number of hours for which the student is enrolled by the required number of hours for full-time enrollment, and multiplying the quotient by the maximum award.

d. Awards will be provided during the fall and spring semesters of enrollment, or the equivalent. Awards may be provided during the summer semester to the extent that funding allows. Eligible applicants who are enrolled in commission-approved accelerated programs that incorporate summer attendance may receive summer Iowa tuition grants if the eligible applicant meets the accelerated progression thresholds established by the commission without exhausting grant eligibility prior to degree completion. Accelerated programs must allow students to complete four-year baccalaureate programs in less than the normal prescribed time frame while taking the same courses as students completing the same degree during a traditional four-year period.

12.4(3) *Awarding process.*

a. The commission will provide notice of the eligibility criteria and maximum award to participating accredited private institutions annually to authorize awarding.

b. The commission will designate eligible applicants for awards, and provide accredited private institutions with rosters of designated eligible applicants.

c. Accredited private institutions will notify recipients of the awards, clearly indicating the award amount and the state program from which funding is being provided and stating that the award is contingent on the availability of state funds.

d. Accredited private institutions will apply awards directly to student accounts to cover tuition and mandatory fees.

e. Accredited private institutions will provide information about eligible applicants to the commission in a format specified by the commission. Accredited private institutions will make necessary changes to awards due to a change in enrollment or financial situation, and promptly report those changes to the commission.

f. Accredited private institutions are responsible for completing necessary verification and for coordinating other aid to ensure compliance with student eligibility requirements and allowable award amounts. Accredited private institutions will report changes in student eligibility to the commission.

283—12.5(256) Accredited private institution eligibility.

12.5(1) *Application.* An accredited private institution that is located in Iowa may request participation in the Iowa tuition grant program using the commission's designated application. The institution will meet the eligibility criteria in Iowa Code section 256.183 at the time the application is submitted.

12.5(2) *Deadline to apply.* An accredited private institution seeking to participate in the Iowa tuition grant program will submit an application on or before October 1 of the year prior to the beginning of the academic year for which the accredited institution is applying for participation.

12.5(3) *Ongoing eligibility.* An accredited private institution that is participating in the Iowa tuition grant program will immediately notify the commission if its higher learning commission accreditation or 501(c)(3) status is lost, or if the accredited private institution will fail to meet the necessary institutional match. Failure to meet any provision in Iowa Code sections 256.183 through 256.190 or this rule may result in the immediate cessation of the institution's participation in the Iowa tuition grant and in the institution returning Iowa tuition grant funds to the commission.

12.5(4) *Compliance audits.* The commission will periodically investigate and review compliance of accredited private institutions participating in this program with the criteria established in Iowa Code sections 256.183 through 256.190 and this rule.

These rules are intended to implement Iowa Code chapter 256.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 875—Chapter 3
"Posting, Inspections, Citations and Proposed Penalties"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 88.5

State or federal law(s) implemented by the rulemaking: 29 CFR 1903.15, Executive Order 10 (January 10, 2023), Iowa Code chapter 137D, and 2023 Iowa Acts, House File 661

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

April 23, 2024 9:20 to 9:40 a.m.	Conference Room 124 6200 Park Avenue, Suite 100 Des Moines, Iowa

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by the Labor Services Division no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Mitchell Mahan
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321-1270
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Purpose and Summary

This rulemaking proposing promulgation of a new Chapter 3 implements Iowa Code chapter 137D and 2023 Iowa Acts, House File 661, in accordance with the goals and directives of Executive Order 10. This rulemaking also adopts mandatory, annual cost-of-living adjustments in order to align Iowa's penalties for occupational safety and health citations with the corresponding federal penalties.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

- Classes of persons that will bear the costs of the proposed rulemaking:

Employers subject to Occupational Safety and Health Administration (OSHA) regulation will bear the costs.

- Classes of persons that will benefit from the proposed rulemaking:

Employees will benefit from enhanced safety of workplaces. Employers will benefit due to enhanced employee safety.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

This proposed rulemaking will cause an approximately 3.2 percent increase in OSHA penalties.

- Qualitative description of impact:

The Department discerns no qualitative impact.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

There are no increased implementation or enforcement costs.

- Anticipated effect on state revenues:

There may be a small increase in state revenues due to higher assessed penalties.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

The proposed rulemaking is a benefit because it fulfills the requirement that Iowa's state plan for OSHA must be as effective as federal OSHA regulations. Inaction could cost the State the federal funding that accounts for 50 percent of the funding for Iowa's work safety program and lead to federal OSHA asserting jurisdiction over employers currently subject to Iowa OSHA.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

Less intrusive or less costly methods do not exist because Iowa OSHA is obligated to match federal OSHA.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

No alternative methods were seriously considered.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

Alternative methods were rejected because Iowa OSHA is obligated to match federal penalties as a condition of maintaining its program.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

Small businesses get a penalty reduction when Iowa OSHA penalties are assessed.

Text of Proposed Rulemaking

ITEM 1. Rescind 875—Chapter 3 and adopt the following **new** chapter in lieu thereof:

CHAPTER 3
POSTING, INSPECTIONS, CITATIONS AND PROPOSED PENALTIES

875—3.1(88) Posting of notice; availability of the Act, regulations and applicable standards.

3.1(1) Each employer shall post and keep posted a notice or notices informing employees of the protections and obligations provided for in the Act, and that for assistance and information, including copies of the Act and of specific safety and health standards, employees should contact the employer or the department of inspections, appeals, and licensing, division of labor services. The notice or notices shall be posted by the employer in each establishment in a conspicuous place or places where notices to employees are customarily posted. Each employer shall take steps to ensure that such notices are not altered, defaced or covered by other materials. The notice or notices will be furnished by the division of labor services.

Reproductions or facsimiles of the state poster shall constitute compliance with the posting requirements of Iowa Code section 88.6(3)*"a"* where such reproductions or facsimiles are at least 8½ inches by 14 inches, and the printing size is at least ten point. Whenever the size of the poster increases, the size of the print shall also increase accordingly. The caption or heading on the poster shall be in large type, generally not less than 36 point.

3.1(2) "Establishment" means a single physical location where business is conducted or where services or industrial operations are performed. Where distinctly separate activities are performed at a single physical location (such as contract construction activities from the same physical location as a lumber yard), each activity shall be treated as a separate physical establishment, and a separate notice or notices shall be posted in each such establishment. Where employers are engaged in activities that are physically dispersed, such as agriculture, construction, transportation, communications and electric, gas and sanitary services, the notice or notices required by this rule shall be posted at the location to which employees report each day. Where employees do not usually work at, or report to, a single establishment, such notice or notices shall be posted at the location from which the employees operate to carry out their activities.

3.1(3) Copies of the Act, all regulations published and all applicable safety and health rules are available from the division of labor services. If an employer has obtained copies of these materials from the division of labor services or the U.S. Department of Labor, the employer shall make them available upon request to any employee or authorized employee representative for review in the establishment where the employee is employed on the same day the request is made or at the earliest time mutually convenient to the employee or authorized employee representative and the employer.

3.1(4) Any employer failing to comply with the provisions of this rule shall be subject to citation and penalty in accordance with the provisions of Iowa Code section 88.14.

This rule is intended to implement Iowa Code section 88.6(3)*"a."*

875—3.2(88) Objection to inspection.

3.2(1) Upon a refusal to permit a compliance safety and health officer, in the exercise of official duties, to enter without delay and at reasonable times any place of employment or any place therein, to inspect, to review records or to question any employer, owner, operator, agent or employee, or to permit a representative of employees to accompany the compliance safety and health officer during the physical inspection of any workplace, the compliance safety and health officer shall terminate the inspection or confine the inspection to other areas, conditions, structures, machines, apparatus, devices, equipment, materials, records or interviews concerning which no objection is raised. The compliance safety and health officer shall endeavor to ascertain the reason for such refusal and shall immediately report the refusal and the reason therefor to the labor commissioner or the commissioner's designee. The labor commissioner shall promptly take appropriate action, including compulsory process, if necessary.

3.2(2) Compulsory process shall be sought in advance of an attempted inspection or investigation if, in the judgment of the labor commissioner or a designee, circumstances exist that make such preinspection process desirable or necessary.

3.2(3) For the purposes of this rule, the term "compulsory process" shall mean the institution of any appropriate action, including ex parte application for an inspection warrant or its equivalent. Ex parte inspection warrants shall be the preferred form of compulsory process in all circumstances where compulsory process is relied upon to seek entry to a workplace under this rule.

This rule is intended to implement Iowa Code section 88.6(1).

875—3.3(88) Entry not a waiver. Any permission to enter, inspect, review records or question any person shall not imply or be conditioned upon a waiver of any cause of action, citation or penalty under the Act.

This rule is intended to implement Iowa Code section 88.6(1).

875—3.4(88) Advance notice of inspections.

3.4(1) Advance notice of inspections may not be given, except in the following situations:

a. In cases of apparent imminent danger, to enable the employer to abate the danger as quickly as possible;

b. In circumstances where the inspection can most effectively be conducted after regular business hours or where special preparations are necessary for an inspection;

c. Where necessary to ensure the presence of representatives of the employer and employees or the appropriate personnel needed to aid in the inspection; and

d. In other circumstances where the labor commissioner or the commissioner's designee determines that the giving of advance notice would enhance the probability of an effective and thorough inspection.

3.4(2) In situations described in subrule 3.4(1), advance notice of inspections may be given only if authorized by the labor commissioner or the commissioner's designee, except that in cases of apparent imminent danger, advance notice may be given by the compliance safety and health officer without such authorization if the labor commissioner or the commissioner's designee is not immediately available.

This rule is intended to implement Iowa Code sections 88.6(1) and 88.14(6).

875—3.5(88) Conduct of inspections.

3.5(1) At the beginning of an inspection, compliance safety and health officers shall present their credentials to the owner, operator or agent in charge at the establishment; explain the nature and purpose of the inspection; and indicate generally the scope of the inspection and the records they wish to review. However, such designation of records shall not preclude access to additional records.

3.5(2) Compliance safety and health officers shall have the authority to take environmental samples and to take or obtain photographs related to the purpose of the inspection, employ other reasonable investigative techniques, and question privately any employer, owner, operator, agent or employee of the establishment. As used herein, the term "employ other reasonable investigative techniques" includes but is not limited to the use of cameras, audio and videotaping equipment, and devices to measure employee exposures and the attachment of personal sampling equipment such as dosimeters, pumps, badges and other similar devices to employees in order to monitor their exposures.

3.5(3) Compliance safety and health officers shall comply with all employer safety and health rules and practices at the establishment being inspected, and they shall wear and use appropriate protective clothing and equipment.

3.5(4) The conduct of inspections shall be such as to preclude unreasonable disruption of the operations of the employer's establishment.

3.5(5) At the conclusion of the inspection, the compliance safety and health officer shall confer with the employer or representative and informally advise the employer or representative of any apparent safety or health violations disclosed by the inspection. During the conference, the employer shall be afforded an opportunity to bring to the attention of the compliance safety and health officer any pertinent information regarding conditions in the workplace.

This rule is intended to implement Iowa Code section 88.6(1).

875—3.6(88) Representatives of employers and employees.

3.6(1) Compliance safety and health officers shall be in charge of inspections and questioning of persons. A representative of the employer and a representative authorized by employees shall be given an opportunity to accompany the compliance safety and health officer during the physical inspection of any workplace for the purpose of aiding the inspection. A compliance safety and health officer may permit additional employer representatives and additional representatives authorized by employees to

accompany the compliance safety and health officer where the compliance safety and health officer determines that the additional representatives will further aid the inspection. A different employer and employee representative may accompany the compliance safety and health officer during each different phase of an inspection if this will not interfere with the conduct of the inspection.

3.6(2) Compliance safety and health officers shall have authority to resolve all disputes as to who is the representative authorized by the employer and employees for the purpose of this rule. The compliance safety and health officer should consult with a reasonable number of employees concerning matters of safety and health in the workplace.

3.6(3) A representative authorized by employees may be an employee of the employer. However, if in the judgment of the compliance safety and health officer, good cause has been shown why accompaniment by a third party who is not an employee of the employer (such as an industrial hygienist or a safety engineer) is reasonably necessary to the conduct of an effective and thorough physical inspection of the workplace, the third party may accompany the compliance safety and health officer during the inspection.

3.6(4) Compliance safety and health officers are authorized to deny the right of accompaniment under this rule to any person whose conduct interferes with a fair and orderly inspection.

This rule is intended to implement Iowa Code sections 88.6(1) and 88.6(4).

875—3.7(88) Complaints by employees.

3.7(1) Any employee or representative of employees who believes that a violation of the Act exists in any workplace where the employee is employed may request an inspection of the workplace by giving notice of the alleged violation to the commissioner or a designee. Any such notice shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employee or representative of employees. A copy shall be provided to the employer or agent by the commissioner's designee no later than at the time of inspection, except that, upon the request of the person giving the notice, the identity and the identities of individual employees referred to therein shall not appear in the copy or on any record published, released, or made available by the division of labor services.

3.7(2) If upon receipt of notification the commissioner or a designee determines that the complaint meets the requirements set forth in subrule 3.7(1), and that there are reasonable grounds to believe that the alleged violation exists, an inspection shall be made as soon as practicable to determine if the alleged violation exists. Inspections under this rule shall not be limited to matters referred to in the complaint.

3.7(3) During any inspection of a workplace, any employee or representative of employees employed in the workplace may notify the compliance safety and health officer of any violation of the Act that the employee or representative has reason to believe exists in the workplace.

875—3.8(88) Trade or governmental secrets.

3.8(1) At the commencement of an inspection, the employer may identify areas in the establishment that contain or that might reveal trade or governmental secrets. If the compliance safety and health officer has no clear reason to question such identification, information obtained in such areas shall not be disclosed except in accordance with the provisions of Iowa Code section 88.12.

3.8(2) Upon the request of an employer, any authorized representative of employees in an area containing trade or governmental secrets shall be an employee in that area or an employee authorized by the employer to enter that area. Where there is no representative or employee, the compliance safety and health officer shall consult with a reasonable number of employees who work in that area concerning matters of safety and health.

This rule is intended to implement Iowa Code sections 88.6(1) and 88.12.

875—3.9 and **3.10** Reserved.

875—3.11(88) Citations.

3.11(1) The civil penalties proposed by the labor commissioner on or after June 1, 2024, are as follows:

a. Willful violation. The penalty for each willful violation under Iowa Code section 88.14(1) shall not be less than $11,190 and shall not exceed $161,323.

b. Repeated violation. The penalty for each repeated violation under Iowa Code section 88.14(1) shall not exceed $161,323.

c. Serious violation. The penalty for each serious violation under Iowa Code section 88.14(2) shall not exceed $16,131.

d. Other-than-serious violation. The penalty for each other-than-serious violation under Iowa Code section 88.14(3) shall not exceed $16,131.

e. Failure to correct violation. The penalty for failure to correct a violation under Iowa Code section 88.14(4) shall not exceed $16,131 per day.

f. Posting, reporting, or recordkeeping violation. The penalty for each posting, reporting, or recordkeeping violation under Iowa Code section 88.14(9) shall not exceed $16,131.

3.11(2) Upon receipt of any citation under the Act, the employer shall immediately post the citation or a copy thereof, unedited, at or near each place an alleged violation referred to in the citation occurred, except as provided in this rule. Where, because of the nature of the employer's operations, it is not practicable to post the citation at or near each place of alleged violation, the citation shall be posted, unedited, in a prominent place where it will be readily observable by all affected employees. For example, where employers are engaged in activities that are physically dispersed, the citation may be posted at the location to which employees report each day. Where employees do not primarily work at or report to a single location, the citation may be posted at the location from which the employees operate to carry out their activities. The employer shall take steps to ensure that the citation is not altered, defaced or covered by other material. Notices of de minimis violations need not be posted.

3.11(3) Each citation or a copy thereof shall remain posted until the violation has been abated, or for three working days, whichever is later. The filing by the employer of a notice of intention to contest shall not affect the posting responsibility under this rule unless and until the employment appeal board issues a final order vacating the citation.

3.11(4) An employer to whom a citation has been issued may post a notice in the same location where such citation is posted indicating that the citation is being contested before the employment appeal board and the notice may explain the reasons for the contest. The employer may also indicate that specified steps have been taken to abate the violation.

3.11(5) Any employer failing to comply with the provisions of subrules 3.11(2) and 3.11(3) shall be subject to citation and penalty in accordance with the provisions of Iowa Code section 88.14.

3.11(6) Any employer to whom a citation and notification of penalty have been issued may, under Iowa Code section 88.8, notify the commissioner of the employer's intention to contest the citation or notification of penalty. The notice of contest shall be in writing. The notice of contest shall be received by the division of labor services or postmarked no later than 15 working days after the receipt by the employer of the citation and notification of penalty. The notice of contest may be provided to the division of labor services by mail, personal delivery or facsimile transmission.

This rule is intended to implement Iowa Code chapter 88.

875—3.12(88) Informal conferences. At the request of an affected employer, employee, or representative of employees, the labor commissioner or the commissioner's designee may hold an informal conference for the purpose of discussing any issues raised by an inspection, citation, notice of proposed penalty, or notice of intention to contest. The settlement of any issue at the conference shall be subject to the rules of procedure prescribed by the employment appeal board. If the conference is requested by the employer, an affected employee or the employee's representative shall be afforded an opportunity to participate, at the discretion of the labor commissioner or the commissioner's designee. If the conference is requested by an employee or representative of employees, the employer shall be afforded an opportunity to participate, at the discretion of the labor commissioner or the commissioner's

designee. Any party may be represented by counsel at the conference. No conference or request for a conference shall operate as a stay of any 15-working-day period for filing a notice of intention to contest.

This rule is intended to implement Iowa Code sections 17A.3(1)*"b"* and 17A.10.

875—3.13(88) Petitions for modification of abatement date.

3.13(1) An employer may file a petition for modification of abatement date when the employer has made a good faith effort to comply with the abatement requirements of a citation, but such abatement has not been completed because of factors beyond its reasonable control.

3.13(2) A petition for modification of abatement date shall be in writing and shall include the following information:

a. All steps taken by the employer, and the dates of the action, in an effort to achieve compliance during the prescribed abatement period.

b. The specific additional abatement time necessary in order to achieve compliance.

c. The reasons the additional time is necessary, including the unavailability of professional or technical personnel or of materials and equipment, or because necessary construction or alteration of facilities cannot be completed by the original abatement date.

d. All available interim steps being taken to safeguard the employees against the cited hazard during the abatement period.

e. A certification that a copy of the petition and notice informing affected employees of their rights to party status has been posted and, if appropriate, served on the authorized representative of affected employees, in accordance with paragraph 3.13(3)*"a"* and a certification of the date upon which the posting and service was made. A notice in the following form shall be deemed to comply with this paragraph:

(Name of employer)

Your employer has been cited by the commissioner of labor for violation of the Iowa Occupational Safety and Health Act and has requested additional time to correct one or more of the violations. Affected employees are entitled to participate as parties under terms and conditions established by the Iowa employment appeal board in its rules of procedure. Affected employees or their representatives desiring to participate must file a written objection to the employer's petition with the commissioner of labor. Failure to file the objection within ten working days of the first posting of the accompanying petition and this notice shall constitute a waiver of any further right to object to the petition or to participate in any proceedings related thereto. Objections shall be sent to the commissioner's designee: Iowa OSHA, Division of Labor Services. All papers relevant to this matter may be inspected at: (place reasonably convenient to employees, preferably at or near workplace).

3.13(3) A petition for modification of abatement date shall be filed with the labor commissioner or the commissioner's designee no later than the close of the next working day following the date on which abatement was originally required. A later-filed petition shall be accompanied by the employer's statement of exceptional circumstances explaining the delay.

a. A copy of the petition and a notice of employee rights complying with paragraph 3.13(2)*"e"* shall be posted in a conspicuous place where all affected employees will have notice thereof or near the location where the violation occurred. The petition and notice of employee rights shall remain posted for a period of ten working days. Where affected employees are represented by an authorized representative, the representative shall be served with a copy of the petition and notice of employee rights.

b. Affected employees or their representatives may file an objection in writing to a petition with the labor commissioner or the commissioner's designee. Failure to file the objection within ten working days of the date of posting of the petition and notice of employee rights or of service upon an authorized representative shall constitute a waiver of any further right to object to the petition.

c. The labor commissioner or the commissioner's designee shall have the authority to approve any filed petition for modification of abatement date. Uncontested petitions shall become final orders pursuant to Iowa Code section 88.8.

d. The labor commissioner or the commissioner's designee shall not exercise approval power until the expiration of 15 working days from the date the petition and notice of employee rights were posted or served by the employer.

3.13(4) Where any petition is objected to by the labor commissioner or the commissioner's designee or affected employees, the petition, citation, and any objections shall be forwarded to the employment appeal board within 3 working days after the expiration of the 15-day period set out in paragraph 3.13(3)*"d."*

This rule is intended to implement Iowa Code section 88.8.

875—3.14 to **3.18** Reserved.

875—3.19(88) Abatement verification.

3.19(1) *Scope and application.* This rule applies to employers who receive a citation for a violation of the Iowa Occupational Safety and Health Act.

3.19(2) *Definitions.*

"Abatement" means action by an employer to comply with a cited standard or regulation or to eliminate a recognized hazard identified by OSHA during an inspection.

"Abatement date" means:

1. For an uncontested citation item, the later of:

- The date in the citation for abatement of the violation;
- The date approved by OSHA or established in litigation as a result of a petition for modification of the abatement date (PMA); or
- The date established in a citation by an informal settlement agreement.

2. For a contested citation item for which the employment appeal board has issued a final order affirming the violation, the later of:

- The date identified in the final order for abatement;
- The date computed by adding the period allowed in the citation for abatement to the final order date; or
- The date established by a formal settlement agreement.

"Affected employees" means those employees who are exposed to the hazard(s) identified as a violation(s) in a citation.

"Final order date" means:

1. For an uncontested citation item, the fifteenth working day after the employer's receipt of the citation;

2. For a contested citation item:

- The thirtieth day after the date on which a final order was entered by the employment appeal board, or
- The date on which a court issues a decision affirming the violation in a case in which a final order of the employment appeal board has been stayed.

"Movable equipment" means a hand-held or non-hand-held machine or device, powered or unpowered, that is used to do work and is moved within or between work sites.

3.19(3) *Abatement certification.*

a. Within ten calendar days after the abatement date, the employer must certify to the division that each cited violation has been abated, except as provided in paragraph 3.19(3)*"b."*

b. The employer is not required to certify abatement if the compliance safety and health officer during the on-site portion of the inspection:

(1) Observes, within 24 hours after a violation is identified, that abatement has occurred; and

(2) Notes in the citation that abatement has occurred.

c. The employer's certification that abatement is complete must include, for each cited violation, in addition to the information required in subrule 3.19(8), the date and method of abatement and a statement that affected employees and their representatives have been informed of the abatement.

3.19(4) *Abatement documentation.* The employer must submit to the division, along with the information on abatement certification required by paragraph 3.19(3)*"c,"* documents demonstrating that abatement is complete for each willful or repeat violation and for any serious violation for which the division indicates in the citation that the abatement documentation is required.

3.19(5) *Abatement plans.*

a. The division may require an employer to submit an abatement plan for each cited violation (except an other-than-serious violation) when the time permitted for abatement is more than 90 calendar days. If an abatement plan is required, the citation must so indicate.

b. The employer must submit an abatement plan for each cited violation within 25 calendar days from the final order date when the citation indicates that such a plan is required. The abatement plan must identify the violation and the steps to be taken to achieve abatement, including a schedule for completing abatement and, where necessary, how employees will be protected from exposure to the violative condition in the interim until abatement is complete.

3.19(6) *Progress reports.*

a. An employer who is required to submit an abatement plan may also be required to submit periodic progress reports for each cited violation. The citation must indicate:

(1) That periodic progress reports are required and the citation items for which they are required;

(2) The date on which an initial progress report must be submitted, which may be no sooner than 30 calendar days after submission of an abatement plan;

(3) Whether additional progress reports are required; and

(4) The date(s) on which additional progress reports must be submitted.

b. For each violation, the progress report must identify, in a single sentence if possible, the action taken to achieve abatement and the date the action was taken.

3.19(7) *Employee notification.*

a. The employer must inform affected employees and their representative(s) about abatement activities covered by this rule by posting a copy of each document submitted to the division or a summary of the document near the place where the violation occurred.

b. Where posting does not effectively inform employees and their representatives about abatement activities (for example, for employers who have mobile work operations), the employer shall:

(1) Post each document or a summary of the document in a location where it will be readily observable by affected employees and their representatives; or

(2) Take other steps to communicate fully to affected employees and their representatives about abatement activities.

(3) The employer must inform employees and their representatives of their right to examine and copy all abatement documents submitted to the division.

c. An employee or an employee representative shall submit a request to examine and copy abatement documents within three working days of receiving notice that the documents have been submitted. The employer shall comply with an employee's or employee representative's request to examine and copy abatement documents within five working days of receiving the request.

d. The employer must ensure that notice to employees and employee representatives is provided at the same time or before the information is provided to the division and that abatement documents are:

(1) Not altered, defaced, or covered by other material; and

(2) Remain posted for three working days after submission to the division.

3.19(8) *Transmitting abatement documents.*

a. The employer must include, in each submission required by this rule, the following information:

(1) The employer's name and address;

(2) The inspection number to which the submission relates;

(3) The citation and item numbers to which the submission relates;

(4) A statement that the information submitted is accurate; and

(5) The signature of the employer or the employer's authorized representative.

b. The date of postmark is the date of submission for mailed documents. For documents transmitted by other means, the date the division receives the document is the date of submission.

3.19(9) *Movable equipment.*

a. For serious, repeat, and willful violations involving movable equipment, the employer must attach a warning tag or a copy of the citation to the operating controls or to the cited component of equipment that is moved within the work site or between work sites. Attaching a copy of the citation to the equipment is deemed to meet the tagging requirement of this paragraph as well as the posting requirement of rule 875—3.11(88).

b. The employer must use a warning tag that properly warns employees about the nature of the violation involving the equipment and identifies the location of the citation issued. A sample tag is available at osha.gov as Appendix C to 29 CFR 1903.19.

c. If the violation has not already been abated, a warning tag or copy of the citation must be attached to the equipment:

(1) For hand-held equipment, immediately after the employer receives the citation; or

(2) For non-hand-held equipment, prior to moving the equipment within or between work sites.

d. For the construction industry, a tag that is designed and used in accordance with 29 CFR 1926.20(b)(3) and 29 CFR 1926.200(h) is deemed by OSHA to meet the requirements of this rule when the information required by paragraph 3.19(9)*"b"* is included on the tag.

e. The employer must ensure that the tag or copy of the citation attached to movable equipment is not altered, defaced, or covered by other material.

f. The employer must ensure that the tag or copy of the citation attached to movable equipment remains attached until:

(1) The violation has been abated and all abatement verification documents required by this regulation have been submitted to the division;

(2) The cited equipment has been permanently removed from service or is no longer within the employer's control; or

(3) The appeal board issues a final order vacating the citation.

875—3.20(88) Policy regarding employee rescue activities.

3.20(1) No citation may be issued to an employer because of a rescue activity undertaken by an employee of that employer with respect to an individual in imminent danger unless:

a. The employee is designated or assigned by the employer to have responsibility to perform or assist in rescue operations, and the employer fails to provide protection of the safety and health of the employee, including failing to provide appropriate training and rescue equipment; or

b. The employee is directed by the employer to perform rescue activities in the course of carrying out the employee's job duties, and the employer fails to provide protection of the safety and health of such employee, including failing to provide appropriate training and rescue equipment; or

c. The employee is employed in a workplace that requires the employee to carry out duties that are directly related to a workplace operation where the likelihood of life-threatening accidents is foreseeable, such as a workplace operation where employees are located in confined spaces or trenches, handle hazardous waste, respond to emergency situations, perform excavations, or perform construction over water; and such employee has not been designated or assigned to perform or assist in rescue operations and voluntarily elects to rescue such an individual. Additionally, the employer has failed to instruct employees not designated or assigned to perform or assist in rescue operations of the arrangements for rescue, not to attempt rescue, and of the hazards of attempting rescue without adequate training or equipment.

3.20(2) For purposes of this policy, the term "imminent danger" means the existence of any condition or practice that could reasonably be expected to cause death or serious physical harm before such condition or practice can be abated.

875—3.21 Reserved.

875—3.22(88,89B) Additional hazard communication training requirements.

3.22(1) *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 recording of an oral presentation, or a video recording of an audio-video presentation of the training relied upon by the employer for compliance with 29 CFR 1910.1200(h), and shall allow employees and their designated representatives access to the written synopsis, recording, or video recording.

3.22(2) *Review by the division.* The training program shall be available for review and approval upon inspection by the division. Upon request by the commissioner, the employer shall make available the written synopsis, recording, or video 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.

875—3.23(88) Definitions. The definitions and interpretations contained in Iowa Code section 88.3 shall be applicable to the terms when used in this chapter. As used in this chapter unless the context clearly requires otherwise:

"Act" means the Iowa Occupational Safety and Health Act of 1972, Iowa Code chapter 88.

"Compliance safety and health officer" means a person authorized by the labor commissioner of the department of inspections, appeals, and licensing, division of labor services, to conduct inspections.

"Division" means the Iowa division of labor of the department of inspections, appeals and licensing.

"Inspection" means any inspection of an employer's factory, plant, establishment, construction site or other area, workplace or environment where work is performed by an employee of an employer, and includes any inspection conducted pursuant to a filed complaint, and any follow-up inspection, accident investigation or other inspections conducted under the Act.

"Working days" means Mondays through Fridays but shall not include Saturdays, Sundays or federal or state holidays. In computing 15 working days, the day of receipt of any notice shall not be included, and the last day of the 15 working days shall be included.

This rule is intended to implement Iowa Code section 88.6.

These rules are intended to implement Iowa Code chapters 17A and 88.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 875—Chapter 4
"Recording and Reporting Occupational Injuries and Illnesses"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 88.5(1)

State or federal law(s) implemented by the rulemaking: 29 CFR 1904, as amended by 88 FR 47254-47349, and Executive Order 10 (January 10, 2023)

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

April 23, 2024 9 to 9:20 a.m.	Conference Room 124 6200 Park Avenue, Suite 100 Des Moines, Iowa

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by the Division of Labor Services no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Mitchell Mahan
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321-1270
Phone: 515.443.1051
Email: mitchell.mahan@dia.iowa.gov

Purpose and Summary

Proposed Chapter 4 requires the reporting and recording of certain workplace injuries so that the Iowa Occupational Safety and Health Administration (OSHA) may monitor and, when necessary, investigate worksites to determine work safety compliance.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

- Classes of persons that will bear the costs of the proposed rulemaking:

Employers will have to record and/or report certain injuries.

- Classes of persons that will benefit from the proposed rulemaking:

Employers and employees benefit from a safer workplace.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

Costs are the time to report injury. A benefit is fewer injuries.

- Qualitative description of impact:

No qualitative impact is discerned.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

Iowa OSHA is 50 percent federally funded and 50 percent state-funded. There is a cost related to taking action on reported injuries.

- Anticipated effect on state revenues:

The investigation of injuries may result in penalties that are paid to the State. Lower injury rates and less missed work time enhance state revenues.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

Inaction would result in a higher rate of workplace injuries and the potential of federal OSHA revoking authorization of Iowa OSHA due to lack of adopting federal OSHA rules.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

It is necessary for the Iowa OSHA program to be as effective as the federal OSHA program.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

No alternatives were seriously considered.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

Not applicable.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

Iowa OSHA's work safety enforcement must be as effective as federal enforcement; federal OSHA applies work safety law to small businesses. However, OSHA penalties are lower for smaller businesses.

Text of Proposed Rulemaking

ITEM 1. Rescind 875—Chapter 4 and adopt the following **new** chapter in lieu thereof:

CHAPTER 4
RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES

875—4.1(88) Purpose and scope. This chapter applies to public and private employers.

875—4.2(88) First reports of injury. A report to the division of workers' compensation is considered to be a report to the division of labor services. The division of workers' compensation will forward all reports to the division of labor services.

875—4.3(88) Recording and reporting regulations. Except as noted in this rule, the Federal Occupational Safety and Health Administration (OSHA) regulations at 29 CFR 1904.0 through 1904.46 as published at 66 Fed. Reg. 6122 to 6135 (January 19, 2001) are adopted.

4.3(1) The following amendments to 29 CFR 1904.0 through 1904.46 are adopted:

a. 66 Fed. Reg. 52031-52034 (October 12, 2001)
b. 67 Fed. Reg. 44047 (July 1, 2002)
c. 67 Fed. Reg. 77170 (December 17, 2002)
d. 68 Fed. Reg. 38606 (June 30, 2003)
e. 79 Fed. Reg. 56186 (September 18, 2014)
f. 81 Fed. Reg. 29691 (May 12, 2016)
g. 81 Fed. Reg. 31854 (May 20, 2016)
h. 84 Fed. Reg. 405 (January 25, 2019)
i. 84 Fed. Reg. 21457 (May 14, 2019)
j. 85 Fed. Reg. 8731 (February 18, 2020)
k. 88 Fed. Reg. 47254 (July 21, 2023)

4.3(2) In addition to the reporting methods set forth in 29 CFR 1904.39(a), employers may make reports required by 29 CFR 1904.39 using at least one of the following methods:

a. Completing the incident report form and faxing or emailing the completed form to Iowa OSHA of the department of inspections, appeals, and licensing;
b. Calling 877.242.6742; or
c. Visiting 6200 Park Avenue, Suite 100, Des Moines, Iowa.

These rules are intended to implement Iowa Code chapter 88.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 199—Chapter 9
"Restoration of Agricultural Lands During and After Pipeline Construction"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 479.29 and 489B.20
State or federal law(s) implemented by the rulemaking: Not applicable

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

May 7, 2024
9 a.m.

Board Hearing Room
1375 East Court Avenue
Des Moines, Iowa

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by the Iowa Utilities Board no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

IT Support
Des Moines, Iowa 50319
Phone: 515.725.7300
Email: ITsupport@iub.iowa.gov

Purpose and Summary

Chapter 9 establishes standards for the restoration of agricultural lands during and after pipeline constructions. The proposed rules constitute minimum standards for restoration of agricultural lands disturbed by pipeline construction. These rules do not apply to land located within city boundaries, unless the land is used for agricultural purposes, or to interstate natural gas pipelines.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

- Classes of persons that will bear the costs of the proposed rulemaking:

Because the proposed chapter provides minimum standards for the restoration of agricultural lands that the utilities must meet, only utilities will bear the cost of the chapter.

- Classes of persons that will benefit from the proposed rulemaking:

All persons with pipelines proposed to cross their agricultural lands benefit from the chapter because it sets the minimum standards that must be met when restoring agricultural land after construction of pipelines.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

There are some additional costs to the utilities since they must meet these minimum standards when restoring agricultural land. There may be some extra time required for the restoration practices to be completed after construction has occurred.

- Qualitative description of impact:

These minimum standards are for the benefit of the owners of that land since it will be returned to better condition than if these standards are not followed.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

There are no additional costs to any agency other than the normal costs of operation for review of petitions of the Board.

- Anticipated effect on state revenues:

There is no anticipated effect on state revenues.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

Having minimum standards for the restoration of agricultural lands after pipeline construction provides landowners with the minimum level of protection necessary to allow for the continued use of their agricultural land after the pipeline has been constructed. With no minimum standards, there would not be anything requiring actions to protect and restore the agricultural land during and after pipeline construction.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

Because this chapter includes minimum standards that a plan provided by a company seeking a permit is reviewed during the standard petition and exhibits review, along with review of the construction and restoration practices by a county-determined inspector, this is the least costly and least intrusive method for the rules to be implemented.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

Because Iowa Code sections 479.20 and 479B.20 require rules establishing standards to be made regarding the restoration of agricultural lands, no other methods were considered.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

Not applicable.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

There is no small business impact.

Text of Proposed Rulemaking

ITEM 1. Rescind 199—Chapter 9 and adopt the following **new** chapter in lieu thereof:

CHAPTER 9
RESTORATION OF AGRICULTURAL LANDS DURING AND AFTER PIPELINE CONSTRUCTION

199—9.1(479,479B) General information.

9.1(1) *Authority and purpose.* The rules in this chapter are adopted by the Iowa utilities board pursuant to the authority granted to the board in Iowa Code sections 479.29 and 479B.20 to establish standards for the restoration of agricultural lands during and after pipeline construction. These rules constitute the minimum standards for restoration of agricultural lands disturbed by pipeline construction. These rules do not apply to land located within city boundaries, unless the land is used for agricultural purposes, or to interstate natural gas pipelines.

When a project-specific land restoration plan is required pursuant to Iowa Code section 479.29(9) or 479B.20(9), following notice and comment, the board may impose additional or more stringent standards as necessary to address issues specific to the nature and location of the particular pipeline project. Where a project-specific land restoration plan is not needed pursuant to Iowa Code section 479.29(9) or 479B.20(9), the rules in this chapter shall constitute the minimum land restoration standards for any pipeline construction.

9.1(2) *Definitions.* The following words and terms, when used in these rules, have the meanings indicated below:

"Affected person" means any person with a legal right or interest in the property, including but not limited to a landowner, a contract purchaser of record, a person possessing the property under a lease, a record lienholder, and a record encumbrancer of the property.

"Agricultural land" means any land devoted to agricultural use, including but not limited to land used for crop production, cleared land capable of being cultivated, hay land, pasture land, managed woodlands and woodlands of commercial value, truck gardens, farmsteads, commercial agricultural-related facilities, feedlots, rangeland, livestock confinement systems, land on which farm buildings are located, and land used to implement management practices and structures for the improvement or conservation of soil, water, air, and related plant and animal resources.

"Board" means the utilities board created in Iowa Code chapter 474.

"County inspector" means a professional engineer who is licensed under Iowa Code chapter 542B, who is familiar with agricultural and environmental inspection requirements and who is designated by the county board of supervisors to be responsible for completing an on-site inspection for compliance with this chapter and Iowa Code chapters 479 and 479B.

"Drainage structures" or *"underground improvements"* means any permanent structure used for draining agricultural lands, including tile systems and buried terrace outlets.

"Hazardous liquid" means crude oil, refined petroleum products, liquefied petroleum gases, anhydrous ammonia, liquid fertilizers, liquefied carbon dioxide, alcohols, and coal slurries.

"Person" means individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity as defined in Iowa Code section 4.1(20).

"Pipeline" means any pipe, pipes, or pipelines used for the transportation or transmission of any solid, liquid, or gaseous substance, except water, within or through Iowa.

"Pipeline company" means any person engaged in or organized for the purpose of owning, operating, or controlling pipelines.

"Pipeline construction" means activity associated with installation, relocation, replacement, removal, or operation or maintenance of a pipeline that disturbs agricultural land but does not include work performed during an emergency, tree clearing, or topsoil surveying completed on land under easement with written approval from the landowner. Emergency means a condition involving clear and immediate danger to life, health, or essential services or a risk of a potentially significant loss of

property. When the emergency condition ends, pipeline construction will be in accordance with these rules.

"Proper notice to the county inspector" means that the pipeline company and its contractors shall keep the county inspector continually informed of the work schedule and any changes to the schedule and shall provide at least 24 hours' written notice before commencing or continuing any construction activity to be inspected by the county inspector, including but not limited to right-of-way staking, clearing, boring, topsoil removal and stockpiling, trenching, tile marking, tile screening, tile repairs, backfilling, decompaction, cleanup, restoration, or testing at any project location. The pipeline company may request that the county inspector designate a person to receive such notices. If proper notice is given, construction may begin regardless of the county inspector's presence on the site.

"Soil conservation practices" means any land conservation practice recognized by federal or state soil conservation agencies, including but not limited to grasslands and grassed waterways, hay land planting, pasture, and tree plantings.

"Soil conservation structures" means any permanent structure recognized by federal or state soil conservation agencies, including but not limited to toe walls, drop inlets, grade control works, terraces, levees, and farm ponds.

"Surface drains" means any surface drainage system, such as shallow surface field drains, grassed waterways, open ditches, or any other conveyance of surface water.

"Till" means to loosen the soil in preparation for planting or seeding by plowing, chiseling, discing, or similar means. For the purposes of this chapter, agricultural land planted using no-till planting practices is also considered tilled.

"Topsoil" means the uppermost layer of the soil with the darkest color or the highest content of organic matter, generally referred to as the "A" horizon. In areas where the "A" horizon is determined by a certified professional soil scientist to be less than 12 inches, the topsoil depth shall include both the "A" and the "Bw" horizons as determined by the March 2017 United States Department of Agriculture Soil Survey Manual. Topsoil depth is to be determined under the supervision of a certified professional soil scientist.

"Underground storage" means storage of either natural gas or hazardous liquid in a subsurface stratum or formation of the earth.

"Wet conditions" means adverse soil conditions due to rain events, antecedent moisture, or ponded water, where the passage of construction equipment may cause rutting that mixes topsoil and subsoil, may prevent the effective removal or replacement of topsoil and subsoil, may prevent proper decompaction, or may damage underground tile lines.

199—9.2(479,479B) Filing of land restoration plans. Pursuant to Iowa Code sections 479.29 and 479B.20, a land restoration plan is required for any pipeline construction that requires a permit from the board and for any proposed amendment to an existing permit that involves pipeline construction, relocation, or replacement. The land restoration plan shall be filed with the appropriate petition and be identified as Exhibit I. For pipelines that do not need a permit from the board and that are constructed across agricultural land, the pipeline company shall have on file with the board a general land restoration plan covering pipelines that do not need a permit from the board.

9.2(1) *Content of plan.* A land restoration plan includes but is not limited to the following:

a. A brief description of the purpose and nature of the pipeline construction project.

b. A description of the sequence of events that will occur during pipeline construction.

c. A description of how the pipeline company will comply with rules 199—9.4(479,479B) and 199—9.5(479,479B).

d. The point of contact for landowner inquiries or claims as provided for in rule 199—9.5(479,479B).

e. A unique identification number that follows a linearly sequential pattern on each parcel of land over which the pipeline will be constructed.

9.2(2) *Plan variations.* The board may by waiver allow variations from the requirements in this chapter if the pipeline company requesting a waiver is able to satisfy the standards set forth in rule

199—1.3(17A,474,476) and if the alternative methods proposed by the pipeline company would restore the land to a condition as good as or better than provided for in this chapter.

9.2(3) *Mitigation plans and agreements.* Preparation of a separate land restoration plan may be waived by the board where a pipeline company enters into an agricultural impact mitigation plan or similar agreement with the appropriate agencies of the state of Iowa that satisfies the requirements of this chapter. If a mitigation plan or agreement is used to fully or partially meet the requirements of a land restoration plan, the statement or agreement shall be filed with the board and will be considered to be, or to be part of, the land restoration plan for purposes of this chapter.

199—9.3(479,479B) Procedure for review of plan.

9.3(1) *Timing.* The board will review the proposed land restoration plan, as established in rule 199—9.2(479,479B), at the same time it reviews the petition. Objections to the proposed plan may be filed as part of the permit proceeding. The pipeline company shall modify the plan as determined by the board.

9.3(2) *Distributing approved plan.* After the board has approved the plan as part of the board's review and approval of the petition, but prior to construction, the pipeline company shall provide copies of the final plan approved by the board to all landowners of property and persons in possession of the property under a lease that will be disturbed by the construction, the county board of supervisors in each county affected by the project, the county engineer of each affected county, and the county inspector in each affected county.

199—9.4(479,479B) Staking and clearing of agricultural land.

9.4(1) *Easement staking.* The pipeline company shall allow the county inspector and the landowner to be present during the staking of the easement. Written notice of the staking shall be provided to the landowner and the county inspector in the same manner as provided for in proper notice to the county inspector. Pipeline construction is prohibited until seven days after the easement is staked unless the landowner waives the seven-day period after the easement staking has been completed. If proper notice is given, easement staking may begin regardless of the county inspector's or landowner's presence on the site.

9.4(2) *Trees and brush.* If trees are to be removed from the easement, the pipeline company shall consult with the landowner to determine if there are trees of commercial or other value to the landowner.

a. If there are trees of commercial or other value to the landowner, the pipeline company shall allow the landowner the right to retain ownership of the trees with the disposition of the trees to be negotiated prior to commencement of land clearing or, if the landowner does not want to retain ownership of the trees, the pipeline company shall hire a forester with local expertise to appraise the commercial value of any timber to be cut for construction of the pipeline. The pipeline company shall compensate the landowner for the full appraised commercial value of any timber removed. The pipeline company shall remove all cleared trees and debris left on or adjacent to the easement.

b. If the trees to be cleared have been determined to have no commercial or other value to the landowner and there is no negotiated agreement between the pipeline company and the landowner for the disposition of the trees in advance of clearing of the easement, removal and disposal of the material shall be completed at the discretion of the pipeline company.

9.4(3) *Fencing.* The pipeline company may remove all field fences and gates, located within the pipeline company's easement, during clearing of the easement and may construct temporary fences and gates where necessary. Upon completion of the pipeline construction, the pipeline company shall replace any temporary field fences or gates with permanent field fences or gates. The pipeline company and landowner may negotiate separate agreements regarding field fences and gates. If livestock is present, the pipeline company shall construct any temporary or permanent fences and gates in a manner that will contain livestock.

199—9.5(479,479B) Restoration of agricultural lands.

9.5(1) *Topsoil survey.*

a. Prior to the removal of any topsoil, the pipeline company will conduct a topsoil survey to be performed under the supervision of a certified professional soil scientist across the full extent of the easement for any pipeline that requires a board permit.

(1) A minimum of three soil depths shall be physically measured in the field at each cross section as follows:

1. One on the left edge of the easement;
2. One at 15 feet of the centerline of the pipeline on the working side of the right-of-way; and
3. One on the right edge of the working easement.

(2) Cross sections shall be taken a minimum of every 500 linear feet for the full extent of the easement. Each parcel of land shall have a minimum of two cross sections.

b. The pipeline company shall provide the results of the topsoil survey to the county board of supervisors, county inspector, county engineer, and affected persons at least six weeks prior to commencing construction.

9.5(2) *Topsoil separation and replacement.*

a. Removal. Topsoil removal and replacement in accordance with this rule is required for any open excavation associated with pipeline construction unless otherwise provided in these rules. The actual depth of the topsoil, as determined by a topsoil survey, shall be stripped from the full extent of the easement. Topsoil shall also be removed and replaced in accordance with these rules at any location where land slope or contour is significantly altered to facilitate construction. Topsoil removal shall not occur during wet conditions.

b. Soil storage. The topsoil and subsoil shall be segregated, stockpiled, and preserved separately during subsequent construction operations. The stored topsoil and subsoil shall have sufficient separation to prevent mixing during the storage period. Topsoil shall not be used to construct field entrances or drives, or be otherwise removed from the property, without the written consent of the landowner. Topsoil shall not be stored or stockpiled at locations that will be used as a traveled way by construction equipment without the written consent of the landowner.

c. Stockpile stabilization. Topsoil stockpiles shall be stabilized with seeding and mulch within 14 calendar days of stockpiling. Between October 15 and March 15, soil tackifier shall be used in place of seeding and mulch.

d. Topsoil removal not required. Topsoil removal is not required where the pipeline is installed by plowing, jacking, boring, or other methods that do not require the opening of a trench. If provided for in a written agreement between the pipeline company and the landowner, topsoil removal is not required if the pipeline can be installed in a trench with a top width of 18 inches or less.

e. Backfill. The topsoil and subsoil shall be replaced in the reverse order in which they were excavated from the trench. The depth of the replaced topsoil shall conform as near as possible to the depth of topsoil that was removed. Where excavations are made for road, stream, drainage ditch, or other crossings, the original depth of topsoil shall be replaced as near as possible.

9.5(3) *Pumping of water from open trenches.*

a. In the event it becomes necessary to pump water from open trenches, the pipeline company shall pump the water in a manner that avoids damaging adjacent agricultural land. Damages from pumping water from trenches include but are not limited to inundation of crops and depositing of sediment in fields, pastures, and surface drains.

b. If water-related damages result from pumping water from trenches, the pipeline company shall either compensate the landowner for the damages or restore the land, pasture, surface drains, or similar land to the preconstruction condition, at the landowner's discretion.

c. Written permission from the landowner is required before the pipeline company can pump water from trenches onto land outside of the pipeline company's easement.

d. All pumping of water shall comply with existing state drainage laws, local ordinances, and federal statutes.

9.5(4) *Temporary and permanent repair of drain tile.*

a. Pipeline clearance from drain tile. Where underground drain tile is encountered, the pipeline shall be installed in such a manner that the permanent tile repair can be installed with at least 12 inches of clearance from the pipeline.

b. Temporary repair. The following standards shall be used to determine if temporary repair of agricultural drainage tile lines encountered during pipeline construction is required.

(1) Any underground drain tile damaged, cut, or removed and found to be flowing or that subsequently begins to flow shall be temporarily repaired as soon as practicable, and the repair shall be maintained as necessary to allow for its proper function during construction of the pipeline. The temporary repairs shall be maintained in good condition until permanent repairs are made.

(2) Any underground drain tile damaged, cut, or removed and found to not be flowing shall have the upstream exposed tile line screened or otherwise protected to prevent the entry of foreign material and small animals into the tile system. The downstream tile line entrance shall be capped or filtered to prevent entry of mud or foreign material into the line if water level rises in the trench.

c. Marking. Any underground drain tile damaged, cut, or removed shall be marked by placing a highly visible flag in the trench spoil bank directly over or opposite such tile. This marker will remain until the tile has been permanently repaired and the repairs have been approved and accepted by the county inspector. If proper notice is given, construction may begin regardless of the county inspector's presence on the site.

d. Permanent repairs. Tile disturbed or damaged by pipeline construction shall be repaired to its original or better condition. Permanent repairs shall be completed within 14 days after the pipeline is installed in the trench and prior to backfilling of the trench over the tile line. The county inspector shall inspect each permanent repair for compliance with this chapter. If proper notice is given, construction shall not be delayed due to a county inspector's failure to be present on site. Permanent repair and replacement of damaged drain tile shall be performed in accordance with the following requirements:

(1) All damaged, broken, or cracked tile shall be removed.

(2) Only unobstructed tile shall be used for replacement.

(3) The tile furnished for replacement purposes shall be of a quality, size, and flow capacity at least equal to that of the tile being replaced.

(4) Tile shall be replaced using a laser transit, or similar instrument or method, to ensure that the tile's proper gradient and alignment are restored, except where relocation or rerouting is required for angled crossings. Tile lines at a sharp angle to the trench shall be repaired in the manner shown on Drawing No. IUB PL-1 at the end of this chapter.

(5) The replaced tile shall be firmly supported to prevent loss of gradient or alignment due to soil settlement. The method used shall be comparable to that shown on Drawing No. IUB PL-1 at the end of this chapter.

(6) Before completing permanent tile repairs, all tile lines shall be examined visually by televising on both sides of the trench over the full extent of the working easement to check for tile that might have been damaged or misaligned by construction equipment. If tile lines are found to be damaged, they must be repaired to operate as well after construction as before construction.

e. Inspection. Prior to backfilling of the applicable trench area, each permanent tile repair shall be inspected for compliance by the county inspector. If proper notice is given, construction may begin regardless of the county inspector's presence on site prior to backfilling.

f. Backfilling. The backfill surrounding the permanently repaired drain tile shall be completed at the time of the repair and in a manner that ensures that any further backfilling will not damage or misalign the repaired section of the tile line. The county inspector shall inspect that backfill for compliance with this chapter. If proper notice is given, construction may begin regardless of the county inspector's presence on the site.

g. Subsurface drainage. Subsequent to pipeline construction and permanent repair, if it becomes apparent the tile line in the area disturbed by construction is not functioning correctly or that the land adjacent to the pipeline is not draining properly, which can reasonably be attributed to the pipeline

construction, the pipeline company shall make further repairs or install additional tile as necessary to restore subsurface drainage.

9.5(5) *Removal of rocks and debris from the easement.*

a. Removal. The topsoil, when backfilled, and the easement area shall be free of all rock larger than three inches in average diameter not native to the topsoil prior to excavation. Where rocks over three inches in size are present, their size and frequency shall be similar to adjacent soil not disturbed by construction. The top 24 inches of the trench backfill shall not contain rocks in any greater concentration or size than exist in the adjacent natural soils. Consolidated rock removed by blasting or mechanical means shall not be placed in the backfill above the natural bedrock profile or above the frost line. In addition, the pipeline company shall examine areas adjacent to the easement and along access roads and shall remove any large rocks or debris that may have rolled or blown from the right-of-way or fallen from vehicles.

b. Disposal. Rock that cannot remain in or be used as backfill shall be disposed of at locations and in a manner mutually satisfactory to the company and the landowner. Soil from which excess rock has been removed may be used for backfill. All debris attributable to the pipeline construction and related activities shall be removed and disposed of properly. For the purposes of this rule, debris includes spilled oil, grease, fuel, or other petroleum or chemical products. Such products and any contaminated soil shall be removed for proper disposal or treated by appropriate in situ remediation.

9.5(6) *Restoration after soil compaction and rutting.*

a. Agricultural restoration. Agricultural land, including off right-of-way access roads traversed by heavy construction equipment that will be removed, shall be deep tilled to alleviate soil compaction upon completion of construction on the property. If the topsoil was removed from the area to be tilled, the tillage shall precede replacement of the topsoil. At least three passes with the deep tillage equipment shall be made. Tillage shall be at least 18 inches deep in land used for crop production and 12 inches deep on other lands and shall be performed under soil moisture conditions that result in a maximum standard penetration test (SPT) reading of 300 psi pursuant to ASTM D1586-11 performed by a qualified person. Decompaction shall not occur in wet conditions. Upon agreement, this tillage may be performed by the landowners or tenants using their own equipment.

b. Rutted land restoration. Rutted land shall be graded and tilled until restored as near as practical to its preconstruction condition. Rutting shall be remedied before any topsoil that was removed is replaced.

9.5(7) *Restoration of terraces, waterways, and other erosion control structures.* Existing soil conservation practices and structures damaged by the construction of a pipeline shall be restored to the elevation and grade existing prior to the time of pipeline construction. Any drain tiles or flow diversion devices impacted by pipeline construction shall be repaired or modified as needed. Soil used to repair embankments intended to retain water shall be well compacted. Disturbed vegetation shall be reestablished, including a cover crop when appropriate. Restoration of terraces shall be in accordance with Drawing No. IUB PL-2 at the end of this chapter. The county inspector shall inspect restoration of terraces, waterways, and other erosion control structures for compliance with this chapter. If proper notice is given, construction may begin regardless of the county inspector's presence on the site.

9.5(8) *Revegetation of untilled land.*

a. Crop production. Agricultural land not in row crop or small grain production at the time of construction, including hay ground and land in conservation or set-aside programs, shall be reseeded, including use of a cover crop when appropriate, following completion of deep tillage and replacement of the topsoil. The seed mix used shall restore the original or a comparable ground cover unless otherwise requested by the landowner. If the land is to be placed in crop production the following year, paragraph 9.5(9)*"b"* applies.

b. Delayed crop production. Agricultural land used for row crop or small grain production that will not be planted in that calendar year due to the pipeline construction shall be seeded with an appropriate cover crop following replacement of the topsoil and completion of deep tillage. However, cover crop seeding may be delayed if construction is completed too late in the year for a cover crop to become established and in such instances is not required if the landowner or tenant proposes to till the land the

following year. The landowner may request ground cover where the construction is completed too late in the year for a cover crop to become established to prevent soil erosion.

c. Weed control. On any easement, including but not limited to construction easements and easements relating to valve sites, metering stations, and compression stations, the pipeline company shall provide for weed control in a manner that prevents the spread of weeds onto adjacent lands used for agricultural purposes. Spraying shall be done by a pesticide applicator that is appropriately licensed for the spraying of pesticide in Iowa. If the pipeline company fails to control weeds within 45 days after receiving written notice from the landowner, the pipeline company shall be responsible for reimbursing all reasonable costs of weed control incurred by owners of adjacent land.

9.5(9) *Future installation of drain tile or soil conservation practices and structures.*

a. Future drain tile. The pipeline company shall consult with affected persons regarding plans for future drain tile installation. Where an affected person provides the pipeline company with written plans prepared by a qualified tile technician for future drain tile improvements before an easement is secured, the pipeline shall be installed at a depth that will allow proper clearance between the pipeline and the proposed future tile installation.

b. Future practices and structures. The pipeline company shall consult with any affected person's plans for future use or installation of soil conservation practices or structures. Where an affected person provides the pipeline company with a design for such practice or structure prepared by a qualified technician before an easement is secured, the pipeline shall be installed at a depth that will allow for future installation of the planned soil conservation practice or structure and that will retain the integrity of the pipeline.

9.5(10) *Restoration of land slope and contour.* Upon completion of construction, the slope, contour, grade, and drainage pattern of the disturbed area shall be restored as near as possible to its preconstruction condition. However, the trench may be crowned to allow for anticipated settlement of the backfill. Excessive or insufficient settlement of the trench area, which visibly affects land contour or undesirably alters surface drainage, shall be remediated by the pipeline company by means such as regrading and, if necessary, import of appropriate fill material. Disturbed areas in which erosion causes formation of rills or channels, or areas of heavy sediment deposition, shall be regraded as needed. On steep slopes, methods such as sediment barriers, slope breakers, or mulching shall be used as necessary to control erosion until vegetation can be reestablished. The county inspector shall inspect restoration of land slope and contour for compliance with this chapter.

9.5(11) *Restoration of areas used for field entrances or temporary roads.* Upon completion of construction and land restoration, field entrances or temporary roads built as part of the construction project shall be removed and the land made suitable for return to its previous use. Areas affected shall be regraded as required by subrule 9.5(10) and deep tilled as required by subrule 9.5(6). If by agreement, or at landowner request, and subject to any necessary approval by local public road authorities, a field entrance or road is to be left in place, it shall be left in a graded and serviceable condition. The county inspector shall inspect restoration of areas used for field entrances or temporary roads for compliance with this chapter.

9.5(12) *Construction in wet conditions.* The county inspector, in consultation with the pipeline company and the landowner or person in possession of the land pursuant to a lease, if present, shall determine when construction should not proceed in a given area due to wet conditions. The county inspector shall have the sole authority to determine whether construction should be halted due to wet conditions. Construction in wet soil conditions shall not commence or continue at times when or locations where the passage of heavy construction equipment may cause rutting to the extent that the topsoil and subsoil are mixed or underground drainage structures may be damaged. To facilitate construction in wet soils, the pipeline company may elect to remove and stockpile the topsoil from the traveled way, install mats or padding, or use other methods acceptable to the county inspector. Topsoil removal, storage, and replacement shall comply with subrule 9.5(2).

9.5(13) *Access to land.* Nothing in this rule shall prohibit a landowner or person in possession of the land pursuant to a lease from having access to the property. A landowner or person in possession of the land pursuant to a lease shall not disrupt ongoing construction and shall not compromise the safety

considerations of the construction. A landowner or person in possession of the land pursuant to a lease shall abide by any and all safety instructions established by the pipeline company during construction.

199—9.6(479,479B) Designation of a pipeline company point of contact for landowner inquiries or claims.

9.6(1) For each pipeline construction project subject to this chapter, the pipeline company shall designate a point of contact for inquiries or claims from affected persons. The designation shall include the name of an individual to contact and a toll-free telephone number, an email address, and an address through which that person can be reached. The pipeline company shall also provide the name of and contact information for the county inspector. This information shall be provided to all affected persons prior to commencement of construction. Any change in the point of contact shall be promptly communicated in writing to affected persons. A designated point of contact shall remain available for all affected persons for at least one year following project completion and for affected persons with unresolved damage claims until such time as those claims are settled.

9.6(2) If requested by an affected person, any notice required to be given to the county inspector shall also be given to the affected person.

199—9.7(479,479B) Separate agreements. This chapter does not preclude the application of provisions for protecting or restoring property that are different from those contained in this chapter, or in a land restoration plan, which are contained in easements or other agreements independently executed by the pipeline company and the landowner. The alternative provision shall not be inconsistent with state law or these rules. The agreement shall be in writing, and the pipeline company shall provide a copy to the county inspector and the board.

199—9.8(479,479B) Notice of violation and halting construction.

9.8(1) *Notice of violation.* If the county inspector identifies a violation of the standards adopted in this chapter, Iowa Code section 479.29 or 479B.20, or a separate agreement between the pipeline company and the landowner, the county inspector shall give verbal notice, followed by written notice, to the pipeline company and the pipeline company's contractor and require the pipeline company to take corrective action.

9.8(2) *Halting construction.* A county inspector may temporarily halt construction at the location of the dispute if construction is not in compliance with the standards adopted in this chapter, the land restoration plan, or the terms of an independent agreement between the pipeline company and landowner regarding land restoration or line location until the county inspector consults with a supervisor of the pipeline company or contractor. If, after consultation with a supervisor of the pipeline company or contractor, agreement on corrective action to address the violation cannot be reached, the county inspector may submit a request to the county board of supervisors for resolution of the issue. Construction may resume at the disputed location either (1) after the county inspector and supervisor of the pipeline company reach an agreement on a resolution or (2) where the board of supervisors has been contacted, after the board of supervisors has responded or after one business day after contact by the county inspector. If a resolution is not reached, construction may continue; however, the pipeline company will be responsible for any damages or for correcting any violation.

199—9.9(479,479B) Enforcement. A pipeline company shall fully cooperate with county inspectors in the performance of their duties under Iowa Code sections 479.29 and 479B.20, including giving proper notice before staking, clearing, boring, topsoil removal and stockpiling, trenching, tile marking, silt screening, tile repair or backfilling, decompaction, cleanup, restoration, or testing of any easement. The pipeline company shall pay the reasonable costs for any work provided during the pipeline construction by the county inspector. If the pipeline company or its contractor does not comply with the requirements of Iowa Code section 479.29 or 479B.20, with the land restoration plan, or with an independent agreement on land restoration or line location, the county board of supervisors may petition the utilities

board for an order requiring corrective action to be taken. The county board of supervisors may also file a complaint with the board seeking imposition of civil penalties.

199—9.10(479,479B) Project completion. The county inspector for each county affected by the pipeline project shall recommend to the county board of supervisors that the pipeline project be considered complete upon completion of restoration of all affected agricultural lands and 70 percent growth is established in locations requiring seeding after receiving written notification by the pipeline company to the same effect. The county board of supervisors shall determine whether the project is completed.

199—9.11(479,479B) Document submittal. Once a project is completed, project documents shall be submitted as follows.

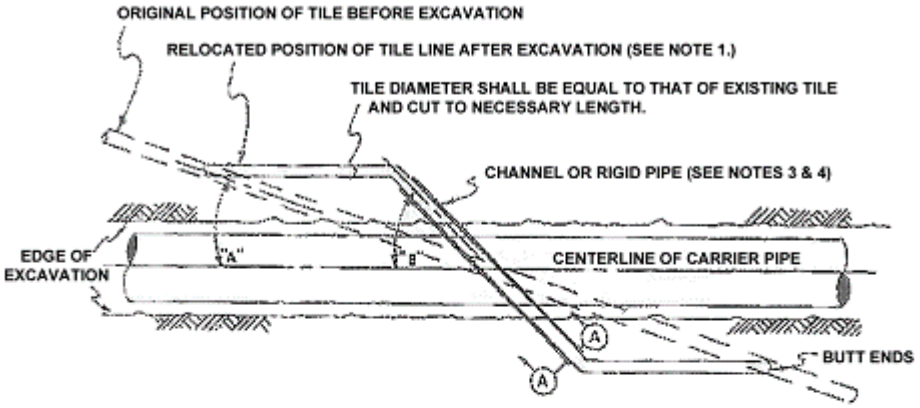
9.11(1) *Document turnover.* The county inspector shall submit to the county board of supervisors and the pipeline company copies of inspection reports; tile reports and maps; punch lists; notice of violation documents; decompaction agreements; separate agreements, including those that excuse the pipeline company from certain construction responsibilities; and landowner agreements. The documents shall also be available for inspection by the board or an affected person upon request.

9.11(2) *As-built drawings.* The pipeline company shall provide the county inspector and affected landowners with copies of pipe alignment as-built drawings and underground drain tile as-built drawings, including the Global Positioning System location of drain tile.

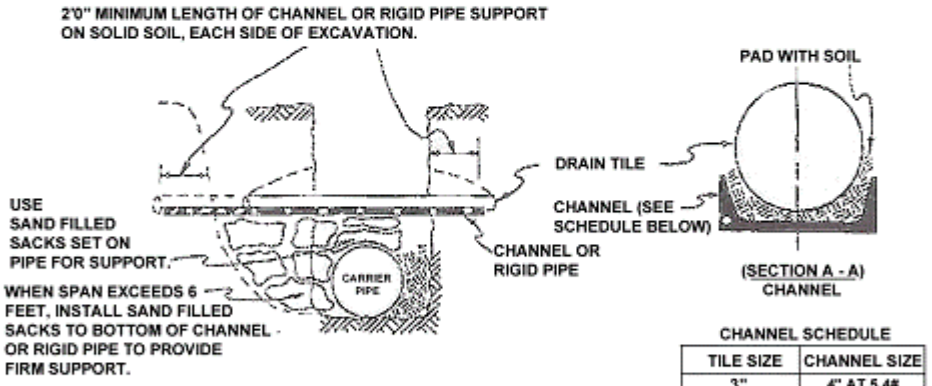
These rules are intended to implement Iowa Code sections 479.29 and 479B.20.

Drawing No. IUB PL-1

RESTORATION OF DRAIN TILE



(PLAN VIEW)



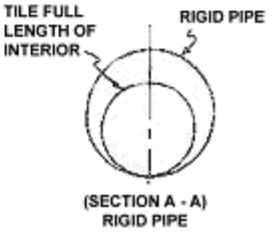
(METHOD OF SUPPORT - - ELEVATION)

CHANNEL SCHEDULE

TILE SIZE	CHANNEL SIZE
3"	4" AT 5.4#
4" - 5"	5" AT 6.7#
6" - 9"	7" AT 9.8#
10" & LARGER	10" AT 15.3#

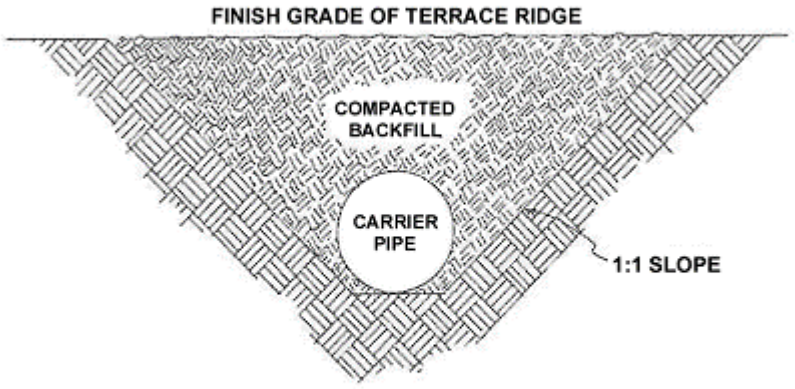
NOTES:

1. TILE SHALL BE RELOCATED AS SHOWN WHEN ANGLE "A" BETWEEN PIPELINE AND ORIGINAL TILE IS LESS THAN 20° UNLESS OTHERWISE AGREED TO BY LANDOWNER AND COMPANY.
2. ANGLE "B" SHALL BE 45° FOR USUAL WIDTHS OF TRENCH. FOR EXTRA WIDTHS, IT MAY BE GREATER.
3. DIAMETER OF RIGID PIPE SHALL BE OF ADEQUATE SIZE TO ALLOW FOR THE INSTALLATION OF THE TILE FOR THE FULL LENGTH OF THE RIGID PIPE.
4. OTHER METHODS OF SUPPORTING DRAIN TILE MAY BE USED IF THE ALTERNATE PROPOSED IS EQUIVALENT IN STRENGTH TO THE CHANNEL SECTIONS SHOWN AND IF APPROVED BY THE LANDOWNER.



Drawing No. IUB PL-2

RESTORATION OF TERRACE



NOTE:

COMPACTION OF BACKFILL TO BE EQUAL TO THAT OF THE UNDISTURBED ADJACENT SOIL.

IUB PL-2

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 199—Chapter 10
"Intrastate Gas Pipelines Underground Gas Storage"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 479

State or federal law(s) implemented by the rulemaking: Iowa Code sections 476.2, 479.5, 479.17, 479.23, 479.26, 479.42, 479.43, and 546.7

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

May 7, 2024
9 a.m.

Board Hearing Room
1375 East Court Avenue
Des Moines, Iowa

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by the Iowa Utilities Board no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

IT Support
Des Moines, Iowa 50319
Phone: 515.725.7300
Email: ITsupport@iub.iowa.gov

Purpose and Summary

The purpose of this proposed chapter is to establish procedures and filing requirements for a permit to construct, maintain, and operate an intrastate gas pipeline and to provide guidance on amendments for such existing permits. This chapter also provides requirements for permits for underground storage of natural gas.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

- Classes of persons that will bear the costs of the proposed rulemaking:

The proposed rules apply to all persons requesting a Board-issued intrastate gas pipeline permit to construct, maintain, and operate a gas pipeline. While such persons may incur costs in the course of those proceedings, those costs are primarily caused by the underlying nature and course of the proceeding.

- Classes of persons that will benefit from the proposed rulemaking:

Entities wishing to apply for these permits will benefit, as will their customers, since these entities will have a standardized set of requirements and procedures to follow.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

The implementation of these rules is part of the everyday work of the Board, so there is no additional cost impact to the Board. The rules are intended to ensure that proceedings are fairly and efficiently conducted. Entities wishing to apply for a permit for an intrastate gas pipeline or storage system may have costs related to preparation of such filing, but there are no expected additional or significant cost to these entities that are outside expected expenses for such a project.

- Qualitative description of impact:

The qualitative impact of these rules is to ensure there is a process and procedure for entities wishing to apply for a permit to construct, maintain, or operate an intrastate gas pipeline or underground storage of natural gas. These proposed rules ensure that the public and interested parties are aware of the proceeding expectations and procedures.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

The Board incurs costs in conducting pipeline case proceedings; however, the requirement that the Board conduct these types of proceedings is provided in Iowa Code chapter 479. Board costs and expenses incurred in these proceedings may be assessed to the person requesting a permit under Iowa Code sections 476.10 and 479.13.

- Anticipated effect on state revenues:

There is no anticipated effect on state revenues.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

Because these proposed rules provide the framework for the Board to issue pipeline permits for the construction, maintenance, and operation of an intrastate pipeline, and the public benefits from the availability of the information contained within the chapter, the benefits of providing the information outweigh the costs. Inaction is not advised because the public would not be aware of what is needed to initiate and participate in these proceedings.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

Because this chapter imposes no direct costs, the Board does not believe there is a less costly or intrusive method.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

Inaction was considered.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

Inaction is not advisable because there is value in providing clear and accurate rules for entities to follow when applying for a permit for the construction, maintenance, or operation of an intrastate gas pipeline or underground storage.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

There is not a substantial impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 199—Chapter 10 and adopt the following **new** chapter in lieu thereof:

CHAPTER 10
INTRASTATE GAS PIPELINES AND UNDERGROUND GAS STORAGE

199—10.1(479) General information.

10.1(1) *Purpose and authority.* The purpose of this chapter is to implement the requirements in Iowa Code chapter 479 and to establish procedures and filing requirements for a permit to construct, maintain, and operate an intrastate gas pipeline; for an amendment to an existing permit; and for renewal of an existing permit. This chapter also implements the requirements in Iowa Code chapter 479 for permits for underground storage of natural gas.

10.1(2) *When a permit is required.* A pipeline permit is required for any pipeline that will operate at a pressure in excess of 150 pounds per square inch gauge (psig) or that, regardless of operating pressure, is a transmission line as defined in ASME B31.8 or 49 CFR 192.3.

10.1(3) *Definitions.* Technical terms not defined in this chapter are defined in the appropriate standard adopted in rule 199—10.9(479). For the administration and interpretation of this chapter, the following words and terms have the following meanings:

"Affected person" means any person with a legal right or recorded interest in the property, including but not limited to a landowner, a contract purchaser of record, a person possessing the property under a lease, a record lienholder, and a record encumbrancer of the property.

"Amendment of permit" means that changes to the pipeline permit or pipeline require the filing of a petition to amend an existing pipeline permit as described in rule 199—10.7(479).

"Approximate right angle" means within 5 degrees of a 90-degree angle.

"CFR" means the Code of Federal Regulations, which contains the general administrative rules adopted by federal departments and agencies, in effect as of December 22, 2021.

"County inspector" means a professional engineer licensed under Iowa Code chapter 542B who is familiar with agricultural and environmental inspection requirements and has been employed by a county board of supervisors to do an on-site inspection of a proposed pipeline for compliance with 199—Chapter 9 and Iowa Code chapter 479.

"Gathering line" means a natural gas pipeline that transports gas from a current production facility to a transmission line or main as interpreted by 49 CFR 192.8.

"Multiple line crossing" means a point at which a proposed pipeline will either cross over or under an existing pipeline.

"Negotiating" means contact between a pipeline company and a person with authority to negotiate an easement that involves the location, damages, compensation, or other matter that is prohibited by Iowa Code section 479.5(5). Contact for purposes of obtaining addresses and other contact information from a landowner or tenant is not considered negotiation.

"Permit" means a new, amended, or renewal permit issued by the board.

"Person" means an individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

10.1(4) *Railroad crossings.* Where these rules call for the consent or other showing of right from a railroad for a railroad crossing, an affidavit filed by a petitioner that states proper application for approval of railroad crossing has been made, a one-time crossing fee has been paid as provided for in 199—Chapter 42, and 35 days have passed since mailing of the application and payment with no claim of special circumstance or objection from the railroad will be accepted as a showing of consent for the crossing.

199—10.2(479) Informational meetings. A separate informational meeting shall be held in each county in which real property or property rights would be affected.

10.2(1) *Time frame for holding meeting.* Informational meetings shall be held not less than 30 days nor more than two years prior to the filing of the petition for pipeline permit.

10.2(2) *Facilities.* A pipeline company shall be responsible for all negotiations and compensation for a suitable facility to be used for each informational meeting, including but not limited to a building or facility that is in substantial compliance with any applicable requirements of the Americans with Disabilities Act Standards for Accessible Design, including both the Title III regulations at 28 CFR Part 36, Subpart D, and the 2004 Americans with Disabilities Act Accessibility Guidelines at 36 CFR Part 1191, Appendices B and D, where such a building or facility is reasonably available.

10.2(3) *Location.* The informational meeting location shall be reasonably accessible to all persons who may be affected by the granting of a permit or who have an interest in the proposed pipeline.

10.2(4) *Board approval.* A pipeline company proposing to schedule an informational meeting shall file a request to schedule the informational meeting and include a proposed time and date for the informational meeting, an alternate time and date, and a description of the proposed project and route. The pipeline company shall be notified within ten days of the filing of the request whether the request is approved or alternate times and dates are required, or the board shall notify the pipeline company that additional time is needed. Once a date and time for the informational meeting have been approved, the pipeline company will file the location of the informational meeting and a copy of the pipeline company's presentation with the board.

10.2(5) *Notices.* Announcement by mailed and published notice of each informational meeting shall be given to persons as listed on the tax assessment rolls as responsible for payment of real estate taxes imposed on the property and those persons in possession of or residing on the property in the corridor in which the pipeline company intends to seek easements.

a. The notice includes the following:

(1) The name of the pipeline company;

(2) The pipeline company's principal place of business;

(3) The general description and purpose of the proposed project;

(4) The general nature of the right-of-way desired;

(5) The possibility that the right-of-way may be acquired by condemnation if approved by the board;

(6) A map showing the route of the proposed project;

(7) A description of the process used by the board in deciding whether to approve a permit, including the right to take property by eminent domain;

(8) That the landowner and any other affected person have a right to be present at the meeting and to file objections with the board;

(9) Designation of the time, date and place of the meeting;

(10) A copy of the statement of damage claims as required by subrule 10.3(3); and

(11) The following statement: Persons with disabilities requiring assistive services or devices to observe or participate should contact the Utilities Board at (515)725-7300 in advance of the scheduled date to request accommodations.

b. The pipeline company shall cause a written copy of the meeting notice to be served, by certified United States mail with return receipt requested, on all persons as listed on the tax assessment rolls as responsible for payment of real estate taxes imposed on the property and persons in possession of or residing on the property whose addresses are known.

c. The pipeline company shall cause the meeting notice, including the map, to be published once in a newspaper of general circulation in each county where the pipeline is proposed to be located at least one week and not more than three weeks prior to the date of the meeting. Publication shall be considered as notice to persons listed on the tax assessment rolls as responsible for paying the real estate taxes imposed on the property whose addresses are not known, provided a good-faith effort to obtain the addresses can be demonstrated by the pipeline company. The maps used in the published notice should clearly delineate the pipeline route.

d. The pipeline company shall file prior to the informational meeting an affidavit, signed by a corporate officer or an attorney representing the pipeline company, that describes the good-faith effort the pipeline company undertook to locate the addresses of all affected persons.

10.2(6) *Personnel.* The pipeline company shall provide qualified personnel to present the following information at the informational meeting:

a. Service requirements and planning that have resulted in the proposed project.

b. Proposed timeline for when the pipeline will be constructed.

c. In general terms, the elements involved in pipeline construction.

d. In general terms, the rights that the pipeline company will seek to acquire through easements.

e. Procedures to be followed in contacting the affected persons for specific negotiations in acquiring voluntary easements.

f. Methods and factors used in arriving at an offered price for voluntary easements, including the range of cash amount for each component.

g. Manner in which voluntary easement payments are made, including discussion of conditional easements, signing fees, and time of payment.

h. Other factors or damages not included in the easement for which compensation is made, including features of interest to affected persons but not limited to computation of amounts and manner of payment.

10.2(7) *Notice to county board of supervisors.* The pipeline company shall send notice of the request for an informational meeting to the county board of supervisors in each county where the pipeline is proposed to be located. The pipeline company shall request from the board of supervisors the name of the county inspector, a professional engineer who conducts the on-site inspection required in Iowa Code section 479.29(2). The pipeline company shall provide the name and contact information of the county inspector to the landowners and other affected persons at the meeting, if known.

199—10.3(479) Petition for permit.

10.3(1) A petition for a permit shall be filed with the board upon the form prescribed and include all required exhibits. The petition shall be considered filed with the board on the date accepted by the board's electronic filing system as provided for in 199—Chapter 14. The petition shall be attested to by an officer, official, or attorney with authority to represent the pipeline company. Required exhibits shall be consistent with each other and in the following form:

a. *Exhibit A.* A legal description showing at a minimum:

(1) The beginning and ending points of the proposed pipeline.

(2) The general direction of the proposed route through each quarter section of land to be crossed, including township and range.

(3) Whether the proposed pipeline will be located on private or public property, public highway, or railroad right-of-way.

(4) Other pertinent information.

(5) When the route is in or adjacent to the right-of-way of a named road or a railroad, specific identification of the road or railroad by name.

b. *Exhibit B.* Maps showing the proposed routing of the pipeline. The maps may be to any scale appropriate for the level of detail to be shown, but not smaller than one inch to the mile, and shall be legible when printed on paper no larger than 11 × 17 inches. Maps based on satellite imagery are preferred. An electronic file such as a KMZ file or other format identified by the board depicting the entire route and a map of the entire route, if the route is located in more than one county or there is more than one map for a county, shall be filed in this exhibit without regard to scale. The maps will provide the following minimum information:

(1) The route of the pipeline that is the subject of the petition, including the starting and ending points, and when paralleling a road or railroad, which side it is on. Multiple pipelines on the same right-of-way shall be indicated, and the distance between paralleling pipelines shall be shown.

(2) The name of the county, county lines, section lines, section numbers, township numbers, and range numbers.

(3) The location and identity of adjacent or crossed public roads, railroads, named streams or bodies of water, and other pertinent natural or man-made features influencing the route.

(4) The name and corporate limits of cities, and the name and boundaries of any public lands or parks.

(5) Other pipelines and the identity of the owner.

(6) Any buildings or places of public assembly within the potential impact radius of the transmission pipeline as defined in 49 CFR 192.903.

c. Exhibit C. A showing of engineering specifications covering the engineering features, materials and manner of construction of the proposed pipeline, its approximate length, diameter, maximum and normal operating pressure, and the name and location of each railroad and primary highway and the number of secondary highways to be crossed, if any, and such other information as may be deemed pertinent on forms prescribed by the board, which are located on the board's website.

d. Exhibit D. Satisfactory proof of solvency and financial ability to pay damages in the sum of $250,000 or more; or surety bond satisfactory to the board in the penal sum of $250,000 with surety approved by the board, conditioned that the pipeline company will pay any and all damages legally recovered against it growing out of the construction and operation of its pipeline or gas storage facilities in the state of Iowa; security satisfactory to the board as a guarantee for the payment of damages in the sum of $250,000; or satisfactory proofs that the pipeline company has property subject to execution within this state, other than pipelines, of a value in excess of $250,000. The board may require additional surety or insurance policies to ensure the payment of damages growing out of the construction and operation of a transmission pipeline that will be constructed in more than one county.

e. Exhibit E.

(1) Consent or documentation of appropriate public highway authorities, or railroad companies, where the pipeline will be placed longitudinally on, over or under, or at other than an approximate right angle to railroad tracks or highway, when such consent is obtained prior to filing of the petition, shall be filed with the petition.

(2) If any consent is not obtained at the time the petition is filed, the pipeline company shall file a statement that it will obtain all necessary consents or file other documentation of the right to commence construction prior to commencement of construction of the pipeline. A pipeline company may request board approval to begin construction on a segment of a pipeline prior to obtaining all necessary consents for construction of the entire pipeline.

(3) Whether there are permits that will be required from other state agencies for construction of the pipeline and, if so, a description of the permit required and whether the permit has been obtained.

f. Exhibit F. This exhibit contains the following:

(1) A statement of the purpose of the project and a description of how the services rendered by the pipeline will promote the public convenience and necessity.

(2) A general statement covering each of the following topics:

1. The nature of the lands, waters, and public or private facilities to be crossed;
2. The possible use of alternative routes;
3. The relationship of the proposed pipeline to present and future land use and zoning ordinances; and
4. The inconvenience or undue injury that may result to property owners as a result of the proposed project.

(3) For an existing pipeline, the year of original construction and a description of any amendments or reportable changes since the permit or latest renewal permit was issued.

g. Exhibit G. If informational meetings were required, an affidavit that such meetings were held in each county affected by the proposed project and the time and place of each meeting. Copies of the mailed notice letter, the corridor map, and the published notice(s) of the informational meeting shall be attached to the affidavit.

h. Exhibit H. This exhibit is required only if the petition requests the right of eminent domain. The extent of the eminent domain request may be uncertain at the time the petition is filed. However, this exhibit must be in final form before a hearing is scheduled. It shall consist of a map and a KMZ file

of the route showing the location of each property for which the right of eminent domain is sought and for each property:

(1) The legal description of the property.

(2) The legal description of the desired easement.

(3) A specific description of the easement rights being sought.

(4) The names and addresses of all affected persons based upon a title search conducted for the property over which eminent domain is requested.

(5) A map drawn to an appropriate scale showing the boundaries of the property, the boundaries and dimensions of the proposed easement, the location of pipelines or pipeline facilities within the proposed easement, the location of and distance to any building within 300 feet of the proposed pipeline, and any other features pertinent to the location of the pipeline to the rights being sought.

(6) An overview map showing the location of the property over which eminent domain is requested, filed with the unique identification number that follows a linearly sequential pattern on each parcel for which eminent domain is sought.

i. Exhibit I. If pipeline construction on agricultural land as defined in 199—Chapter 9 is proposed, a land restoration plan shall be prepared and filed as provided in 199—Chapter 9. The name and contact information of each county inspector designated by county boards of supervisors pursuant to Iowa Code section 479.29(2) shall be included in the land restoration plan, if known.

j. Exhibit K. The pipeline company shall file additional information as follows:

(1) An affidavit affirming that the company undertook a review of land records to determine all affected persons for all parcels over which the pipeline is proposed to be located before easements were signed or eminent domain requested.

(2) Whether any private easements will be required for the proposed pipeline and, if a private easement is anticipated to be required, when the easement negotiations will be completed and whether all affected persons associated with the property have been notified.

(3) Whether there are any agreements or additional facilities that need to be constructed to receive natural gas.

(4) Projected date when construction of the pipeline will begin.

(5) Whether the pipeline will have pressure-relieving or pressure-limiting devices that meet the requirements of 49 CFR 192.199 and 192.201.

k. Other exhibits. The board may require filing of additional exhibits if further information on a particular project is deemed necessary.

10.3(2) Construction on an existing easement. Petitions proposing new pipeline construction on an existing easement where the pipeline company has previously constructed a pipeline shall include a statement indicating whether any unresolved damage claims remain from the previous pipeline construction and, if so, provide the name of each landowner or tenant, a legal description of the property involved, and the status of proceedings to settle the claim.

10.3(3) Statement of damage claims.

a. The statement shall contain the following information: the type of damages that will be compensated for, how the amount of damages will be determined, the procedures by which disputes may be resolved, the manner of payment, and the procedures that the affected person is required to follow to obtain a determination of damages by a county compensation commission.

b. The statement shall be amended as necessary to reflect changes in the law, company policy, or the needs of a specific project.

c. A copy of this statement shall be mailed with the notice of informational meeting as provided for in Iowa Code section 479.5. Where no informational meeting is required, a copy shall be provided to each affected person prior to entering into negotiations for payment of damages.

d. Nothing in this rule prevents a person from negotiating with the pipeline company for terms different from, more specific than, or in addition to the statement filed with the board.

10.3(4) Negotiation of easements. The pipeline company is not prohibited from responding to inquiries concerning existing or future easements or from requesting and collecting tenant and affected

person information, provided that the pipeline company is not "negotiating" as defined in subrule 10.3(1).

199—10.4(479) Notice of hearing.

10.4(1) When a petition for permit is filed with the board, the petition is reviewed by board staff for compliance with applicable laws and regulations. Once board staff has completed the review and filed a report regarding the proposed pipeline and petition, the petition is set for hearing. This subrule does not apply to renewal petitions filed pursuant to rule 199—10.6(479) that do not require a hearing.

10.4(2) The pipeline company is furnished copies of the official notice of hearing, which the pipeline company shall cause to be published once each week for two consecutive weeks in a newspaper of general circulation in each county in or through which construction is proposed. The second publication shall be not less than 10 nor more than 30 days prior to the date of the hearing. Proof of such publication shall be filed prior to the hearing.

10.4(3) The published notice shall include a map showing either the pipeline route or the area affected by underground gas storage, or a telephone number and an address through which interested persons may obtain a copy of a map from the pipeline company at no charge. If a map other than that filed as Exhibit B will be published or provided, a copy shall be filed with the petition.

10.4(4) If a petition for permit seeks the right of eminent domain, the pipeline company shall, in addition to the published notice of hearing, serve a copy of the notice of hearing on the landowners and any affected person with interest in the property over which eminent domain is sought. A copy of the Exhibit H filed with the board for the affected property shall accompany the notice. Service shall be by certified United States mail, return receipt requested, addressed to the person's last-known address, and mailed no later than the first day of publication of the official notice of hearing on the petition. Not less than five days prior to the date of the hearing, the petitioner shall file with the board a certificate of service showing all persons and addresses to which notice was sent by certified mail and the date of the mailing, and an affidavit that all affected persons as defined in subrule 10.3(1) were served.

10.4(5) If a petition does not seek the right of eminent domain but all required interests in private property have not yet been obtained at the time the petition is filed, a copy of the notice of hearing shall be served upon any affected person as defined in subrule 10.3(1). Service shall be by ordinary mail, addressed to the last-known address, mailed no later than the first day of publication of the official notice. A copy of each letter of notification, or one copy of the letter accompanied by a written statement listing all persons to which the notice was mailed, the date of mailing, and an affidavit that all affected persons were served, shall be filed with the board not less than five days prior to the hearing.

199—10.5(479) Pipeline permit.

10.5(1) A pipeline permit shall be issued once an order granting the permit is final and all the compliance requirements have been met. A pipeline company may request board approval to delay obtaining consent to cross railroad right-of-way until after the pipeline permit is issued.

10.5(2) The issuance of the permit authorizes construction on the route or location as approved by the board, subject to deviation within the permanent route easement right-of-way. If a deviation outside of the permanent route easement right-of-way becomes necessary, construction of the pipeline in that location shall be suspended and the pipeline company shall follow the procedures for filing of a petition for amendment of a permit, except that the pipeline company need only file Exhibits A, B, E, and F reflecting the proposed deviation. In case of any deviation from the approved permanent route easement, the pipeline company shall secure the necessary easements before construction may commence on the altered route. The right of eminent domain shall not be used to acquire any such easement except as specifically approved by the board, and a hearing will not be required unless the board determines a hearing is necessary to complete review of the petition for amendment.

10.5(3) If the construction of facilities authorized by a permit is not commenced within two years of the date the permit is granted, or within two years after final disposition of judicial review of a permit order or of condemnation proceedings, the permit is forfeited unless the board grants an extension of the permit filed prior to the expiration of the two-year period.

10.5(4) Upon completion of the proposed construction, maps accurately showing the final routing of the pipeline, in compliance with 199—Chapter 9 and revised Exhibits A, B, and C, shall be filed with the board.

199—10.6(479) Renewal permits.

10.6(1) A petition for renewal of an original or previously renewed pipeline permit shall be filed at least one year, and no more than five years, prior to the expiration of the permit. The petition shall be made on the form prescribed by the board. Instructions for the petition are included as a part of the form, and the form is available on the board's website. The petition shall include the name of the pipeline company requesting renewal of the permit, the pipeline company's principal office and place of business, a description of any amendment or reportable change since the permit or previous renewal permit was issued, and the updated exhibits as required for a new permit, as applicable. The petition shall be considered filed with the board on the date accepted into the board's electronic filing system as provided for in 199—Chapter 14. The petition shall be attested to by an officer, official, or attorney with authority to represent the pipeline company.

10.6(2) The procedure for petition for permit shall be followed with respect to publication of notice, objections, and assessment of costs.

10.6(3) If there are unresolved issues of fact or law, or if an objection is filed within 20 days of the second publication of the published notice, the board shall set the matter for hearing. If a hearing is not required, and the petition satisfies the requirements of this rule, a renewal permit will be issued upon the filing of the proof of publication required by rule 199—10.4(479). The board chair may authorize the execution of a renewal permit by any employee of the board so designated.

199—10.7(479) Amendment of permits.

10.7(1) An amendment of a pipeline permit by the board is required in any of the following circumstances:

a. Construction of an additional pipeline paralleling all or part of an existing pipeline of the pipeline company.

b. Extension of an existing pipeline of the pipeline company outside of the permit easement.

c. Relocation or replacement of an existing pipeline of the pipeline company outside of the permit easement approved by the board. If the relocation or replacement is for five miles or more of pipe to be operated at over 150 psig, an informational meeting as provided for by rule 199—10.2(479) shall be held for these relocations and replacements.

d. Contiguous extension of an underground storage area of the pipeline company.

e. Modification of any condition or limitation placed on the construction or operation of the pipeline in the final order granting the pipeline permit or previous renewal of the permit.

10.7(2) Petition for amendment.

a. The petition for amendment of an original or renewed pipeline permit shall include the docket number and issue date of the permit for which amendment is sought and clearly state the purpose of the petition. If the petition is for construction of additional pipeline facilities or expansion of an underground storage area, the same exhibits as required for a petition for permit shall be attached.

b. The applicable procedures for a petition for permit, including hearing, shall be followed. Upon appropriate determination by the board, an amendment to the permit shall be issued. Such amendment is subject to the same conditions with respect to commencement of construction within two years and the filing of final routing maps as required for pipeline permits for the portion of the pipeline subject to the amendment. The board chair may authorize the execution of a permit amendment by any employee of the board so designated.

199—10.8(479) Inspections. The board shall examine the construction, maintenance, and condition of pipelines, underground storage facilities, and equipment used in connection with pipelines and facilities in the state of Iowa to determine whether they comply with the appropriate standards of pipeline safety. One or more members of the board, or one or more duly appointed representatives of the board, may

enter upon the premises of any pipeline company within the state of Iowa for the purpose of making the inspections.

199—10.9(479) Standards for construction, operation, and maintenance.

10.9(1) All pipelines, underground storage facilities, and equipment shall be designed, constructed, operated, and maintained in accordance with the following standards:

a. 49 CFR Part 191, "Transportation of Natural and Other Gas by Pipeline; Annual, Incident, and Other Reporting."

b. 49 CFR Part 192, "Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards."

c. 49 CFR Part 199, "Drug and Alcohol Testing."

d. ASME B31.8 - 2022, "Gas Transmission and Distribution Piping Systems."

e. 199—Chapter 9, "Restoration of Agricultural Lands During and After Pipeline Construction."

f. At railroad crossings, 199—42.7(476), "Engineering standards for pipelines."

Conflicts between the standards established in paragraphs 10.9(1)*"a"* through *"f"* or between the requirements of rule 199—10.9(479) and other requirements that are shown to exist by appropriate written documentation filed with the board shall be resolved by the board.

10.9(2) If review of Exhibit C, or inspection of facilities that are the subject of a permit petition, finds noncompliance with the standards adopted in this rule, the pipeline company shall provide satisfactory evidence showing the noncompliance has been corrected prior to the board taking final action on the petition or will be corrected as a result of the board taking final action on the petition.

10.9(3) Pipelines in tilled agricultural land shall be installed with a minimum cover of 48 inches.

199—10.10(479) Crossings of highways, railroads, and rivers.

10.10(1) Approval of other authorities need not be obtained prior to petitioning the board for a pipeline permit. It is recommended that the appropriate other authorities be contacted to determine what restrictions or conditions may be placed on the crossing by those authorities and to obtain information on any proposed reconstruction or relocation of existing facilities that may impact the routing of the pipeline. Approvals and any restrictions, conditions, or relocations of existing facilities shall be filed with the board prior to the granting of the permit. A pipeline company may request board approval to begin construction on a segment of a pipeline prior to obtaining all necessary consents for construction of the entire pipeline.

10.10(2) Pipeline routes that include crossings of highway or railroad right-of-way longitudinally on such right-of-way are not to be constructed unless a showing of consent by the appropriate authority has been provided by the pipeline company as required in paragraph 10.3(1)*"e."*

199—10.11(479) Transmission line factors. Factors considered by the board in determining whether a pipeline is a transmission line and is, therefore, required to have a permit include but are not limited to:

1. The definitions of a transmission line in ASME B31.8 and 49 CFR 192.3.
2. Pipeline and Hazardous Materials Safety Administration interpretations.
3. The location of a distribution center.
4. Interconnection with an interstate pipeline.
5. Location of distribution regulator stations downstream of a proposed distribution center.
6. Whether a proposed distribution center has more than one source of supply and the type of pipeline that provides the supply.
7. Transfer of ownership of gas.
8. Reduction in pressure of pipeline at a meter.
9. No resale of gas downstream of a distribution center.

199—10.12(479) Reports to federal agencies.

10.12(1) Upon submission of any incident, annual, or other report to the U.S. Department of Transportation pursuant to 49 CFR Part 191 or Part 192, a pipeline company shall file a copy of the

report with the board. The board shall also be advised of any telephonic incident report made by the pipeline company.

10.12(2) In addition to incident reports required by 49 CFR Part 191, the board shall be notified of any incident or accident where the economic damage exceeds $15,000 or that results in loss of service to 50 or more customers. The pipeline company shall notify the board, as soon as possible, of any incident by emailing the duty officer at dutyofficer@iub.iowa.gov or, if email is not available, by calling the board duty officer at 515.745.2332. The cost of gas lost due to the incident shall not be considered in calculating the economic damage of the incident.

10.12(3) Utilities operating in other states shall provide to the board data for Iowa only.

199—10.13(479) Reportable changes to pipelines under permit.

10.13(1) A pipeline company shall file prior notice with the board of any of the following actions affecting a pipeline under permit:

a. Abandonment or removal from service. The pipeline company shall notify the landowners prior to the abandonment or removal of the pipeline from service.

b. Pressure test or increase in maximum allowable or normal operating pressure.

c. Replacement of a pipeline or significant portion thereof, not including short repair sections of pipe at least as strong as the original pipe.

10.13(2) The notice shall include the docket and permit numbers of the pipeline, the location involved, a description of the proposed activity, anticipated dates of commencement and completion, revised maps and KMZ files and technical specifications, where appropriate, and the name and telephone number of a person to contact for additional information.

199—10.14(479) Sale or transfer of permit.

10.14(1) No permit shall be sold or transferred without written approval of the board. A petition for approval of the sale or transfer shall:

a. Be jointly filed by the buyer, or transferee, and the seller, or transferor,

b. Include assurances that the buyer, or transferee, is:

(1) Authorized to transact business in the state of Iowa,

(2) Willing and able to construct, operate, and maintain the pipeline in accordance with these rules, and

(3) If the sale, or transfer, is prior to completion of construction of the pipeline, able to prove the financial ability to pay up to $250,000 in damages associated with construction or operation of the pipeline, or any other amount the board has determined is necessary when granting the permit.

10.14(2) For purposes of this rule, reassignment of a pipeline permit as part of a corporate restructuring, with no change in pipeline operating personnel or procedures, is considered a transfer and requires prior board approval.

199—10.15(479) Termination of petition for pipeline permit proceedings. If a pipeline company fails to publish the official notice within 90 days after the official notice is provided by the board, the board may dismiss the petition.

199—10.16(479) Gathering line filing requirements.

10.16(1) *Filing requirements.* Notice of the proposed construction of a gathering line as defined in subrule 10.1(3) is required 30 days prior to the commencement of construction. The notice shall include:

a. The name of the pipeline company proposing to construct the gathering line and evidence of authority from the Iowa secretary of state showing the company is authorized to conduct business in Iowa.

b. The purpose of the proposed gathering line.

c. A map of the proposed route of the gathering line, similar to the map required in paragraph 10.3(1)*"b."*

d. The design of the proposed gathering line, similar to the information required in paragraph 10.3(1)*"c."*

e. The approximate date that construction will begin.

f. A list of the permissions or approvals of other state or local regulatory agencies required for construction of the gathering line.

If construction is on agricultural land, an agricultural mitigation plan as required in 199—Chapter 9 or a written agreement with the landowner is to be provided to the county inspector.

10.16(2) *Reporting requirements.* A copy of any incident, annual report, or other report filed with the Pipeline and Hazardous Materials Safety Administration pursuant to 49 CFR Part 191 by the owner or operator of a gathering line located in Iowa shall be filed with the board at the same time it is filed with the Pipeline and Hazardous Materials Safety Administration.

These rules are intended to implement Iowa Code sections 476.2, 479.5, 479.17, 479.23, 479.26, 479.42, 479.43 and 546.7.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 199—Chapter 11
"Electric Lines"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 478
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 478

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

April 29, 2024
2 to 4:30 p.m.

Board Hearing Room
1375 East Court Avenue
Des Moines, Iowa

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by the Utilities Board no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

IT Support
Des Moines, Iowa 50319
Phone: 515.725.7300
Email: ITSupport@iub.iowa.gov

Purpose and Summary

The purpose of this proposed rulemaking is to set forth the requirements for requesting a Board-issued electric transmission line franchise for the construction, operation, and maintenance of electric transmission lines and the procedures governing electric transmission line franchise contested cases.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

- Classes of persons that will bear the costs of the proposed rulemaking:

The proposed rules apply to all persons requesting a Board-issued electric transmission line franchise. While such persons may incur costs in the course of those proceedings, those costs are primarily caused by the underlying nature and course of the proceeding.

- Classes of persons that will benefit from the proposed rulemaking:

The proposed rules benefit electric transmission line companies by setting forth the requirements and procedures for requesting a Board-issued franchise. The proposed rules further benefit Iowans and landowners wishing to participate in electric transmission line franchise proceedings.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

These proposed rules are intended to assist persons seeking a Board-issued electric transmission line franchise and other persons wishing to participate in franchise proceedings by describing and detailing the rules governing such proceedings. The rules are further intended to ensure that Board franchise proceedings are fairly and efficiently conducted. While there may be costs incurred by

persons participating in Board franchise proceedings, those costs are more directly caused by the nature and course of such a proceeding.

- Qualitative description of impact:

The proposed rules assist Iowans and other persons choosing to participate in a Board electric transmission franchise proceeding. The proposed rules ensure that such persons are aware of the proceeding expectations and procedures.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

The Board incurs costs in conducting electric transmission line franchise contested case proceedings; however, the requirement that the Board conduct these types of proceedings are not imposed by these proposed rules but instead are required by Iowa Code chapter 478. Additionally, pursuant to Iowa Code section 476.10, Board costs incurred in a particular franchise proceeding may be assessed to the person requesting the franchise.

- Anticipated effect on state revenues:

There is no anticipated effect on state revenues.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

Because these proposed rules merely provide the framework for Board electric transmission franchise proceedings and because the public benefits from the availability of the information contained within the chapter, the benefits of providing the information outweigh the costs. Inaction is not advised because the public would not be aware of what was needed to initiate and participate in electric transmission line franchise proceedings.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The Board does not believe there are any less costly methods of addressing the purpose of this rule.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

Inaction was considered by the agency.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

Inaction is not advisable because there is value in letting the public know of the electric transmission line franchise procedures.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The agency does not believe the proposed rulemaking will have an adverse impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 199—Chapter 11 and adopt the following **new** chapter in lieu thereof:

CHAPTER 11
ELECTRIC LINES

199—11.1(478) General information.

11.1(1) *Purpose and authority.* The purpose of this chapter is to implement Iowa Code chapter 478 and to establish procedures for electric franchise proceedings before the Iowa utilities board. This chapter applies to any person engaged in the construction, operation, and maintenance of electric transmission lines in Iowa.

11.1(2) *Iowa electrical safety code.* Overhead and underground electric line minimum safety requirements to be applied in installation, operation, and maintenance are found in 199—Chapter 25, Iowa electrical safety code.

11.1(3) *Date of filing.* Petitions for franchise, and all other filings, are to follow the filing guidelines found at 199—Chapter 14.

11.1(4) *Franchise.* An electric franchise shall be required for the construction, operation, and maintenance of any electric line capable of operating at 69,000 volts (69 kV) or more outside of cities. A franchise is not required for electric lines located entirely within the boundaries of property owned by a person engaged in the transmission or distribution of electric power or an end user.

11.1(5) *Issuance of franchise.* The chairperson may delegate the execution of a franchise to another authorized employee of the board, including but not limited to the chief operating officer or general counsel. Where the board has previously determined that an existing transmission line satisfies the requirements of Iowa Code section 478.4, and no evidence to the contrary has been offered and no objection has been filed in the docket, a franchise may be renewed or amended by the issuance of a franchise without an accompanying order.

199—11.2(478) Definitions. The following definitions apply to the rules in this chapter:

"Affected person" means any person with a legal right or interest in the property, including but not limited to a landowner, contract purchaser of record, a person possessing the property under a lease, a record lienholder, and a record encumbrancer of the property.

"Board" means the utilities board.

"Capable of operating" means the standard voltage rating at which the electric line, wire, or cable can be operated consistent with the level of the insulators and the conductors used in construction of the electric line, wire, or cable based on manufacturer's specifications, industry practice, and applicable industry standards.

"Electric company" means any person that proposes to construct, erect, maintain, or operate an electric line, wire, or cable in Iowa.

"Person" means individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity as defined in Iowa Code section 4.1(20).

"Termini" means the electrically functional end points of an electric line, without which it could not serve a public use. Examples of termini may include but are not limited to generating stations, substations, or switching stations.

"Transmission line" means any electric line, wire, or cable capable of operating at 69 kV or more.

199—11.3(478) Route selection. The planning for a route that is the subject of a petition for franchise shall begin with routes that are near and parallel to roads, railroad rights-of-way, or division lines of land, according to the government survey, consistent with the provisions of Iowa Code section 478.18(2).

11.3(1) *Where deviations are allowed.* Where a route planned near and parallel to roads, railroad rights-of-way, or division lines of land would contain segments making transmission line construction not practicable and reasonable, generally for engineering reasons, route deviation(s) may be proposed and accompanied by a proper evidentiary showing that the initial route or routes examined did not meet practicable and reasonable standards. Deviations based on landowner preference or those that minimize interference with land may be permissible; however, the electric company must demonstrate that route planning began with a route or routes located near and parallel to roads, railroad rights-of-way, or division lines of land.

11.3(2) *Distance from buildings.* Construction of a new building within 100 feet of an existing transmission line shall be construed as "agreement" within the meaning of Iowa Code section 478.20.

11.3(3) *Railroad crossings.* Where a petition for a temporary construction permit is made as provided in Iowa Code section 478.31, an affidavit filed by an electric company will be accepted as a showing of consent for the crossing if the affidavit states the following provisions have been met: (1) that proper application for approval of the railroad crossing has been made, (2) that a one-time crossing fee has been paid, and (3) that 35 days have passed since mailing of the application and payment with no claim of special circumstance or objection from the railroad. Such affidavit or an affirmative statement of consent from the railroad shall be filed as soon as possible and must be filed prior to commencement of construction of the railroad crossing.

199—11.4(478) Informational meetings. Not less than 30 days or more than two years prior to filing a petition or related petitions requesting a franchise for a new transmission line with one or more miles of the total proposed route across privately owned real estate, the electric company shall hold an informational meeting in each county in which real property or real property rights will be affected. An informational meeting is to be held in each county where property rights will be affected regardless of the length of the portion of the proposed transmission line in a county. The length of easements required for conductor and crossarm overhang of private property, even if no supporting structures are located on that property, shall be included in determining whether an informational meeting is required pursuant to Iowa Code section 478.2.

11.4(1) *Facilities.* Electric companies filing a petition for franchise shall be responsible for negotiations and compensation for a suitable facility to be used for each informational meeting, including a building or facility that is in substantial compliance with any applicable accessibility requirements where such a building or facility is reasonably available.

11.4(2) *Personnel.* At the informational meeting, qualified personnel representing the electric company shall present the following information:

a. Utility service requirements and planning that have resulted in the proposed construction.

b. When the transmission line will be constructed.

c. In general terms, the physical construction, appearance and typical location of poles and conductors with respect to property lines.

d. In general terms, the rights that the electric company seeks to acquire by easements.

e. Procedures to be followed in contacting affected persons with whom the electric company may seek specific negotiations in acquiring voluntary easements.

f. Methods and factors used in arriving at an offered price for voluntary easements, including the range of cash amount of each component. An example of an offer sheet shall be included with the presentation.

g. The manner in which voluntary easement payments are made, including discussion of conditional easements, signing fees, and time of payment.

h. Other factors or damages that are not included in the easement but for which compensation is made, including features of interest to affected persons but not limited to computation of amounts and manner of payment.

i. If the undertaking is a joint effort by more than one electric company, all of the electric companies involved in the project shall be represented at the informational meeting by qualified personnel pursuant to this subrule.

11.4(3) *Board approval.* An electric company proposing to schedule an informational meeting shall file a request with the board to schedule the informational meeting and include a proposed date and time for the informational meeting, an alternate date and time, and a general description of the proposed project and route. The board will typically notify the electric company within ten days from the filing of the request whether the request is approved or alternate dates and times are required. Not less than 30 days prior to the informational meeting, the electric company shall file with the board the location of the informational meeting and a map of the proposed route that includes the notification corridor. Once a date and time for the informational meeting have been approved and not less than 14 days prior to the informational meeting, the electric company shall file the informational meeting presentation with the board.

11.4(4) *Notice of informational meeting.* The notice of each informational meeting shall be provided by certified mail, return receipt requested, to impacted landowners. The notification corridor includes any property over which the electric company may seek easements. Not less than 30 days prior to the date of the informational meeting, a copy of the notice shall be filed with the board and the notice deposited in the U.S. mail by the electric company.

a. In addition to the information listed in Iowa Code section 478.2(3)*"b,"* the notice shall include a copy of the statement of damages as described in subrule 11.9(4) and the statement, "Persons with disabilities requiring assistive services or devices to observe or participate should contact the Utilities Board at (515)725-7300 in advance of the scheduled date to request accommodations."

b. The electric company's published meeting notice shall include a map of the project.

c. The electric company shall file prior to the informational meeting an affidavit describing the good-faith effort the electric company undertook to locate the addresses of impacted landowners. The affidavit shall be signed by an officer of the electric company.

199—11.5(478) Petition for a new franchise. A single docket will be assigned to a proposed transmission line even if the transmission line will be located in more than one county. The electric company may request one franchise for the entire transmission line or may request separate franchises in each county where the proposed transmission line is to be located.

11.5(1) *Petition and exhibits.* A petition for a new franchise shall be filed on forms prescribed by the board, be notarized, and have all required exhibits attached. The petition shall be attested to by an officer, official, or attorney with authority to represent the electric company. The following exhibits shall be filed with the petition:

a. Exhibit A. A legal description of the route. The description shall include the name of the county, the maximum and nominal voltages, the beginning point and endpoint of the transmission line, the termini of the transmission line, the total mileage, and whether the route is on public, private, or railroad right-of-way. In the case of multicounty projects, the description shall identify all counties involved in the total project and the termini located in other counties. When the route is in or adjacent to the right-of-way of a named road or a railroad, the exhibit shall specifically identify the road or railroad by name.

b. Exhibit B.

(1) A map showing the route of the transmission line drawn with reasonable accuracy, considering the scale. The map may be to any scale appropriate for the level of detail to be shown but may not be smaller than one inch to the mile and shall be legible when printed on paper no larger than 11 by 17 inches. The filing company is to provide the following information:

1. The route of the transmission line that is the subject of the petition, including beginning point and endpoint and, when the transmission line is parallel to a road or railroad, which side the line is on. Line sections with multiple-circuit construction or underbuild shall be designated. The voltage at which other circuits are operated and ownership of other circuits or underbuild shall be indicated.

2. The name of the county, county and section lines, section numbers, and township and range numbers.

3. The location and identity of roads, named streams and bodies of water, and any other pertinent natural or man-made features or landmarks influencing the route.

4. The names and corporate limits of cities.

5. The names and boundaries of any public lands or parks, recreational areas, preserves or wildlife refuges.

6. All electric lines, including lines owned by the electric company, within six-tenths of a mile of the route, including the voltage at which the lines are operated, whether the lines are overhead or buried, the locations where the lines cross should the lines cross, and the names and addresses of the owners. Any electric lines to be removed or relocated shall be designated.

7. The location of railroad rights-of-way, including the names and addresses of the owners.

8. The location of airports or landing strips within one mile of the route, along with the names and addresses of the owners.

9. The location of pipelines used for the transportation of any solid, liquid, or gaseous substance, except water, within six-tenths of a mile of the route, along with the names and addresses of the owners.

10. The names and addresses of the owners of telephone, communication, or cable television lines within six-tenths of a mile of the route. The location of these lines need not be shown.

11. The names and addresses of the owners of rural water districts organized pursuant to Iowa Code chapter 357A that have facilities within six-tenths of a mile of the route. The location of these facilities need not be shown.

12. The locations of any buildings and any grain bins within approximately 100 feet of the route.

(2) A map of the entire route to be franchised if the route is located in more than one county or there is more than one map for a county.

c. Exhibit C. Technical information and engineering specifications describing typical materials, equipment and assembly methods as specified on forms provided by the board.

d. Exhibit D. The exhibit shall consist of a written text containing the following:

(1) An affidavit with an allegation and supporting information that the transmission line is necessary to serve a public use and represents a reasonable relationship to an overall plan of transmitting electricity in the public interest with any additional substantiated allegations as may be required by Iowa Code section 478.3(2).

(2) If the route or any portion thereof is not near and parallel to roads or railroad rights-of-way, or along division lines of the lands, according to government surveys, an explanation of why such parallel routing is not practicable or reasonable.

(3) A statement regarding the availability of routes on an existing electric line right-of-way and an explanation of why this route was not selected.

(4) Any other information or explanation in support of the petition.

(5) If a new franchise is sought for an existing transmission line, historical information regarding the prior franchise.

(6) The status of any other authorizations the electric company is required to obtain to construct the proposed transmission line.

e. Exhibit E. This exhibit is required only if the petition requests the right of eminent domain. This exhibit shall be in its final form prior to issuance of the official notice by the board and approval of the eminent domain notice required by Iowa Code section 478.6(2). The exhibit shall consist of a map of the route showing the location of each property for which the right of eminent domain is sought, and for each property:

(1) The legal description of the property.

(2) The legal description of the desired easement.

(3) A specific description of the easement rights being sought.

(4) The names and addresses of all affected persons.

(5) A map drawn to an appropriate scale showing the boundaries of the property, the boundaries and dimensions of the proposed easement, the location of all electric lines and supports within the proposed

easement, the location of and distance to any building within 100 feet of the proposed transmission line, and any other features pertinent to the location of the transmission line, the supporting structures, or the rights being sought.

(6) An affidavit affirming and describing the good-faith effort undertaken and the review of land records performed to identify all affected persons for all parcels over which the electric company is seeking eminent domain. The affidavit shall be signed by an attorney representing the electric company.

f. Exhibit F. The showing of notice to all persons identified in numbered paragraphs 11.5(1)*"b"*(1)"6" through 11.5(1)*"b"*(1)"11" and to the Iowa department of transportation. One copy of each letter of notification or one copy of the letter accompanied by a written statement listing all persons that were sent the notice, the date of mailing, and a copy of the map sent with the letters shall accompany the petition when it is filed with the board.

g. Exhibit G. The affidavit required by Iowa Code section 478.3(2)*"c"* on the holding of an informational meeting. Copies of the mailed notice letter and the published notice(s) of each informational meeting shall be attached to the affidavit. This exhibit is required only if an informational meeting was conducted.

h. Exhibit H. This exhibit is required only if the petition requests separate pole lines as identified in rule 199—11.11(478). This exhibit shall contain a request describing in detail the good cause for the board to authorize the construction of separate pole lines.

i. Other exhibits. The board may require filing of additional exhibits if further information is deemed necessary.

11.5(2) *Notice of franchise petition.*

a. Whenever a petition for a new franchise is filed with the board, the board shall prepare a notice addressed to the citizens of each county through which the transmission line or lines extend. The electric company shall cause this notice to be published in a newspaper of general circulation in each county for two consecutive weeks and file proof of publication with the board. This published notice shall constitute sufficient notice to all persons of the proceeding, except owners of record and persons in possession of land to be crossed for which voluntary easements have not been obtained at the time of the first publication of the notice.

b. The electric company shall serve notice in writing of the filing of the petition on the affected persons over which easements have not been obtained. The served notices shall be by ordinary mail, addressed to the last-known address, mailed not later than the first day of publication of the official notice. One copy of each letter of notification, or one copy of the letter accompanied by a written statement listing all persons to which it was mailed and the date of mailing, shall be filed with the board not later than five days after the date of second publication of the official notice. The electric company shall file a statement describing the action taken to ensure that the company has identified the names and addresses of all affected persons over which voluntary easements have not been obtained.

c. Published notices of petitions for franchise shall include provisions whereby interested persons can examine a map of the route. When the petition is filed, the electric company shall state whether a map is to be published with the notice or whether the notice is to include a telephone number and an address through which persons may request a map from the electric company at no cost. The map need not be as detailed as the Exhibit B map but shall include the proposed route, section lines, section and township numbers, roads and railroads, city boundaries, and rivers and named bodies of water. A copy of this map shall be filed with the petition.

11.5(3) *Notice to other persons.* The electric company shall give written notice, by ordinary mail, mailed at the time the petition is filed with the board and accompanied by a map showing the route of the proposed electric transmission line, to the persons identified in numbered paragraphs 11.5(1)*"b"*(1)"6" through 11.5(1)*"b"*(1)"11" and to the Iowa department of transportation. One copy of each letter of notification or one copy of the letter accompanied by a written statement listing all persons that were sent the notice, the date of mailing, and a copy of the map sent with the letters shall accompany the petition when it is filed with the board.

11.5(4) *Eminent domain notice.* If an electric company is requesting the right of eminent domain over property as part of a petition for a new franchise, notice shall be provided pursuant to subrule 11.10(1).

199—11.6(478) Petition for an amendment to a franchise. A petition for an amendment of a franchise shall include the same exhibits and information required for a new franchise. Prior to the filing of any petition for an amendment to a franchise where an electric company must obtain new or additional interests in real property for a total of one route mile or more, informational meetings shall be held that meet the requirements of rule 199—11.4(478).

11.6(1) When a petition for amendment is required. A petition for amendment of a franchise shall be filed with the board for approval when the electric company is:

a. Increasing the operating voltage of any electric line, the level to which it is capable of operating, or to a voltage greater than that specified in the existing franchise.

b. Constructing an additional line that is capable of operating at a nominal voltage of 69 kV or more on a previously franchised line, where an additional line at such voltage is not authorized by the existing franchise.

c. Relocating a franchised line to a route different from that authorized by an existing franchise, including the construction of tap(s) to a substation or switching station, that requires that new or additional interests in property be obtained, or that new or additional authorization be obtained from highway or railroad authorities, for a total distance of one route mile or more, or for any relocations where the right of eminent domain is sought. An amendment is not required for relocations made pursuant to Iowa Code section 318.9(2).

11.6(2) When a new transmission line is proposed in a county where the electric company has a countywide franchise for all of the electric company's transmission lines in a county, the new transmission line will be included in the countywide franchise as an amendment to the countywide franchise.

11.6(3) When an existing franchise in a county is proposed to be combined with another existing franchise in a county, a petition for an amendment of the franchise with the latest expiration date shall be filed to combine the transmission lines into one of the existing franchises.

11.6(4) An amendment to a franchise shall not be required for a voltage increase, additional circuit, or electric line relocation where such activity takes place entirely within the boundaries of property owned by an electric company or an end user.

11.6(5) Notice of a petition for franchise amendment. A petition for an amendment to a franchise requires the same notice as a petition for a new franchise as described in rule 199—11.5(478).

11.6(6) Eminent domain notice. If an electric company is requesting the right of eminent domain over property as part of a petition for amendment of a franchise, notice shall be provided pursuant to subrule 11.10(1).

199—11.7(478) Petition for the abbreviated franchise process.

11.7(1) *Eligibility for abbreviated franchise process.* Petitions for an electric franchise or an amendment to a franchise may be filed pursuant to the abbreviated franchise process set forth in Iowa Code section 478.1(5) if the following requirements are met:

a. The project consists of the conversion, upgrading, or reconstruction of an existing electric line operating at 34.5 kV to a line capable of operating at 69 kV.

b. The project will be on substantially the same right-of-way as an existing 34.5 kV line. For purposes of this subrule, "substantially the same right-of-way" means that the new or additional interests in private property right-of-way will be required for less than one mile of the proposed project length. Easements required for conductor and crossarm overhang of private property or for anchor easements shall not be considered when determining the length of additional interests in private property right-of-way.

c. The project will have substantially the same effect on the underlying properties as the existing 34.5 kV line.

d. The completed transmission line will comply with the Iowa electrical safety code found in 199—Chapter 25.

e. The electric company does not request the power of eminent domain.

f. The electric company agrees to pay all costs and expenses of the franchise proceeding.

11.7(2) *Petition using abbreviated process.* A petition for a new franchise or an amendment to a franchise filed pursuant to the abbreviated franchise process set forth in Iowa Code section 478.1(5) shall be made on forms prescribed by the board, notarized, and have all required exhibits attached. The exhibits required to be attached are as follows:

a. Exhibit A. A legal description of the route. The description shall include the name of the county, the maximum and nominal voltages, the beginning point and endpoint of the transmission line, the termini of the transmission line, the total mileage, and whether the route is on public, private, or railroad right-of-way. When the route is in or adjacent to the right-of-way of a named road or a railroad, the exhibit shall specifically identify the road or railroad by name. The description shall identify any termini located in other counties.

b. Exhibit B. A map showing the route of the transmission line drawn with reasonable accuracy, considering the scale. The map may be to any scale appropriate for the level of detail to be shown but not smaller than one inch to the mile and legible when printed on paper no larger than 11 by 17 inches. The following information shall be provided:

(1) The route of the transmission line that is the subject of the petition, including the beginning point and endpoint and, when the transmission line is parallel to a road or railroad, the side on which the line is located. Line sections with multiple-circuit construction or underbuild shall be designated. The voltage at which other circuits are operated and ownership of other circuits or underbuild shall be indicated.

(2) The name of the county, county and section lines, section numbers, and township and range numbers.

(3) The location and identity of roads, railroads, named streams and bodies of water, and any other pertinent natural or man-made features or landmarks influencing the route.

(4) The names and corporate limits of cities.

(5) If any deviation from the existing route is proposed, the original and proposed routes shall be shown and identified.

(6) The location and identity of electric transmission lines that cross the proposed route.

(7) The locations of any buildings and any grain bins within approximately 100 feet of the route.

c. Exhibit C. Technical information and engineering specifications describing typical materials, equipment, and assembly methods as specified on forms provided by the board.

d. Exhibit D. The exhibit shall consist of written text containing the following:

(1) A listing of any existing franchises that would be terminated or amended in whole or in part by this petition, including the docket number, franchise number, date of issue, county of location, and to whom the franchise is granted.

(2) An allegation, with supporting testimony, that the project is eligible for the abbreviated franchise process.

(3) An allegation, with supporting testimony, that the project is necessary to serve a public use and represents a reasonable relationship to an overall plan of transmitting electricity in the public interest.

(4) An explanation for any deviations from the existing transmission line route.

(5) A statement regarding the availability of routes on an existing electric line right-of-way and an explanation of why this route was not selected.

e. Exhibit E. A statement that the right of eminent domain is not being requested.

f. Exhibit F. The exhibit shall consist of a showing of notice to other electric, pipeline, telephone, communication, cable television, rural water district, and railroad companies that have facilities that are crossed by or in shared right-of-way with the proposed transmission line.

g. Exhibit G. The exhibit shall consist of the form of notice to be mailed in accordance with subrule 11.7(3) to owners of and persons in possession of or residing on property where construction shall occur.

h. Exhibit H. This exhibit is required if the petition requests separate pole lines. This exhibit shall contain a request describing in detail the good cause for the board to authorize the construction of separate pole lines.

11.7(3) *Notice of franchise or amendment to franchise under abbreviated franchise process.*

a. One month prior to commencement of construction, an electric company shall provide written notice concerning the anticipated construction to the last-known address of the owners of record of the property where construction will occur and to persons in possession of or residing on such property. Notices may be served by ordinary mail, addressed to the last-known address of the owners of record of the property and to persons residing on such property. The electric company shall make a good-faith effort to identify and notify all owners of record and persons residing on the property.

b. The notice shall include the following information:

(1) A description of the purpose of the project and the nature of the work to be performed.

(2) A copy of the Exhibit B map.

(3) The estimated dates the construction or reconstruction will commence and end.

(4) The name, address, telephone number, and email address of a representative of the electric company who can respond to inquiries concerning the anticipated construction.

c. For the purposes of this rule, "construction" means physical entry onto private property by personnel or equipment for the purpose of rebuilding or reconstructing the transmission line.

d. After the form is mailed to the recipients, the company will file a copy of the final form and the date of mailing.

199—11.8(478) Petition for extension of franchise.

11.8(1) *Petition and exhibits.* A petition for an extension of a franchise shall be made on forms prescribed by the board; attested to by an officer, official, or attorney with authority to represent the electric company; and have all required exhibits attached. For a transmission line that extends into more than one county, the electric company may file a petition to combine the separate county franchises into one franchise for the entire transmission line.

a. Exhibit A. A legal description of the route. The description shall include the name of the county, the maximum and nominal voltages, the beginning point and endpoint of the transmission line, the termini of the transmission line, the total mileage, and whether the route is on public, private, or railroad right-of-way. When the route is in or adjacent to the right-of-way of a named road or a railroad, the exhibit shall identify the road or railroad by name. The description shall identify any termini located in other counties.

b. Exhibit B. A map showing the route of the transmission line drawn with reasonable accuracy, considering the scale. The map may be to any scale appropriate for the level of detail to be shown but not smaller than one inch to the mile and legible when printed on paper no larger than 11 by 17 inches. The following information shall be provided:

(1) The route of the transmission line that is the subject of the petition, including beginning point and endpoint and, when the transmission line is parallel to a road or railroad, which side the line is on. Line sections with multiple-circuit construction or underbuild shall be designated. The voltage at which other circuits are operated and ownership of other circuits or underbuild shall be indicated.

(2) The name of the county, county and section lines, section numbers, and township and range numbers.

(3) The location and identity of roads, railroads, named streams and bodies of water, and any other pertinent natural or man-made features or landmarks influencing the route.

(4) The names and corporate limits of cities.

(5) The location and identity of electric transmission lines that cross the route.

(6) The locations of any buildings and any grain bins within approximately 100 feet of the route.

c. Exhibit C. Technical information and engineering specifications describing typical materials, equipment and assembly methods as specified on forms provided by the board.

d. Exhibit D. The exhibit shall consist of a written text containing the following:

(1) A listing of all existing franchises for which extension in whole or in part is sought, including the docket number, franchise number, date of issue, county of location, and to whom granted.

(2) A listing of all amendments to the franchises listed in subparagraph 11.8(1)*"d"*(1), including the docket number, amendment number, date of issue, and purpose of the amendment.

(3) A description of any substantial rebuilds, reconstructions, alterations, relocations, or changes in operation not included in a prior franchise or amendment proceeding.

(4) A description of any changes in ownership or operating and maintenance responsibility.

(5) An allegation, with supporting testimony, that the transmission line remains necessary to serve a public use and represents a reasonable relationship to an overall plan of transmitting electricity in the public interest.

(6) Any other information or explanation in support of the petition.

11.8(2) *Date for filing petition for extension.* A petition for an extension of a franchise shall be filed at least one year, and no more than five years, prior to expiration of the franchise. Extensions of existing countywide franchises are permitted; however, petitions to extend the franchises of separate transmission lines within a county by combining those transmission lines into a countywide franchise are not permitted using the franchise extension process.

11.8(3) *When petition for extension unnecessary.* An extension of franchise is unnecessary for an electric line that is capable of operating at 69 kV or more when the electric line has been permanently retired from operation and the board has been notified of the retirement. The notice to the board shall include the franchise number and issue date, the docket number, and, if the entire franchised line is not retired, a map showing the location of the portion retired.

11.8(4) *Petition for extension of countywide franchise.* A petition for an extension of a countywide franchise shall include all of the franchised lines owned by the electric company and within one county and a statement of whether the published notice will contain a legal description of the route or will include a telephone number and an address through which persons may request a map from the electric company at no cost. The map shall comply with the requirements in subrule 11.8(6). A copy of this map shall be filed with the petition.

11.8(5) *Notice of petition for extension.* Whenever a petition for an extension of a franchise is filed with the board, the board shall prepare a notice addressed to the citizens of each county through which the transmission line or lines extend. The electric company shall cause this notice to be published for two consecutive weeks in a newspaper of general circulation in each county where the proposed line is to be located. Proof of publication shall be filed with the board. This published notice shall constitute sufficient notice to all affected persons where the existing line is located.

11.8(6) *Maps in published notice.* Published notices of petitions for franchise shall include provisions whereby interested persons can examine a map of the route. When the petition is filed, the electric company shall state whether a map is to be published with the notice or whether the notice is to include a telephone number and an address through which persons may request a map from the electric company at no cost. The map shall include the proposed route, section lines, section and township numbers, roads and railroads, city boundaries, and rivers and named bodies of water. A copy of this map shall be filed with the petition.

199—11.9(478) Additional requirements.

11.9(1) *Forms.* An electric company shall use the appropriate form or forms available on the board's website when filing a petition, an amendment to an existing franchise, or an extension of an existing franchise. All filings shall be filed pursuant 199—Chapter 14.

11.9(2) *Segmental ownership.* Petitions covering transmission line routes having segments of the total transmission line with different owners shall establish that the entire transmission line is necessary to serve a public use and represents a reasonable relationship to an overall plan of transmitting electricity in the public interest. Such a petition shall include documentation showing that the different owners have agreed to the construction being proposed in the petition.

11.9(3) *Compliance with Iowa electrical safety code.* If review of Exhibit C, or inspection of an existing electric line that is the subject of a franchise petition, finds noncompliance with 199—Chapter

25, the Iowa electrical safety code, the board may delay final action on the petition or otherwise require a satisfactory showing by the electric company that the areas of noncompliance have been or will be corrected. Disputed safety code compliance issues will be resolved by the board.

11.9(4) *Statement of damage claims.*

a. A petition proposing transmission line construction shall not be acted upon by the board if the electric company does not file with the board a written statement as to how damages resulting from the construction of the transmission line will be determined and paid.

b. The statement shall contain the following information: the type of damages that will be compensated for, how the amount of damages will be determined, the procedures by which disputes may be resolved, the manner of payment, and the procedures that the affected persons are to follow to obtain a determination of damages.

c. The statement shall be amended as necessary to reflect changes in the law, company policy, or the needs of a specific project.

d. A copy of this statement shall be mailed with the notice of informational meeting as provided for in Iowa Code section 478.2(3). Where no informational meeting is required, a copy shall be provided to each affected person prior to entering into negotiations for payment of damages.

e. Nothing in this rule shall prevent a person from negotiating with the electric company for terms that are different from, more specific than, or in addition to those in the statement filed with the board.

11.9(5) *Route study.* If a hearing on a petition is required by Iowa Code section 478.6(1), an electric company shall file a route study, if conducted, with the board at the earlier of either the electric company's next revised petition filing or its testimony in support of the petition after the board orders a hearing.

199—11.10(478) Notices.

11.10(1) *Notice of eminent domain proceedings.* If a petition for a franchise or amendment of franchise seeks the right of eminent domain, the electric company shall, in addition to publishing a notice of hearing, serve a written notice pursuant to Iowa Code section 478.6(2) on the landowners and any affected person for all parcels over which eminent domain is sought. The eminent domain notice shall be filed with the board for approval. Service shall be by certified U.S. mail, return receipt requested, and addressed to the person's last-known address. This notice shall be mailed no later than the first day of publication of the official notice of hearing concerning the petition.

a. The notice of eminent domain proceedings shall include the following:

(1) A copy of the Exhibit E filed with the board for the affected property.

(2) The proposed route of the electric transmission line.

(3) The eminent domain rights being sought over the property.

(4) The date, time and location of the hearing and a description of the hearing procedures, which includes the website address for the board's electronic filing system and contact information of the board's customer service section.

(5) The statement of individual rights pursuant to Iowa Code section 6B.2A(1).

b. Not less than five days prior to the date of hearing, the electric company shall file with the board the return receipt for the certified notice.

11.10(2) *Notice of franchised line construction.*

a. Within 90 days after completion of a transmission line construction or reconstruction project authorized by a franchise or amendment to franchise, the holder of the franchise shall notify the board in writing of the completion. The notice shall include the franchise and docket numbers and the date the franchise was issued.

b. If the project is not completed within two years after the date of issuance of the franchise or amendment to franchise, the electric company shall file a progress report regarding construction of the transmission line.

c. If construction of the transmission line authorized by a franchise has not commenced within two years of the date the franchise is granted, or within two years after final disposition of judicial review of a franchise order or of condemnation proceedings, the franchise shall be forfeited unless the electric

company petitions the board for an extension of time to commence construction. The board may grant the extension if good cause is shown for the failure to commence construction.

d. Final petition Exhibits A and B shall be filed with a notice of franchised line construction. The board may require the filing of a revised Exhibit C if the board determines, after inspection, that such filing is warranted.

11.10(3) *Notice of transfer or assignment of franchise.* The holder of a franchise shall notify the board when transferring any franchise or portion of a franchise, stating the applicable franchise number and docket number that are affected, in addition to the name of the transferee and date of transfer, not more than 30 days after the effective date of the transfer. If the entire franchise is not transferred, a description of the route and a map showing the transferred and not transferred portions shall be included with the notice.

11.10(4) *Notice of modification not requiring an amendment to a franchise.* Whenever a transmission line under franchise is relocated, reconstructed with different materials or specifications than those that appear on the most recent Exhibit C, taps to a new substation or switching station are constructed along and connected to the franchised line in a manner that does not require an amendment to a franchise, or a transmission line is permanently removed, the holder of the franchise shall notify the board in writing of the construction, stating the franchise and docket numbers and date of franchise issuance for the affected transmission line, and providing revised Exhibits A, B, and C, as applicable, that reflect the changes in the route, materials, and specifications, not more than 30 days after the completion of the construction or removal.

199—11.11(478) Common and joint use.

11.11(1) *Common use construction.* Whenever an overhead electric line capable of operating at 69 kV or more is built or rebuilt on public road rights-of-way located outside of cities, all parallel overhead electric supply circuits on the same road right-of-way shall be attached to the same or common line of structures unless the board authorizes, for good cause shown, the construction of separate pole lines.

11.11(2) *Relocating lines.* When a transmission line is to be constructed in a location occupied by an electric line or a communication line, the expense of relocating the existing line shall be borne by the electric company proposing the new transmission line. The electric company proposing the new transmission line shall not be required to pay any part of the used life of the existing line, but shall pay the nonbetterment expense of relocating the existing line.

199—11.12(478) Termination of franchise petition proceedings.

11.12(1) *Termination of docket.* Upon written notice to the board by an electric company that a franchise petition or petition for amendment of a franchise is withdrawn, the docket shall be closed.

11.12(2) *Failure to respond.* If an electric company fails to respond to written notification by the board, to correct an incomplete or deficient franchise petition, or to publish the official notice after the form of notice is provided by the board, the board may dismiss the petition as abandoned. If dismissal would cause an existing transmission line to be without a franchise, the board may also pursue imposition of civil penalties.

199—11.13(478) Fees and expenses. The electric company shall pay the actual cost incurred by the board attributable to the processing, investigation, and inspection related to a petition requesting an electric franchise, an amendment to an electric franchise, or an extension of an electric franchise.

These rules are intended to implement Iowa Code chapter 478.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 199—Chapter 21
"Service Supplied by Water, Sanitary Sewage, and Storm Water Drainage Utilities"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A.3, 474.5, 476.1, 476.2, and 476.6(18)

State or federal law(s) implemented by the rulemaking: Iowa Code chapter 476

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

April 30, 2024 2 to 4:30 p.m.	Board Hearing Room 1375 East Court Avenue Des Moines, Iowa

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by the Utilities Board no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

IT Support
Des Moines, Iowa 50319
Phone: 515.725.7300
Email: ITsupport@iub.iowa.gov

Purpose and Summary

The purpose of this proposed rulemaking is to establish standards of service to the public by utilities providing water by piped distribution systems and utilities providing sanitary sewage or storm water drainage disposal by piped collection systems and to provide uniform practices by those utilities.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

- Classes of persons that will bear the costs of the proposed rulemaking:

Water, sanitary sewage, and storm water drainage utilities will bear the costs of the proposed chapter.

- Classes of persons that will benefit from the proposed rulemaking:

Customers of water, sanitary sewage, and storm water drainage utilities will benefit from the proposed chapter.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

This is part of the everyday work of the Board, so there is no additional impact to the Board, economic or otherwise.

- Qualitative description of impact:

Chapter 21 provides the standards of service for utilities providing water or sanitary or storm water drainage disposal by piped distribution and collection, and the chapter is important for utilities and customers to understand the standards.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

There are no additional costs to any agency other than the normal everyday costs of operation of the Board.

- Anticipated effect on state revenues:

There is no anticipated effect on state revenues.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

Chapter 21 does not impose direct costs and does not provide material benefits; however, there may be indirect costs for filing information with the Board, including Internet access.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

There are no less costly methods of addressing the purpose of this chapter.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

Inaction was considered by the Board.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

Inaction is not feasible due to a statutory mandate requiring the Board to adopt rules and policies.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

There is not a substantial impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 199—Chapter 21 and adopt the following **new** chapter in lieu thereof:

CHAPTER 21
SERVICE SUPPLIED BY WATER, SANITARY SEWAGE,
AND STORM WATER DRAINAGE UTILITIES

DIVISION I
GENERAL PROVISIONS

199—21.1(476) Application of rules.

21.1(1) *Purpose.* These rules establish standards of service to the public by utilities providing water by piped distribution systems and utilities providing sanitary sewage or storm water drainage disposal by piped collection systems that are subject to the jurisdiction of the Iowa utilities board, and to provide standards for uniform practices by those utilities.

21.1(2) *Utility.* The term "utility" or "utilities," when not more specifically described, means a water, sanitary sewage, or storm water drainage public utility as defined in Iowa Code section 476.1(2)*"c"* and *"d."* The term does not include a county or an entity organized pursuant to Iowa Code chapter 28E, which is composed entirely of counties.

199—21.2(476) Records and reports for water, sanitary sewage, and storm water drainage utilities.

21.2(1) *Tariffs.* The utility shall maintain its tariff filing in a current status.

The rates and rules of all utilities subject to the rules in this chapter shall be filed with the board in accordance with these rules.

a. Form and identification.

(1) The tariff shall conform to the following requirements:

1. Be on 8½ × 11-inch pages so as to result in a clear and permanent record.
2. Be filed electronically in compliance with 199—Chapter 14.
3. The first page is the title page, which will show the name of the utility, the type of utility service being provided, and the words "Iowa Utilities Board."
4. When a tariff is to be superseded or replaced in its entirety, the replacing tariff will show on the upper right corner of its title page that it is a revision of a tariff on file and the number being superseded or replaced.
5. When a tariff sheet in a tariff is revised, amended, or eliminated, the tariff sheet will indicate in the upper right corner the number of the revision to that tariff sheet.
6. Any tariff sheet modifications will be marked in the right margin with symbols as described below to indicate the place, nature, and extent of the change in text. The marked version will show all added language marked with underlined text and all deleted language with strike-through.

- (C)—Change in regulation.
- (D)—Discontinued rate or regulation.
- (I)—Increase in rate or new treatment resulting in increased rate.
- (N)—New rate, treatment, or regulation.
- (R)—Reduction in rate or new treatment resulting in reduction in rate.
- (T)—Change in text only.

7. All sheets except the title page will have the following information located at the upper left corner of the tariff sheet:

- Company name.
- Type of utility tariff.
- The words "Filed with board."

8. All sheets except the title page will have the following information located at the upper right corner of the tariff sheet:

- Tariff part identification, if any.
- Tariff sheet number, original or revised.
- Canceled tariff sheet number, original or revised.

9. All sheets except the title page will have the following information located at the lower left corner of the tariff sheet:

- The issued date.
- The name of the person responsible for the issuance.

10. All sheets except the title page will have the following information located at the lower right corner of the tariff sheet:

- An effective date field.
- Proposed effective date.

(2) The issued date is the date the tariff or the revised sheet content was filed by the utility in the board's electronic filing system.

(3) The effective date may be left blank by the utility and will be determined by the board.

b. Content of tariffs. A tariff filed with the board shall contain a table of contents; rates, including all rates of utilities for service with indication for each rate of the type of service and the class of customers to which each rate applies as approved by the board; prices per unit of service; number of units per billing period to which the prices apply; period of billing; minimum bill; method of measuring demands and consumptions, including method of calculating or estimating loads or minimums; and any special terms and conditions applicable. Any discount for prompt payment or penalty for late payment and the period during which the net amount may be paid will be specified and be in accordance with subrule 21.4(4).

21.2(2) *List of persons authorized to receive board inquiries.* Each utility shall file with the board in the annual report required by subrule "General information" of 199—Chapter 23 a list of names, titles, addresses, and telephone numbers of persons authorized to receive, act upon, and respond to communications from the board in connection with: (1) general management duties; (2) customer relations (complaints); (3) engineering operations; and (4) meter tests and repairs, if meters are used. Each utility is to file with the board a telephone contact number where the board can obtain current information 24 hours a day about interruptions of service from a knowledgeable person. The contact information required by this subrule will be kept current.

DIVISION II
WATER UTILITIES

199—21.3(476) General water service requirements.

21.3(1) *Water service.*

a. Metered measurement of water. All water sold by a utility shall be on the basis of metered measurement except that the utility may at its option provide flat rate or estimated service for the following:

(1) Temporary service where the water use can be readily estimated.

(2) Public and private fire protection service.

(3) Water used for street sprinkling and sewer flushing.

b. Separate metering for premises. Separate premises will be separately metered and billed. Submetering is not permitted.

21.3(2) *Temporary service.* When the utility renders temporary service to a customer, it may require that the customer bear all the costs of installing and removing the service in excess of any salvage realized.

21.3(3) *Water meter requirements.*

a. Water meter installation. Each water utility is to adopt a written standard method of meter installation, copies of which are available upon request. All meters will be set in place by the utility.

b. Records of water meters and associated metering devices. Each water utility shall maintain for each meter and associated metering device the following applicable data:

(1) Meter identification.

1. Manufacturer.
2. Meter type, catalog number, and serial number.
3. Meter capacity.
4. Registration unit of measurement (gallons or cubic feet).
5. Number of moving digits or dials on register.
6. Number of fixed zeros on register.
7. Pressure rating of the meter.

(2) Meter location history.

1. Dates of installation and removal from service.
2. Location of installations.
3. All customer names with readings and read out dates.

Remote register readings are to be maintained identical to readings of the meter register.

c. Registration devices for meters. Where remote meter reading is used, the customer will have a readable meter register at the meter.

d. Water meter readings.

(1) Water meter reading interval. Reading of all meters used for determining charges to customers will be scheduled at least quarterly. An effort will be made to read meters on corresponding days of each meter reading period. The meter reading date may be advanced or postponed no more than ten days without adjustment of the billing for the period.

(2) Customer water meter reading. The utility may permit the customer to supply the meter readings on a form supplied by the utility or, in the alternative, may permit the customer to supply the meter reading information by telephone, or electronically, provided a utility representative reads the meter at least once every 12 months and when there is a change of customer.

(3) Readings and estimates in unusual situations. When a customer is connected or disconnected, or the regular meter reading date is substantially revised causing a given billing period to be longer or shorter than usual, the bill will be prorated on a daily basis.

(4) Estimated bill. An estimated bill may be rendered in the event that access to a meter cannot be gained and a meter reading form left with the customer is not returned in time for the billing operation. Only in unusual cases will more than three consecutive estimated bills be rendered.

21.3(4) *Filing published meter and service installation rules.* A copy of the utility's current rules, if any, published or furnished by the utility for the use of engineers, architects, plumbing contractors, etc., covering meter and service installation will be filed with the board upon request.

21.3(5) *Extensions to customers.*

a. Definitions. The following definitions apply to the terms used in this subrule:

"Advances for construction costs" means cash payments or surety bonds or an equivalent surety made to the utility by an applicant for an extension, portions of which may be refunded depending on any subsequent connections made to the extension. Cash payments, surety bonds, or equivalent sureties include a grossed-up amount for the income tax effect of such revenue.

"Agreed-upon attachment period" means a period of not less than 30 days nor more than one year mutually agreed upon by the utility and the applicant within which the customer will attach. If no time period is mutually agreed upon, the agreed-upon attachment period is deemed to be 30 days.

"Contribution in aid of construction" means a nonrefundable cash payment covering the costs of an extension that are in excess of utility-funded allowances. Cash payments will be grossed-up for the income tax effect of such revenue. The amount of tax is reduced by the present value of the tax benefits to be obtained by depreciating the property in determining the tax liability.

"Customer advance for construction record" means a separate record established and maintained by the utility, which includes by depositor:

1. The amount of advance for construction provided by the customer;
2. Whether the advance is by cash or surety bond or equivalent surety;
3. If by surety bond, all relevant information concerning the bond or equivalent surety;
4. The amount of refund, if any, to which the depositor is entitled;
5. The amount of refund, if any, that has been made to the customer;
6. The amount unrefunded; and
7. The construction project on which, or work order pursuant to which, the extension was installed.

"Estimated annual revenues" means an estimated calculation of annual revenue based upon the following factors, including but not limited to:

1. The size of the facility to be used by the customer;
2. The average annual amount of service required by the equipment; and
3. The average number of hours per day and days per year the equipment will be in use.

"Estimated construction costs" means an estimated calculation of construction costs using average costs in accordance with good engineering practices and based upon the following factors:

1. Amount of service required or desired by the customer requesting the extension;
2. Size, location, and characteristics of the extension, including all appurtenances; and

3. Whether the ground is frozen or whether other adverse conditions exist.

The average cost per foot is calculated utilizing the prior calendar year costs, to the extent such cost basis does not exceed the current costs using current construction cost methodologies, resources and material, and working conditions, divided by the total feet of extensions by size of pipe for the prior calendar year. In no event will estimated construction costs include costs associated with facilities built for the convenience of the utility.

"Extensions" means a distribution main extension.

"Similarly situated customer" means a customer whose annual consumption or service requirements, as defined by estimated annual revenue, are approximately the same as the annual consumption or service requirements of other customers.

b. Terms and conditions. The utility shall extend service to new customers under the following terms and conditions:

(1) The utility will provide all water plant additions at its cost and expense without requiring an advance for construction or contribution in aid of construction from customers or developers except in those unusual circumstances where extensive plant additions are required before the customer can be served or where the customer will not attach within the agreed-upon attachment period after completion of construction. In such instances, the utility may require, no more than 30 days prior to commencement of construction, the customer or developer to advance funds that are subject to refund as additional customers are attached. A contract between the utility and the customer that requires an advance by the customer to make plant additions will be available for board inspection.

(2) Where the customer will attach within 30 days after completion of the distribution main extension, the following applies:

1. If the estimated construction cost to provide a distribution main extension is less than or equal to five times the estimated annual revenue calculated on the basis of similarly situated customers, the utility finances and makes the extension without requiring an advance for construction.

2. If the estimated construction cost to provide a distribution main extension is greater than five times the estimated annual revenue calculated on the basis of similarly situated customers, the applicant for such an extension contracts with the utility and deposits no more than 30 days prior to commencement of construction an advance for construction equal to the estimated construction cost less five times the estimated annual revenue to be produced by the customer.

(3) Where the customer will not attach within the agreed-upon attachment period after completion of the distribution main extension, the customer requesting the extension contracts with the utility and deposits no more than 30 days prior to the commencement of construction an advance for construction equal to the estimated construction cost.

(4) Advance payments for plant additions or extensions are subject to refund for a ten-year period and may be made by cash, surety bond, or equivalent surety. In the event a surety bond or an equivalent surety is used, the bonded amount has added to it a surcharge equal to the annual interest rate paid by the utility on customer bill deposits times the bonded amount. The bond will be called by the utility at the end of one year or when the earned refunds are equal to the bonded amount, less the surcharge, whichever occurs first. If, upon termination of the surety bond, there are sufficient earned refunds to offset the amount of the surety bond, less the surcharge, the depositors provide the utility the amount of the surcharge. If, upon termination of the surety bond, there are not sufficient earned refunds to offset the full amount of the surety bond, less the surcharge, the depositors provide the utility a cash deposit equal to the amount of the surety bond, less refunds accumulated during the bonded period, plus the surcharge, or the depositor may pay the interest on the previous year's bond and rebond the balance due to the utility for a second or third one-year period. Upon receipt of such cash deposit, the utility releases the surety bond. The cash deposit, less the surcharge, will be subject to refund by the utility for the remainder of the ten-year period.

c. Refunds. The utility will refund to the depositor, for a period of ten years from the date of the original advance, a pro rata share for each service attachment to the distribution main extension. The pro rata refund will be computed in the following manner:

(1) If the combined total of five times the estimated annual revenue for the depositor and each customer who has attached to the distribution main extension exceeds the total estimated construction cost to provide the extension, the entire amount of the advance provided by the depositor will be refunded to the depositor.

(2) If the combined total of five times the estimated annual revenue for the depositor and each customer who has attached to the distribution main extension is less than the total estimated construction cost to provide the extension, the amount to be refunded to the depositor will equal five times the estimated annual revenue of the customer attaching to the extension.

(3) In no event will the total amount to be refunded to a depositor exceed the amount of the advance for construction made by the depositor. Any amounts subject to refund will be paid by the utility without interest. At the expiration of the above-described ten-year period, the customer advance for construction record will be closed and the remaining balance credited to the respective plant account.

d. Extensions not required. Utilities do not need to make extensions as described in this subrule unless the extension will be of a permanent nature.

e. More favorable methods permitted. A utility may make a contract with a customer in a different manner, if the contract provides a more favorable method of extension to the customer, so long as no discrimination is practiced among customers or depositors.

f. Connections to utility-owned equipment. An individual, partnership, or company may construct its own extension; however, it will meet, at a minimum, the applicable portions of the standards in rule 199—21.5(476) and such other reasonable standards as the utility may employ in constructing extensions, so long as the standards do not mandate a particular supplier. All connections to the utility-owned equipment or facilities are to be made by the utility at the applicant's expense. At the time of attachment to the utility-owned equipment or facilities, the applicant will transfer ownership of the extension to the utility and the utility will book the original cost of construction of the extension as an advance for construction, and make refunds to the applicant in accordance with paragraph 21.3(5)*"c."* The utility will be responsible for the operation and maintenance of the extension after attachment.

g. Reimbursement of extension construction cost. If the utility requires the applicant to construct the extension to meet service requirements greater than those necessary to serve the applicant's service needs, the utility shall reimburse the applicant for the difference in cost between the extension specifications required by the utility and the extension specifications necessary to meet the applicant's service needs.

21.3(6) *Water service connections.* The utility will supervise the installation and maintenance of that portion of the water service pipe from its main to and including the customer's meter. A curb stop will be installed at a convenient place between the property line and the curb, and all services will include a curb stop and curb box or meter vault. In installations where meters are installed in meter vaults incorporating a built-in valve and are installed between the property line and curb, no separate curb stop and curb box are required.

21.3(7) *Location of meters.* Meters may be installed outside or inside as mutually agreed upon by the customer and the utility.

a. Outside meters. Meters installed out-of-doors are to be readily accessible for maintenance and reading, and so far as practicable, the location should be mutually acceptable to the customer and the utility. The meter is to be installed so as to be unaffected by climatic conditions and reasonably secure from injury.

b. Inside meters. Meters installed inside the customer's building are to be located as near as possible to the point where the service pipe enters the building and at a point reasonably secure from injury and readily accessible for reading and testing. In cases of multiple buildings, such as two-family dwellings or apartment buildings, the meter(s) will be located within the premises served or in a common location accessible to the customers and the utility.

199—21.4(476) Customer relations for water service.

21.4(1) *Customer information.*

a. Each utility shall:

(1) Post a notice in a conspicuous place in each office of the utility where applications for service are received, informing the public that copies of the rates and rules relating to the service of the utility are available for public inspection.

(2) Maintain up-to-date maps, plans, or records of its entire water system.

(3) Upon request, assist the customer or prospective customers in selecting the most economic rate schedule available for the proposed type of service.

(4) Upon request, inform the customer as to the method of reading meters and the method of computing the customer's bill.

(5) Notify customers affected by a change in rates or rate classification as directed in the board's rules.

b. Inquiries for information or complaints to a utility are to be resolved promptly and courteously. Employees who receive customer telephone calls and office visits are to be qualified and trained in screening and resolving complaints, to avoid a preliminary recitation of the entire complaint to employees without ability and authority to act. The employee will provide identification to the customer, which will enable the customer to reach that employee again if needed.

c. Each utility will notify its customers, by bill insert or notice on the bill form, of the address and telephone number where a utility representative qualified to assist in resolving the complaint can be reached. The utility will also include the following statement: "If (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board by calling (877)565-4450, by writing to 1375 E. Court Ave., Des Moines, IA 50319-0069, or by email to customer@iub.iowa.gov." This information will be provided no less than annually.

d. Any utility that does not use the standard statement described in this subrule will file its proposed statement in its tariff for approval. A utility that bills by postcard may place an advertisement in a local newspaper of general circulation or a customer newsletter instead of a mailing, as long as the advertisement is of a type size that is easily legible and conspicuous and contains the information set forth above.

21.4(2) *Customer deposits.*

a. Deposit required. Each utility may require from any customer or prospective customer a deposit intended to guarantee payment of bills for service.

b. Amount of deposit. The total deposit will not be less than $5 nor more in amount than the maximum estimated charge for service for 90 days or as may reasonably be required by the utility in cases involving service for short periods or special occasions.

c. New or additional deposit. A new or additional deposit may be required from a customer when a deposit has been refunded or is found to be inadequate. Written notice is to be mailed advising the customer of any new or additional deposit requirement. The customer will have no less than 12 days from the date of mailing to comply. The utility does not need to provide written notice of a deposit required as a prerequisite for commencing initial service.

d. Customer's deposit receipt. The utility will issue a receipt of deposit to each customer from whom a deposit is received.

e. Interest on customer deposits. Interest will be paid by the utility to each customer required to make a deposit. Utilities will compute interest on customer deposits at 7.5 percent per annum, compounded annually. Interest for prior periods will be computed at the rate specified by the rule in effect for the period in question. Interest will be paid for the period beginning with the date of deposit to the date of refund or to the date that the deposit is applied to the customer's account, or to the date the customer's bill becomes permanently delinquent. The date of refund is that date on which the refund or the notice of deposit refund is forwarded to the customer's last-known address. The date a customer's bill becomes permanently delinquent is the most recent date the account is treated as uncollectible.

f. Deposit refund. The deposit shall be refunded after 12 consecutive months of prompt payment unless the utility has evidence to indicate that the deposit is necessary to ensure payment of bills for service. In any event, the deposit will be refunded upon termination of the customer's service.

g. Unclaimed deposits. The utility will make a reasonable effort to return each unclaimed deposit and accrued interest after the termination of the services for which the deposit was made. The utility will maintain a record of deposit information for at least two years or until such time as the deposit, together with accrued interest, escheats to the state pursuant to Iowa Code section 556.4 at which time the record and deposit, together with accrued interest, less any lawful deductions, will be sent to the state treasurer pursuant to Iowa Code section 556.13.

21.4(3) *Customer bill forms.* The utility will bill each customer as promptly as possible following the reading of the customer's meter. Each bill, including the customer's receipt, shows:

a. The date and the reading of the meter at the beginning and at the end of the period or the period for which the bill is rendered.

b. The number of units metered, when applicable.

c. Identification of the applicable rates.

d. The gross and net amount of the bill.

e. The late payment charge and the latest date on which the bill may be paid without incurring a penalty.

f. A distinct marking to identify an estimated bill, when applicable.

21.4(4) *Bill payment terms.* The bill is considered rendered to the customer when deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the bill is considered rendered when delivered to the last-known address of the party responsible for payment. The customer will have a minimum of 20 days between the rendering of a bill and the date by which the account becomes delinquent.

a. Late payment charge. A utility's late payment charge will not exceed 1.5 percent per month of the past due amount.

b. Charge forgiveness. Each account will be granted at least one complete forgiveness of a late payment charge each calendar year. The utility's rules will be definitive that on one monthly bill in each period of eligibility, the utility will accept the net amount of such bill as full payment for such month after expiration of the net payment period. The rules shall state how the customer is notified that the eligibility has been used.

21.4(5) *Customer records.* The utility retains customer billing records for the length of time necessary to permit the utility to comply with subrule 21.4(6), but not less than three years.

21.4(6) *Adjustment of bills.* Bills that are incorrect due to meter or billing errors are to be adjusted as follows:

a. Fast meters. Whenever a meter in service is tested and found to have overregistered more than 2 percent, the utility shall adjust the customer's bill for the excess amount paid. The estimated amount of overcharge is to be based on the period the error first developed or occurred. If that period cannot be definitely determined, it will be assumed that the overregistration existed for a period equal to one-half the time since the meter was last tested, or one-half the time since the meter was installed unless otherwise ordered by the board. If the recalculated bill indicates that more than $5 is due an existing customer, the full amount of the calculated difference between the amount paid and the recalculated amount is to be refunded to the customer. If a refund is due a person no longer a customer of the utility, a notice will be mailed to the last-known address.

b. Nonregistering meters. Whenever a meter in service is found not to register, the utility may render an estimated bill.

c. Slow meters. Whenever a meter is found to be more than 2 percent slow, the utility may bill the customer for the amount the test indicates the customer has been undercharged for the period of inaccuracy, or a period as estimated in paragraph 21.4(6)*"a"* unless otherwise ordered by the board.

d. Overcharges. When a customer has been overcharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the metering installation, or other similar reasons, the amount of the overcharge shall be adjusted, refunded, or credited to the customer. The time period for which the utility is required to adjust, refund, or credit the customer's bill cannot exceed five years unless otherwise ordered by the board.

e. Undercharges. When a customer has been undercharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the metering installation, or other similar reasons, the tariff may provide for billing the amount of the undercharge to the customer. The time period for which the utility may adjust for the undercharge need not exceed five years unless otherwise ordered by the board. The maximum bill will not exceed the billing for like charges (e.g., usage-based, fixed, or service charges) in the 12 months preceding discovery of the error unless otherwise ordered by the board.

21.4(7) *Refusal or disconnection of service.* Service may be refused or discontinued only for the reasons listed in paragraphs 21.4(7)*"a"* through *"f"* below. Unless otherwise stated, the customer is permitted at least 12 days, excluding Sundays and legal holidays, following mailing of notice of disconnect in which to take necessary action before service is discontinued. When a person is refused service, the utility shall notify the person promptly of the reason for the refusal to serve and of the person's right to file a complaint about the utility's decision with the board.

a. Without notice in the event of an emergency.

b. Without notice in the event of tampering with the equipment furnished and owned by the utility or obtaining water by fraudulent means.

c. For violation of or noncompliance with the utility's rules on file with the board.

d. For failure of the customer to permit the utility reasonable access to its equipment.

e. For nonpayment of bill, provided that the utility has: (1) made a reasonable attempt to effect collection; (2) given the customer written notice that the customer has at least 12 days, excluding Sundays and legal holidays, in which to make settlement of the account; and (3) given the customer the written statement of the customer's rights and responsibilities to avoid a shutoff, as required by subrule 21.4(8). In the event there is dispute concerning a bill, the utility may require the customer to pay a sum of money equal to the amount of the undisputed portion of the bill pending settlement and thereby avoid discontinuance of service for nonpayment of the disputed bill for up to 45 days after the rendering of the bill. The 45 days will be extended by up to 60 days if requested of the utility by the board in the event the customer files a written complaint with the board.

f. For failure to pay a debt owed to a city utility, city enterprise, combined city utility, or combined city enterprise for wastewater service or services of sewer systems, storm water drainage systems, or sewage treatment. Disconnection of water service pursuant to this paragraph will only be allowed if the governing body of a city utility, city enterprise, combined city utility, or combined city enterprise has entered into a written agreement with the utility that includes provisions:

(1) Requiring that a notice of disconnection of water service for failure to pay a debt owed to the city utility, city enterprise, combined city utility, or combined city enterprise for wastewater service or services of sewer systems, storm water drainage systems, or sewage treatment be made by the utility and allow the customer 12 days, excluding Sundays and legal holidays, after the mailing of the notice to take necessary action to satisfy the debt.

(2) Providing for prompt notice from the city utility, city enterprise, combined city utility, or combined city enterprise to the utility that the debt for wastewater service or services of sewer systems, storm water drainage systems, or sewage treatment has been satisfied and providing that, once notified of the payment of the debt, the utility shall reconnect water service to the customer as provided for in the utility's tariff.

(3) Requiring the city utility, city enterprise, combined city utility, or combined city enterprise, prior to contacting the utility for disconnection of water service to a customer, to have completed the disconnection notification procedures established in the tariffs or ordinances of the city utility, city enterprise, combined city utility, or combined city enterprise.

(4) Providing that the customer may be charged a fee for disconnection and reconnection of water service by the utility for failure of the customer to pay a debt owed to the city utility, city enterprise, combined city utility, or combined city enterprise for wastewater service or services of sewer systems, storm water drainage systems, or sewage treatment, that the fee be no greater than the rates or charges established for reconnection and disconnection of water service in the utility's tariffs approved by the

board, and that recovery of lost revenue by the utility as a result of disconnection of water service pursuant to this paragraph is not authorized under these rules.

21.4(8) *Statement of customer rights and responsibilities.* In addition to providing the written notice of disconnect required by subrule 21.4(7), a utility, prior to refusing water service due to nonpayment of a bill, will provide the customer a written statement of rights and responsibilities to avoid shutoff. Any utility that does not use the standard form set forth below will electronically submit its proposed form to the board for approval. A utility that is preparing to disconnect water service due to nonpayment of a bill for sanitary sewage disposal service or storm water drainage service will replace the words "water service" in the form below with the words "sanitary sewage disposal service" or "storm water drainage service" as appropriate. The utility shall provide the customer with the written statement of customer rights and responsibilities at the same time it provides the customer the written notice of disconnect.

CUSTOMER RIGHTS AND RESPONSIBILITIES TO AVOID SHUTOFF OF WATER SERVICE FOR NONPAYMENT

1. What can I do if I receive a notice from the utility that says my water service will be shut off because I have a past due bill?

a. Pay the bill in full; or

b. Tell the utility if you think part of the amount shown on the bill is wrong. However, you must still pay the part of the bill you agree you owe the utility (see #2 below).

2. What should I do if I believe my bill is not correct?

You may dispute your utility bill. You must tell the utility that you dispute the bill. You must pay the part of the bill you think is correct. If you do this, the utility will not shut off your service for 45 days from the date the bill was mailed while you and the utility work out the dispute over the part of the bill you think is incorrect. You may ask the Iowa Utilities Board for assistance in resolving the dispute. (See #6 below.)

3. When can the utility shut off my utility service because I have not paid my bill?

The utility will not shut off your service for up to 45 days from the rendering of the bill if you have notified the utility that you dispute a portion of your bill and you pay the part of the bill that you agree is correct. The 45 days will be extended by up to 60 days if requested of the utility by the Utilities Board in the event you file a written complaint with the Utilities Board.

4. How will I be told the utility is going to shut off my service?

You must be given a written notice at least 12 days before the utility service can be shut off for nonpayment. The 12-day period does not include Sundays and legal holidays.

5. If service is shut off, when will it be turned back on?

a. The utility will turn your service back on promptly if you pay the whole amount you owe or, in the event that you dispute a portion of the bill, you pay the portion of the bill that is not under dispute (see #2 above).

b. The utility may charge you a fee to turn your service back on. Those fees may be higher in the evening or on weekends, so you may ask that your service be turned on during normal utility business hours.

6. Is there any other help available besides my utility?

If the utility has not been able to help you with your problem, you may contact the Iowa Utilities Board toll-free at 877-565-4450. You may also write the Iowa Utilities Board at 1375 E. Court Ave., Des Moines, IA 50319-0069, or by email at customer@iub.iowa.gov. Low-income customers may also be eligible for free legal assistance from Iowa Legal Aid, and may contact Legal Aid at 800-532-1275.

21.4(9) *Reconnection and charges.* In all cases of discontinuance of service where the cause of discontinuance has been corrected, the utility will promptly restore service to the customer. The utility may make a reasonable charge applied uniformly for reconnection of service.

21.4(10) *Insufficient reasons for denying service.* The following do not constitute sufficient cause for refusal of service to a present or prospective customer:

a. Delinquency in payment for service by a previous occupant of the premises to be served.

b. Failure to pay the bill of another customer as guarantor thereof.

c. Failure to pay for a different type or class of utility service, except sanitary sewage disposal service or storm water drainage service. Disconnection of water service pursuant to the provisions of paragraph 21.4(7)*"f"* is not considered a different type or class of public utility service for purposes of subrule 21.4(10).

d. Delinquency in payment for service arising more than ten years prior, as measured from the most recent of the last date of service, the physical disconnection of service, or the last payment or promise of payment made by the customer.

21.4(11) *Customer complaints.* A "complaint" means any objection to the charge, facilities, or quality of service of a utility.

a. Each utility investigates promptly and thoroughly and keeps a record of all complaints received from its customers that will enable it to review its procedures and actions. The record is to show the name and address of the complainant, the date and nature of the complaint, and its disposition and the date resolved.

b. All complaints caused by a major service interruption are to be summarized in a single report.

c. A record of the original complaint is to be kept for a period of three years after final settlement of the complaint.

199—21.5(476) Engineering practice for water service.

21.5(1) *Requirement of good engineering practice.* The design and construction of the utility's plant and distribution system will conform to good standard engineering practice.

21.5(2) *Inspection.* Each utility will adopt and follow a program of inspection of its plant and distribution system in order to determine the necessity for replacement and repair. The frequency of the various inspections will be based on the utility's experience and accepted good practice.

199—21.6(476) Meter testing for water service.

21.6(1) *Periodic and routine tests.* Each utility shall adopt schedules approved by the board for periodic and routine tests and repair of the utility's meters.

21.6(2) *Meter test facilities and equipment.* Each utility furnishing metered service will provide the necessary standard facilities, instruments, and other equipment for testing its meters, or contract for test of its meters by another utility or agency equipped to test meters subject to approval by the board.

21.6(3) *Accuracy requirements.* All meters shall be in good mechanical condition and accurate to the following standards:

a. Test flow limits. For determination of minimum test flow and normal test flow limits, the utility will use as a guide the appropriate standard specifications of the American Water Works Association for the various types of meters.

b. Accuracy limits. A meter will not be placed in service if it registers less than 95 percent of the volume passed through it at the minimum test flow, or overregisters or underregisters more than 1.5 percent at the intermediate or maximum limit.

21.6(4) *Initial test and storage of meters.* Every meter will be tested prior to its installation either by the manufacturer, the utility, or an organization equipped for meter testing.

If a meter is not stored as recommended by the manufacturer, the meter will be tested immediately before installation.

21.6(5) *As found tests.* To determine the average meter error in accordance with these rules for periodic or complaint tests, meters will be tested in the condition as found in the customer's service. Tests will be made at intermediate and maximum rates of flow, and the meter error will be the algebraic average of the errors of the two tests.

21.6(6) *Request tests.* A utility will test any meter upon written request of a customer; however, the utility will test any meter upon written request no more than once every 18 months. The customer will be given the opportunity to be present at the request tests.

21.6(7) *Board-ordered tests.* The board shall order tests of meters as follows:

a. Application. Upon written application to the board by a customer or a utility, a test will be made of the customer's meter as soon as practicable.

b. Guarantee. The application will be sent by certified or registered mail and accompanied by a certified check or money order made payable to the utility in the amount indicated below:

(1) Capacity of 80 gallons per minute or less. $24

(2) Capacity over 80 gallons, up to 120 gallons per minute. $26

(3) Capacity of over 120 gallons per minute. $30

c. Conduct of test. On receipt of a request from a customer, the board will forward the deposit to the utility and notify the utility of the requirement for the test. The utility will not knowingly remove or adjust the meter until tested. The utility will furnish all instruments, load devices, and other facilities necessary for the test and will perform the test and furnish verification of the accuracy of test instruments used.

d. Test results. If the tested meter is found to overregister to an extent requiring a refund under the provisions of paragraph 21.4(6)*"a,"* the amount paid to the utility will be returned to the customer by the utility.

e. Notification. The utility will notify the customer in advance of the date and time of the board-ordered test.

f. Utility report. The utility will make a written report of the results of the test and send the report to the customer and board.

21.6(8) *Sealing of meters.* Upon completion of adjustment and test of any water meter, the utility will place a suitable register seal on the meter in a manner that adjustment or registration of the meter cannot be changed without breaking the seal.

21.6(9) *Record of meter tests.* Meter test records shall include:

a. The date and reason for the test.

b. The meter reading prior to any test.

c. The accuracy as found at each of the flow rates required by paragraph 21.6(3)*"a."*

d. The accuracy as left at each of the flow rates required by paragraph 21.6(3)*"a."*

e. Statement of any repairs.

f. If the meter test is made using a standard meter, the utility will retain all data taken at the time of the test sufficient to permit the convenient checking of the test method, calculations, and traceability to the National Bureau of Standards' volumetric standardization.

The test records of each meter will be retained for two consecutive periodic tests or at least for two years. A record of the test made at the time of the meter's retirement, if any, will be retained for a minimum of three years.

199—21.7(476) Standards of quality of water service.

21.7(1) *Water pressures.* Under normal conditions of water usage, the pressure at a customer's service line will be no less than 35 pounds per square inch gauge (PSIG) and no more than 125 PSIG.

At regular intervals, a utility shall make a survey of pressures in its water system. The survey will be of sufficient magnitude to indicate the quality of service being rendered at representative points on its system. The survey will be conducted during periods of high usage at or near the maximum usage during the year. The pressure charts for these surveys will show the date and time of beginning and end of the test and the test location. Records of these pressure surveys will be made available to the board upon request.

21.7(2) *Interruption of water service.*

a. A utility shall make a reasonable effort to prevent interruptions of water service. When an emergency interruption occurs, the utility will reestablish service with the shortest possible delay consistent with the safety of its customers and the general public. If an emergency interruption affects fire protection service, the utility will immediately notify the fire chief or other responsible local official.

b. When a utility finds it necessary to schedule an interruption of water service, it will make a reasonable effort to notify all customers to be affected by the interruption, including the time and anticipated duration of the interruption. Interruptions will be scheduled at hours that create the least inconvenience to the customer.

c. A utility will retain records of interruptions for a period of at least five years.

21.7(3) *Water supply shortage.* The utility will attempt to furnish a continuous and adequate supply of water to its customers and to avoid any shortage or interruption of water delivery.

a. If a utility finds that it is necessary to restrict the use of water due to a shortage, it will equitably apportion its available water supply among its customers. The utility will notify its customers and the board of the following:

(1) The reason for the restriction.

(2) The nature and extent of the restriction.

(3) The effective date of the restriction.

(4) The probable date of termination of the restriction.

b. The water use restriction will only take effect if approved by the board, except in cases of emergency.

199—21.8(476) Applications for water costs for fire protection services.

21.8(1) *Definition.* For purposes of this rule, "water costs for fire protection service" means all or a part of the utility's costs of fire hydrants and other improvements, maintenance, and operations for the purpose of providing adequate water production, storage, and distribution for public fire protection, as reflected in the utility's current tariff for public fire protection water service.

21.8(2) *Utility requirements.* A utility that provides public fire protection water service to a city preparing an application pursuant to subrule 21.8(3) will provide the city all necessary information and affidavits to enable the city to meet its application filing requirements.

21.8(3) *Application contents.* Any city filing an application with the board requesting inclusion of all or a part of the water costs for fire protection service in a utility's rates or charges to customers covered by the city's fire protection service will submit, at the time the application is filed, the following information with supporting testimony:

a. A statement showing (1) the proposed method of allocating costs to affected customers, and (2) both the proposed per-customer rate increase and the average percentage increase by customer class, based on the utility's current tariff, if the costs for fire protection water service are included in rates charged to affected customers;

b. Copies of all bills rendered to the city by the utility for public fire protection water service during the preceding 24-month period;

c. The current number of utility customers served within the city's corporate limits, by customer class, with an affidavit from the utility verifying the information;

d. A map illustrating both (1) the city's corporate limits, and (2) the portion of the utility's customer service area within the city's corporate limits, with an affidavit from the utility verifying the customer service area; and

e. An affidavit from the utility showing that the notice required by Iowa Code section 476.6(14)*"c"* and subrule 21.8(4) has been provided and paid for by the applicant and mailed by the utility to all affected customers.

21.8(4) *Customer notification.*

a. Prior approval. The city will file with the board for its approval, not less than 30 days before providing notification to affected customers, a copy of the proposed notice.

b. Necessary content of notification. The notice will advise affected customers of the proposed increase in rates and charges, the proposed effective date of the increase, and the percentage increase by customer class. The notice will advise customers that the city is requesting the increase and that customers have the right to file with the board a written objection to the proposed increase and to request a public hearing. The notice also will include a written explanation of the reason for the increase.

c. Notice of deficiencies. Within 30 days of the filing of the proposed notice, the city will be notified either of the approval of the notice or of any deficiencies in the notice and the corrective measures required for approval.

d. Distribution. The city shall provide to the utility, for mailing, a sufficient number of copies of the approved notice and direct the utility either to (1) include the notice with the utility's next regularly

scheduled mailing to the affected customers, or (2) make a separate mailing of the notice to affected customers within 30 days of receiving from the city the requisite number of copies of the notice. The city will pay all expenses incurred by the utility in providing notice to affected customers. The utility may require payment prior to the mailing.

e. Delivery. The written notice to affected customers will be mailed or delivered by the utility not more than 90 days before the application is filed and no later than the date the application is filed.

21.8(5) *Procedure.*

a. Docketing. Within 30 days of the applicant filing the application with the board, the board will either approve the application or docket the case as a formal proceeding and establish a procedural schedule.

b. Decision. The board will render its decision within six months of the date of the application. If the application is approved, the board will order the utility providing the water service to the city to file tariffs implementing the board's decision. The utility will include annually a bill insert explaining to customers that the customers are being charged for water-related fire protection costs. The city will pay all costs incurred by the utility to file and implement the required tariff.

199—21.9(476) Incident reports regarding water service.

21.9(1) *Notification.* A water utility shall notify the board about any incident involving:

a. The occurrence of a waterborne illness;

b. The issuance of a boil water advisory;

c. A contamination event;

d. A low-pressure event (less than 20 psi) that negatively affects the quality of water service;

e. A flood event affecting the utility's plant or distribution system; or

f. A cyberattack affecting the well-being of the utility, its customers, or the environment.

21.9(2) *Information required.* The utility shall notify the board immediately, or as soon as practical, of any reportable incident by emailing the duty officer at dutyofficer@iub.iowa.gov or, when email is not available, by calling the board duty officer at 515.745.2332. The person sending the email will leave the telephone number of a person who can provide the following information:

a. The name of the utility, the name and telephone number of the person making the report, and the name and telephone number of a contact person knowledgeable about the incident.

b. The location of the incident.

c. The time of the incident.

d. The number of deaths or personal injuries and the extent of those injuries, if any.

e. The number of services interrupted.

f. A summary of the significant information available to the utility regarding the likely cause of the incident and the estimated extent of damage.

21.9(3) *Normal service restored.* The utility will notify the board when the incident has ended and normal water service has been restored.

199—21.10(476) Separate books for acquired water service assets. A utility acquiring the whole or any substantial part of a water system with a fair market value of $500,000 or more from a non-rate-regulated entity described in Iowa Code section 476.1(3) will maintain separate books and records for the acquired system until the utility's next general rate case unless otherwise ordered by the board.

DIVISION III
SANITARY SEWAGE UTILITIES

199—21.11(476) General sanitary sewage disposal service requirements.

21.11(1) *Sanitary sewage disposal service.*

a. Metered measurement of sanitary sewage. All sanitary sewage disposal service sold by a utility shall be on the basis of metered measurement, except that the utility may at its option, pursuant to board-approved tariffs, provide flat-rate or estimated service for the following:

(1) Temporary service; or

(2) The disposal at the sewage treatment plant of delivered sewage where the amount of sewage can be readily estimated.

b. Sanitary sewage meter requirements. Sanitary sewage disposal service provided by a utility may be based upon the amount of water used by the customer as measured pursuant to rule 199—21.3(476) or separately metered in substantial conformity with the requirements of rule 199—21.3(476). The method of measuring sanitary sewage disposal service will be filed in the utility's tariff and approved by the board. A proposed tariff that includes provisions for separate sanitary sewage meters will describe the circumstances under which separate meters will be used.

c. Customer classes. In establishing customer classes, the utility may consider the characteristics of the sewage generated by that customer class and the existence of any industrial pretreatment agreements. Customer classes are established pursuant to board-approved tariffs.

21.11(2) *Temporary service.* When the utility renders temporary service to a customer, it may require that the customer bear all of the costs of installing and removing the service in excess of any salvage realized pursuant to board-approved tariffs.

21.11(3) *Sewage meter requirements.*

a. Sewage meter installation. Each sanitary sewage utility is to adopt a written standard method or a method preapproved by the board for meter installation, copies of which are available upon request. All meters will be set in place by the utility.

b. Records of sewage meters and associated metering devices. Each sanitary sewage utility shall maintain for each meter and associated metering device the following applicable data:

(1) Meter identification.

1. Manufacturer.
2. Meter type, catalog number, and serial number.
3. Meter capacity.
4. Registration unit of measurement (gallons or cubic feet).
5. Number of moving digits or dials on register.
6. Number of fixed zeros on register.
7. Pressure rating of the meter.

(2) Meter location history.

1. Dates of installation and removal from service.
2. Location of installation.
3. All customer names with readings and read out dates.

Remote register readings are to be maintained identical to readings of the meter register.

c. Registration devices for meters. Where remote meter reading is used, the customer will have a readable meter register at the meter.

d. Sewage meter readings.

(1) Sewage meter reading interval. Reading of all meters used for determining charges to customers will be scheduled at least quarterly. An effort will be made to read meters on corresponding days of each meter reading period. The meter reading date may be advanced or postponed no more than ten days without adjustment of the billing for the period.

(2) Customer sewage meter reading. The utility may permit the customer to supply the meter readings on a form supplied by the utility or, in the alternative, may permit the customer to supply the meter reading information by telephone, or electronically, provided a utility representative reads the meter at least once every 12 months and when there is a change of customer.

(3) Readings and estimates in unusual situations. When a customer is connected or disconnected, or the regular meter reading date is substantially revised causing a given billing period to be longer or shorter than usual, such bills will be prorated on a daily basis.

(4) Estimated bill. An estimated bill may be rendered in the event that access to a meter cannot be gained and a meter reading form left with the customer is not returned in time for the billing operation. Only in unusual cases will more than three consecutive estimated bills be rendered.

21.11(4) *Filing published meter and service installation rules.* A copy of the utility's current rules, if any, published or furnished by the utility for the use of engineers, architects, plumbing contractors, etc., covering meter and service installation will be filed with the board upon request.

21.11(5) *Extensions to customers.*

a. Definitions. The following definitions apply to the terms used in this subrule:

"Advances for construction costs" means cash payments or surety bonds or an equivalent surety made to the utility by an applicant for an extension, portions of which may be refunded depending on any subsequent connections made to the extension. Cash payments, surety bonds, or equivalent sureties include a grossed-up amount for the income tax effect of such revenue.

"Agreed-upon attachment period" means a period of not less than 30 days nor more than one year mutually agreed upon by the utility and the applicant within which the customer will attach. If no time period is mutually agreed upon, the agreed-upon attachment period is deemed to be 30 days.

"Contribution in aid of construction" means a nonrefundable cash payment covering the costs of an extension that are in excess of utility-funded allowances. Cash payments will be grossed-up for the income tax effect of such revenue. The amount of tax is reduced by the present value of the tax benefits to be obtained by depreciating the property in determining the tax liability.

"Customer advance for construction record" means a separate record established and maintained by the utility, which includes by depositor:

1. The amount of advance for construction provided by the customer;
2. Whether the advance is by cash or surety bond or equivalent surety;
3. If by surety bond, all relevant information concerning the bond or equivalent surety;
4. The amount of refund, if any, to which the depositor is entitled;
5. The amount of refund, if any, which has been made to the customer;
6. The amount unrefunded; and
7. The construction project on which or work order pursuant to which the extension was installed.

"Estimated annual revenues" means an estimated calculation of annual revenue based upon the following factors, including but not limited to:

1. The size of the facility to be used by the customer;
2. The size and type of equipment to be used by the customer;
3. The average annual amount of service required by the equipment; and
4. The average number of hours per day and days per year the equipment will be in use.

"Estimated construction cost" means an estimated calculation of construction costs using average costs in accordance with good engineering practices and based upon the following factors:

1. Amount of service required or desired by the customer requesting the extension;
2. Size, location and characteristics of the extension, including all appurtenances; and
3. Whether the ground is frozen or whether other adverse conditions exist.

The average cost per foot is calculated utilizing the prior calendar year costs, to the extent such cost basis does not exceed the current costs using current construction cost methodologies, resources and material, and working conditions, divided by the total feet of extensions by size of pipe for the prior calendar year. In no event will estimated construction costs include costs associated with facilities built for the convenience of the utility.

"Extensions" means a sanitary sewer main extension.

"Similarly situated customer" means a customer whose annual consumption or service requirements, as defined by estimated annual revenue, are approximately the same as the annual consumption or service requirements of other customers.

b. Terms and conditions. The utility shall extend service to new customers under the following terms and conditions:

(1) The utility will provide all sewage treatment plant additions at its cost and expense without requiring an advance for construction or contribution in aid of construction from customers or developers

except in those unusual circumstances where extensive plant additions are required before the customer can be served or where the customer will not attach within the agreed-upon attachment period after completion of construction. In such instances, the utility may require, no more than 30 days prior to commencement of construction, the customer or developer to advance funds that are subject to refund as additional customers are attached. A contract between the utility and the customer that requires an advance by the customer to make plant additions will be available for board inspection.

(2) Where the customer will attach within 30 days after completion of the sewer main extension, the following applies:

1. If the estimated construction cost to provide a sewer main extension is less than or equal to five times the estimated annual revenue calculated on the basis of similarly situated customers, the utility will finance and make the extension without requiring an advance for construction.

2. If the estimated construction cost to provide a sewer main extension is greater than five times the estimated annual revenue calculated on the basis of similarly situated customers, the applicant for such an extension contracts with the utility and deposits no more than 30 days prior to commencement of construction an advance for construction equal to the estimated construction cost less five times the estimated annual revenue to be produced by the customer.

(3) Where the customer will not attach within the agreed-upon attachment period after completion of the sewer main extension, the customer requesting the extension contracts with the utility and deposits no more than 30 days prior to the commencement of construction an advance for construction equal to the estimated construction cost.

(4) Advance payments for plant additions or extensions are subject to refund for a ten-year period and may be made by cash, surety bond, or equivalent surety. In the event a surety bond or an equivalent surety is used, the bonded amount has added to it a surcharge equal to the annual interest rate paid by the utility on customer bill deposits times the bonded amount. The bond will be called by the utility at the end of one year or when the earned refunds are equal to the bonded amount, less the surcharge, whichever occurs first. If, upon termination of the surety bond, there are sufficient earned refunds to offset the amount of the surety bond, less the surcharge, the depositors provide the utility the amount of the surcharge. If, upon termination of the surety bond, there are not sufficient earned refunds to offset the full amount of the surety bond, less the surcharge, the depositors will provide the utility a cash deposit equal to the amount of the surety bond, less refunds accumulated during the bonded period, plus the surcharge, or the depositor may pay the interest on the previous year's bond and rebond the balance due to the utility for a second or third one-year period. Upon receipt of such cash deposit, the utility releases the surety bond. The cash deposit, less the surcharge, will be subject to refund by the utility for the remainder of the ten-year period.

c. Refunds. The utility will refund to the depositor for a period of ten years from the date of the original advance, a pro rata share for each service attachment to the sewer main extension. The pro rata refund will be computed in the following manner:

(1) If the combined total of five times the estimated annual revenue for the depositor and each customer who has attached to the sewer main extension exceeds the total estimated construction cost to provide the extension, the entire amount of the advance provided by the depositor will be refunded to the depositor.

(2) If the combined total of five times the estimated annual revenue for the depositor and each customer who has attached to the sewer main extension is less than the total estimated construction cost to provide the extension, the amount to be refunded to the depositor will equal five times the estimated annual revenue of the customer attaching to the extension.

(3) In no event will the total amount to be refunded to a depositor exceed the amount of the advance for construction made by the depositor. Any amounts subject to refund will be paid by the utility without interest. At the expiration of the above-described ten-year period, the customer advance for construction record will be closed and the remaining balance be credited to the respective plant account.

d. Extensions not required. Utilities do not need to make extensions as described in subrule 21.11(5) unless the extension will be of a permanent nature.

e. More favorable methods permitted. A utility may make a contract with a customer in a different manner, if the contract provides a more favorable method of extension to the customer, so long as no discrimination is practiced among customers or depositors.

f. Connections to utility-owned equipment. An individual, partnership, or company may construct its own extension; however, it will meet, at a minimum, the applicable portions of the standards in rule 199—21.13(476) and such other reasonable standards as the utility may employ in constructing extensions, so long as the standards do not mandate a particular supplier. All connections to the utility-owned equipment or facilities are to be made by the utility at the applicant's expense. At the time of attachment to the utility-owned equipment or facilities, the applicant will transfer ownership of the extension to the utility and the utility will book the original cost of construction of the extension as an advance for construction, and make refunds to the applicant in accordance with paragraph 21.11(5)*"c."* The utility will be responsible for the operation and maintenance of the extension after attachment.

g. Reimbursement of extension construction cost. If the utility requires the applicant to construct the extension to meet service requirements greater than those necessary to serve the applicant's service needs, the utility shall reimburse the applicant for the difference in cost between the extension specifications required by the utility and the extension specifications necessary to meet the applicant's service needs.

21.11(6) *Sanitary sewer service connections.* The utility will supervise the installation and maintenance of that portion of the sanitary sewer service line from the main to and including the customer's meter or, if the customer does not have a separate meter for sanitary sewage disposal service, to the point where the sanitary sewage line exits the customer's residence or building.

21.11(7) *Location of meters.* Meters may be installed outside or inside as mutually agreed upon by the customer and utility.

a. Outside meters. Meters installed out-of-doors are to be readily accessible for maintenance and reading, and, so far as practicable, the location should be mutually acceptable to the customer and the utility. The meter is to be installed so as to be unaffected by climatic conditions and reasonably secure from injury.

b. Inside meters. Meters installed inside the customer's building are to be located as near as possible to the point where the service pipe enters the building and at a point reasonably secure from injury and readily accessible for reading and testing. In cases of multiple buildings, such as two-family dwellings or apartment buildings, the meter(s) will be located within the premises served or in a common location accessible to the customers and the utility.

199—21.12(476) Customer relations for sanitary sewage disposal service.

21.12(1) *Customer information.*

a. Each utility shall:

(1) Post a notice in a conspicuous place in each office of the utility where applications for service are received, informing the public that copies of the rates and rules relating to the service of the utility are available for public inspection.

(2) Maintain up-to-date maps, plans, or records of its entire system.

(3) Upon request, assist the customer or prospective customers in selecting the most economic rate schedule available for the proposed type of service.

(4) Upon request, inform the customer as to the method of reading meters and the method of computing the customer's bill.

(5) Notify customers affected by a change in rates or rate classification as directed in the board's rules.

b. Inquiries for information or complaints to a utility are to be resolved promptly and courteously. Employees who receive customer telephone calls and office visits are to be qualified and trained in screening and resolving complaints to avoid a preliminary recitation of the entire complaint to employees without ability and authority to act. The employee will provide identification to the customer, which will enable the customer to reach that employee again if needed.

c. Each utility shall notify its customers, by bill insert or notice on the bill form, of the address and telephone number where a utility representative qualified to assist in resolving the complaint can be reached. The utility will also include the following statement: "If (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board by calling 877-565-4450; by writing to 1375 E. Court Ave., Des Moines, IA 50319-0069; or by email to customer@iub.iowa.gov."

d. Any utility that does not use the standard form contained herein will file its proposed form in its tariff for approval. A utility that bills by postcard may place an advertisement in a local newspaper of general circulation or a customer newsletter instead of a mailing, as long as the advertisement is of a type size that is easily legible and conspicuous and contains the information set forth above.

21.12(2) *Customer deposits.*

a. Deposit required. Each utility may require from any customer or prospective customer a deposit intended to guarantee payment of bills for service.

b. Amount of deposit. The total deposit will not be less than $5 nor more in amount than the maximum estimated charge for service for 90 days or as may reasonably be required by the utility in cases involving service for short periods or special occasions.

c. New or additional deposit. A new or additional deposit may be required from a customer when a deposit has been refunded or is found to be inadequate. Written notice is to be mailed advising the customer of any new or additional deposit requirement. The customer will have no less than 12 days from the date of mailing to comply. The utility does not need to provide written notice of a deposit required as a prerequisite for commencing initial service.

d. Customer's deposit receipt. The utility will issue a receipt of deposit to each customer from whom a deposit is received.

e. Interest on customer deposits. Interest will be paid by the utility to each customer required to make a deposit. Utilities will compute interest on customer deposits at 7.5 percent per annum, compounded annually. Interest for prior periods will be computed at the rate specified by the rule in effect for the period in question. Interest will be paid for the period beginning with the date of deposit to the date of refund or to the date that the deposit is applied to the customer's account, or to the date the customer's bill becomes permanently delinquent. The date of refund is that date on which the refund or the notice of deposit refund is forwarded to the customer's last-known address. The date a customer's bill becomes permanently delinquent is the most recent date the account is treated as uncollectible.

f. Deposit refund. The deposit shall be refunded after 12 consecutive months of prompt payment unless the utility has evidence to indicate that the deposit is necessary to ensure payment of bills for service. In any event, the deposit will be refunded upon termination of the customer's service.

g. Unclaimed deposits. The utility will make a reasonable effort to return each unclaimed deposit and accrued interest after the termination of the services for which the deposit was made. The utility will maintain a record of deposit information for at least two years or until such time as the deposit, together with accrued interest, escheats to the state pursuant to Iowa Code section 556.4, at which time the record and deposit, together with accrued interest, less any lawful deductions, will be sent to the state treasurer pursuant to Iowa Code section 556.13.

21.12(3) *Customer bill forms.* The utility will bill each customer as promptly as possible following the reading of the customer's meter. Each bill, including the customer's receipt, shows:

a. The date and the reading of the meter at the beginning and at the end of the period or the period for which the bill is rendered.

b. The number of units metered, when applicable.

c. Identification of the applicable rates.

d. The gross and net amounts of the bill.

e. The late payment charge and the latest date on which the bill may be paid without incurring a penalty.

f. A distinct marking to identify an estimated bill, when applicable.

21.12(4) *Bill payment terms.* The bill is considered rendered to the customer when deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the bill is considered rendered when delivered to the last-known address of the party responsible for payment. The customer will have

a minimum of 20 days between the rendering of a bill and the date by which the account becomes delinquent.

a. Late payment charge. A utility's late payment charge will not exceed 1.5 percent per month of the past due amount.

b. Charge forgiveness. Each account will be granted at least one complete forgiveness of a late payment charge each calendar year. The utility's rules will be definitive that on one monthly bill in each period of eligibility, the utility will accept the net amount of such bill as full payment for such month after expiration of the net payment period. The rules shall state how the customer is notified that the eligibility has been used.

21.12(5) *Customer records.* The utility retains customer billing records for the length of time necessary to permit the utility to comply with subrule 21.12(6), but not less than three years.

21.12(6) *Adjustment of bills.* Bills that are incorrect due to meter or billing errors are to be adjusted as follows:

a. Fast meters. Whenever a meter in service is tested and found to have overregistered more than 2 percent, the utility shall adjust the customer's bill for the excess amount paid. The estimated amount of overcharge is to be based on the period the error first developed or occurred. If that period cannot be definitely determined, it will be assumed that the overregistration existed for a period equal to one-half the time since the meter was last tested, or one-half the time since the meter was installed unless otherwise ordered by the board. If the recalculated bill indicates that more than $5 is due an existing customer, the full amount of the calculated difference between the amount paid and the recalculated amount is to be refunded to the customer. If a refund is due a person no longer a customer of the utility, a notice will be mailed to the last-known address.

b. Nonregistering meters. Whenever a meter in service is found not to register, the utility may render an estimated bill.

c. Slow meters. Whenever a meter is found to be more than 2 percent slow, the utility may bill the customer for the amount the test indicates the customer has been undercharged for the period of inaccuracy, or a period as estimated in paragraph 21.12(6)*"a"* unless otherwise ordered by the board.

d. Overcharges. When a customer has been overcharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the metering installation, or other similar reasons, the amount of the overcharge shall be adjusted, refunded, or credited to the customer. The time period for which the utility is required to adjust, refund, or credit the customer's bill cannot exceed five years unless otherwise ordered by the board.

e. Undercharges. When a customer has been undercharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the metering installation, or other similar reasons, the tariff may provide for billing the amount of the undercharge to the customer. The time period for which the utility may adjust for the undercharge need not exceed five years unless otherwise ordered by the board. The maximum bill will not exceed the billing for like charges (e.g., usage-based, fixed, or service charges) in the 12 months preceding discovery of the error unless otherwise ordered by the board.

21.12(7) *Refusal of service.* Service may be refused only for the reasons listed in paragraphs 21.12(7)*"a"* through *"e"* below. Unless otherwise stated, the customer is permitted at least 12 days, excluding Sundays and legal holidays, following mailing of notice of refusal in which to take necessary action before service is refused. When a person is refused service, the utility shall notify the person promptly of the reason for the refusal to serve and of the person's right to file a complaint about the utility's decision with the board. Refusal of service shall be pursuant to tariffs approved by the board.

a. Without notice in the event of an emergency.

b. Without notice in the event of tampering with the equipment furnished and owned by the utility or obtaining service by fraudulent means.

c. For violation of or noncompliance with the utility's rules on file with the board.

d. For failure of the customer to permit the utility reasonable access to its equipment.

e. For nonpayment of bill.

21.12(8) *Method of refusing service.* A utility may refuse sanitary sewage disposal service to a residential customer by disconnecting water service or by arranging for the disconnection of water service pursuant to an agreement with the entity providing water service. Except in the event of an emergency or with prior written authorization from the board, a utility shall not refuse sanitary sewage disposal service to a residential customer by physically disconnecting the customer's sanitary sewage service connection.

21.12(9) *Reconnection and charges.* In all cases of discontinuance of sanitary sewage disposal service where the cause of discontinuance has been corrected, the utility will promptly restore service to the customer. The utility may make a reasonable charge applied uniformly for reconnection of service.

21.12(10) *Insufficient reasons for denying service.* The following does not constitute sufficient cause for refusal of service to a present or prospective customer:

a. Delinquency in payment for service by a previous occupant of the premises to be served.

b. Failure to pay the bill of another customer as guarantor thereof.

c. Failure to pay for a different type or class of utility service.

d. Delinquency in payment for service arising more than ten years prior, as measured from the most recent of the last date of service, the physical disconnection of service, or the last payment or promise of payment made by the customer.

21.12(11) *Customer complaints.* A "complaint" means any objection to the charge, facilities, or quality of service of a utility.

a. Each utility will investigate promptly and thoroughly and keep a record of all complaints received from its customers that will enable the utility to review its procedures and actions. The record is to show the name and address of the complainant, the date and nature of the complaint, and the complaint's disposition and the date resolved.

b. All complaints caused by a major service interruption are to be summarized in a single report.

c. A record of the original complaint is to be kept for a period of three years after final settlement of the complaint.

199—21.13(476) Engineering practice for sanitary sewage disposal service.

21.13(1) *Requirement of good engineering practice.* The design and construction of the utility's plant and collection system will conform to good standard engineering practice.

21.13(2) *Inspection.* Each utility adopts and follows a program of inspection of its plant and collection system in order to determine the necessity for replacement and repair. The frequency of the various inspections is to be based on the utility's experience and accepted good practice.

199—21.14(476) Meter testing for sanitary sewage disposal service. If a utility uses separate meters to measure the volume of sewage disposal, the separate meters will be tested in substantial conformity with the requirements of rule 199—21.6(476).

199—21.15(476) Standards of quality of sanitary sewage disposal service.

21.15(1) *Operation and maintenance.* The utility shall maintain and operate any sewage treatment facility with adequate capacity and equipment to convey all sewage to the plant and to treat the sewage to the quality required by all applicable laws and regulations.

21.15(2) *Design and construction.* The design and construction of the utility's collection system, treatment facility, and all additions and modifications are to conform to the requirements prescribed by law.

21.15(3) *Reasonable efforts to prevent.* The utility will make reasonable efforts to eliminate or prevent the entry of surface water or groundwater into its sanitary sewage system or the unlawful release of untreated sanitary sewage. The utility may request assistance from any appropriate state, county, or municipal authorities, but such a request does not relieve the utility of its responsibility to make reasonable efforts to eliminate or prevent the entry of surface water or groundwater and to contain sewage. The utility will notify the board when it requests assistance from other state or local agencies.

21.15(4) *Bypass and upset.* The utility will comply with the bypass and upset provisions of rule 567—63.6(455B).

21.15(5) *Interruption of sanitary sewage disposal service.*

a. A utility shall make a reasonable effort to prevent interruptions of sanitary sewage service. When an emergency interruption occurs, the utility is to reestablish service with the shortest possible delay consistent with the safety of its customers and the general public.

b. When a utility finds it necessary to schedule an interruption of service, the utility shall make a reasonable effort to notify all customers to be affected by the interruption. The notice is to include the time and anticipated duration of the interruption. Interruptions are to be scheduled at hours that create the least inconvenience to the customer. The utility shall notify the board when sanitary sewage service is interrupted. Except for emergencies, a utility is not to interrupt sanitary sewage disposal service unless water service has been disconnected at least 24 hours prior.

c. A utility shall retain records of interruptions for a period of at least five years.

21.15(6) *Separate class.* Sanitary sewage service is considered a separate class of service for ratemaking purposes.

199—21.16(476) Incident reports regarding sanitary sewage disposal service.

21.16(1) *Notification.* A sanitary sewage utility shall notify the board about any incident involving:

a. An unlawful or uncontained release of sewage into the environment;

b. A flood event affecting the utility's plant or collection system;

c. A cyberattack affecting the well-being of the utility, its customers, or the environment; or

d. Any event that causes serious adverse impact on the health of people or the environment or interrupts service to the customer.

21.16(2) *Information required.* The utility shall notify the board immediately, or as soon as practical, of any reportable incident by emailing the duty officer at dutyofficer@iub.iowa.gov or, when email is not available, by calling the board duty officer at 515.745.2332. The person sending the email will leave the telephone number of a person who can provide the following information:

a. The name of the utility, the name and telephone number of the person making the report, and the name and telephone number of a contact person knowledgeable about the incident.

b. The location of the incident.

c. The time of the incident.

d. The number of deaths or personal injuries and the extent of those injuries, if any.

e. The number of services interrupted.

f. A summary of the significant information available to the utility regarding the likely cause of the incident and the estimated extent of damage.

21.16(3) *Normal service restored.* The utility will notify the board when the incident has ended and normal sanitary sewage service has been restored.

199—21.17(476) Separate books for acquired sanitary sewage disposal service assets. A utility acquiring the whole or any substantial part of a sanitary sewage system with a fair market value of $500,000 or more from a non-rate-regulated entity described in Iowa Code section 476.1(3) will maintain separate books and records for the acquired system until the utility's next general rate case unless otherwise ordered by the board.

DIVISION IV
STORM WATER DRAINAGE UTILITIES

199—21.18(476) Standards of quality of storm water drainage service.

21.18(1) *Design and maintenance.* Systems for storm water drainage by piped collection shall be designed and maintained in conformance with good engineering practices. Such systems will be designed and maintained so as to minimize flooding and ponding outside of areas designed to retain storm water and to reasonably provide for the drainage of normally anticipated rainfall events.

21.18(2) *Inspection.* Storm water drainage systems shall be inspected on a routine basis to identify and correct the blockage or obstruction of intake structures. The frequency of such inspections is to be based upon the utility's experience and be pursuant to tariffs approved by the board.

21.18(3) *Connections.* Utilities providing piped storm water drainage control the installation and maintenance of the piped connection up to and including all storm water intakes. Connections are to be adequate to receive all storm water drainage from properties upgradient of the storm water drainage connection unless other upgradient connections are provided. Connections are to be pursuant to tariffs approved by the board.

21.18(4) *Rates.* Rates for storm water drainage service provided by a utility may be based upon the acreage drained, or by some other method pursuant to tariffs approved by the board.

21.18(5) *Separate class.* Storm water drainage service is considered a separate class of service for ratemaking purposes.

199—21.19(476) Customer relations for storm water drainage service.

21.19(1) *Customer information.*

a. Each utility shall:

(1) Post a notice in a conspicuous place in each office of the utility where applications for service are received, informing the public that copies of the rates and rules relating to the service of the utility are available for public inspection.

(2) Maintain up-to-date maps, plans, or records of its entire storm water drainage system.

(3) Upon request, assist the customer or prospective customers in selecting the most economic rate schedule available for the proposed type of service.

(4) Upon request, inform the customer as to the method of computing the customer's bill.

(5) Notify customers affected by a change in rates or rate classification as directed in the board rules of practice and procedures.

b. Inquiries for information or complaints to a utility are to be resolved promptly and courteously. Employees who receive customer telephone calls and office visits are to be qualified and trained in screening and resolving complaints, to avoid a preliminary recitation of the entire complaint to employees without ability and authority to act. The employee will provide identification to the customer, which will enable the customer to reach that employee again if needed.

c. Each utility shall notify its customers, by bill insert or notice on the bill form, of the address and telephone number where a utility representative qualified to assist in resolving the complaint can be reached. The utility will also include the following statement: "If (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board by calling 877-565-4450; by writing to 1375 E. Court Ave., Des Moines, IA 50319-0069; or by email to customer@iub.iowa.gov." This information will be provided no less than annually.

d. Any utility that does not use the standard form contained herein will file its proposed form in its tariff for approval. A utility that bills by postcard may place an advertisement in a local newspaper of general circulation or a customer newsletter instead of a mailing, as long as the advertisement is of a type size that is easily legible and conspicuous and contains the information set forth above.

21.19(2) *Customer deposits.*

a. Deposit required. Each utility may require from any customer or prospective customer a deposit intended to guarantee payment of bills for service.

b. Amount of deposit. The total deposit shall not be less than $5 nor more in amount than the maximum estimated charge for service for 90 days or as may reasonably be required by the utility in cases involving service for short periods or special occasions.

c. New or additional deposit. A new or additional deposit may be required from a customer when a deposit has been refunded or is found to be inadequate. Written notice is to be mailed advising the customer of any new or additional deposit requirement. The customer will have no less than 12 days from the date of mailing to comply. The utility does not need to provide written notice of a deposit required as a prerequisite for commencing initial service.

d. Customer's deposit receipt. The utility will issue a receipt of deposit to each customer from whom a deposit is received.

e. Interest on customer deposits. Interest will be paid by the utility to each customer required to make a deposit. Utilities are to compute interest on customer deposits at 7.5 percent per annum, compounded annually. Interest for prior periods will be computed at the rate specified by the rule in effect for the period in question. Interest is to be paid for the period beginning with the date of deposit to the date of refund or to the date that the deposit is applied to the customer's account, or to the date the customer's bill becomes permanently delinquent. The date of refund is that date on which the refund or the notice of deposit refund is forwarded to the customer's last-known address. The date a customer's bill becomes permanently delinquent is the most recent date the account is treated as uncollectible.

f. Deposit refund. The deposit shall be refunded after 12 consecutive months of prompt payment unless the utility has evidence to indicate that the deposit is necessary to ensure payment of bills for service. In any event, the deposit will be refunded upon termination of the customer's service.

g. Unclaimed deposits. The utility will make a reasonable effort to return each unclaimed deposit and accrued interest after the termination of the services for which the deposit was made. The utility will maintain a record of deposit information for at least two years or until such time as the deposit, together with accrued interest, escheats to the state pursuant to Iowa Code section 556.4, at which time the record and deposit, together with accrued interest, less any lawful deductions, will be sent to the state treasurer pursuant to Iowa Code section 556.13.

199—21.20(476) Incident reports regarding storm water drainage service.

21.20(1) *Notification.* A utility shall notify the board about any incident involving:

a. A non-storm water discharge from the storm water drainage system;

b. A flood event affecting the storm water drainage system;

c. A cyberattack affecting the well-being of the utility, its customers, or the environment; or

d. Any event that causes serious adverse impact on the health of people or the environment or interrupts service to the customer.

21.20(2) *Information required.* The utility shall notify the board immediately, or as soon as practical, of any reportable incident by emailing the duty officer at dutyofficer@iub.iowa.gov or, when email is not available, by calling the board duty officer at 515.745.2332. The person sending the email will leave the telephone number of a person who can provide the following information:

a. The name of the utility, the name and telephone number of the person making the report, and the name and telephone number of a contact person knowledgeable about the incident.

b. The location of the incident.

c. The time of the incident.

d. The number of deaths or personal injuries and the extent of those injuries, if any.

e. The number of services interrupted.

f. A summary of the significant information available to the utility regarding the likely cause of the incident and the estimated extent of damage.

21.20(3) *Normal service restored.* The utility will notify the board when the incident has ended and normal storm water drainage service has been restored.

199—21.21(476) Separate books for acquired storm water drainage service assets. A utility acquiring the whole or any substantial part of a storm water drainage system with a fair market value of $500,000 or more from a non-rate-regulated entity described in Iowa Code section 476.1(3) will maintain separate books and records for the acquired system until the utility's next general rate case unless otherwise ordered by the board.

These rules are intended to implement Iowa Code sections 17A.3, 474.5, 476.1, 476.2, 476.6(18), and 476.8.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 199—Chapter 25
"Iowa Electrical Safety Code"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 476.1, 476.1B, 476.2, 476A.12, 478.19, and 478.20

State or federal law(s) implemented by the rulemaking: Iowa Code sections 476.1, 476.1B, 476.2, 476A.12, 478.19, and 478.20

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

April 23, 2024 2 p.m.	Board Hearing Room 1375 East Court Avenue Des Moines, Iowa

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by the Utilities Board no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

IT Support
Des Moines, Iowa 50319
Phone: 515.725.7300
Email: ITsupport@iub.iowa.gov

Purpose and Summary

Chapter 25 promotes safe and adequate service to the public, provides standards for uniform and reasonable practices by utilities, and establishes a basis for determining the reasonableness of such demands as may be made by the public upon the utilities.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

- Classes of persons that will bear the costs of the proposed rulemaking:

Because the proposed chapter provides standards that are necessary for safe and adequate service and standards for practices of utilities, the costs are paid for by public utilities.

- Classes of persons that will benefit from the proposed rulemaking:

All persons benefit from the improved safety of the electrical lines and the service that is provided through adequate and proper methods of working on the electrical lines.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

There are some additional costs to the utilities since the utilities must meet these proposed safety standards when working on electrical lines and must report certain incidents to the Board.

- Qualitative description of impact:

These safety and service standards, along with the reporting requirements, are helping to ensure adequate service of electricity throughout Iowa while keeping people safe with the prevalence of

electrical lines throughout the state. Additionally, the reporting requirements help the Board keep track and review incidents that occur to help prevent future incidents.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

There are no additional costs to any agency other than the normal costs of operation for inspections that are part of Board review procedures.

- Anticipated effect on state revenues:

There is no anticipated effect on state revenues.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

Having specific standards that are approved by the industry as a whole helps Iowa have a safer and more easily understood electrical system. Having electric and communication utilities following these proposed rules provides standards for how to behave, while inaction would leave these utilities to inspect and determine what level of safety is necessary depending on the specific location. This could lead to inconsistent standards throughout the state in regard to different utilities and locations since the company could have different staff determining what methods to use.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The provision of minimum standards for land restoration along with the option for individualized plans between landowners and the utilities is the least intrusive method since it still allows individual decision when desired, while the minimum standards provide the least costly method of meeting the desired goal of the rule.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

The alternative method considered by the Board was to fully adopt and accept the National Electrical Safety Code rules as written.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

The National Electrical Safety Code is a general-purpose code designed to cover basic provisions for safety relating to electric transmission. More specific rules were needed in specific areas to ensure Iowans are properly protected from potential hazards, and some additional rules were required in regard to the more specific issues with electrical transmission in Iowa.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

There is no anticipated impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 199—Chapter 25 and adopt the following **new** chapter in lieu thereof:

CHAPTER 25
IOWA ELECTRICAL SAFETY CODE

199—25.1(476,476A,478) General information.

25.1(1) *Authority.* The standards relating to electric and communication facilities in this chapter are prescribed by the Iowa utilities board pursuant to Iowa Code sections 476.1, 476.1B, 476.2, 476A.12, 478.19, and 478.20.

25.1(2) *Purpose.* The purpose of this chapter is to promote safe and adequate service to the public, to provide standards for uniform and reasonable practices by utilities, and to establish a basis for determining the reasonableness of such demands as may be made by the public upon the utilities. The rules apply to electric and communication utility facilities located in the state of Iowa and supersede all conflicting rules of any such utility. In no way does this rule relieve any utility from any of its duties under the laws of this state.

25.1(3) *Definition of utility.* For the purpose of this chapter, a utility is any owner or operator of electric or communications facilities subject to the safety jurisdiction of the board.

199—25.2(476,476A,478) Iowa electrical safety code defined. The standard minimum requirements for the installation and maintenance of electric substations, generating stations, and overhead and underground electric supply or communications lines adopted below, collectively constitute the "Iowa Electrical Safety Code."

25.2(1) *National Electrical Safety Code.* The American National Standards Institute (ANSI) C2-2023, "National Electrical Safety Code" (NESC), including issued Correction Sheets, is adopted as part of the Iowa electrical safety code, except Part 4, "Rules for Operation of Electric Supply and Communications Lines and Equipment," which is not adopted by the board.

25.2(2) *Modifications and qualifications to the NESC.* The standards set forth in the NESC are modified or qualified as follows:

a. Introduction to the National Electrical Safety Code. NESC 013A2 is modified to read as follows: "Types of construction and methods of installation other than those specified in the rules may be used experimentally to obtain information, if done where:

"1. Qualified supervision is provided,

"2. Equivalent safety is provided,

"3. On joint-use facilities, all joint users are notified in a timely manner, and

"4. Prior approval is obtained from the Iowa utilities board."

b. Minimum clearances.

(1) In any instance where minimum clearances are provided in Iowa Code chapter 478 that are greater than otherwise required by these rules, the statutory clearances prevail.

(2) The following clearances apply to all lines regardless of date of construction: NESC 232, vertical clearances for "Water areas not suitable for sailboating or where sailboating is prohibited," "Water areas suitable for sailboating . . .," and "Established boat ramps and associated rigging areas . . ."; and NESC 234E, "Clearance of Wires, Conductors, Cables or Unguarded Rigid Live Parts Installed Over or Near Swimming Areas With No Wind Displacement."

(3) Table 232-1, Footnote 21, is changed to read: "Where the U.S. Army Corps of Engineers or the state, or a surrogate thereof, issues a crossing permit, the clearances of that permit govern if equal to or greater than those required herein. Where the permit clearances are less than those required herein and water surface use restrictions on vessel heights are enforced, the permit clearances may be used."

(4) Except for clearances near grain bins, for measurements made under field conditions, the board will consider compliance with the overhead vertical line clearance requirements of Subsection 232 and Table 232-1 of the 1987 NESC indicative of compliance with the 1990 through 2017 editions of the NESC. (For an explanation of the differences between 1987 and subsequent code edition clearances, see Appendix A of the 1990 through 2017 editions of the NESC.)

c. Reserved.

d. Rule 217C1 is changed to read:

"The ground end of at least one guy per anchor shall be provided with a substantial marker not less than eight feet long. The guy marker shall be of a conspicuous color such as yellow, orange, or red. Noncomplying guy markers shall be replaced as part of the utility's inspection and maintenance plan."

e. There is added to Rule 381G:

(3) Pad-mounted and other aboveground equipment not located within a fenced or otherwise protected area shall have affixed to its outside access door or cover a prominent "Warning" or other appropriate sign of highly visible color, warning of hazardous voltage and including the name of the utility. This rule applies to all signs placed or replaced after June 18, 2003.

f. There is added to the first paragraph of Rule 110A1, after the sentence stating, "Entrances not under observation of an authorized attendant shall be kept locked," the following sentences: Entrances may be unlocked while authorized personnel are inside. However, if unlocked, the entrance gate must be fully closed, and latched or fastened if there is a gate-latching mechanism.

g. Lines crossing railroad tracks will comply with the additional requirements of rule 199—42.6(476), "Engineering standards for electric and communications lines."

25.2(3) *Grain bins.*

a. Electric utilities shall conduct or participate in annual public information campaigns to inform farmers, farm lenders, grain bin merchants, and city and county zoning officials of the hazards of and standards for construction of grain bins near power lines.

b. An electric utility may refuse to provide electric service to any grain bin built near an existing electric line that does not provide the clearances required by the American National Standards Institute (ANSI) C2-2023 "National Electrical Safety Code," Rule 234F. This paragraph applies only to grain bins loaded by portable augers, conveyors or elevators and built after September 9, 1992, or to grain bins loaded by permanently installed augers, conveyors, or elevator systems installed after December 24, 1997.

25.2(4) *General rules.*

a. Joint-use construction. Where it is mutually agreeable between an electric utility and a communication or cable television company, communication circuits or cables may be buried in the same trench or attached to the same supporting structure, provided this joint use is permitted by, and is constructed in compliance with, the Iowa electrical safety code.

b. Lines. In order to limit the residual currents and voltages arising from line unbalances, the resistance, inductance, capacitance and leakage conductance of each phase conductor of an electric supply circuit in any section shall be as nearly equal as practical to the corresponding quantities in the other phase conductors in the same section.

The ampacity of a multigrounded neutral conductor of an electric supply circuit shall be adequate for the load that it carries. The ampacity of a multigrounded neutral conductor of an electric supply circuit shall not be less than 60 percent of that of any phase conductor with which it is associated, except for three phase four wire wye circuits where it shall have ampacity not less than 50 percent of that of any associated phase conductor. In no case shall the resistance of a multigrounded neutral conductor exceed 3.6 ohms per mile. (This does not modify the mechanical strength requirements for conductors.) A multigrounded conductor installed and utilized primarily for lightning shielding of the associated phase conductors need not comply with the above percentage ampacity requirements for neutral conductors.

Where the neutral conductor of the electric supply circuit is not multigrounded or in an inductive exposure involving communication or signal circuits and equipment where the controlling frequencies

are 360 Hertz or lower, any neutral conductor shall have the same ampacity as the phase conductors with which it is associated.

25.2(5) *Other references adopted.*

a. The "National Electrical Code," ANSI/NFPA 70-2023, is adopted as a standard of accepted good practice for customer-owned electrical facilities beyond the utility point of delivery, except for installations subject to the provisions of the state fire marshal standards in rule 661—504.1(103).

b. "The Lineman's and Cableman's Handbook," Fourteenth Edition; Shoemaker, Thomas M. and Mack, James E.; New York, McGraw-Hill Book Co., is adopted as a recommended guideline to implement the "National Electrical Safety Code" or "National Electrical Code," and for developing the inspection and maintenance plans required by rule 199—25.3(476,478).

199—25.3(476,478) Inspection and maintenance plans.

25.3(1) *Filing of plan.* Each electric utility shall adopt and file with the board a written plan for inspecting and maintaining its electric supply lines and substations (excluding generating stations) in order to determine the necessity for replacement, maintenance, and repair and for tree trimming or other vegetation management. If the plan is amended or altered, revised copies of the appropriate plan pages shall be filed.

25.3(2) *Annual report.* Each investor-owned, rate-regulated utility shall include as part of its annual report to the board, as required by 199—Chapter 23, certification of compliance with each area of the inspection and maintenance plan required by subrule 25.3(1) or a detailed statement on areas of noncompliance.

25.3(3) *Contents of plan.* The inspection plan includes the following elements:

a. General. A listing of all counties or parts of counties in which the utility has electric supply lines in Iowa. If the utility has district or regional offices responsible for implementation of a portion of the plan, the addresses of those offices and a description of the territory for which they are responsible shall also be included.

b. Inspection of lines, poles, and substations.

(1) Inspection schedules. The plan shall contain a schedule for the periodic inspection of the various units of the utility's electric plant. The period between inspections shall be based on accepted good practice in the industry, but for lines and substations shall not exceed ten years for any given line or piece of equipment. Lines operated at 34.5 kV or above shall be inspected at least annually for damage and to determine the condition of the overhead line insulators.

(2) Inspection coverage. The plan shall provide for the inspection of all supply line and substation units within the adopted inspection periods and shall include a complete listing of all categories of items to be checked during an inspection.

(3) Conduct of inspections. Inspections shall be conducted in a manner conducive to the identification of safety, maintenance, and reliability concerns or needs.

(4) Instructions to inspectors. Copies of instructions or guide materials used by utility inspectors in determining whether a facility is in acceptable condition or in need of corrective action or further investigation.

c. Tree trimming or vegetation management plan.

(1) Schedule. The plan shall contain a schedule for periodic tree trimming or other measures to control vegetation growth under or along the various units of the utility's electric plant. The period between inspections shall be based on accepted good practice in the industry and may vary depending on the nature of the vegetation at different locations, not exceeding five years between inspections.

(2) Procedures. The plan shall include written procedures for vegetation management. The procedures shall promote the safety and reliability of electric lines and facilities. Where tree trimming is employed, practices shall be adopted that will protect the health of the tree and reduce undesirable regrowth patterns.

d. Pole inspections. Pole inspections shall periodically include an examination of the poles that includes tests in addition to visual inspection in appropriate circumstances. These additional tests may include sounding, boring, groundline exposure, and, if applicable, pole treatment.

25.3(4) *Records.* Each utility shall keep sufficient records to demonstrate compliance with its inspection and vegetation management plans. For each inspection unit, the records of line and substation inspections and pole inspections shall include the inspection date(s), the findings of the inspection, and the disposition or scheduling of repairs or maintenance found necessary during the inspection. For each inspection unit, the records of vegetation management shall include the date(s) during which the work was conducted. The records shall be kept until two years after the next periodic inspection or vegetation management action in the inspection and maintenance plan cycle is completed or until all necessary repairs and maintenance are completed, whichever is longer.

25.3(5) *Guidelines.* Applicable portions of Rural Utilities Service (RUS) Bulletins 1730-1, 1730B-121, and 1724E-300 and "The Lineman's and Cableman's Handbook" are suggested as guidelines for the development and implementation of an inspection plan. ANSI A300 (Part 1)-2008 (R2014), "Pruning," and Section 35 of "The Lineman's and Cableman's Handbook" are suggested as guides for tree trimming practices.

199—25.4(476,478) Correction of problems found during inspections and pole attachment procedures.

25.4(1) Corrective action shall be taken within a reasonable period of time on all potentially hazardous conditions, instances of safety code noncompliance, maintenance needs, potential threats to safety and reliability, or other concerns identified during inspections. Hazardous conditions shall be corrected promptly. In addition to the general requirements stated in this subrule, pole attachments shall comply with the specific requirements and procedures established in subrule 25.4(2).

25.4(2) To ensure the safety of pole attachments to poles owned by utilities in Iowa, this subrule establishes requirements for attaching electric lines, communications lines, cable systems, video service lines, data lines, wireless antennae and other wireless facilities, or similar lines and facilities that are attached to the excess space on poles owned by utilities.

a. Definitions. The following definitions apply to this rule.

"Pole" means any pole owned by a utility that carries electric lines, communications lines, cable systems, video service lines, data service lines, wireless antennae or other wireless facilities, or similar lines and facilities.

"Pole attachment" means any electric line, communication circuit, cable system, video service line, data service line, antenna and other associated wireless equipment, or similar lines and facilities attached to a pole or other supporting structure subject to the safety jurisdiction of the board pursuant to the Iowa electrical safety code, rule 199—25.2(476,476A,478).

"Pole occupant" means any electric utility, telecommunications carrier, cable system provider, video service provider, data service provider, wireless service provider, or similar person or entity that constructs, operates, or maintains pole attachments as defined in this chapter.

"Pole owner" means a utility that owns poles subject to the safety jurisdiction of the board pursuant to the Iowa electrical safety code, rule 199—25.2(476,476A,478).

b. Compliance with Iowa electrical safety code. Pole attachments to poles shall be constructed, installed, operated, and maintained in compliance with the Iowa electrical safety code, rule 199—25.2(476,476A,478), and the requirements and procedures established in this subrule.

c. Requests for access to poles; exceptions for service drops and overlashing.

(1) A pole owner shall provide nondiscriminatory access to poles it owns, to the extent required by federal or state law. Requests for access to poles by an electric utility, telecommunications carrier, cable system operator, video service provider, data service provider, wireless service provider, or similar person or entity shall be made in writing or by any method as may be agreed upon by the pole owner and the person or entity requesting access to the pole. If access is denied, the pole owner shall explain in detail the specific reason for denial and how the denial relates to reasons of lack of capacity, safety, reliability, or engineering standards.

(2) Service drops are not subject to the notice and approval requirements in subparagraph 25.4(2)*"c"*(1). Instead, pole occupants shall provide notice to pole owners within 30 days of the

installation of a new service drop unless the pole occupant and pole owner have negotiated a different notification requirement.

(3) Overlashing of existing lines is not subject to the notice and approval requirements in subparagraph 25.4(2)*"c"*(1). Pole occupants shall provide notice to pole owners of proposed overlashing at least seven days prior to installation of the overlashing unless the pole occupant and pole owner have negotiated a different notification requirement.

d. Notification of violation. A pole owner shall notify in writing a pole occupant of an alleged violation of the Iowa electrical safety code by a pole attachment owned by the pole occupant or may provide notice by another method as may be agreed upon by the parties to a pole attachment agreement. The notice shall include the address and pole location where the alleged violation occurred, a description of the alleged violation, and suggested corrective action.

e. Corrective action.

(1) Upon receipt of notification from a pole owner that the pole occupant has one or more pole attachments in violation of the Iowa electrical safety code, the pole occupant shall respond to the pole owner within 60 days in writing or by another method as may be agreed upon by the pole occupant and the pole owner. The response will provide a plan for corrective action, state that the violation has been corrected, indicate that the pole attachment is owned by a different pole occupant, or indicate that the pole occupant disputes that a violation has occurred. The violation shall be corrected within 180 days of the date notification is received unless good cause is shown for any delay in taking corrective action. A disagreement that a violation has occurred, a claim that correction is not possible within the specific time frames due to events beyond the control of the pole occupant, or a claim that a different pole occupant is responsible for the alleged violation will be considered good cause to extend the time for taking corrective action. The pole occupant and pole owner may also agree to an extension of the time for taking corrective action. The pole owner and pole occupant shall cooperate in determining the cause of a violation and an efficient and cost-effective method of correcting a violation.

(2) If the violation could reasonably be expected to endanger life or property, the pole occupant shall take the necessary action to correct, disconnect, or isolate the problem immediately upon notification. If immediate corrective action is not taken by the pole occupant for a violation that could reasonably be expected to endanger life or property, the pole owner may take the necessary corrective action and the pole occupant shall reimburse the pole owner for the actual cost of any corrective measures. If the pole owner is later determined to have caused the violation and the pole occupant has taken corrective action, the pole owner shall reimburse the pole occupant for the actual cost of the corrective action. Disputes concerning the ownership of the pole attachment should be resolved as quickly as possible.

f. Negotiated resolution of disputes. Parties to disputes over alleged violations of the Iowa electrical safety code, the cause of a violation, the pole occupant responsible for the violation, the cost-effective corrective action, or any other dispute regarding the provisions of subrule 25.4(2) shall attempt to resolve disputes through good-faith negotiations. Parties may file an informal complaint with the board pursuant to 199—Chapter 6 as part of negotiations.

g. Complaints. Complaints concerning the requirements or procedures established in subrule 25.4(2), including alleged violations of the Iowa electrical safety code, may be filed with the board by pole owners or pole occupants pursuant to the complaint procedures in 199—Chapter 6.

h. Civil penalties. Persons found to have violated the provisions of subrule 25.4(2) may be subject to civil penalties pursuant to Iowa Code section 476.51 or to other action by the board.

199—25.5(476,478) Accident reports. This rule applies to all owners or operators of electrical facilities subject to the safety jurisdiction of the board under this chapter.

25.5(1) All owners and operators of electrical facilities subject to the safety jurisdiction of the board shall provide the board with a 24-hour contact number where the board can obtain immediate access to a person knowledgeable about any incidents involving contact with energized electrical facilities.

25.5(2) All owners and operators of electrical facilities subject to the safety jurisdiction of the board shall notify the board of any incident or accident involving contact with energized electrical facilities that meets the following conditions:

a. An employee or other person coming in contact with energized electrical facilities that results in death or personal injury necessitating in-patient hospitalization.

b. Estimated property damage of $15,000 or more to the property of the utility and others.

c. Any other incident considered significant by the company.

d. Any incident leading to an electrical line being taken out of service.

25.5(3) The board shall be notified immediately, or as soon as practical thereafter, by email to the board duty officer at dutyofficer@iub.iowa.gov or, if email service is not available, by calling 515.745.2332. The person contacting the board shall leave a telephone number of a person who can provide the following information:

a. The name of the company, the name and telephone number of the person making the report, and the name and telephone number of a contact person knowledgeable about the incident.

b. The location of the incident.

c. The time of the incident.

d. The number of deaths or personal injuries requiring in-patient hospitalization and the extent of those injuries.

e. Initial estimate of damages.

f. A summary of the significant information available regarding the probable cause of the incident and extent of damages.

g. Any oral or written report made to a federal agency, the agency receiving the report, and the name and telephone number of the person who made or prepared the report.

25.5(4) Written incident reports. Within 30 days of the date of the incident, the owner or operator shall file a written report with the board. The report will include the information required for notice in subrule 25.5(3), the probable cause as determined by the company, the number and cause of any deaths or personal injuries requiring in-patient hospitalization, and a detailed description of property damage and the amount of monetary damages. If significant additional information becomes available at a later date, a supplemental report shall be filed. Duplicate copies of any written reports filed with or submitted to a federal agency concerning the incident shall also be provided to the board.

These rules are intended to implement Iowa Code chapter 478.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 199—Chapter 41
"Ratemaking Principles Proceeding"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A.3, 476.53, and 476.84
State or federal law(s) implemented by the rulemaking: Iowa Code sections 476.53 and 476.84

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

April 24, 2024 9 a.m.	Board Hearing Room 1375 East Court Avenue Des Moines, Iowa
April 30, 2024 9 a.m.	Board Hearing Room 1375 East Court Avenue Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Utilities Board no later than 4:30 p.m. April 30 on the date of the public hearing. Comments should be directed to:

Michael Eppink
1375 East Court Avenue
Des Moines, Iowa 50319
Email: michael.eppink@iub.iowa

Purpose and Summary

The purpose of proposed Chapter 41 is to execute Iowa Code sections 476.53 and 476.84 by providing a procedure for utility companies to request advanced ratemaking principles for electric power generating facilities, alternate energy production facilities, water facilities, sanitary sewer facilities, and storm water facilities.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

- Classes of persons that will bear the costs of the proposed rulemaking:

Utility companies bear the cost of complying with Chapter 41.

- Classes of persons that will benefit from the proposed rulemaking:

Utility companies benefit from the chapter.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

Chapter 41 sets out standardized and defined filing requirements for utilities to adhere to when requesting advanced ratemaking principles.

- Qualitative description of impact:

The qualitative impact of Chapter 41 is entwined with the impact of Iowa Code sections 476.52 and 476.84. Iowa Code sections 476.52 and 476.84 and 199—Chapter 41, collectively, permit and encourage the development and maintenance of critical infrastructure within the state of Iowa.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

Chapter 41 imposes no costs on the Board that are outside of the normal operations of the agency.

- Anticipated effect on state revenues:

There is no anticipated effect on state revenues.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

Chapter 41 provides standardized filing requirements for utilities wishing to obtain advanced ratemaking principles. Standard filing requirements benefit utilities by making the regulatory process more predictable and fair. Were there no standardized requirements, utilities may be subject to different requirements at different times and one utility could be subject to different standards than another utility.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The Board has determined that there is no less intrusive method to achieve the purpose of Chapter 41.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

Since Iowa Code sections 476.52 and 476.84 compel the Board to consider requests for advanced ratemaking principles, no serious alternatives to standardized filing requirements were identified.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

No serious alternatives could be identified.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

Chapter 41 does not have an impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 199—Chapter 41 and adopt the following **new** chapter in lieu thereof:

CHAPTER 41
RATEMAKING PRINCIPLES PROCEEDING

199—41.1(476) Definitions. The following terms, when used in these rules, shall have the meanings set forth in Iowa Code sections 476.42 and 476.72: "affiliate," "alternate energy production facility," and "control."

In addition, as used in this chapter, the following definitions shall apply:

"AFUDC" means allowance for funds used during construction.

"Baseload generation" refers to generating units designed for normal operation to serve all or part of the minimum load of the system on an around-the-clock basis. These units are operated to maximize system mechanical and thermal efficiency and minimize system operating costs.

"Combined-cycle combustion turbine" means an electric generating technology in which the efficiency of electric generation is increased by using otherwise lost waste heat exiting from one or more combustion turbines. The exiting heat is routed to a boiler or to a heat recovery steam generator for utilization by a steam turbine in the production of electricity.

"Emission allowance" means an authorization, allocated by the federal Environmental Protection Agency under the Acid Rain Program, to emit up to one ton of sulfur dioxide during or after a specified calendar year.

"Facility" means a facility for which advance ratemaking principles may be sought pursuant to Iowa Code section 476.53(3)*"a."* The term includes energy storage systems located at the site of an alternate energy production facility.

"kWh" means kilowatt-hour.

"Opportunity sales" means sales of electricity from a particular facility at market price after all contracted and firm transactions have been met.

"Repowering" means either the complete dismantling and replacement of generation equipment at an existing project site or the installation of new parts and equipment to an existing alternate energy production facility in order to increase energy production, reduce load, increase service capacity, improve project reliability, or extend the useful life of the facility.

199—41.2(476) Applicability and purpose.

41.2(1) Rules 199—41.3(476) and 199—41.4(476) apply to any rate-regulated public electric utility proposing to build or lease in Iowa, either in whole or in part, a new baseload generating facility with a nameplate generating capacity equal to or greater than 300 megawatts, a new combined-cycle combustion turbine of any size, a new or repowered alternate energy production facility of any size, or any combination of the above, and desiring predetermination of ratemaking principles to be used in establishing the retail cost recovery of such a facility. These rules set the initial filing requirements in a ratemaking principles proceeding depending on the specific circumstances of a filing.

41.2(2) Rule 199—41.5(476) applies to any rate-regulated public utility acquiring a water, sanitary sewage, or storm water system with a fair market value of $500,000 or more from a non-rate-regulated entity described in Iowa Code section 476.1(3).

199—41.3(476) Application for predetermined ratemaking principles; contents. Each person or group of persons proposing to construct, repower, or lease a facility and desiring predetermination of ratemaking principles for costing that facility shall file an application with the board. An application may be for one facility or a combination of facilities necessary to meet the current and future needs of the utility. An application for ratemaking principles must demonstrate that the utility has considered other sources for long-term electric supply and that the facility or lease is reasonable when compared to other feasible alternative sources of supply. At a minimum, an application shall substantially comply with the following informational requirements to the extent such information is reasonably available. Any omission of required information on the basis that it is not reasonably available shall be adequately

justified by the applicant. The board will consider such omissions on a case-by-case basis and may require the applicant to provide additional information.

41.3(1) *General information.* An application shall include the following general information:

a. The purpose of the proposed facility.

b. A complete description of the current and proposed rights of ownership in the proposed facility and current or planned purchased power contracts with respect to the proposed facility.

c. For a baseload electric power generating facility with a nameplate generating capacity equal to or greater than 300 megawatts, a combined-cycle electric power generating facility, or repowering of a facility, a general site description, including a legal description of the site; a map showing the coordinates of the site and its location with respect to state, county, and other political subdivisions; and prominent features, such as cities, lakes, rivers, and parks within the site impact area. For an alternative energy production facility, to the extent feasible, a general site description, including a description of the site location or locations; map(s) showing the coordinates of the site(s) and location(s) with respect to state, county, and other political subdivisions; and prominent features, such as cities, lakes, rivers, and parks within the site impact area(s).

d. A general description of the proposed facility, including a description of the expected principal characteristics of the facility such as the capacity of the proposed facility in megawatts expressed by the contract maximum generator megawatt rating, the expected net facility addition to the system in megawatts by net to the busbar rating, and the portion of the design capacity, in megawatts, of the proposed facility that is proposed to be available for use by each participant; the expected number and type of generating units; the primary fuel source for each such unit; the total hours of operation anticipated seasonally and annually and output during these hours; the expected capacity factors; a description of the expected general arrangement of major structures and equipment to provide the board with an understanding of the general layout of the facility; and a projected schedule for the facility's construction and utilization, including the projected date when a significant site alteration is proposed to begin and the projected in-service date of the facility. For this purpose, a group of several similar generating units operated together at the same location such that segregated records of energy output are not available are considered a single unit.

e. A general description of the raw materials, including fuel, used by the proposed facility in producing electricity and of the wastes created in the production process; a determination of the annual expected emissions from the facility; a plan for acquiring allowances sufficient to offset these emissions; a description of all transportation facilities currently operating that will be available to serve the proposed facility; and any additional transportation facilities needed to deliver raw materials and to remove wastes.

f. An identification, general description, and chronology of all material financial and other contractual commitments undertaken or planned to be undertaken with respect to the proposed facility.

g. A general map and description of the primary transportation corridors and the approximate routing of the rights-of-way in the vicinity of the settled areas, parks, recreational areas, and scenic areas.

h. A general analysis of the existing transmission system's capability to reliably support the proposed additional generation interconnection to the system. In the alternative, the applicant may provide testimony that (1) the applicant will follow the interconnection requirements of the local and regional transmission authorities; (2) the applicant is committed to meeting the pertinent transmission requirements with respect to the proposed facility; and (3) the applicant assures the board that the interconnection of the proposed facility will not degrade the adequacy, reliability, or operating flexibility of the transmission system from a regional or local perspective.

i. Identification of the general contractor for the proposed facility and the method by which the general contractor was selected. If a general contractor has not yet been selected, the utility will identify the process by which the general contractor will be selected and the anticipated timeline for selecting a general contractor.

j. Identification of the plant operator for the proposed facility and the method by which the plant operator was selected. If a plant operator has not yet been selected, the utility will identify the process by which a plant operator will be selected and the anticipated timeline for selecting a plant operator.

41.3(2) *Economic evaluation of proposed facility.* An application shall include an overall economic evaluation of the proposed facility using conventional capital evaluation techniques and the proposed ratemaking principles. The economic evaluation shall include:

a. Material assumptions used in the analysis.

b. Net present value calculations. This includes projected annual and total net present value calculations of projected revenue requirements and capital costs over the expected life of the proposed facility. If a traditional revenue requirement analysis does not account for revenue-sharing arrangements, riders, or other mechanisms that impact Iowa retail customer bills, the utility will also provide projected annual and total net present value calculations that show the impact on amounts that will actually be paid by Iowa retail customers accounting for such mechanisms. To the extent the utility has projected revenue deficiencies within the period of analysis, the utility will also provide the estimated effect the proposed facility will have on these calculations. In making these calculations, the utility will detail the following cost assumptions:

(1) Installed cost. This includes an itemized statement of the estimated total costs to construct the proposed facility. Such estimated costs include but are not limited to the estimated cost of all electric power generating units; all electric supply lines within the proposed facility site boundary; all electric supply lines beyond the proposed facility site boundary with a voltage of 69 kilovolts or higher used for transmitting power from the proposed facility to the point of junction with the distribution system or with the interconnected primary transmission system; all appurtenant or miscellaneous structures used and useful in connection with the proposed facility or any part thereof; all rights-of-way, lands, or interest in lands the use and occupancy of which are necessary or appropriate in the maintenance or operation of said facility; engineering and development; sales taxes; and AFUDC (if applicable). The estimated costs of all electric power generating units shall include all estimated costs of transmission and gas interconnection (if applicable). Estimated facility costs shall be expressed in absolute terms and in dollars per kilowatt. The absolute and per-kilowatt estimated construction costs shall be adjusted by the expected rate of inflation from the time the estimated construction costs are calculated to the time the proposed facility is scheduled for operation.

(2) Fixed expenses. For each year of the proposed facility's expected life from the time of application to the end of the proposed facility's expected life, the utility will include projected expense factors for fixed operation and maintenance costs; property, income, and other taxes; and straight-line and tax depreciation rights.

(3) Variable expenses. For each year of the proposed facility's expected life from the scheduled time of operation to the end of the proposed facility's expected life, the utility will include expected variable operation and maintenance costs, including the cost of fuel and emission allowances. These expected costs will be reported in absolute terms and on a kWh basis, assuming expected annual capacity factors for the proposed facility.

c. Cost of capital. This includes projected costs of capital for the proposed facility for each year of the proposed facility's expected life from the time of application to the end of the proposed facility's expected life. The utility will provide material assumptions used in the projections, including but not limited to capital structure, cost of preferred stock, cost of debt, and cost of equity.

d. Cash flows. This includes the estimated maximum, minimum and expected cash inflows and outflows associated with the proposed facility in each year from the date of the application throughout the proposed facility's expected life.

41.3(3) *Risk mitigation factors.* At a minimum, the utility will include in an application the following information regarding contractual risk mitigation factors:

a. Construction risk mitigation factors. This includes a general description of the contractual standards that the general contractor, if not the utility, must comply with to mitigate construction risks, including but not limited to cost overruns, labor shortages, failure to meet deadlines, and the need for replacement power if operational deadlines are not met. If the facility will be leased by the utility, the utility will identify the above factors for both the lessor and the general contractor constructing the facility. The general description shall include all remedies, financial and otherwise, available to the utility for noncompliance with the construction standards and schedules.

b. Operational risk mitigation factors. This includes a general description of the contractual standards that the general contractor or the plant operator, if not the utility, must comply with to mitigate operational risks of the facility, including but not limited to low-availability factor and higher-than-expected operation and maintenance costs. The general description shall include a list of all contractual inspections the general contractor must meet before the utility leases or takes ownership of the facility and all remedies, financial and otherwise, available to the utility for noncompliance with the operating standards. If the utility leases the facility from an affiliate, the lease shall contain specific performance standards that the affiliate must meet to avoid financial consequences.

41.3(4) *Noncost factors.* This includes a comparison of the proposed facility with other feasible sources of supply related to the following noncost factors:

a. Economic impact to the state and community where the facility is proposed to be located, including job creation, taxes, and use of state resources.

b. Environmental impact to the state and community where the facility is proposed to be located.

c. Electric supply reliability and security in the state.

d. Fuel diversity and use of nontraditional supply sources, such as alternate energy and conservation.

e. Efficiency and control technologies.

41.3(5) *Filing requirements for proposed ratemaking principles.* Each ratemaking principle proposed shall be supported as described in this subrule. Proposed ratemaking principles not envisioned by these rules shall be supported by sufficient evidence to justify the use of such principles in costing the facility for regulated retail rate recovery.

a. Cost of equity. Proposals for establishing the cost of equity shall be supported with analyses that demonstrate the reasonableness of the proposed equity rate for the proposed facility. If sufficient information is available, the analyses shall include a comparison with similar facilities built in the region in recent years.

b. Depreciable life. Proposals for establishing the depreciable life of the facility shall be supported by board precedent for the depreciable lives of similar facilities, the manufacturer's opinion of depreciable life, the applicant's general depreciation study or analysis, or an engineering study of the depreciable life of the type of facility proposed.

c. Jurisdictional allocations. Proposals for allocating the cost or output of the proposed facility among jurisdictions shall be supported by jurisdictional allocation studies or recent board-ordered or board-approved allocations for the applicant.

41.3(6) *Additional application requirements for leasing arrangements.* The following additional information shall be filed when a utility is proposing an arrangement in which the utility leases a facility from an affiliate or an independent third party:

a. Identification of the method used in selecting the affiliate or independent third party to build the facility (competitive solicitation, sole source, etc.).

b. A copy of the lease agreement.

c. A detailed description of the lease agreement, including but not limited to the following:

(1) Commitment of capacity from the proposed facility to the utility under the lease agreement.

(2) Description of the final disposition of the leased facility at the end of the lease arrangement, including any options available to the utility and the terms of those options.

(3) Identification of the party responsible for operating, dispatching, and maintaining the facility.

(4) Identification of the party responsible for the cost of capital improvements, renewals and replacements, environmental compliance, taxes, and all other future costs associated with the facility.

(5) Identification of the party responsible for contracting capacity from the proposed facility.

(6) Identification of the party benefiting from revenues received through contracted capacity and opportunity sales.

d. If the lessor is an affiliate, a detailed description of the affiliate, including the affiliate's corporate structure and the utility's ownership stake in the affiliate, if any.

e. If the lessor is an affiliate, identification of utility assets transferred to the affiliate for use by the proposed facility and the cost at which those assets were transferred.

f. If the lessor is an affiliate, identification of any financial benefits and cost savings, including any tax advantages, accruing to the utility from leasing an affiliate-owned facility versus building a facility itself.

199—41.4(476) Coincident filing. The utility may file its application for ratemaking principles, as required by this chapter, coincident with the utility's application for a certificate of public convenience, use, and necessity under 199—Chapter 24. Identical information required by both chapters need only be included once in a joint principles and certification application.

199—41.5(476) Acquisition of a water, sanitary sewage, or storm water utility. A rate-regulated public utility proposing to acquire, in whole or in part, a water, sanitary sewage, or storm water system with a fair market value of $500,000 or more from a non-rate-regulated entity described in Iowa Code section 476.1(3) shall file an application for approval of the acquisition with the board. If the acquisition is approved, ratemaking principles that will apply when the costs of the acquisition are included in regulated rates will be determined as part of the board's review of the application. At a minimum, an application made under this rule shall substantially comply with the following informational requirements, to the extent such information is reasonably available. Any omission of required information on the basis that it is not reasonably available shall be adequately justified by the applicant. The board will consider such omissions on a case-by-case basis and may require the applicant to provide additional information.

41.5(1) *General information.* An application shall include the following general information:

a. A general description of the system to be acquired, including the total number of customers, a description of the general arrangement of major structures and equipment, maps of the system, and a general description of the scope of the system.

b. The identification and general description of all material capital investments and operating expenses associated with the proposed acquisition anticipated within five years of the date of the acquisition.

c. A proposed procedural schedule that, at a minimum, provides proposed dates for direct testimony, rebuttal testimony, and a hearing for cross-examination of all testimony. The proposed schedule should generally comply with the board's procedural rules in 199—Chapter 7.

41.5(2) *Acquisition information.* An application shall include the following information related to the acquisition:

a. The final reports of both appraisals prepared pursuant to Iowa Code section 388.2A(2)*"a"*(2).

b. Final fair market value of the system as identified in Iowa Code section 388.2A(2)*"b."*

c. The final price for the system as negotiated pursuant to Iowa Code section 388.2A(2)*"c."*

d. An inventory of the acquired system's real and personal property as identified in Iowa Code section 388.2A(2)*"d."*

e. A financial information sheet prepared pursuant to Iowa Code section 388.2A(2)*"e."*

f. An affirmation that the acquiring utility and the acquired system have complied with the applicable components of Iowa Code section 388.2A.

g. The proposed acquisition contract.

41.5(3) *Impact of acquisition.* An application shall include the following information related to the acquired system and its potential impact on the acquiring utility:

a. If the acquired system is not in compliance with applicable local, state, or federal standards, estimates of the approximate cost and time required to put the system in compliance with such standards.

b. A description of anticipated capital investments and retirements for the acquired system, including estimated dollar amounts, for each of the first five years after the acquisition.

c. Any anticipated staffing changes due to the proposed acquisition.

d. A description of the proposed accounting to be utilized in any transfer of assets necessary to accomplish the acquisition.

e. A description of the anticipated effects of the acquisition, including a cost-benefit analysis that describes the projected benefits and costs of the acquisition, quantified in terms of present value and identifying the sources of such benefits and costs.

f. An analysis of the projected financial impact of the acquisition on the ratepayers of each of the affected utilities for each of the first five years after the acquisition.

g. Historical and projected fixed expenses for the acquired system, including expense factors for fixed operation and maintenance costs.

h. Historical and projected variable expenses for the acquired system, including expected variable operation and maintenance costs.

i. The estimated maximum, minimum, and expected cash inflows and outflows for the acquired system.

j. A description of the financing components of the acquisition and an analysis of the impacts on the acquiring utility's ability to attract capital on reasonable terms and to maintain a reasonable capital structure.

41.5(4) *Ratemaking principles.* Each ratemaking principle proposed shall be supported as described in this subrule. Proposed ratemaking principles not envisioned by these rules shall be supported by sufficient information to justify the use of such principles.

a. Cost of equity. The utility shall file financial models demonstrating the proposed equity rate or range of equity rates necessary to attract equity capital for the proposed acquisition. The financial analysis shall include a risk assessment of the proposed acquisition, including a comparison with similar acquisitions.

b. Ratepayer allocations. Proposals for allocating the cost of the acquired system and anticipated improvements to customers of the acquired system and the utility's existing customers shall include information showing that the proposed allocation will result in rates that are just and reasonable for both groups of customers.

c. Initial depreciable value. Proposals for establishing the value of the acquired system to be used as the initial gross asset balance for depreciation shall be supported by the lesser of the sale price or the fair market value of the system as determined consistent with Iowa Code section 388.2A(2)*"b."* The utility shall also provide the accumulated depreciation balances for the assets.

d. Depreciable life. Proposals for establishing rates that will be used to depreciate the acquired system shall be supported by a depreciation study or by depreciation rates applied in the utility's last general rate case.

41.5(5) *At-risk systems.* An application shall state whether the system to be acquired is an at-risk system as defined by Iowa Code section 455B.199D. If the board determines that an application to acquire an at-risk system does not contain sufficient information consistent with this rule to render a timely decision, the board may reject the application without prejudice.

These rules are intended to implement Iowa Code sections 476.53 and 476.84.

ARC 7746C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice of Intended Action

Proposing rulemaking related to Iowa energy center grant program and providing an opportunity for public comment

The Iowa Energy Center Board (Board) hereby proposes to rescind Chapter 404, "Iowa Energy Center Grant Program," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 15.120.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 15.120.

Purpose and Summary

Pursuant to Executive Order 10 (January 10, 2023), the Board proposes to rescind Chapter 404 relating to the Iowa Energy Center grant program and adopt a new chapter in lieu thereof. The new chapter would eliminate language that is duplicative of statutory language. Additionally, the following changes from the existing chapter are proposed:

- Rule 261—404.1(15) would be updated to eliminate unnecessary definitions and to be more concise.
- Rule 261—404.2(15) would be updated to be more concise. Additionally, paragraph 404.3(6)"d" would be updated so that private asset development is an eligible project. Such projects would be subject to limitations imposed by the rewritten paragraph (which excludes projects that entail improvements to existing buildings) and changes to rule 261—404.4(15).
- Rule 261—404.3(15) would be updated for clarity.
- Rule 261—404.4(15) would be updated to be more concise and to address equipment purchases.
- Rule 261—404.5(15) would be updated to allow for use of application websites other than iowagrants.gov and to correct the Iowa Economic Development Authority's website. The review criteria would be updated to reflect evaluation of project sustainability in addition to dissemination of project results. The updated rule will no longer mandate a preapplication process. The updated rule would also eliminate the necessity for the Board to deny or defer applications that are not approved for awards.
- Rule 261—404.6(15) would be updated to be more concise and to increase the minimum dollar amount for disbursement requests from $500 to $1,000.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on April 29, 2024. Comments should be directed to:

Lisa Connell
Iowa Economic Development Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Phone: 515.348.6163
Email: lisa.connell@iowaeda.com

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

April 23, 2024 11:30 to 11:45 a.m.	1963 Bell Avenue Des Moines, Iowa Registration information for online participation may be found at www.iowaeda.com/red-tape-review
April 29, 2024 2 to 2:15 p.m.	1963 Bell Avenue Des Moines, Iowa Registration information for online participation may be found at www.iowaeda.com/red-tape-review

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 261—Chapter 404 and adopt the following **new** chapter in lieu thereof:

CHAPTER 404
IOWA ENERGY CENTER GRANT PROGRAM

261—404.1(15) Definitions.

"Activity" means one or more specific activities, projects or programs associated with Iowa energy center grant funds.

"Authority" means the economic development authority created in Iowa Code section 15.105.

"Board" means the governing board of the Iowa energy center established pursuant to Iowa Code section 15.120(2).

"Co-investigator" means a person who shares the responsibility of conducting grant activities with the principal investigator of a project.

"Funding announcement" means a publicly available document that contains the official information for a grant, including the application deadline, goals of the activity, eligibility, reporting, availability of funds and instructions on applying for the grant.

"Iowa energy center" or *"IEC"* means the Iowa energy center established by Iowa Code section 15.120.

"Principal investigator" means a person with the primary responsibility for conducting research.

"Recipient" means an organization that was awarded an Iowa energy center grant.

"Subrecipient" means an organization contracting with and receiving funds from a recipient to carry out IEC grant activities.

261—404.2(15) Eligibility.

404.2(1) Eligible applicants are identified in Iowa Code section 15.120(3)*"a."*

404.2(2) Any eligible applicant may submit an application that includes one or more subrecipients. The board may limit the amount of an award that a subrecipient can receive.

404.2(3) Any eligible applicant may apply individually or jointly with another eligible applicant or other eligible applicants.

404.2(4) A principal investigator will be allowed to submit one application per funding announcement. An applicant who has submitted an application as the principal investigator for a funding announcement may also be named as a co-investigator on one additional application submitted for the same funding announcement.

404.2(5) Requirements for IEC grant awards include but are not limited to the following:

a. Applicants shall demonstrate a benefit for ratepayers.

b. Applicants shall demonstrate that they are eligible candidates.

c. Applicants shall demonstrate the capacity for grants administration.

d. Applicants who have previously received Iowa energy center awards shall have demonstrated acceptable past performance, including the timely expenditure of funds.

e. Applicants shall demonstrate the feasibility of completing the proposed activities with the funds requested.

f. Applicants shall identify and describe any other sources of funding for the proposed activities.

404.2(6) The following types of projects are ineligible:

a. Relocation of a business.

b. Expansion of a business.

c. Funding for existing training programs.

d. Improvements to existing buildings, including energy efficiency or energy generation projects.

e. Pipeline, transmission line, and distribution line construction.

f. First generation ethanol.

g. Cellulosic ethanol.

261—404.3(15) Funding and award terms.

404.3(1) For each fiscal year that funds are available, the board will determine the amount of funds available to be awarded as grants in that fiscal year.

404.3(2) If any funds are allocated to a specific grant activity but are not awarded after a funding cycle, the board may reallocate those funds to a different grant activity.

404.3(3) The board may reallocate any recaptured funds to a different grant activity.

404.3(4) The maximum grant award is $1 million per application. The minimum grant award is $10,000 per application.

404.3(5) The initial duration of a grant agreement will be no longer than three years. However, a recipient may apply for a no-cost extension of an agreement. If the approval of a no-cost extension would cause the duration of the grant agreement to exceed five years, the no-cost extension will not be granted.

261—404.4(15) Project budget.

404.4(1) Only expenditures directly related to the implementation of the funded grant activity will be reimbursed. Vehicle and equipment purchases are eligible only when the purchase is an integral part of the funded grant activity and must be approved by the board at the time the award is made.

404.4(2) Ineligible expenses include but are not limited to:

a. Purchase or rental of buildings.

b. Office equipment.

c. Furniture and fixtures.

d. Intangible assets.

e. International travel.

f. Insurance.

g. Phone expenses.

404.4(3) Other budget requirements include the following:

a. Indirect costs shall not exceed more than 20 percent of a grant award.

b. IEC grant funds shall not be used as cost share to a federal grant award.

c. Vehicle and equipment purchases or other expenses relating to vehicles or equipment are not eligible if the purchase or expense supports the proposed grant activity but is not an integral part of the proposed grant activity. If a vehicle or equipment purchase is an integral part of a grant activity but a recipient fails to obtain board approval prior to the purchase, then the purchase is ineligible.

261—404.5(15) Application process and review.

404.5(1) The board will issue funding announcements for grant applications at least once per fiscal year, provided funds are available.

404.5(2) Application forms will be available at iowagrants.gov or other website as identified by the authority.

404.5(3) Applications will only be accepted during the established application period, as identified at www.iowaeda.com.

404.5(4) Review criteria may include but are not limited to:

a. The proposed project demonstrates a need for further research, development, training or pilot projects.

b. The proposed project provides a benefit to ratepayers.

c. The application has a well-developed budget that is relevant to the project and that provides documentation of planned project expenses.

d. The application describes a plan for the dissemination of project results or to sustain the project after the grant period ends.

404.5(5) The authority may require applicants to submit a preapplication to determine eligibility and competitiveness for the program.

404.5(6) The authority will review applications for completeness, eligibility, and technical and financial merit. The authority may engage an outside technical review panel to complete technical review of applications. The authority will prepare recommendations for the grant committee. The grant committee will review staff recommendations, score applications, and make recommendations to the board. Upon review of the recommendations of the grant committee, the board may approve grant awards.

261—404.6(15) Administration.

404.6(1) *Notice of approval and agreement execution.* The authority will notify successful applicants in writing of an approved request for funding. After notifying the recipient of an award, the authority will prepare an agreement that reflects the terms of the award. The recipient must execute and return the agreement to the authority within 60 days of the transmittal of the final agreement from the authority. Failure to do so may be cause for the board to terminate the award.

404.6(2) *Disbursement of funds.* Recipients shall submit requests for grant funds in the manner prescribed by the authority. Disbursements shall be made on a reimbursement basis. No advance disbursements shall be allowed. Disbursements may be withheld if applicable performance reports have

not been received and approved. Individual requests for funds shall be made in an amount equal to or greater than $1,000 per request, except for the final draw of funds.

404.6(3) *Record keeping and retention.* Recipients shall retain all financial records, supporting documents and all other records pertinent to the grant for five years after agreement closeout.

404.6(4) *Performance reports and reviews.* Recipients shall submit performance reports to the authority as described in the agreement executed pursuant to subrule 404.6(1). The authority may perform project reviews and site inspections as necessary to ensure program compliance.

404.6(5) *Agreement amendments.*

a. Any substantive change to a funded IEC project, including time extensions, budget revisions, and alterations to proposed activities, will be considered an agreement amendment. The recipient shall request an amendment in writing. No amendment shall be valid until approved by the board, except as provided in paragraph 404.6(7)*"b"* and confirmed in writing by the authority.

b. Staff approvals.

(1) Staff may approve one no-cost extension provided that the extension complies with subrule 404.3(5). Additional no-cost extensions shall be presented to the board for approval.

(2) Budget modifications. Any substantial modification of a project budget shall require board approval. Staff may approve budget modifications that are not substantial. For purposes of this subparagraph, "substantial modification" means a budget modification of either $10,000 or 10 percent of the total grant award, whichever is less.

404.6(6) *Agreement closeout.* Upon agreement expiration or project completion, the authority will initiate project closeout procedures.

404.6(7) *Compliance with state and local laws and rules.* Recipients shall comply with these rules, with any applicable provisions of the Iowa Code, and with any applicable local rules.

404.6(8) *Noncompliance.* At any time during a project, the IEC may, for cause, find that a recipient is not in compliance with the requirements of this program. At the board's discretion, remedies may include penalties up to and including the return of grant funds to the IEC. Findings of noncompliance may include the use of Iowa energy center funds for activities not described in the application; failure to complete approved activities in a timely manner; failure to comply with any applicable state or federal rules, regulations, or laws; or the lack of a continuing capacity of the recipient to carry out the approved project in a timely manner.

These rules are intended to implement Iowa Code section 15.120.

ARC 7754C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rulemaking related to military service, veteran reciprocity, and spouses of active-duty service members and providing an opportunity for public comment

The Department of Inspections, Appeals, and Licensing hereby proposes to adopt new Chapter 7, "Military Service, Veteran Reciprocity, and Spouses of Active-Duty Service Members," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 272C.4 and 272C.12A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 272C.4, 272C.12 and 272C.12A and 2023 Iowa Acts, Senate File 514.

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

Purpose and Summary

This rulemaking proposes to adopt new Chapter 7. The chapter applies to licensing programs that became part of the Department following realignment resulting from 2023 Iowa Acts, Senate File 514. The proposed rulemaking aligns with the goal of Executive Order 10 (January 10, 2023) of reducing and simplifying the Iowa Administrative Code and creating unity throughout the agency. Multiple boards under the administrative authority of the Department are in the process of rescinding substantively identical rules in reliance upon the rules proposed herein.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on April 23, 2024. Comments should be directed to:

Ashleigh Hackel
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Email: ashleigh.hackel@dia.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)"b," an oral presentation regarding this rulemaking may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 481—Chapter 7:

CHAPTER 7
MILITARY SERVICE, VETERAN RECIPROCITY, AND
SPOUSES OF ACTIVE-DUTY SERVICE MEMBERS

481—7.1(272C) Applicability and definitions. These rules are applicable to any licensing authority under the administrative authority of the department pursuant to Iowa Code chapter 10A unless that licensing authority has separate rulemaking authority and has adopted governing rules. As used in this chapter:

"Department" means the department of inspections, appeals, and licensing.

"License" means a license, certification, registration, permit, approval, renewal, or other similar authorization issued by a licensing authority authorizing a person to engage in a profession, occupation, or business.

"Licensing authority" means a board, a commission, or any other division or entity of the department that has the authority within this state to suspend or revoke a license or deny the renewal or issuance of a license authorizing a person to engage in a business, occupation, or profession pursuant to Iowa Code chapter 272C.

"Military service" means honorably serving on federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1; in the military services of other states, as provided in 10 U.S.C. Section 101(c)(2021); or in the organized reserves of the United States, as provided in 10 U.S.C. Section 10101(2006).

"Military service applicant" means an individual requesting credit toward licensure for military education, training, or service obtained or completed in military service.

"Spouse" means the spouse of an active-duty member of the military forces of the United States.

"Veteran" means an individual who meets the definition of "veteran" in Iowa Code section 35.1(2).

481—7.2(272C) Military education, training, and service credit. A military service applicant may apply for credit for verified military education, training, or service toward any experience or educational requirement for licensure in accordance with Iowa Code chapter 272C by submitting a military service application form to the licensing authority.

7.2(1) The application may be submitted with an application for licensure or examination, or prior to applying for licensure or to take an examination. No fee is required with submission of an application for military service credit.

7.2(2) The applicant shall identify the experience or educational licensure requirement to which the credit would be applied if granted. Credit will not be applied to an examination requirement.

7.2(3) The applicant shall provide documents, military transcripts, a certified affidavit, or forms that verify completion of the relevant military education, training, or service, which may include, when applicable, the applicant's Certificate of Release or Discharge from Active Duty (DD Form 214) or Verification of Military Experience and Training (VMET) (DD Form 2586).

7.2(4) Upon receipt of a completed military service application, the licensing authority will promptly determine whether the verified military education, training, or service will satisfy all or any part of the identified experience or educational qualifications for licensure.

7.2(5) The licensing authority will grant credit requested in the application in whole or in part if the licensing authority determines that the verified military education, training, or service satisfies all or part of the experience or educational qualifications for licensure.

7.2(6) The licensing authority will inform the military service applicant in writing of the credit, if any, given toward an experience or educational qualification for licensure or explain why no credit was granted. The applicant may request reconsideration upon submission of additional documentation or information.

7.2(7) An applicant who is aggrieved by the licensing authority's decision may request a contested case hearing. A request for a contested case shall be made within 30 days of issuance of the licensing authority's decision. Unless the licensing authority has adopted rules governing contested case hearings under the jurisdiction of that licensing authority, the provisions of 481—Chapter 9 apply, except that no fees or costs will be assessed against the applicant in connection with a contested case conducted pursuant to this subrule.

7.2(8) The licensing authority will grant or deny the military service application prior to ruling on the application for licensure. The applicant will not be required to submit any fees in connection

with the licensure application unless the licensing authority grants the military service application. If the licensing authority does not grant the military service application, the applicant may withdraw the licensure application or request that the application be placed in pending status for up to one year or as mutually agreed. The withdrawal of a licensure application does not preclude subsequent applications supported by additional documentation or information.

481—7.3(272C) Veteran and active-duty military spouse reciprocity.

7.3(1) A veteran or spouse with an unrestricted professional license in another jurisdiction may apply for licensure in Iowa through reciprocity in accordance with Iowa Code chapter 272C. A veteran or spouse must pass any examinations required for licensure to be eligible for licensure through reciprocity and will be given credit for examinations previously passed when consistent with the licensing authority's laws and rules on examination requirements. A fully completed application for licensure submitted by a veteran or spouse under this subrule will be given priority and will be expedited.

7.3(2) Such an application shall contain all of the information required of all applicants for licensure who hold unrestricted licenses in other jurisdictions and who are applying for licensure by reciprocity, including but not limited to completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary history, and, if applicable, a criminal history background check. The applicant will use the same forms as any other applicant for licensure by reciprocity and shall additionally provide such documentation as is reasonably needed to verify the applicant's status as a veteran under Iowa Code section 35.1(2) or as a spouse.

7.3(3) Upon receipt of a fully completed licensure application, the licensing authority will promptly determine if the scope of practice of the jurisdiction where the veteran or spouse is licensed is substantially equivalent to the scope of practice in Iowa. The licensing authority shall make this determination based on information supplied by the applicant and such additional information as the licensing authority may acquire from the applicable jurisdiction.

7.3(4) The licensing authority will promptly grant a license to the applicant if the applicant is licensed in the same or similar profession in another jurisdiction whose scope of practice is substantially equivalent to the scope required in Iowa unless the applicant is ineligible for licensure based on other grounds, including, for example, the applicant's disciplinary history or criminal background.

7.3(5) If the licensing authority determines that the scope of practice in the jurisdiction in which the applicant is licensed is not substantially equivalent to the scope of practice in Iowa, the licensing authority will promptly inform the applicant of the additional education or training required for licensure in Iowa. Unless the applicant is ineligible for licensure based on other grounds, such as disciplinary history or criminal background, the following will apply:

a. If the applicant has not passed the required examination(s) for licensure, the applicant may not be issued a temporary license but may request that the licensure application be placed in pending status for up to one year or as mutually agreed to provide the applicant with the opportunity to satisfy the examination requirements.

b. If additional education or training is required, the applicant may request that the licensing authority issue a temporary license for a specified period of time during which the applicant will successfully complete the necessary education or training. The licensing authority will issue a temporary license for a specified period of time upon such conditions as the licensing authority deems reasonably necessary to protect the health, welfare, or safety of the public unless the licensing authority determines that the deficiency is of a character by which public health, welfare, or safety will be adversely affected if a temporary license is granted.

c. If a request for a temporary license is denied, the licensing authority shall issue an order fully explaining the decision and shall inform the applicant of the steps the applicant may take to receive a temporary license.

d. If a temporary license is issued, the application for full licensure will be placed in pending status until the necessary education or training has been successfully completed or the temporary license expires, whichever occurs first. The licensing authority may extend a temporary license on a case-by-case basis for good cause.

7.3(6) An applicant who is aggrieved by the licensing authority's decision to deny an application for a reciprocal license or a temporary license or is aggrieved by the terms under which a temporary license will be granted may request a contested case hearing as set forth in subrule 7.2(7).

These rules are intended to implement Iowa Code sections 272C.4, 272C.12, and 272C.12A.

ARC 7744C

PHARMACY BOARD[657]

Notice of Intended Action

Proposing rulemaking related to controlled substances and providing an opportunity for public comment

The Board of Pharmacy hereby proposes to amend Chapter 10, "Controlled Substances," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 124.201.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 124.201.

Purpose and Summary

The purpose of this proposed rulemaking is to temporarily add nine substances into Schedule I of the Iowa Controlled Substances Act Registrations in response to similar scheduling action taken by the federal Drug Enforcement Administration.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on April 23, 2024. Comments should be directed to:

Sue Mears
Board of Pharmacy/Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Email: sue.mears@dia.iowa.gov

Public Hearing

PHARMACY BOARD[657](cont'd)

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)"b," an oral presentation regarding this rulemaking may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind subrule 10.39(2) and adopt the following **new** subrule in lieu thereof:

10.39(2) Amend Iowa Code section 124.204(9) by adding the following new paragraphs:

o. Methyl 3,3-dimethyl-2-(1-(pent-4-en-1-yl)-1H-indazole-3-carboxamido)butanoate. Other name: MDMB—4en—PINACA.

p. Methyl 2-[[1-(4-fluorobutyl)indole-3-carbonyl]amino]-3,3-dimethyl-butanoate. Other names: 4F—MDMB—BUTICA; 4F—MDMB—BICA.

q. N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(pent-4-en-1-yl)-1H-indazole-3-carboxamide. Other name: ADB—4en—PINACA.

r. 5-Pentyl-2-(2-phenylpropan-2-yl)pyrido[4,3-b]indol-1-one. Other names: CUMYL—PEGACLONE; SGT—151.

s. Ethyl 2-[[1-(5-fluoropentyl)indole-3-carbonyl]amino]-3,3-dimethyl-butanoate. Other names: 5F—EDMB—PICA; 5F—EDMB—2201.

t. Methyl 2-(1-(4-fluorobenzyl)-1H-indole-3-carboxamido)-3-methyl butanoate. Other name: MMB—FUBICA.

ITEM 2. Amend subrule 10.39(6) as follows:

10.39(6) Amend Iowa Code section 124.204(4) by adding the following new paragraphs:

cl. 2-(ethylamino)-2-(3-methoxyphenyl)cyclohexan-1-one. Other names: methoxetamine, MXE.

cm. 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)butan-1-one. Other names: eutylone, bk-EBDB.

cn. N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-butyl-1H-indazole-3-carboxamide. Other name: ADB—BUTINACA.

co. 4-methyl-1-phenyl-2-(pyrrolidin-1-yl)pentan-1-one. Other name: alpha-PiHP.

cp. 2-(methylamino)-1-(3-methylphenyl)propan-1-one. Other names: 3—MMC; 3-methylmethcathinone.

ARC 7745C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rulemaking related to adoption of federal regulations and providing an opportunity for public comment

The Transportation Department hereby proposes to amend Chapter 529, "For-Hire Interstate Motor Carrier Authority," Chapter 607, "Commercial Driver Licensing," Chapter 800, "Items of General Application for Railroads," Chapter 810, "Railroad Safety Standards," and Chapter 911, "School Transportation Services Provided by Regional Transit Systems," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 307.27(8), 321.188, 321.377, 324A.4(2) and 327G.24.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 324A and 327B and sections 307.26, 307.27, 321.187, 321.188, 321.207 to 321.208A, 321.377, 327C.4, 327C.38, 327C.41, 327F.31 and 327G.24.

Purpose and Summary

This proposed rulemaking aligns Chapters 529 and 607 with federal regulation changes that occurred during the 2023 federal fiscal year and aligns Chapters 800, 810 and 911 with federal regulation changes that occurred during the 2022 and 2023 federal fiscal years.

The proposed amendments are part of the regular process by which the Department adopts the most recent updates to the federal regulations. Iowa Code section 307.27(8) requires the Department to administer the registration of interstate authority of motor carriers pursuant to federal regulations, which are contained in 49 Code of Federal Regulation (CFR) Parts 365 to 368 and 370 to 379. Iowa Code section 321.188 requires the Department to adopt rules to administer commercial driver's licenses (CDLs) in compliance with certain portions of 49 CFR Part 383. Iowa Code section 327G.24 allows the Department or roadway jurisdiction that has authority over the roadway to remove tracks from a roadway crossing pursuant to federal regulations adopted by the Department.

This proposed rulemaking adopts the current CFR dated October 1, 2023, for 49 CFR Parts 365 to 368 and 370 to 379 within Chapter 529. This rulemaking also adopts the current CFR dated October 1, 2023, for 49 CFR Part 380, Subpart F; certain portions of 49 CFR Part 383; and 49 CFR Part 384, Subpart B, within Chapter 607.

The proposed amendments to Chapter 607 include the adoption of 49 CFR Part 383, Subpart F. Subpart F concerns vehicle groups and endorsements. The Department is already in substantial compliance with this subpart. The Department determined that to comply with date certain requirements in Iowa Code section 17A.6 as amended by 2023 Iowa Acts, House File 688, section 8, it is preferable to adopt Subpart F rather than add a date certain to the numerous references to Subpart F in Chapter 607. In summary, 49 CFR Part 383, Subpart F, does the following:

- Adopts vehicle group descriptions for combination vehicles (group A), heavy straight vehicles (group B), and small vehicles (group C) and provides illustrations and examples of such vehicles.
- Sets standards for taking commercial driving skills tests in representative vehicles, according to the type of vehicle the applicant wishes to drive and the tests the applicant has already taken for prior licensing.
- Establishes descriptions and testing requirements for vehicle endorsements and restrictions on a commercial learner's permit (CLP) or CDL.

The proposed amendments to Chapter 800 add a date certain to references to 49 U.S.C. 20106 and adopt the current CFR dated October 1, 2023, for 49 CFR Part 1152 and 49 CFR Part 1241. The proposed amendment to Chapter 810 adopts the current CFR dated October 1, 2023, for 49 CFR Part 213.

The proposed amendment to Chapter 911 adopts the current CFR dated October 1, 2023, for 49 CFR Parts 38, 571, and 655.

Proposed federal regulations are published in the Federal Register (FR) to allow a period for public comment, and after adoption, the final regulations are published in the FR. To ensure the consistency required by statute, the Department adopts the specified parts of 49 CFR as adopted by the United States Department of Transportation (U.S. DOT).

No amendments to the Federal Motor Carrier Safety Regulations (FMCSR) impacting Chapter 607 have been made since the 2022 edition was adopted by the Department. There have also been no amendments to the Surface Transportation Board's regulations impacting Chapter 800 since the 2021 edition was adopted by the Department.

The following paragraphs provide a specific description of the affected amendments that have become final and effective since the latest edition of the CFR adopted that affect Chapters 529, 810 and 911.

TRANSPORTATION DEPARTMENT[761](cont'd)

Part 213 (FR Vol. 88, No. 4, Pages 1114-1132, 1-6-23)

This final rule provides the statutorily prescribed 2023 adjustment to civil penalty amounts that may be imposed for violations of certain U.S. DOT regulations. Effective date: January 6, 2023.

Part 213 (FR Vol. 87, No. 54, Pages 15839-15873, 3-21-22)

This final rule provides the statutorily prescribed 2022 adjustment to civil penalty amounts that may be imposed for violations of certain U.S. DOT regulations. In addition, this rule notes new U.S. DOT authority related to civil penalties. Effective date: March 21, 2022.

Part 365 (FR Vol. 87, No. 219, Pages 68367-68381, 11-15-22)

This interpretive rule added appendices to the FMCSR to explain existing statutes and regulations Federal Motor Carrier Safety Administration (FMCSA) administers related to the applicability of the FMCSR, including the financial responsibility regulations, to motor carriers of passengers operating in interstate commerce, including limitations on such applicability based on characteristics of the vehicle operated or the scope of operations conducted; and the applicability of commercial operating authority registration based on the FMCSA's jurisdiction over motor carriers of passengers, regardless of vehicle characteristics, when operating for-hire in interstate commerce. Under certain conditions, motor carriers performing intrastate movements of passengers may still be operating in interstate commerce and, unless otherwise exempt, are subject to applicable FMCSA statutory and regulatory requirements. Effective date: November 15, 2022.

Part 365 (FR Vol. 87, No. 227, Page 72898, 11-28-22)

This notice corrected errors in the docket number, address section, and supplementary information section contained in the interpretive rule issued on November 15, 2022. Effective date: November 28, 2022.

Part 367 (FR Vol. 88, No. 119, Pages 40719-40724, 6-22-23)

FMCSA amended the regulations for the annual registration fees states collect from motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies for the Unified Carrier Registration Plan and Agreement for the 2024 registration year and subsequent registration years. The fees for the 2024 registration year are approximately 9 percent less than the fees for the 2023 registration year, with varying reductions between $4 and $3,453 per entity, depending on the applicable fee bracket. Effective date: July 24, 2023.

Part 371 (FR Vol. 88, No. 116, Pages 39368-39373, 6-16-23)

This notice contained FMCSA's final guidance, in response to a mandate in the Infrastructure Investment and Jobs Act, to inform the public and regulated entities about FMCSA's interpretation of the definitions of "broker" and "bona fide agents" as they relate to all brokers of transportation by motor vehicle. Effective date: June 16, 2023.

Part 655 (FR Vol. 88, No. 84, Pages 27596-27653, 5-2-23)

This final rule amends the U.S. DOT's regulated industry drug testing program to include oral fluid testing. This additional methodology for drug testing will give employers a choice that will help combat employee cheating on urine drug tests and provide a less intrusive means of achieving the safety goals of the program. Effective date: June 1, 2023.

A Regulatory Analysis, including the proposed amendments, was published in the February 7, 2024, Iowa Administrative Bulletin. A public hearing was held on March 1, 2024. No public comments on the Regulatory Analysis were received at the hearing or in writing. The Administrative Rules Coordinator provided preclearance for publication of the Notice of Intended Action on March 11, 2024.

Fiscal Impact

The federal regulations to be adopted by reference in this rulemaking were subject to a fiscal impact review by the Federal Motor Carrier Safety Administration, Federal Railroad Administration, and Federal Transit Administration when enacted and were determined not to be cost-prohibitive. Each FR notice cited contains a fiscal analysis.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

TRANSPORTATION DEPARTMENT[761](cont'd)

Waivers

Various portions of the federal regulations and Iowa statutes that affect Chapters 529 and 607 allow some exceptions when the exceptions will not adversely impact the safe transportation of commodities on the nation's highways. Granting additional exceptions for drivers and the motor carrier industry in Iowa would adversely impact the safety of the traveling public in Iowa. Any person who believes that the application of the discretionary provisions affecting Chapter 800, 810 or 911 would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on April 26, 2024. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Government and Community Relations
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

A public hearing at which persons may present their views orally will be held as follows:

April 26, 2024 10 to 10:30 a.m.	Via video/conference call: teams.microsoft.com/l/meetup-join Or dial: 515.817.6093 Conference ID: 819571984

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to participate in the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy George and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Amend rule 761—529.1(327B) as follows:

761—529.1(327B) Motor carrier regulations. The Iowa department of transportation adopts the Code of Federal Regulations, 49 CFR Parts 365-368 and 370-379, dated October 1, ~~2022~~ 2023, for regulating interstate for-hire carriers.

Copies of this publication are available from the state law library or at www.fmcsa.dot.gov.

ITEM 2. Amend **761—Chapter 529**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 307.27 and chapter 327B.

ITEM 3. Amend subrule 607.10(1) as follows:

607.10(1) *Code of Federal Regulations.* The department's administration of commercial driver's licenses shall be in compliance with the state procedures set forth in 49 CFR Section 383.73, and this chapter shall be construed to that effect. The department adopts the following portions of the Code of Federal Regulations, which are referenced throughout this chapter of rules:

a. 49 CFR Section 391.11 as adopted in 661—Chapter 22.

b. 49 CFR Section 392.5 as adopted in 661—Chapter 22.

c. 49 CFR Part 380, Subpart F (October 1, 2023).

d. The following portions of 49 CFR Part 383 (October 1, ~~2022~~ 2023):

(1) Section 383.51, Disqualification of drivers.

(2) Subpart E—Testing and Licensing Procedures.

(3) Subpart F—Vehicle Groups and Endorsements.

~~(3)~~ (4) Subpart G—Required Knowledge and Skills.

~~(4)~~ (5) Subpart H—Tests.

ITEM 4. Amend subrule 800.4(1) as follows:

800.4(1) A railroad company submitting an annual report to the Surface Transportation Board under 49 CFR Part 1241 shall submit a copy of this report to the department on or before April 1 following the close of the calendar year. Included with this report shall be a "State Statistics" report, which shall include the following: annual data on additions and deletions of mileage within the state; mileage operated within the state at the end of the year; railway operating revenues earned within the state; statistics on rail line operations within the state, including locomotive unit-miles, car-miles and ton-miles; revenue freight carried within the state by commodity class; and a freight density map showing gross ton-miles for the railroad company's system within the state.

For the purpose of this rule, 49 CFR Part 1241 is adopted as of October 1, 2023.

ITEM 5. Amend paragraph **800.15(4)"a"** as follows:

a. The department may approve the proposed ordinance/resolution only if the proposal satisfies the requirements of 49 U.S.C. 20106 as amended to August 3, 2007: (1) it is necessary to eliminate or reduce ~~a~~ an essentially local safety or security hazard; (2) it is not incompatible with a federal law, regulation or order of the United States government; and (3) it does not unreasonably burden interstate commerce.

ITEM 6. Amend subrule 800.20(1) as follows:

800.20(1) 49 CFR Part 1152 contains the regulations governing the abandonment and discontinuance of railroad lines and rail transportation under 49 U.S.C. 10903 et seq. This part also contains the regulations and procedures for the acquisition or use of railroad rights-of-way proposed for abandonment for interim trail use and rail banking pursuant to 16 U.S.C. 1247(d).

For the purpose of this rule, 49 CFR Part 1152 is adopted as of October 1, ~~2021~~ 2023.

ITEM 7. Amend subrule 810.1(1) as follows:

810.1(1) *Standards.* The department adopts the railroad track safety standards contained in 49 CFR Part 213 (October 1, ~~2021~~ 2023).

ITEM 8. Amend subrule 911.5(1) as follows:

911.5(1) *Code of Federal Regulations.* The department of transportation adopts the following portions of the October 1, ~~2021~~ 2023, Code of Federal Regulations, which are referenced throughout this chapter:

a. 49 CFR Part 38, Americans with Disabilities Act (ADA) Accessibility Specifications for Transportation Vehicles.

b. 49 CFR Part 571, Federal Motor Vehicle Safety Standards.

c. 49 CFR Part 655, Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations.

ARC 7743C

UTILITIES DIVISION[199]

Notice of Intended Action

Proposing rulemaking related to reorganization and providing an opportunity for public comment

The Utilities Board hereby proposes to rescind Chapter 32, "Reorganization," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 476.76 and 476.77.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 388.2A, 476.76 and 476.77.

Purpose and Summary

The Board commenced this rulemaking under the provisions of Executive Order 10 (January 10, 2023). This chapter is intended to ensure there is a methodology to the reorganization of a public utility and to provide clarification for interested persons as to what is expected to be filed when a reorganization occurs. The Board is proposing to rescind the existing Chapter 32 and promulgate a new version of Chapter 32 with the removal of unnecessary and unneeded language and the reduction of restrictive terms.

Prior to submission of the Notice of Intended Action, the Board held a technical conference with stakeholders, which included a discussion regarding the proposed Chapter 32. The technical conference was attended by the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; Interstate Power and Light Company (IPL); ITC Midwest, LLC; Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy (Black Hills); and Iowa-American Water Company (Iowa-American). The Board also accepted written comments, which were filed by OCA, IPL, and MidAmerican Energy Company.

Based on the written and oral comments received, the Board modified proposed Chapter 32 to produce the version of the chapter in this Notice.

The Board issued an order on March 1, 2024, commencing this rulemaking. The order is available on the Board's electronic filing system, efs.iowa.gov, under RMU-2023-0032.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

No waiver provision is included in the proposed amendments because the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in Chapter 32.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on May 8, 2024. Comments should be directed to:

IT Support
Iowa Utilities Board
Phone: 515.725.7300
Email: ITSupport@iub.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

April 23, 2024 9 to 10 a.m.	Board Hearing Room 1375 East Court Avenue Des Moines, Iowa
May 8, 2024 9 to 10 a.m.	Board Hearing Room 1375 East Court Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 199—Chapter 32 and adopt the following **new** chapter in lieu thereof:

CHAPTER 32
REORGANIZATION

199—32.1(476) Applicability and definition of terms.

32.1(1) This chapter applies to any person who intends to acquire, sell, lease, or otherwise dispose directly or indirectly of the whole or any substantial part of a public utility's assets; or purchase, acquire, sell, or otherwise dispose of the controlling capital stock of any public utility, either directly or indirectly. For utilities with more than one regulated line of business, the utility revenue limit shall be calculated using the revenue of the specific line of utility business involved in the transaction, not the combined utility revenues.

32.1(2) This chapter does not apply to transfers or removals of a public utility's assets that are made specifically pursuant to a board deregulation order, as long as those transfers or removals occur within 12 months of the board's approval of an accounting separation plan, or to transactions where board approval is otherwise required in a contested case proceeding.

199—32.2(476) Substantial part of a public utility's assets.

32.2(1) No public utility shall acquire or lease assets, directly or indirectly, with a value in excess of 3 percent of the utility's Iowa jurisdictional utility revenue during the immediately preceding calendar year or $5 million, whichever is greater, without prior approval from the board pursuant to Iowa Code section 476.77. For purposes of this subrule and subrule 32.2(2), "value" means the greater of market value or book value.

32.2(2) No public utility shall sell or otherwise dispose of assets, directly or indirectly, with a value in excess of 3 percent of the utility's Iowa jurisdictional utility revenue during the immediately preceding calendar year or $5 million, whichever is greater, without prior approval from the board pursuant to Iowa Code section 476.77. However, for utilities for which the 3 percent limit is greater than $5 million, if the assets being sold or otherwise disposed of are used in the generation or delivery of utility services to Iowa consumers, an application or a waiver is required if the assets have a value in excess of $10 million.

32.2(3) Board approval of the following types of transactions is not necessary: fuel purchases, energy and capacity purchases and sales, gas purchases, sale of accounts receivables, sale of bonds, claim and litigation payments, tax payments and credit transfers, regulatory fees and assessments, insurance premiums, payroll, stock dividends, financings, routine financial transactions, operation and maintenance expense, construction expense, or similar transactions that occur in the ordinary course of business. Any transaction involving more than 10 percent of a public utility's gross utility assets less depreciation, or any transaction outside the ordinary course of business, is not exempt under this subrule.

199—32.3(476) Proposal for reorganization—filing requirements. Any person who intends to accomplish a reorganization shall file supporting testimony and evidence with its proposal for reorganization, including but not limited to the following information:

32.3(1) General information.

a. A statement of the purposes of the reorganization and a description of the events that led to the reorganization.

b. An analysis of the alternatives to the proposed reorganization that were considered and their impact on rates and services, if any.

32.3(2) Reorganization details.

a. Written accounting policies and procedures for the subsequent operation, including the type of system of accounts to be used.

b. The situs of the books and records of the public utility after reorganization and their availability to the board.

c. A description of the proposed accounting to be utilized in any transfer of assets necessary to accomplish reorganization.

d. The proposed method for:

(1) Accounting for and allocating officers' time between the public utility and any affiliates, and

(2) Compliance with the board's rules on affiliate transactions and relationships.

e. Copies of all contracts that directly relate to the reorganization and a summary of any unwritten contracts or arrangements verified by an officer of the operating company.

f. Before and after organizational charts for the affected public utility and affiliates, including staffing changes.

g. A statement of any proposed physical removal of assets from the board's jurisdiction to another jurisdiction or removal or transfer of assets from a regulated to a nonregulated environment.

32.3(3) Financial details.

a. An analysis of whether the affected public utility's ability to attract capital on reasonable terms, including the maintenance of a reasonable capital structure and corporate financial integrity, is impaired.

b. A description of the financing components of the proposed reorganization.

c. Information concerning the funding provided to any new entity.

d. Current and proposed reorganization balance sheets and capital structures.

e. Stockholder annual reports for two years preceding the year of filing for all affected companies.

f. Stockholder quarterly reports for the two quarters just prior to the date of the filing and any subsequent reports as they become available during the proceeding, for all affected companies.

g. The major credit rating agencies' reports for two years preceding the filing date of the merger and updates as they become available during the proceeding, for all affected companies.

h. Any proxy statement to the stockholders regarding the proposed reorganization. If such is not available at time of filing, a preliminary statement will be filed, followed by the final statement when available.

32.3(4) Impact of reorganization.

a. A cost-benefit analysis that describes the projected benefits and costs of reorganizing, including identification of source data. The benefits and costs should be quantified in terms of present value.

b. An analysis of the projected financial impact of the proposed reorganization on the ratepayers of the affected public utilities for the first five years after reorganization.

c. An analysis of the effect on the public interest. "Public interest" means the interest of the public at large, separate and distinct from the interest of the public utility's ratepayers. The analysis should include a discussion of the reorganization's impact on the economy of the state and the communities where the utility is located.

If more than one public utility is involved in a reorganization, an analysis shall be submitted for all public utilities involved.

32.3(5) Effect on service and reliability.

a. A report on quality of service and reliability levels of utility services for each of the five years prior to the year of filing, for all affected companies.

b. A detailed statement on how the proposed reorganized entity will maintain or enhance service and reliability, including any investment or operational plans that are available.

32.3(6) If any information required by these subrules is not applicable to the type of reorganization being proposed, the applicant shall state the reason(s) why the particular information is not applicable to the proposal.

199—32.4(476) Insufficient filing. The board may reject within 30 days any proposal for reorganization that does not contain sufficient information for the board to evaluate the proposal for reorganization. The board shall fully describe any deficiencies in a reorganization plan that is rejected.

199—32.5(476) Procedural matters. Because of statutory time limitations set forth in Iowa Code section 476.77(2), an expedited procedural schedule shall be utilized for proposals for reorganization. The board may order additional specific procedures as needed for the expedited hearing process.

32.5(1) Within 40 days after a proposal for reorganization and supporting testimony is filed, the consumer advocate and any intervenors may file any written testimony and exhibits. This will allow the board an opportunity to consider the testimony and exhibits prior to the 50-day deadline for issuing a notice of hearing.

32.5(2) Responses to data requests shall be made within five days from the date of service.

32.5(3) When a hearing on the proposed reorganization is scheduled, the applicant, consumer advocate, and any intervenors file a joint statement of the issues at least ten days prior to the date of hearing.

199—32.6(388) Approval of appraiser for municipal utilities. The procedures for requesting board approval of an appraiser are as follows:

32.6(1) *Making a request.* To request board approval of an appraiser to appraise a city utility, the governing body of the city utility shall file a request in the board's electronic filing system. The request shall contain the following information:

a. The name of the city and of the utility;

b. The type of utility service provided by the utility;

c. The total number of customers served by the utility and the number of customers served by class, if applicable;

d. A general description of the assets owned by the utility; and

e. The name and contact information for the city or utility.

32.6(2) *Consideration of request.* When a request for approval of an appraiser is received by the board, board staff reviews the request and provides the board with a recommendation or a list of

appraisers for the board to consider approving. The board may delegate approval authority to the board chair.

32.6(3) *Notice of approved appraiser.* Within 30 calendar days following the city's or city utility's filing to request board approval of an appraiser, the board shall notify the city and governing body of the city utility of an approved appraiser. If the city and governing body of the city utility are unable to agree to terms with an approved appraiser, the city and governing body of the city utility may file a letter with the board requesting approval of another appraiser and identifying the reasons they are requesting the board to approve another appraiser.

These rules are intended to implement Iowa Code sections 388.2A(2)*"a"*(1), 476.76, and 476.77.

ARC 7742C

INTERIOR DESIGN EXAMINING BOARD[193G]

Adopted and Filed

Rulemaking related to professional conduct

The Interior Design Examining Board hereby rescinds Chapter 4, "Professional Conduct," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 17A and 272C and section 544C.3.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 272C and 544C and 2023 Iowa Acts, Senate File 135.

Purpose and Summary

This rulemaking provides registrants and Iowans with the rules of conduct for registered interior designers who are practicing interior design to protect the public health, safety, and welfare by ensuring safe interiors.

The Boards and Commissions Review Committee recommended this Board be eliminated; however, a new law was enacted to allow registered interior designers to stamp/seal technical documents. This rulemaking provides information to registrants as well as building code officials about the stamp regulations.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7510C**. Public hearings were held on February 13 and 14, 2024, at 12:10 p.m. at 6200 Park Avenue, Des Moines, Iowa, and virtually. No one attended the hearings to provide comments; two people attended to observe.

One public comment was received via email. The commenter believed subrule 4.1(2) would fall short of adequate protection for the public.

Changes from the Notice have been made based on the comment received. Subrule 4.1(2) has been changed to provide additional guidance regarding conflict of interest.

Adoption of Rulemaking

This rulemaking was adopted by the Board on March 4, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on May 8, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 193G—Chapter 4 and adopt the following **new** chapter in lieu thereof:

CHAPTER 4
PROFESSIONAL CONDUCT

193G—4.1(544C) Rules of conduct. A registered interior designer shall maintain a high standard of integrity and professional responsibility within the profession of registered interior design to protect the public health, life, safety, and welfare. Failure by a registrant to adhere to the provisions of Iowa Code section 272C.10 and chapter 544C and the following rules of conduct may be grounds for disciplinary action.

4.1(1) *Competence.*

a. A registered interior designer shall act with reasonable care and competence and apply the technical knowledge and skill ordinarily applied by a registered interior designer of good standing providing interior design services in the same locality.

b. The board may initiate discipline against a registered interior designer or may, when appropriate, refer a registered interior designer to the board's impaired practitioner review committee based on habitual intoxication or addiction to the use of drugs or other impairment that adversely affects the registrant's ability to practice in a safe and competent manner.

4.1(2) *Conflict of interest.*

a. A registered interior designer shall not accept compensation for services from more than one party on a project unless the circumstances are fully disclosed to and agreed to (such disclosures and agreements are to be in writing) by all interested parties in advance of payment of such compensation.

b. If a registered interior designer has any business association or direct or indirect financial interest that is substantial enough to influence the registered interior designer's judgment in connection with the registered interior designer's performance of professional services, the registered interior designer shall fully disclose, in writing, to the client or employer the nature of the business association or financial interest, and if the client or employer objects to the association or financial interest, the registered interior designer will either terminate such association or interest or offer to give up the commission or employment.

c. A registered interior designer shall not solicit or accept compensation from material or equipment suppliers in return for specifying or endorsing the products.

d. When acting as the interpreter of building contract documents and the judge of contract performance, a registered interior designer shall render decisions impartially, favoring neither party to the contract.

4.1(3) *Full disclosure.*

a. A registered interior designer shall not deliberately make a materially false statement or deliberately fail to disclose a material fact requested in connection with application for registration or renewal of registration.

b. A registered interior designer shall not assist in the application for registration of a person known by the registered interior designer to be unqualified with respect to education, training, experience or character.

c. A registered interior designer engaged in the practice of interior design must act in the best interest of the client and shall not allow integrity, objectivity or professional judgment to be impaired.

d. A registered interior designer with knowledge of a violation of these rules by another registered interior designer shall report such knowledge to the board.

4.1(4) *Professional conduct.*

a. A registered interior designer shall respect the confidentiality of sensitive information obtained in the course of the interior designer's professional activities.

b. A registered interior designer shall not engage in conduct involving fraud, deceit, misrepresentation or dishonesty in the practice of interior design.

c. A registered interior designer shall neither attempt to obtain a contract to provide interior design services through any unlawful means nor assist others in such an attempt.

d. A registered interior designer shall neither offer nor make any payment to a governmental official with the intent of influencing the official's judgment in connection with a prospective or existing project in which the interior designer has an interest.

4.1(5) *Seal and certificate of responsibility.*

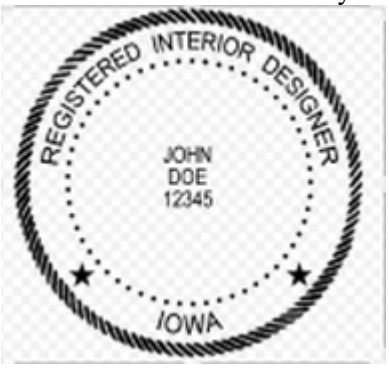
a. The seal under Iowa Code section 544C.14 shall include:

(1) An outside circle with a diameter of approximately 1 ¾ inches.

(2) The name of the registered interior designer and the words "Registered Interior Designer."

(3) The Iowa registration number and the word "Iowa."

b. The seal will substantially conform to the sample shown below:



c. A legible rubber stamp, electronic image or other facsimile of the seal may be used.

d. Each technical submission submitted to a client or any public agency, hereinafter referred to as the official copy, shall contain an information block on its first page or on an attached cover sheet with application of a seal by the registered interior designer in responsible charge and an information block with application of a seal by each professional consultant contributing to the technical submission. The seal and original signature shall be applied only to a final technical submission. Each official copy of a technical submission shall be stapled, bound or otherwise attached together so as to clearly establish the complete extent of the technical submission. Each information block shall display the seal of the individual responsible for that portion of the technical submission. The area of responsibility for each sealing professional shall be designated in the area provided in the information block, so that responsibility for the entire technical submission is clearly established by the combination of the stated seal responsibilities. The information block will substantially conform to the sample shown below:

S E A L	I hereby certify that the portion of this technical submission described below was prepared by me or under my direct supervision and responsible charge. I am a duly registered interior designer under the laws of the state of Iowa. _____ Signature Date Printed or typed name_____ Registration number_____ My registration renewal date is June 30,_____. Pages or sheets covered by this seal: _____

e. The information requested in each information block must be typed or legibly printed in permanent ink or a secure electronic signature. An electronic signature as defined in or governed by Iowa Code chapter 554D meets the signature requirements of this rule if it is protected by a security procedure, as defined in Iowa Code section 554D.103(14), such as digital signature technology. It is the registrant's responsibility to ensure, prior to affixing an electronic signature to a technical submission, that security procedures are adequate to:

(1) Verify that the signature is that of a specific person, and

(2) Detect any changes that may be made or attempted after the signature of the specific person is affixed. The seal implies responsibility for the entire technical submission unless the area of responsibility is clearly identified in the information accompanying the seal.

f. It is the responsibility of the registered interior designer who signed the original submission to forward copies of all changes and amendments to the technical submission, which becomes a part of the official copy of the technical submission, to the public official charged with the enforcement of the state, county, or municipal building code.

g. A registered interior designer is responsible for the custody and proper use of the seal. Improper use of the seal may be grounds for disciplinary action.

h. The seal appearing on any technical submission establishes prima facie evidence that said technical submission was prepared by or under the responsible charge of the individual named on that seal.

This rule is intended to implement Iowa Code chapter 544C.

[Filed 3/5/24, effective 5/8/24]
[Published 4/3/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/3/24.

ARC 7753C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rulemaking related to model rules for licensee review committee

The Department of Inspections, Appeals, and Licensing hereby rescinds Chapter 193, "Impaired Practitioner Review Committee," and adopts a new Chapter 193, "Model Rules for Licensee Review Committee," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 272C.3(1)"k."

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 272C.3; 2023 Iowa Acts, Senate File 514; and Executive Order 10 (January 10, 2023).

Purpose and Summary

This rulemaking repromulgates Chapter 193 and implements Iowa Code section 272C.3(1)"k" and 2023 Iowa Acts, Senate File 514, in accordance with the goals of Executive Order 10. This rulemaking explains the processes of the licensee review committee, formerly the impaired practitioner review committee, and how the committee supports the recovery or rehabilitation of licensees. It includes the composition of the committee, the goal of which is to ensure the committee is well-rounded and has expertise in addiction and recovery, in addition to having members with pertinent perspectives to balance the needs of a licensee with protection of the public.

Because this program is confidential and participation is not a matter of public record, specific eligibility criteria must be met to ensure that matters that may need to be addressed by a professional licensing board are routed appropriately. Substantively, the goal of the terms of participation is to ensure that a licensee is safe to practice the profession through ongoing committee monitoring. Participants enter into a contract with the committee and agree to adhere to all terms and agreements set forth in the contract. If a contract provision is breached that poses an immediate risk to the public, the committee will refer the matter to a professional licensing board for appropriate action to protect the public. Participation does not relieve a professional licensing board or licensee of any duties or consequences related to violations of the standards of practice, nor does it divest a professional licensing board of its authority. The committee also will refer any violations of the laws or rules governing the licensee's practice to a professional licensing board for appropriate action.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 10, 2024, as **ARC 7287C**. Public hearings were held on January 30, 2024, at 9:20 a.m. and January 31, 2024, at 9:20 a.m. at 6200 Park Avenue, Des Moines, Iowa. No one attended the public hearings. No public comments were received.

A number of editorial revisions were made from the Notice to transform this chapter from a licensee review committee chapter applicable to a single board into a model chapter that can be adopted by any board under the administrative authority of the Department. Such revisions are nonsubstantive changes from the Notice.

Substantively, composition of the licensee review committee was slightly modified to provide greater detail as to the types of health care professionals who are appropriate to serve on a licensee review committee, as well as enhance flexibility in the composition of the individual committee. The rules were also modified to incorporate existing practices that are currently incorporated into a licensee's contract with the committee or are current interpretations of Iowa Code chapter 272C, including:

- The determination as to whether a licensee is appropriate for participation is at the sole discretion of the committee;
- Any expenses incurred to comply with the terms imposed by the program are borne by the licensee;
- The effects of noncompliance;
- Particular confidentiality considerations; and
- Staff discretion to provide guidance and direction to participants between regularly scheduled committee meetings, including program descriptions, interim limitations on practice, and negotiation and execution of initial agreements and contracts on behalf of the committee. The committee retains authority to review all interim decisions at its discretion, and staff may consult with the committee chairperson or Medical Director as needed.

Adoption of Rulemaking

This rulemaking was adopted by the Department on March 12, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on May 8, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 641—Chapter 193 and adopt the following **new** chapter in lieu thereof:

CHAPTER 193
MODEL RULES FOR LICENSEE REVIEW COMMITTEE

641—193.1(272C) Definitions. For the purpose of these rules, the following definitions apply:

"Committee" means the licensee review committee established by a licensing board pursuant to the authority of Iowa Code section 272C.3(1)*"k."*

"Contract" means the written document establishing the terms for participation in the program.

"Impairment" means a condition identified in Iowa Code section 272C.3(1)*"k"* that renders or, if left untreated, is reasonably likely to render a licensee unable to practice the licensee's profession with reasonable skill and safety.

"Initial agreement" means the written document establishing the initial terms for participation in the program.

"Licensing board" or *"board"* means the same as defined in Iowa Code section 272C.1(6).

"Licensee" means a person licensed by a licensing board.

"Self-report" means written notification provided by the licensee to the program that the licensee has had, has, or may have an impairment. A self-report can be made even if the applicable licensing board has received a complaint or a third party has alleged the same.

641—193.2(272C) Purpose. The committee assists and monitors the recovery or rehabilitation of practitioners who self-report potential impairments or who are referred by the board. The program is both an advocate for participant health and a means to protect the health and safety of the public.

641—193.3(272C) Composition of the committee. The division of licensing appoints the members of the committee.

193.3(1) *Membership.* The committee may be composed of but not limited to members with the following qualifications:

a. A health care professional who has expertise in the area of substance use and addiction treatment.

b. A health care professional who has expertise in the diagnosis and treatment of mental health conditions.

c. A psychiatrist who holds a current, active Iowa license as defined in rule 653—9.1(147,148,150,150A).

d. A licensee who has maintained recovery for a period of no less than two years since successfully completing a recovery program, a board-ordered probation for substance use, or a comparable monitoring program.

e. A licensed physician, physician assistant or advanced registered nurse licensee whose specialty area is family practice, internal medicine, or emergency medicine or who has expertise in substance use disorders, mental health conditions or both.

f. A licensed psychiatric pharmacist.

g. A public member.

h. Non-voting members, which may include the board's executive director, the bureau chief or designee, the bureau chief of monitoring, and, if requested to join the committee for consultation during a participant review, an executive officer or board member under which a participant is regulated.

193.3(2) *Officers.* At the last meeting of each calendar year, the committee elects co-chairpersons to serve a one-year term beginning January 1.

193.3(3) *Terms.* Committee members are appointed for a three-year term, for a maximum of three terms. Each term expires on December 31 of the third year of the term. Initial terms are for a period of one to three years as designated by the division to provide continuity to the committee.

641—193.4(272C) Eligibility.

193.4(1) *Eligibility.* To be eligible for participation in the program, a prospective participant must self-report or be referred by the board for an impairment or potential impairment. The committee will determine for each self-report or referral whether the prospective participant is an appropriate candidate for participation in the program. A prospective participant is ineligible if the committee finds sufficient evidence that the prospective participant:

a. Diverted medication for distribution to third parties or for personal profit;

b. Adulterated, misbranded, or otherwise tampered with medication intended for a patient;

c. Provided inaccurate, misleading, or fraudulent information or failed to fully cooperate with the committee; or

d. Caused injury or harm to a patient or client.

193.4(2) *Board referral.* The board may refer a licensee to the program privately, in a public disciplinary order, or other public order if a complaint or investigation reveals an impairment or potential impairment or the board determines that the licensee is an appropriate candidate for review by the committee.

193.4(3) *Discretion.* Eligibility for participation in the program is at the sole discretion of the committee. No person is entitled to participate in the program.

193.4(4) *Limitations.* The committee establishes the terms and monitors a participant's compliance with the program specified in the contract. The committee is not responsible for participants who fail to comply with the terms of the program or successfully complete the program. Participation in the program shall not relieve the participant's board of any duties nor divest the board of any authority or jurisdiction otherwise provided. Any violation of the statutes or rules governing the practice of the participant's profession and unrelated to their impairment will be referred to the board for appropriate action.

641—193.5(272C) Terms of participation in the impaired practitioner recovery program. A participant is responsible for complying with the terms of participation established in the initial agreement and the contract, and for all expenses incurred to comply with the terms imposed by the program. Terms of participation specified in the contract shall include, but not be limited to:

193.5(1) *Duration.* Length of participation in the program may vary depending upon the review of all relevant information and the nature of the impairment.

193.5(2) *Noncompliance.* Participants are responsible for notifying the committee of any instance of noncompliance. Notification of noncompliance made to the committee by the participant, a monitoring provider, or another party may result in notice to the board for its consideration of disciplinary action.

a. First instance. After a first instance of significant noncompliance, including a relapse, the committee may give notice to the board identifying the participant by number, describing the relevant terms of the participant's contract and the noncompliance, and including the committee's recommendation for continued participation in the program.

b. Second instance. After a second instance of significant noncompliance, including a relapse, the committee may refer the case and the participant's identity to the board. In its referral, the committee may make recommendations as to continued participation in the program.

c. Referral at any time. The committee may make a referral to the board for noncompliance that identifies the participant by name at any time the circumstances warrant such a referral.

193.5(3) *Practice limitations.* The committee may impose limitations on a participant's practice as a term of the contract until such time as the committee receives a report from an approved evaluator that the licensee is capable of practicing with reasonable safety and skill. Participation in the program is conditioned upon participants agreeing to limit practice as requested by the committee and established in accordance with the terms specified in the contract. If a participant refuses to agree to or comply with the limitations established in the initial agreement or contract, the committee will refer the licensee to the board for appropriate action.

193.5(4) *Staff discretion.* Staff, in consultation with legal counsel, may provide guidance and direction to participants between regularly scheduled committee meetings, including program descriptions, interim limitations on practice, and negotiation and execution of initial agreements and contracts on behalf of the committee. The committee retains authority to review all interim decisions at its discretion. Staff may consult with the committee chairperson or medical director if needed.

641—193.6(272C) Confidentiality. Information in the possession of the board or the committee is subject to the confidentiality requirements of Iowa Code section 272C.6.

193.6(1) Participants must report their participation to the applicable monitoring program or licensing authority in any state in which the participant is currently licensed or in which the participant seeks licensure.

193.6(2) The committee is authorized to communicate information about a participant to any person assisting in the participant's treatment, recovery, rehabilitation, monitoring, or maintenance for the duration of the initial agreement or contract.

193.6(3) The committee is authorized to communicate information about a participant to the board if a participant does not comply with the terms of the contract as set forth in rule 641—193.5(272C).

193.6(4) The committee is authorized to communicate information about a current or former participant to the board if reliable information held by the committee reasonably indicates that a significant risk to the public exists.

193.6(5) If the board initiates disciplinary or other action against a participant or former participant as a result of communication from the committee, the board may include information from the program file in the public documents.

These rules are intended to implement Iowa Code chapter 272C.

[Filed 3/15/24, effective 5/8/24]
[Published 4/3/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/3/24.

ARC 7747C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rulemaking related to special permits and commercial driver licensing

The Transportation Department hereby amends Chapter 511, "Special Permits for Operation and Movement of Vehicles and Loads of Excess Size and Weight," and Chapter 607, "Commercial Driver Licensing," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 307.12, 321.176B, 321.187, 321.188, 321.207 and 321E.15; 2023 Iowa Acts, House File 335, section 2; 2023 Iowa Acts, House File 257; and 2023 Iowa Acts, House File 258, sections 2 and 3.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 321.176B, 321.187, 321.188, 321.207, 321E.9 and 321E.15; 2023 Iowa Acts, House File 335, section 2; 2023 Iowa Acts, House File 257; 2023 Iowa Acts, House File 258, sections 2 and 3; 2023 Iowa Acts, Senate File 153; 49 CFR 382.107; 49 CFR 382.501(a); 49 CFR 383.3(f); 49 CFR 383.5; 49 CFR 384.228; 49 CFR Part 383, Subpart E; and 49 CFR Part 384, Subpart B.

Purpose and Summary

This rulemaking makes the necessary changes within Chapters 511 and 607 to comply with 2023 Iowa Acts, House Files 257, 258, and 335, and Senate File 153, and adds a date certain to applicable citations to Title 49 of the Code of Federal Regulations to comply with 2023 Iowa Acts, House File 688, section 8. The Department will be reviewing whether other Code of Federal Regulations citations within these two chapters need to include a date certain in future rulemakings.

Senate File 153 amended Iowa Code section 321E.9 to create a new option for the Department to issue a single-trip permit for overweight loads in special or emergency situations.

The amendments to Chapter 511 include the following:

- Incorporate the amended law into existing rules related to validity periods, issuance procedures, insurance requirements, and maximum dimensions for single-trip permits for indivisible loads.
- Provide an exemption from the existing gross axle weight limit for single-trip permits, if authorized under the newly amended Iowa Code section 321E.9(2).

House File 257 amended Iowa Code section 321.187 to allow the Department to establish rules regarding the entities eligible to become a third-party tester. Under prior law, the only entities eligible to be a third-party tester included the following: a community college, an Iowa-based motor carrier with permanent training facilities in the state, a public or regional transit system, and an Iowa nonprofit

that serves as a trade association for Iowa motor carriers. The following amendments pertain to rule 761—607.30(321) related to third-party testers:

- Allow the following entities to be eligible as a third-party tester: a college or university, a community college, a government agency, an Iowa business, a nonprofit, or a public or regional transit system.
- Add definitions for each entity.
- Eliminate the restriction that Iowa-based motor carriers may only administer tests to individuals enrolled in their training programs.
- Provide that any new third-party tester would be required to administer at least 50 percent of all knowledge and skills tests to Iowa applicants to maintain certification. However, third-party testers would only be required to administer 10 percent of all knowledge and skills tests to Iowa applicants if the remainder of the tests are administered to current or prospective employees of the tester.

House File 258 amended Iowa Code sections 321.188 and 321.207 requiring the Department to implement federal Drug and Alcohol Clearinghouse (DACH) requirements for commercial driver's license (CDL) applicants and holders. Under federal regulations, states are required to comply with these requirements by November 18, 2024. The following amendments pertain to rule 761—607.3(321) or new rule 761—607.51(321):

- Establish the procedures that the Department will follow when issuing, renewing, upgrading or transferring any type of CDL or commercial learner's permit (CLP) and when downgrading a CDL or CLP holder due to a notification from the DACH that a driver is in a "prohibited" status.
- Clarify which individuals are subject to DACH requirements and clarify the scope of hearings and appeals concerning DACH-initiated denials or downgrades. Definitions concerning CDL downgrades and the DACH are included to conform with federal regulations.

House File 335 amended Iowa Code section 321.176B to expand eligibility for the restricted CDL to include drivers in all federally eligible farm-related service industries. Prior law only allowed suppliers of agricultural inputs or their employees to obtain a restricted CDL. The amendments to rule 761—607.49(321) remove references to "agricultural inputs" and instead adopt the federal language for restricted CDL eligibility, which includes "employees of…agri-chemical businesses, custom harvesters, farm retail outlets and suppliers, and livestock feeders."

A Regulatory Analysis, including these amendments, was published in the October 18, 2023, Iowa Administrative Bulletin. A public hearing was held on November 13, 2023. No public comments on the Regulatory Analysis were received at the hearing or in writing. The Administrative Rules Coordinator provided preclearance for publication in the Notice of Intended Action on November 21, 2023.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 10, 2024, as **ARC 7491C**. No public comments were received. Changes from the Notice have been made to remove references to 2023 Iowa Acts, House Files 257, 258, and 335, and Senate File 153, since the legislation has been codified in the Iowa Code.

Adoption of Rulemaking

This rulemaking was adopted by the Department on March 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa beyond that of the legislation it is intended to implement.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found beyond that of the legislation it is intended to implement.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on May 8, 2024.

The following rulemaking action is adopted:

ITEM 1. Amend rule **761—511.4(321E)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321E.2, 321E.3, 321E.8, 321E.9 and 321E.29B.

ITEM 2. Amend rule **761—511.5(321,321E)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.12, 321.122, 321E.8, 321E.9, 321E.14, 321E.29, 321E.29A and 321E.30.

ITEM 3. Amend rule **761—511.6(321E)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321E.8, 321E.9, 321E.13 and 321E.29B.

ITEM 4. Amend paragraph **511.17(4)"a"** as follows:

a. For movement under a single-trip permit, the gross weight on any axle shall not exceed 20,000 pounds unless authorized under Iowa Code section 321E.9(2).

ITEM 5. Amend rule **761—607.3(321)**, definition of "Commercial driver's license downgrade," as follows:

"Commercial driver's license downgrade" or *"CDL downgrade"* means ~~either:~~ the same as defined in 49 CFR Section 383.5 (October 1, 2023).

~~1. The driver changes the driver's self-certification of type of driving from non-excepted interstate to excepted interstate, non-excepted intrastate, or excepted intrastate driving, or~~

~~2. The department removed the CDL privilege from the driver's license.~~

ITEM 6. Adopt the following **new** definition of "National drug and alcohol clearinghouse" in rule **761—607.3(321)**:

"National drug and alcohol clearinghouse" means the database maintained by the Federal Motor Carrier Safety Administration as defined in 49 CFR Section 382.107 (October 1, 2023).

ITEM 7. Adopt the following **new** paragraph **607.10(1)"e"**:

e. 49 CFR Part 384, Subpart B (October 1, 2023).

ITEM 8. Amend rule 761—607.30(321) as follows:

761—607.30(321) Third-party testing.

607.30(1) *Purpose and definitions.* The knowledge tests required by rule 761—607.27(321) and the skills test required by rule 761—607.28(321) may be administered by third-party testers and third-party test examiners approved and certified by the department. For the purpose of administering third-party testing and this rule, the following definitions shall apply:

"College or university" means an Iowa postsecondary school established under Iowa Code chapter 261B.

"Community college" means an Iowa community college established under Iowa Code chapter 260C.

~~*"Iowa-based motor carrier"* means a motor carrier or its subsidiary that has its principal place of business in the state of Iowa and operates a permanent commercial driver training facility in the state of Iowa.~~

~~*"Iowa nonprofit corporation"* means a nonprofit corporation that serves as a trade association for Iowa-based motor carriers.~~

"Government agency" means the same as defined in Iowa Code section 553.3.

"Iowa business" means a corporation, association, partnership, company, firm, or other aggregation of individuals that has an established place of business in this state and that is authorized to conduct business in this state.

"Knowledge test" means the knowledge tests required by rule 761—607.27(321).

"Motor carrier" means the same as defined in 49 CFR Section 390.5.

"Nonprofit" means a corporation or association that satisfies the requirements under Iowa Code chapter 498 or 504.

"Permanent commercial driver training facility" means a facility dedicated to a program of commercial driving instruction that is offered to employees or potential employees of the motor carrier as incident to the motor carrier's commercial operations, that requires at least 40 hours of instruction, and that includes fixed and permanent structures and facilities for the off-road portions of commercial driving instruction, including classroom, pretrip inspection, and basic vehicle control skills. A permanent commercial driver training facility must include a fixed and paved or otherwise hard-surfaced area for basic vehicle control skills testing that is permanently marked and capable of inspection and measurement by the department.

"Public transit system" means the same as defined in Iowa Code section 324A.1.

"Regional transit system" means the same as defined in Iowa Code section 324A.1.

"Skills test" means the skills test required by rule 761—607.28(321).

"Subsidiary" means a company that is partly or wholly owned by a motor carrier that holds a controlling interest in the subsidiary company.

"Third-party test examiner" means the same as defined in Iowa Code section 321.187 ~~as amended by 2022 Iowa Acts, Senate File 2337~~.

"Third-party tester" means the same as defined in Iowa Code section 321.187 ~~as amended by 2022 Iowa Acts, Senate File 2337~~.

607.30(2) *Certification of third-party testers.*

a. The department may certify ~~as a~~ third-party ~~tester a community college, Iowa-based motor carrier, Iowa nonprofit corporation, public transit system or regional transit system~~ testers to administer knowledge ~~tests~~ and skills tests. A ~~community college, Iowa-based motor carrier, Iowa nonprofit corporation, public transit system or regional transit system~~ third-party tester must be one of the following entities:

(1) A college or university.

(2) A community college.

(3) A government agency.

(4) An Iowa business.

(5) A nonprofit.

(6) A public transit system or regional transit system.

b. An entity listed in paragraph 607.30(2)*"a"* that seeks certification as a third-party tester shall contact the motor vehicle division and schedule a review of the proposed testing program, which shall include the proposed testing courses and facilities, information sufficient to identify all proposed third-party test examiners, and any other information necessary to demonstrate compliance with 49 CFR Parts 383 and 384 as amended to October 1, 2023, applicable to knowledge and skills testing.

~~*b.*~~ *c.* No ~~community college, Iowa-based motor carrier, Iowa nonprofit corporation, public transit system or regional transit system~~ entity shall be certified to conduct third-party testing unless and until the ~~community college, Iowa-based motor carrier, Iowa nonprofit corporation, public transit system or~~

~~regional transit system~~ entity enters an agreement with the department that meets the requirements of 49 CFR Section 383.75 and demonstrates sufficient ability to conduct knowledge and skills tests in a manner that consistently meets the requirements of 49 CFR ~~Parts~~ Part 383, Subpart E, and 49 CFR Part 384, Subpart B, applicable to knowledge and skills testing.

~~*c.*~~ *d.* The department shall issue a certified third-party tester a certificate of authority that identifies the classes and types of vehicles for which knowledge and skills tests may be administered. The certificate shall be valid for the duration of the agreement executed pursuant to paragraph ~~607.30(2)*"b,"*~~ 607.30(2)*"c,"* unless revoked by the department for engaging in fraudulent activities related to conducting knowledge and skills tests or failing to comply with the requirements, qualifications, and standards of this chapter, the agreement, or 49 CFR ~~Parts~~ Part 383, Subpart E, and 49 CFR Part 384, Subpart B, applicable to knowledge and skills testing.

e. The department shall revoke a certificate of authority issued after July 1, 2023, to a third-party tester if the third-party tester fails to administer a minimum of 50 percent of all knowledge and skills tests given in a calendar year to Iowa applicants. However, the department shall not revoke a certificate of authority of a third-party tester who administers a minimum of 10 percent of all knowledge and skills tests given in a calendar year to Iowa applicants if the remainder of the tests are given to current or prospective employees of the third-party tester. For the purpose of this paragraph, an "Iowa applicant" is defined as an individual who holds a valid commercial learner's permit, commercial driver's license, noncommercial driver's license, or nonoperator identification card issued by the department or who otherwise qualifies as a resident of this state under Iowa Code section 321.1A(1).

607.30(3) *Certification of third-party test examiners.*

a. A certified third-party tester shall not employ or otherwise use as a third-party test examiner a person who has not been approved and certified by the department to administer knowledge or skills tests. Each certified third-party tester shall submit for approval the names of all proposed third-party test examiners to the department. The department shall not approve as a third-party test examiner a person who does not meet the requirements, qualifications, and standards of 49 CFR ~~Parts~~ Part 383, Subpart E, and 49 CFR Part 384, Subpart B, applicable to knowledge and skills testing, including but not limited to all required training and examination and a nationwide criminal background check. The criteria for passing the nationwide criminal background check shall include no felony convictions within the last ten years and no convictions involving fraudulent activities.

b. No change.

c. The department shall revoke the certificate of authority for a third-party test examiner to administer skills tests if the person holding the certificate does not administer skills tests to at least ten different applicants per calendar year; does not successfully complete the refresher training required by 49 CFR Section 384.228 every four years; is involved in fraudulent activities related to conducting knowledge or skills tests; or otherwise fails to comply with and meet the requirements, qualifications and standards of this chapter or 49 CFR ~~Parts~~ Part 383, Subpart E, and 49 CFR Part 384, Subpart B, applicable to knowledge and skills testing. Notwithstanding anything in this paragraph to the contrary, as provided in 49 CFR Section 383.75, if the person does not administer skills tests to at least ten different applicants per calendar year, the certificate will not be revoked for that reason if the person provides proof of completion of the examiner refresher training in 49 CFR Section 384.228 to the department or successfully completes one skills test under the observation of a department examiner.

d. The department shall revoke the certificate of authority for a third-party test examiner to administer knowledge tests if the person holding the certificate does not successfully complete the refresher training required by 49 CFR Section 384.228 every four years, is involved in fraudulent activities related to conducting knowledge or skills tests or otherwise fails to comply with and meet the requirements, qualifications and standards of this chapter or 49 CFR ~~Parts~~ Part 383, Subpart E, and 49 CFR Part 384, Subpart B, applicable to knowledge testing.

e. and *f.* No change.

607.30(4) No change.

~~**607.30(5)** *Limitation applicable to Iowa-based motor carriers.* An Iowa-based motor carrier certified as a third-party tester may only administer the knowledge or skills test to persons who are~~

~~enrolled in the Iowa-based motor carrier's commercial driving instruction program and shall not administer knowledge or skills tests to persons who are not enrolled in that program.~~

~~**607.30(6)**~~ **607.30(5)** *Training and refresher training for third-party test examiners.* All training and refresher training required under this rule shall be provided by the department, in form and content that meet the recommendations of the American Association of Motor Vehicle Administrators' International Third-Party Examiner/Tester Certification Program.

This rule is intended to implement Iowa Code section 321.187 ~~as amended by 2022 Iowa Acts, Senate File 2337, section 1~~.

ITEM 9. Amend rule 761—607.49(321) as follows:

761—607.49(321) Restricted commercial driver's license.

607.49(1) *Scope.* This rule pertains to the issuance of restricted commercial driver's licenses to ~~suppliers or~~ employees of ~~suppliers of agricultural inputs. Issuance is~~ the following designated farm-related service industries: agrichemical businesses, custom harvesters, farm retail outlets and suppliers and livestock feeders as permitted by 49 CFR 383.3(f). A restricted commercial driver's license shall meet all requirements of a regular commercial driver's license, as set out in Iowa Code chapter 321 and this chapter ~~of rules~~, except as specified in this rule.

~~**607.49(2)** *Agricultural inputs.* The term "agricultural inputs" means suppliers or applicators of agricultural chemicals, fertilizer, seed or animal feeds.~~

~~**607.49(3)**~~ **607.49(2)** *Validity.*

a. A restricted commercial driver's license allows the licensee to drive a commercial motor vehicle for agricultural input purposes. The license is valid to:

(1) Operate Group B and Group C commercial motor vehicles including tank vehicles and vehicles equipped with air brakes, except passenger vehicles.

(2) Transport the hazardous materials listed in paragraph ~~607.49(3)~~ *~~"b."~~* 607.49(2) *"b."*

(3) Operate only during the current, validated seasonal period.

(4) Operate between the employer's place of business and the farm currently being served, not to exceed 150 miles.

b. and *c.* No change.

~~**607.49(4)**~~ **607.49(3)** *Requirements.*

a. No change.

b. The applicant must have a good driving record for the most recent two-year period, as defined in subrule ~~607.49(5)~~ 607.49(4).

c. No change.

~~**607.49(5)**~~ **607.49(4)** *Good driving record.* A "good driving record" means a driving record showing:

a. to *d.* No change.

~~**607.49(6)**~~ **607.49(5)** *Issuance.*

a. to *h.* No change.

This rule is intended to implement Iowa Code section 321.176B.

ITEM 10. Renumber rule **761—607.51(321)** as **761—607.52(321)**.

ITEM 11. Adopt the following **new** rule 761—607.51(321):

761—607.51(321) National drug and alcohol clearinghouse.

607.51(1) *Applicability.* This rule applies to:

a. An applicant for or holder of a commercial learner's permit,

b. An applicant for or holder of a commercial driver's license,

c. An applicant seeking to transfer a commercial driver's license from a prior state of domicile to the state of Iowa,

d. An applicant seeking renewal of a commercial driver's license,

e. An applicant seeking to upgrade a commercial driver's license or add an endorsement authorizing the operation of a commercial motor vehicle not covered by the current commercial driver's license, or

f. An applicant for or holder of a restricted commercial driver's license.

607.51(2) *Issuance procedures.* Prior to issuing the license or permit, the department shall request information from the national drug and alcohol clearinghouse to determine if the person is prohibited from operating a commercial motor vehicle pursuant to 49 CFR 382.501(a). The department shall not issue, renew, transfer, or upgrade the license or permit if the person is prohibited from operating a commercial motor vehicle pursuant to 49 CFR 382.501(a). However, this subrule shall not take effect prior to the date established by the Federal Motor Carrier Safety Administration in 49 CFR Section 383.73 for state driver's license agency compliance with national drug and alcohol clearinghouse requirements.

607.51(3) *CDL downgrade.* Upon receiving notification that pursuant to 49 CFR 382.501(a) the person is prohibited from operating a commercial motor vehicle, the department shall downgrade the license or permit and record the downgrade on the CDLIS driver record within 60 days of the department's receipt of such notification. However, this subrule shall not take effect prior to the date established by the Federal Motor Carrier Safety Administration in 49 CFR Section 383.73 for state driver's license agency compliance with national drug and alcohol clearinghouse requirements. The downgrade will be initiated and completed as follows:

a. The department shall give the person written notice that the person is prohibited from operating a commercial motor vehicle due to notification the department received from the national drug and alcohol clearinghouse that the person has engaged in conduct prohibited by 49 CFR 382.501(a) and that upon receipt of the notification, the department initiated a downgrade of the person's CLP or CDL.

b. If the department receives notification that the person is no longer prohibited from operating a commercial motor vehicle before the downgrade is completed, the department shall terminate the downgrade process without removing the CLP or CDL privilege from the driver's license, transmit the information to the person's CDLIS driver record, and send written notice to the person.

c. If, after the downgrade is completed, the department receives notification from the national drug and alcohol clearinghouse that a driver is no longer prohibited from operating a commercial motor vehicle, the department shall record the end of the downgrade on the person's CDLIS driver record, reinstate the CLP or CDL privilege to the driver's license, and send written notice to the person.

d. If, after the downgrade is completed, the department receives notification from the national drug and alcohol clearinghouse that the person was erroneously identified as prohibited from operating a commercial motor vehicle, the department shall reinstate the CLP or CDL privilege to the driver's license as expeditiously as possible and remove from the CDLIS driver record and driving record any reference related to the person's erroneous prohibited status.

607.51(4) *Limitation on hearing and appeal.* An informal settlement, hearing, or appeal to contest the downgrade is limited to a determination of whether the facts required by Iowa Code sections 321.188 and 321.207 and this rule are true. The merits of the information conveyed by the national drug and alcohol clearinghouse to the department shall not be considered.

This rule is intended to implement Iowa Code sections 321.188 and 321.207.

[Filed 3/14/24, effective 5/8/24]
[Published 4/3/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/3/24.

ARC 7755C

UTILITIES DIVISION[199]

Adopted and Filed

Rulemaking related to forms

The Utilities Board hereby rescinds Chapter 2, "Forms," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 17A.3, 474.5 and 476.2.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 17A.3.

Purpose and Summary

The purpose of Chapter 2 is to inform the public of the location of Board-approved forms that the public may use in connection with requests for Board action or in proceedings before the Board. However, the forms will be available for public use on the Board's website irrespective of Chapter 2; therefore, the chapter is unnecessary and is rescinded.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7535C**. The first public hearing was held on February 20, 2024, at 9 a.m. in the Board Hearing Room, 1375 East Court Avenue, Des Moines, Iowa, and the second public hearing was held on February 29, 2024, at 9 a.m. in the Board Hearing Room, 1375 East Court Avenue, Des Moines, Iowa.

The following entities attended one or both public hearings: Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; Interstate Power and Light Company; Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy; Iowa American Water Company; and MidAmerican Energy Company. All oral comments received were in support of the proposed rescission of Chapter 2.

The Board received written comments from OCA, which expressed support for the rescission of Chapter 2.

No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on March 11, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

No waiver provision is included in the amendment because the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the Board's rules.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual

or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on May 8, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **199—Chapter 2**.

[Filed 3/15/24, effective 5/8/24]
[Published 4/3/24]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/3/24.

ARC 7748C

UTILITIES DIVISION[199]

Adopted and Filed

Rulemaking related to rulemaking

The Utilities Board hereby rescinds Chapter 3, "Rule Making," and adopts a new Chapter 3, "Rulemaking," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 17A.4, 474.5 and 476.2.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 17A.4, 17A.5, 17A.6 and 17A.7 and Executive Order 10 (January 10, 2023).

Purpose and Summary

The Board commenced this rulemaking under the provisions of Executive Order 10. This chapter is intended to assist members of the public who wish to initiate or participate in a Board rulemaking proceeding by describing and detailing the rules governing such participation. The Board is rescinding the existing Chapter 3 and repromulgating a new version of Chapter 3 with the removal of unnecessary and unneeded language and the reduction of restrictive terms.

On March 13, 2024, the Board issued an order adopting amendments. The order is available on the Board's electronic filing system, efs.iowa.gov, under Docket No. RMU-2023-0003.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on February 7, 2024, as **ARC 7577C**. The first public hearing was held on February 27, 2024, at 10 a.m. in the Board Hearing Room, 1375 East Court Avenue, Des Moines, Iowa, and the second public hearing was held on March 5, 2024, at 10 a.m. in the Board Hearing Room, 1375 East Court Avenue, Des Moines, Iowa.

The February 27, 2024, public hearing was attended by the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; and Interstate Power and Light Company. The March 5, 2024, public hearing was attended by OCA, MidAmerican Energy Company, and Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy. All oral comments received were supportive of the proposed rulemaking action set forth in the Notice.

The Board received written comments from OCA, which expressed support for the Board's rescission of existing Chapter 3 and adoption of a new Chapter 3 as published and set forth in the Notice.

No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on March 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

No waiver provision is included in the amendments because the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in Chapter 3.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on May 8, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 199—Chapter 3 and adopt the following **new** chapter in lieu thereof:

CHAPTER 3
RULEMAKING

199—3.1(17A,474,476) Purpose and scope.

3.1(1) *Scope.* These rules govern the practice and procedure in all rulemaking proceedings of the board.

3.1(2) *Rules of construction.* If any provision of a rule or the application of a rule to any person or circumstance is itself or through its enabling statute held invalid, the invalidity does not affect other provisions or applications of the rule that can be given effect without the invalid provision or application, and to this end, the provisions of the rule are severable.

199—3.2(17A,474,476) Initial stakeholder input. In addition to seeking information by other methods, the board may solicit comments from the public on the subject matter of possible rulemaking by issuing an order through its electronic filing system or by causing notice of the subject matter to be published in the Iowa Administrative Bulletin, indicating where, when, and how persons may comment.

199—3.3(17A,474,476) Petition for adoption of rules.

3.3(1) *Petitions.* Any interested person may petition the board for the adoption, amendment, or repeal of a rule pursuant to Iowa Code section 17A.7.

3.3(2) *Stakeholder comments.* Other interested persons may file written comments containing data, views, or arguments concerning the petition within 20 days of the filing of the petition. Reply comments

may be filed within 27 days of the filing of the petition. The board may allow additional time for filing comments and reply comments at its discretion.

199—3.4(17A,474,476) Commencement of proceedings. Rulemaking proceedings are commenced upon written order of the board.

199—3.5(17A,474,476) Rulemaking oral presentation.

3.5(1) *Requests.* If an oral presentation is not scheduled by the board, any interested person may file a request for an oral presentation.

3.5(2) *Written appearance.* Any interested person may participate in rulemaking oral presentations in person or by counsel.

3.5(3) *Oral presentations.* Participants in rulemaking oral presentations may submit exhibits and present oral statements of position, which may include data, views, comments, or arguments concerning the proposed adoption, amendment, or repeal of the rule. Oral statements are not made under oath and are not subject to cross-examination.

3.5(4) *Comments and limitations.* The board may, in its discretion, permit reply comments and request the filing of written comments subsequent to the adjournment of the oral presentation. The board may limit the time of any oral presentation and the length of any written presentation.

199—3.6(17A,474) Review of rules. To facilitate the five-year review provisions of Iowa Code section 17A.7(1), the board will review a portion of its chapters each fiscal year over each five-year period under the following schedule:

3.6(1) In fiscal year 2018 and every fifth year thereafter, the board will review Chapters 1 through 9 of its rules.

3.6(2) In fiscal year 2019 and every fifth year thereafter, the board will review Chapters 10 through 18 of its rules.

3.6(3) In fiscal year 2020 and every fifth year thereafter, the board will review Chapters 19 through 27 of its rules.

3.6(4) In fiscal year 2021 and every fifth year thereafter, the board will review Chapters 28 through 36 of its rules.

3.6(5) In fiscal year 2022 and every fifth year thereafter, the board will review Chapters 37 through 45 of its rules.

3.6(6) If the board adopts additional chapters in its rules, such chapters will be reviewed every fifth fiscal year from the fiscal year in which they are made effective.

These rules are intended to implement Iowa Code sections 17A.4 through 17A.7, 474.5, and 476.2.

[Filed 3/13/24, effective 5/8/24]
[Published 4/3/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/3/24.

ARC 7749C

UTILITIES DIVISION[199]

Adopted and Filed

Rulemaking related to declaratory orders

The Utilities Board hereby rescinds Chapter 4, "Declaratory Orders," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 17A.9 and 476.2.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 17A.9 and Executive Order 10 (January 10, 2023).

Purpose and Summary

The Board commenced this rulemaking under the provisions of Executive Order 10. This chapter is intended to inform members of the public of their right to file a petition for declaratory order under Iowa Code section 17A.9 and to describe the Board's declaratory order practice as required by Iowa Code section 17A.3(1)"b." The Board is rescinding the existing Chapter 4 and repromulgating a new version of Chapter 4 with the removal of unnecessary and unneeded language and the reduction of restrictive terms.

On March 13, 2024, the Board issued an order adopting amendments. The order is available on the Board's electronic filing system, efs.iowa.gov, under Docket No. RMU-2023-0004.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on February 7, 2024, as **ARC 7578C**. The first public hearing was held on February 27, 2024, at 9 a.m. in the Board Hearing Room, 1375 East Court Avenue, Des Moines, Iowa, and the second public hearing was held on March 5, 2024, at 9 a.m. in the Board Hearing Room, 1375 East Court Avenue, Des Moines, Iowa.

The February 27, 2024, public hearing was attended by the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; and Interstate Power and Light Company. The March 5, 2024, public hearing was attended by OCA, MidAmerican Energy Company, and Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy. All oral comments received were supportive of the proposed rulemaking action set forth in the Notice.

The Board received written comments from OCA, which expressed support for the Board's rescission of existing Chapter 4 and adoption of a new Chapter 4 as published and set forth in the Notice.

No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on March 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

No waiver provision is included in the proposed amendments because the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in Chapter 4.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on May 8, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 199—Chapter 4 and adopt the following **new** chapter in lieu thereof:

CHAPTER 4
DECLARATORY ORDERS

199—4.1(17A) Petition for declaratory order. Any person may file a petition with the Iowa utilities board for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the board. The petition shall conform with this chapter and with Iowa Code section 17A.9. A petition shall be dated and signed by the petitioner, include the petitioner's appropriate contact information, and include all of the following information (a sample form of a petition for a declaratory order is available on the board's website at iub.iowa.gov):

4.1(1) The question or questions that petitioner wishes the board to determine, stated clearly and concisely;

4.1(2) A clear and concise statement of all relevant facts on which the ruling is requested, including the petitioner's interest in the issue;

4.1(3) A citation to and the relevant language of the statutes, rules, policies, decisions, or orders that are applicable or whose applicability is in question and any other relevant law;

4.1(4) The petitioner's proposed answers to the questions raised and a summary of the reasons urged by the petitioner in support of those answers, including a statement of the legal support for the petitioner's position;

4.1(5) A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue and whether, to the petitioner's knowledge, those questions have been decided by, are pending determination by, or are under investigation by any governmental entity;

4.1(6) The names and addresses of other persons, or a description of any class of persons, known by the petitioner to be affected by or interested in the questions presented in the petition; and

4.1(7) A statement indicating whether the petitioner requests a meeting as provided for by rule 199—4.5(17A).

199—4.2(17A) Intervention. A person having an interest in the subject matter of a petition for a declaratory order may file with the board a petition for intervention pursuant to the "Intervention" rule contained in 199—Chapter 7 within 20 days of the filing of a petition for a declaratory order. The board may at its discretion entertain a late-filed petition for intervention. A petition for intervention in a proceeding on a petition for declaratory order shall be dated, be signed by the prospective intervenor with that person's appropriate contact information, include the information set forth in the "Intervention" rule contained in 199—Chapter 7, and include all of the following:

4.2(1) The answers urged by the intervenor to the question or questions presented and a summary of the reasons urged in support of those answers, including a statement of the legal support for the intervenor's position;

4.2(2) A statement indicating whether the intervenor is currently a party to another proceeding involving the questions at issue and whether, to the intervenor's knowledge, those questions have been decided by, are pending determination by, or are under investigation by any government entity;

4.2(3) The names and addresses of other persons, or a description of any class of persons, known by the intervenor to be affected by or interested in the questions presented in the petition; and

4.2(4) Whether the intervenor consents to be bound by the determination of the matters presented in the declaratory order proceeding.

199—4.3(17A) Briefs. The petitioner or any intervenor may file a brief in support of that party's position, and the board may order additional briefing.

199—4.4(17A) Service and filing of petitions. At the same time a petition for a declaratory order is filed, the petitioner shall serve the petition, in accordance with the "Service of documents" subrule in 199—Chapter 7 and the "Electronic service" rule in 199—Chapter 14, upon any person who, based upon a reasonable investigation, would be a necessary party to the proceeding under applicable substantive law. The petitioner is to file with the board a list of all persons served.

199—4.5(17A) Informal meeting. Upon request by petitioner, the board will schedule an informal meeting between the petitioner, all intervenors, and the board, a member of the board, or a designated member of the staff of the board to discuss the questions identified in the petition. The board may solicit comments from any person on the questions raised.

199—4.6(17A) Refusal to issue order.

4.6(1) *Grounds.* The board will not issue a declaratory order that would substantially prejudice the rights of a person who would be a necessary party and who does not consent in writing to determination of the matter in a declaratory order proceeding. The board may refuse to issue a declaratory order on some or all of the questions raised for any of the following reasons:

a. The petitioner requests that the board determines whether a statute is unconstitutional on its face.

b. The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the board to issue an order.

c. The board does not have jurisdiction over the questions presented in the petition.

d. The questions presented by the petition are also presented in a current rulemaking, contested case, or other agency or judicial proceeding that may definitively resolve them.

e. The questions presented by the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.

f. The facts or questions presented in the petition are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue an order.

g. There is no need to issue an order because the questions raised in the petition have been settled due to a change in circumstances.

h. The petition is not based upon facts calculated to aid in the planning of future conduct but is, instead, based solely upon prior conduct in an effort to establish the effect of that conduct or to challenge an agency decision already made.

i. The petition requests a declaratory order that would necessarily determine the legal rights, duties, or responsibilities of other persons who have not joined in the petition, intervened separately, or filed a similar petition and whose position on the questions presented may fairly be presumed to be adverse to that of the petitioner.

4.6(2) *Content and effect of refusal.*

a. The board's refusal to issue a declaratory order will include a statement of the specific grounds for the refusal and constitutes final board action on the petition.

b. Refusal to issue a declaratory order pursuant to this rule does not preclude the filing of a new petition that seeks to remedy the grounds for the refusal to issue an order.

199—4.7(17A) Effect of a declaratory order.

4.7(1) The issuance of a declaratory order constitutes final agency action on the petition. A declaratory order is binding on the board, on the petitioner, on any intervenors who consent to be bound, and on any persons who would be necessary parties, who are served pursuant to rule 199—4.4(17A), and who consent to be bound, in cases in which the relevant facts and the law involved are substantially indistinguishable from those on which the order was based. As to all other persons, a declaratory order serves only as precedent and is not binding on the board.

4.7(2) A declaratory order is effective upon the date of issuance.

These rules are intended to implement Iowa Code sections 17A.3(1)*"b,"*17A.9 and 476.2.

[Filed 3/13/24, effective 5/8/24]
[Published 4/3/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/3/24.

ARC 7752C

UTILITIES DIVISION[199]

Adopted and Filed

Rulemaking related to annual report

The Utilities Board hereby rescinds Chapter 23, "Annual Report," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 476.2, 476.9, 476.10, 476.22, 476.31 and 546.7.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 476.1, 476.2, 476.9, 476.22, 476.31 and 546.7.

Purpose and Summary

The Board commenced this rulemaking under the provisions of Executive Order 10 (January 10, 2023). This chapter is intended to inform the public and public utilities of Board requirements related to the filing of annual reports. With respect to rate-regulated public utilities, annual reports serve the essential function of facilitating the continuous review of the operation of these utilities with respect to all matters that affect rates or charges for utility services. The Board is rescinding the existing Chapter 23 and repromulgating a new version of Chapter 23 with the removal of unnecessary and unneeded language and the reduction of restrictive terms.

On March 13, 2024, the Board issued an order adopting amendments. The order is available on the Board's electronic filing system, efs.iowa.gov, under Docket No. RMU-2023-0023.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on February 7, 2024, as **ARC 7579C**. The first public hearing was held on February 27, 2024, at 11 a.m. in the Board Hearing Room, 1375 East Court Avenue, Des Moines, Iowa, and the second public hearing was held on March 5, 2024, at 11 a.m. in the Board Hearing Room, 1375 East Court Avenue, Des Moines, Iowa.

The February 27, 2024, public hearing was attended by the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; and Interstate Power and Light Company. The March 5, 2024, public hearing was attended by OCA, MidAmerican Energy Company, and Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy. All oral comments received were supportive of the proposed rulemaking action set forth in the Notice, except that OCA requested that the word "shall" be reinserted in the first sentence of subrule 23.2(2). In addition to attending the oral presentations, OCA filed written comments in which it requested the previously mentioned change in subrule 23.2(2).

One change from the Notice has been made to change "is to" in the first sentence of subrule 23.2(2) to "shall" at the request of OCA. From its current version, the adopted version of Chapter 23 contains

57 fewer words and 19 fewer restrictive terms. Consequently, the adopted version of Chapter 23 will contain fewer restrictive terms even with the reinsertion of the restrictive term requested by OCA.

Adoption of Rulemaking

This rulemaking was adopted by the Board on March 14, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

No waiver provision is included in the proposed amendments because the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in Chapter 23.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on May 8, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 199—Chapter 23 and adopt the following **new** chapter in lieu thereof:

CHAPTER 23
ANNUAL REPORT

199—23.1(476) General information.

23.1(1) Every public utility shall keep and render its books, accounts, papers, and records accurately and faithfully in the manner and form prescribed by the board and comply with all directions of the board relating to such books, accounts, papers, and records.

23.1(2) Each public utility subject to Iowa Code chapter 476 shall file an annual report with this board on or before April 1 of each year covering operations during the immediately preceding calendar year. This information will be used for a number of purposes, including to apportion the costs of the utilities board pursuant to Iowa Code section 476.10 and to determine whether rate-regulated utilities' earnings are excessive pursuant to Iowa Code section 476.32.

23.1(3) The forms that are to be completed by each utility will be made publicly available on the board's website or by other means readily accessible. The board may direct the utilities to file the completed forms through a portal on the board's website or the board's electronic filing system.

199—23.2(476) Annual report requirements.

23.2(1) *Forms.* The following annual report forms shall be filed by the following utilities:

a. Investor-owned, rate-regulated electric utilities file Form IE-1 with a copy of that utility's Federal Energy Regulatory Commission (FERC) Annual Report Form No. 1 or 1A as applicable.

b. Investor-owned, non-rate-regulated electric utilities file Form EC-1.

c. Investor-owned gas utilities file Form IG-1 with a copy of that utility's FERC Annual Report Form No. 2 or 2A as applicable.

d. Regulated water utilities file Form WA-1.

e. Cooperative electric utilities file Form EC-1.

f. Municipally owned electric utilities file Form ME-1.

g. Municipally owned gas utilities file Form MG-1.

h. Providers of telecommunications service file Form TC-1.

i. Competitive natural gas providers and aggregators file Form CNGP-1.

j. Generation and transmission cooperatives file Form EC-1N.

k. Storm water drainage and sanitary sewage utilities file Form SW-1.

23.2(2) *Additional requirements for rate-regulated utilities.* A rate-regulated utility shall include information concerning its Iowa operations in its report as requested on the forms and file as part of its annual report the following:

a. A list (by title, author and date) of any financial, statistical, technical or operational reviews or reports that a company may prepare for distribution to stockholders, bondholders, utility organizations or associations or other interested parties.

b. A list (by form number and title) of all financial, statistical, technical and operational review-related documents filed with an agency of the federal government.

These rules are intended to implement Iowa Code sections 476.2, 476.9, 476.10, 476.22, and 476.31.

[Filed 3/15/24, effective 5/8/24]
[Published 4/3/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/3/24.

ARC 7750C

WORKFORCE DEVELOPMENT BOARD AND WORKFORCE DEVELOPMENT CENTER ADMINISTRATION DIVISION[877]

Adopted and Filed

Rulemaking related to adult education and literacy programs

The Workforce Development Board and Workforce Development Center Administration Division hereby rescinds Chapter 32, "Adult Education and Literacy Programs," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 17A and section 84A.19.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 17A and section 84A.19.

Purpose and Summary

As part of the Workforce Development Department's review of rules under Executive Order 10 (January 10, 2023), the Department identified several instances where the current chapter text duplicated statutory language and used restrictive terms. Such text has been removed from the chapter.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on February 7, 2024, as **ARC 7574C**. Public hearings were held on February 27, 2024, at 9 a.m. and

WORKFORCE DEVELOPMENT BOARD AND WORKFORCE DEVELOPMENT CENTER ADMINISTRATION DIVISION[877](cont'd)

1 p.m. in the Capitol View Room, 1000 East Grand Avenue, Des Moines, Iowa. No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Workforce Development Board and Workforce Development Center Administration Division on March 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on May 8, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 877—Chapter 32 and adopt the following **new** chapter in lieu thereof:

CHAPTER 32
ADULT EDUCATION AND LITERACY PROGRAMS

877—32.1(84A) Definitions.

"Act" means the Adult Education and Family Literacy Act, 29 U.S.C. Sections 3101 et seq.

"Adult education and literacy program" means the same as "adult education and literacy programs" defined in Iowa Code section 84A.19, as well as other activities specified in the Act.

"Career pathways" means the same as defined in 29 U.S.C. Section 3102, subsection 7, with the exception of item (F).

"Coordinator" means the person(s) responsible for making decisions for the adult education and literacy program at the local level.

"Department" means the Iowa department of workforce development.

"English as a second language" means a structured language acquisition program designed to teach English to students whose native language is other than English.

"Intake" means admittance and enrollment in an adult education and literacy program operated by an eligible provider.

"Professional staff" means all staff who are engaged in providing services, including instruction and data entry, for individuals who are eligible for adult education and literacy programs.

"State assessment policy" means a federally approved policy that stipulates the use of a standardized assessment, scoring and reporting protocols, certification requirements for test administrators, and the protocol for tracking test and attendance data.

"State plan" means the compliance document that outlines Iowa's workforce development system four-year strategy for providing workforce services, including adult education and literacy, to Iowans and employers. State planning shall be developed in accordance with applicable federal legislation.

"Volunteer staff" means all non-paid persons who perform services, including individualized instruction and data entry, for individuals who are eligible for adult education and literacy programs.

877—32.2(84A) Program administration. The department is designated as the agency responsible for administration of state and federally funded adult basic education programs and for supervision of the administration of adult basic education programs. The department is responsible for the allocation and distribution of state and federal funds awarded to eligible providers for adult basic education programs through a grant application in accordance with this chapter and with the state plan.

32.2(1) *Eligible providers.* Eligible providers are eligible entities as defined by the Adult Education and Family Literacy Act, 20 U.S.C. Ch. 73, and subsequent federal workforce training and adult education legislation, and approved by the department.

32.2(2) *Program components.*

a. The eligible provider will maintain the ability to provide the following adult education and literacy services as deemed appropriate by the community or needs of the students:

(1) Adult basic education;

(2) Programs for adults who are English learners;

(3) Adult secondary education, including programs leading to the achievement of a high school equivalency certificate or high school diploma;

(4) Instructional services provided by qualified instructors as defined in subrule 32.6(1) to improve student proficiencies necessary to function effectively in adult life, including accessing further education, employment-related training, or employment;

(5) Assessment and guidance services adhering to the state's assessment policy; and

(6) Programs and services stipulated by current and subsequent federal and state adult education legislation.

b. Providers effectively use technology, services, and delivery systems, including distance education, in a manner sufficient to increase the amount and quality of student learning and performance.

c. Providers ensure a student acquires the skills needed to transition to and complete postsecondary education and training programs and obtain and advance in employment leading to economic self-sufficiency.

32.2(3) *Local planning.*

a. Adult education and literacy programs are to collaborate and enter into agreements with multiple partners in the community for the purpose of establishing a local plan. Such plans are to expand the services available to adult learners, align with the strategies and goals established by the state plan, and prevent duplication of services.

b. An adult education and literacy program's agreement will not be formalized until the local plan is approved by the department. A plan will be approved if the plan complies with the standards and criteria outlined in this chapter, federal adult education and family literacy legislation, and the strategies and goals of the state plan as defined in the local plan application.

c. Local plans may be approved by the state for single or multiple years.

32.2(4) *Federal funding.* Federal funds received by an adult education and literacy program are not to be expended for any purpose other than authorized activities pursuant to the Act.

32.2(5) *State funding.* Moneys received from state funding sources for adult education and literacy programs are to be used in the manner described in this subrule. All funds are to be used to expand services and improve the quality of adult education and literacy programs.

a. Use of funds. State funding may only be expended on:

(1) Allowable uses pursuant to the Act.

(2) High school equivalency testing and associated costs.

b. Restrictions. In expending state funding, adult education and literacy programs shall adhere to the allowable use provisions of the Act, except for administrative cost provisions.

c. Reporting. All reporting for state funding will adhere to a summary of financial transactions related to the adult education and literacy program's resources and expenses in a format prescribed by the department. Adult education and literacy programs will submit quarterly reports to the department on dates to be set by the department. A year-end report will be submitted to the department no later than October 1.

32.2(6) *English as a second language.* In addition to meeting subrules 32.2(1) through 32.2(5), English as a second language programs are to adhere to the following provisions.

a. Distribution and allocation. The department will prescribe the distribution and allocation of funding, based on need for instruction in English as a second language in the region served by each community college, as measured by census data, survey data, and local outreach efforts and results.

b. Midyear reporting. English as a second language programs will include a narrative describing the progress and attainment of benchmarks established by the department. The report is to be provided to the department midway through the academic year.

32.2(7) *Funding allocation.* The department will be responsible for the allocation and distribution of state and federal funds for adult basic education programs in accordance with these rules and with the state plan. The state has the right under federal legislation to establish the funding formula and to issue a competitive bidding process.

877—32.3(84A) References. All references to the United States Code (U.S.C.) and Iowa Adult Education Professional Development Standards in this chapter are as amended to November 1, 2023.

877—32.4(84A) Career pathways. Adult education and literacy programs may use state adult education and literacy education funding for activities related to the development and implementation of the basic skills component of a career pathways system.

32.4(1) *Collaboration.* Adult education and literacy programs are to coordinate with other available education, training, and social service resources in the community for the development of career pathways, such as by establishing strong links with elementary schools and secondary schools, postsecondary educational institutions, institutions of higher education, local workforce boards, one-stop centers, job training programs, social service agencies, business and industry, labor organizations, community-based organizations, nonprofit organizations, and intermediaries.

32.4(2) *Use of state funds.* Only activities directly linked to adult education and literacy programs and instruction shall be funded with moneys received from state adult education and literacy funds. Consideration will be given to entities providing adult education and literacy activities concurrently with workforce preparation activities and workforce training for the purpose of educational and career advancement.

877—32.5(84A) Student eligibility. A person seeking to enroll in an adult education and literacy program is eligible if the person meets the criteria in 29 U.S.C. Section 3272(4).

877—32.6(84A) Qualification of staff. This rule applies to all staff hired after July 1, 2015. All staff hired prior to July 1, 2015, are exempt from this rule.

32.6(1) *Professional staff.* Professional staff providing instruction in an adult education and literacy program to students possess at minimum a bachelor's degree.

32.6(2) *Volunteer staff.* Volunteer staff possess at minimum a high school diploma or high school equivalency diploma.

877—32.7(84A) High-quality professional development.

32.7(1) *Responsibility of program.* Adult education and literacy programs are responsible for providing professional development opportunities for professional and volunteer staff pursuant to this rule, including:

a. Proper procedures for the administration and reporting of data;

b. The development and dissemination of instructional and programmatic practices based on the most rigorous and scientifically valid research available; and

c. Appropriate reading, writing, speaking, mathematics, English language acquisition, distance education, and staff training practices aligned with content standards for adult education.

32.7(2) *Professional development.* Professional development is to include formal and informal means of assisting professional and volunteer staff to:

a. Acquire knowledge, skills, approaches, and dispositions;

b. Explore new or advanced understandings of content, theory, and resources; and

c. Develop new insights into theory and its application to improve the effectiveness of current practice and lead to professional growth.

32.7(3) *Professional development standards.* The department and entities providing adult education and literacy programs are to promote effective professional development and foster continuous instructional improvement. Professional development is to incorporate the following standards:

a. Strengthens professional and volunteer staff knowledge and application of content areas, instructional strategies, and assessment strategies based on research;

b. Prepares and supports professional and volunteer staff in creating supportive environments that help adult learners reach realistic goals;

c. Uses data to drive professional development priorities, analyze effectiveness, and help sustain continuous improvement for adult education and literacy programs and learners;

d. Uses a variety of strategies to guide adult education and literacy program improvement and initiatives;

e. Enhances abilities of professional and volunteer staff to evaluate and apply current research, theory, evidence-based practices, and professional wisdom;

f. Models or incorporates theories of adult learning and development; and

g. Fosters adult education and literacy program, community, and state-level collaboration.

32.7(4) *Provision of professional development.* Adult education and literacy program staff are to participate in professional development activities that are related to their job duties and improve the quality of the adult education and literacy program with which the staff is associated. All professional development activities will be in accordance with the published Iowa Adult Education Professional Development Standards.

a. All professional staff are to receive at least 12 clock hours of professional development annually. Professional staff who possess a valid Iowa teacher certificate are exempt from this paragraph.

b. All professional staff new to adult education are to receive six clock hours of preservice professional development prior to, but no later than, one month after starting employment with an adult education program. Preservice professional development may apply toward the professional development described in paragraph 32.7(4)*"a."*

c. Volunteer staff are to receive 50 percent of the professional development in paragraphs 32.7(4)*"a"* and *"b."*

32.7(5) *Individual professional development plan.* Adult education and literacy programs are to develop and maintain a plan for hiring and developing quality professional staff that includes all of the following:

a. An implementation schedule for the plan.

b. Orientation for new professional staff.

c. Continuing professional development for professional staff.

d. Procedures for accurate record keeping and documentation for plan monitoring.

e. Specific activities to ensure that professional staff attain and demonstrate instructional competencies and knowledge in related adult education and literacy fields.

f. Procedures for collection and maintenance of records demonstrating that each staff member has attained or documented progress toward attaining minimal competencies.

g. Provision that all professional staff will be included in the plan. The plan may be differentiated for each type of employee.

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32.7(6) *Waiver.* The time for professional development may be reduced by local adult education and literacy programs in individual cases where exceptional circumstances prevent staff from completing the specified hours of professional development. Documentation is to be kept that justifies the granting of a waiver. Requests for exemption from staff qualification requirements in individual cases will be kept on record and available to the department for review upon request.

32.7(7) *Monitoring.* Each program will maintain records of staff qualifications and professional development for five years, which will be available to department staff for monitoring upon request.

877—32.8(84A) Performance and accountability.

32.8(1) *Accountability system.* Adult education and literacy programs shall adhere to the standards established by the Act in the use and administration of the accountability system, as well as this rule. The accountability system will be a statewide system to include enrollment reports, progress indicators and core measures.

32.8(2) *Performance indicators.*

a. Compliance. Adult education and literacy programs will adhere to the policies and procedures outlined in the state assessment policy. Data will be submitted by the tenth day of each month or, should that day fall outside of standard business hours, the first Monday following the tenth day of the month. All adult education and literacy programs will comply with data quality reviews and complete quality data checks to ensure federal compliance with reporting.

b. Determination of progress. Upon administration of a standardized assessment, within the first 12 hours of attendance, adult education and literacy programs will place eligible students at an appropriate level of instruction. Progress assessments will be administered after the recommended hours of instruction as published in the state assessment policy.

c. Core measures. Federal and state adult education and literacy legislation has established data for reporting core measures, including percentage of participants in unsubsidized employment during the second and fourth quarter after exit from the program; median earnings; percentage of participants who obtain a postsecondary credential or diploma during participation or within one year after exit from the program; participants achieving measurable skill gains; and effectiveness in serving employers.

These rules are intended to implement Iowa Code section 84A.19.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/3/24.

ARC 7751C

WORKFORCE DEVELOPMENT BOARD AND WORKFORCE DEVELOPMENT CENTER ADMINISTRATION DIVISION[877]

Adopted and Filed

Rulemaking related to Iowa vocational rehabilitation services

The Workforce Development Board and Workforce Development Center Administration Division hereby rescinds Chapter 33, "Iowa Vocational Rehabilitation Services," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 17A and 84H.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 84H.

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Purpose and Summary

As part of the Workforce Development Department's review of rules under Executive Order 10 (January 10, 2023), the Department identified several instances where the previous chapter text duplicated statutory language and used restrictive terms. Such text has been removed from the chapter.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on February 7, 2024, as **ARC 7575C**. Public hearings were held on February 27, 2024, at 10 a.m. and 1 p.m. in the Capitol View Room, 1000 East Grand Avenue, Des Moines, Iowa. No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Workforce Development Board and Workforce Development Center Administration Division on March 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on May 8, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 877—Chapter 33 and adopt the following **new** chapter in lieu thereof:

CHAPTER 33
IOWA VOCATIONAL REHABILITATION SERVICES

877—33.1(84H) Nature and responsibility of division. The division of vocational rehabilitation services is established in the department of workforce development and is responsible for providing services to potentially eligible and eligible individuals with disabilities leading to competitive integrated employment in accordance with Iowa Code chapter 84H, the federal Rehabilitation Act of 1973, the federal Social Security Act (42 U.S.C. Section 301, et seq.), and the corresponding federal regulations.

877—33.2(84H) Nondiscrimination. The division shall not discriminate on the basis of age, race, creed, color, gender, sexual orientation, gender identity, national origin, religion, duration of residency, or

disability in the determination of a person's eligibility for rehabilitation services and in the provision of necessary rehabilitation services.

877—33.3(84H) References. All references to the Code of Federal Regulations (CFR) and United States Code (U.S.C.) in this chapter are as amended to November 1, 2023.

877—33.4(84H) Definitions. For the purpose of this chapter, the indicated terms are defined as follows:

"Act" means the federal Rehabilitation Act of 1973 as codified at 29 U.S.C. Section 701, et seq.

"Aggregate data" means information about one or more aspects of division job candidates, or from some specific subgroup of division job candidates, but from which personally identifiable information on any individual cannot be discerned.

"Applicant" means an individual or the individual's representative, as appropriate, who has completed the Iowa vocational rehabilitation services (IVRS) Application for Services (R-412), a common intake application form through a one-stop center requesting IVRS services, or has otherwise requested services from IVRS; has provided to IVRS information necessary to initiate an assessment to determine eligibility and priority for services; is available to complete the assessment process; and has reviewed and signed the Rights and Responsibilities (IPE-1).

"Appropriate modes of communication" means the same as defined in 34 CFR Section 361.5(4).

"Assessment for determining eligibility or in the development of an IPE" means a review of existing data and, to the extent necessary, the provision of appropriate assessment activities to obtain additional information to make a determination and to assign the priority for services or development of an IPE.

"Assistive technology device" means the same as defined in Section 3 of the Assistive Technology Act of 1998.

"Assistive technology service" means the same as defined in Section 3 of the Assistive Technology Act of 1998.

"Benefits planning" means assistance provided to an individual who is interested in becoming employed, but is uncertain of the impact work income may have on any disability benefits and entitlements being received, and is or is not aware of benefits, such as access to health care, that might be available to support employment efforts.

"Case record" means the file of personally identifiable information, whether written or electronic in form, on an individual that is collected to carry out the purposes of the division as defined in the Act. This information remains a part of the case record and is subject to these rules even when temporarily physically removed, either in whole or in part, from the file folder in which it is normally kept.

"Community rehabilitation program" or *"CRP"* means the same as defined in 34 CFR Section 361.5(7).

"Comparable services and benefits" means the same as defined in 34 CFR Section 361.5(8).

"Competitive integrated employment" means the same as defined in 34 CFR Section 361.5(9).

"Competitive integrated work setting," with respect to the provision of services, means a setting, typically found in the community, in which applicants or eligible individuals interact with nondisabled individuals, other than nondisabled individuals who are providing services to those applicants or eligible individuals, and said interaction is consistent with the quality of interaction that would normally occur in the performance of work by the nondisabled coworkers.

"Customized employment" means the same as defined in 34 CFR Section 361.5(11).

"Department" means the department of workforce development.

"Designated representative" means any representative chosen by an applicant or eligible individual, as appropriate, including a parent, guardian, other family member, or advocate, unless a representative has been appointed by a court to represent the individual, in which case the court-appointed representative is the designated representative.

"Designated state unit" or *"DSU"* means Iowa vocational rehabilitation services.

"Division" or *"IVRS"* means Iowa vocational rehabilitation services.

"Eligible individual" means an applicant for services from the division who meets the eligibility requirements.

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"Employment outcome" means the same as defined in 34 CFR Section 361.5(15).

"Extended employment" means the same as defined in 34 CFR Section 361.5(18).

"Extended services" means the same as defined in 34 CFR Section 361.5(19).

"Family income," for purposes of calculating the financial participation rate for services, means those who are financially responsible for the support of the job candidate and may involve individuals who live in the same or separate households including partners and spouses.

"Family member," for purposes of vocational rehabilitation services, means any individual who lives with the individual with a disability and has a vested interest in the welfare of that individual whether by marriage, birth, or choice. A family member is an individual who either (1) is a relative or guardian of an applicant or job candidate, or (2) lives in the same household as an applicant or job candidate, who has a substantial interest in the well-being of the applicant or job candidate, and whose receipt of vocational rehabilitation services is necessary to enable the applicant or job candidate to achieve an employment outcome.

"IDEA" means the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.).

"Impartial hearing officer" or *"IHO"* means the same as defined in 34 CFR Section 361.5(24).

"Independent living services" or *"IL services"* means services authorized under Title VII, Chapter 1, Part B, of the Rehabilitation Act of 1973.

"Individualized plan for employment" or *"IPE"* means a plan that specifies the services needed by an eligible individual and the responsibilities of the individual with a disability and other payers. An IPE contains the matter set forth in or permitted by 34 CFR Section 361.46.

"Individual with a disability" means the same as defined in 34 CFR Section 361.5(28).

"Individual with a most significant disability" means the same as defined in 34 CFR Section 361.5(29).

"Individual with a significant disability" means the same as defined in 34 CFR Section 361.5(30).

"Institution of higher education" or *"IHE"* means the same as defined in Section 102(a) of the Higher Education Act of 1965.

"Job candidate" means an applicant or eligible individual applying for or receiving benefits or services from any part of the division and includes former job candidates of the division whose files or records are retained by the division.

"Job retention waiting list release" means the mechanism used to remove a job candidate from the division waiting list when the individual is at immediate risk of losing the job and requires vocational rehabilitation service(s) or good(s) in order to maintain employment. This applies only for those service(s) or good(s) that will allow the individual to maintain employment. After the individual receives said service(s) or good(s), the individual's file will be closed if the individual is satisfied with the services provided and requires no further services. If there are additional services needed, the individual will return to the waiting list, if necessary, until that point where the individual's priority of service is being served.

"Maintenance" means the same as defined in 34 CFR Section 361.5(34).

"Mediation" means the same as defined in 34 CFR Section 361.5(35).

"Menu of services" means the services provided by community partners to assist an individual with a disability in achieving an employment outcome. Menu of services refers to various services that the division is able to purchase from an approved CRP or other approved provider on behalf of a job candidate. The services are selected and jointly agreed upon by the counselor and job candidate of the division. Payments for services are made based on a fee structure that is published and updated annually, and there is no financial needs assessment applied toward the costs of these purchased services from the community partner.

"Ongoing support services" means the same as defined in 34 CFR Section 361.5(37).

"Personal assistance services" means the same as defined in 34 CFR Section 361.5(38).

"Physical or mental impairment" means the same as defined in 34 CFR Section 361.5(40).

"Physical or mental restoration services" means the same as defined in 34 CFR Section 361.5(39).

"Plan for natural supports" means a plan initiated prior to the implementation of the supported employment program that describes the natural supports to be used on the job; the training provided

to the supervisor and mentor on the job site; the technology used in the performance of the work; the rehabilitation strategies and trainings that will be taught to the mentor in order to support and direct the job candidate on the job; the supports needed outside of work for the job candidate to be successful; and the methods by which the employer can connect with the job candidate's job coach/IVRS staff member, or the training program when the need arises.

"Postemployment services" means the same as defined in 34 CFR Section 361.5(41).

"Potentially eligible" for the purposes of preemployment transition services means all students with disabilities. A student is considered potentially eligible until the student has applied for services and an eligibility decision has been determined.

"Preemployment transition services" or *"pre-ETS"* means those services specified in 34 CFR Section 361.48(a).

"Recognized educational program" includes secondary education programs, nontraditional or alternative secondary education programs (including homeschooling), postsecondary education programs, and other recognized educational programs such as those offered through the juvenile justice system.

"Rehabilitation technology" means the same as defined in 34 CFR Section 361.5(45).

"Satisfactory employment" means stable employment in a competitive integrated employment setting that is consistent with the individual's IPE and acceptable to both the individual and the employer.

"Self-employment services" means services to assist individuals with disabilities to achieve a self-employment outcome consistent with the individual's abilities, preferences and needs. Self-employment is a vocational option through the division that is available only to for-profit businesses intended for operation within the state of Iowa. The division provides two options within the program, which include the full self-employment program and micro-enterprise development. These services provide information, strategies and resources to help the business become self-sustaining while assisting the individual in assuring all necessary supports are in place for long-term success.

"Status" means the existing condition or position of a case. The specific case statuses are as follows:

1. 00-0 Referral for services.
2. 01-0 Potentially eligible student.
3. 01-1 Closed from potentially eligible.
4. 02-0 Applicant.
5. 04-0 Waiting list.
6. 08-0 Closed before acceptance (from Status 02-0).
7. 10-0 Accepted for services (plan development) adults.
8. 10-1 Accepted for services (plan development) high school students.
9. 14-0 Counseling and guidance.
10. 16-0 Physical and mental restoration.
11. 18-__ Training.

- 18-1 Work adjustment training/assessment.
- 18-2 On-the-job training.
- 18-3 Vocational-technical training.
- 18-4 Academic training.
- 18-5 Secondary education.
- 18-6 Supported employment.
- 18-7 Other types of training (including nonsupported employment job coaching, job development, ISE).

12. 20-0 Ready for employment.
13. 22-0 Employed.
14. 24-0 Services interrupted.
15. 26-0 Closed rehabilitated.
16. 28-0 Closed after IPE initiated (from Status 14-0 through 24-0).
17. 30-0 Closed before IPE initiated (from Status 10-_).

18. 32-0 Postemployment services (from Status 26-0).

19. 33-__ Closed after postemployment services (from Status 32-0).

- 33-1 Individual is returned to suitable employment or the employment situation is stabilized.
- 33-2 The case has been reopened for comprehensive vocational rehabilitation services.
- 33-3 The postemployment services are no longer assisting the individual and further services would be of no assistance.

20. 38-0 Closed from Status 04-0 (individual does not meet one of the waiting list categories, and the individual no longer wants to remain on the waiting list or fails to respond when contacted because individual's name is at the top of the waiting list).

"Student with a disability" means an individual with a disability in a secondary, postsecondary, or other recognized education program who is not younger than 14 years of age and not older than 21 years of age; and is eligible for, and receiving, special education or related services under Part B of the Individuals with Disabilities Education Act or is a student who is an individual with a disability, for purposes of Section 504.

"Substantial impediment to employment" means the same as defined in 34 CFR Section 361.5(52).

"Supported employment" means the same as defined in 34 CFR Section 361.5(53).

"Supported employment services" means the same as defined in 34 CFR Section 361.5(54).

"Transition services" means the same as defined in 34 CFR Section 361.5(55).

"Transportation" means the same as defined in 34 CFR Section 361.5(56).

"Vocational rehabilitation services" means the same as defined in 34 CFR Section 361.5(57).

"Waiting list" means the listings of eligible individuals for vocational rehabilitation services who are not in a category being served, otherwise known as "order of selection" under the Workforce Innovation and Opportunity Act of 2014.

"Youth with a disability" means the same as defined in 34 CFR Section 361.5(58).

877—33.5(84H) Referral and application for services.

33.5(1) *General.*

a. The division has established and implemented standards for the prompt and equitable handling of referrals of individuals for vocational rehabilitation services, including referrals of individuals made through the one-stop service delivery systems under Section 121 of the Workforce Innovation and Opportunity Act. The standards include timelines for making good faith efforts to inform these individuals of application requirements and to gather information necessary to initiate an assessment for determining eligibility and priority for services.

b. A referral for a student with a disability requesting pre-ETS includes completion of the pre-ETS agreement.

c. Once an individual has submitted an application for vocational rehabilitation services, including applications made through common intake procedures in one-stop centers under Section 121 of the Workforce Innovation and Opportunity Act, an eligibility determination is to be made within 60 days, unless exceptional and unforeseen circumstances beyond the control of the division preclude making an eligibility determination within 60 days and the division and the individual agree to a specific extension of time.

d. An individual is considered to have submitted an application when the individual or the individual's representative, as appropriate, has completed an agency application form including written consent; has completed a common intake application form in a one-stop center requesting vocational rehabilitation services or has otherwise requested services from the division; has provided to the division information necessary to initiate an assessment to determine eligibility and priority for services; and is available to complete the assessment process. The division ensures that its application forms are widely available throughout the state, particularly in the one-stop centers under Section 121 of the Workforce Innovation and Opportunity Act.

e. The division will refer applicants or eligible individuals to appropriate programs and service providers best suited to address the specific rehabilitation, independent living and employment needs of the individual with a disability. Individuals with the most significant disabilities who are working

at subminimum wage in a nonintegrated setting are provided information about competitive integrated employment and support from the division, once known to the division, by qualified personnel and partners with the goal of assisting said individuals to pursue competitive integrated employment.

f. The division will inform those who decide against pursuit of employment that services may be requested at a later date if, at that time, they choose to pursue an employment outcome.

33.5(2) *Individuals who are blind.* Pursuant to rule 111—10.4(216B), individuals who meet the department for the blind (IDB) definition of "blind" are to be served primarily by IDB. Joint cases are served pursuant to any applicable memorandum of agreement executed between the division and IDB.

877—33.6(84H) Eligibility for vocational rehabilitation services.

33.6(1) *General.*

a. Eligibility for vocational rehabilitation services will be determined upon the basis of the following:

(1) A determination by a qualified rehabilitation counselor that the applicant has a physical or mental impairment documented by a qualified provider;

(2) A determination by a qualified rehabilitation counselor that the applicant's physical or mental impairment constitutes or results in a substantial impediment to employment for the applicant; and

(3) A determination by a qualified vocational rehabilitation counselor that the applicant requires vocational rehabilitation services to prepare for, secure, retain, advance in, or regain employment that is consistent with the applicant's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

b. For purposes of an assessment for determining eligibility and vocational rehabilitation needs, an individual is presumed to have a goal of an employment outcome. The applicant's completion of the application process for vocational rehabilitation services is sufficient evidence of the individual's intent to achieve an employment outcome. If at any time the individual decides to no longer pursue competitive integrated employment, the individual is no longer eligible for division services.

33.6(2) *Presumptions.* A presumption exists that the applicant who meets the eligibility provisions in subparagraphs 33.6(1)*"a"*(1) and 33.6(1)*"a"*(2) can benefit in terms of an employment outcome from the provision of vocational rehabilitation services. Any applicant who has been determined eligible for social security benefits under Title II or Title XVI of the Social Security Act based on the applicant's own disability is presumed eligible for vocational rehabilitation services and is considered an individual with a significant disability. IVRS staff are to verify the applicant's eligibility. Recipients who demonstrate eligibility under subrule 33.6(1) are to also demonstrate need in the IPE under subrule 33.6(3). Nothing in this rule automatically entitles a recipient of social security disability insurance or supplemental security income payments to any good or service provided by the division. Qualified IVRS personnel will identify and document the individual as a recipient of social security benefits based on disability, and the determination of impediments to employment and need for services will be documented by the qualified rehabilitation counselor.

33.6(3) *Standards for ineligibility.* If the division determines that an applicant is ineligible for vocational rehabilitation services or determines that an individual receiving services under an IPE is no longer eligible for services, including pre-ETS, the division will comply with 34 CFR Section 361.43.

33.6(4) *Residency.* There is no duration of residency requirement; however, an individual seeking services from the agency must be present and available for participation in services.

877—33.7(84H) Other eligibility and service determinations.

33.7(1) *Waiting list.*

a. As set forth in the Act and 34 CFR Section 361.36, if the division cannot serve all eligible individuals who apply, the division shall develop and maintain a waiting list for services based on significance of disability. The three categories of waiting lists are as follows, listed in order of priority to be served:

(1) Most significantly disabled;

(2) Significantly disabled; and

(3) Others eligible.

b. An individual's order of selection is determined by the waiting list and the date on which the individual applied for services from IVRS. All waiting lists are statewide in scope; no regional lists are to be maintained. Assessment of the significance of an applicant's disability is done during the process of determining eligibility but may continue after the individual has been placed on a waiting list. Individuals who do not meet the order of selection criteria will have access to services provided through information and referral. The division will provide the individual:

(1) A notice of the referral;

(2) Information identifying a specific point of contact at the agency to which the individual is referred; and

(3) Information and advice on the referral regarding the most suitable services to assist the individual.

c. Job retention services are available for those individuals who meet the requirements for those services.

33.7(2) *Options for individualized plan for employment (IPE) development.*

a. The division provides information on the available options for developing the IPE, including the option that an eligible individual, or as appropriate, the individual's representative, may develop all or part of the IPE without assistance from the division or other entity; or with assistance from:

(1) A qualified vocational rehabilitation counselor employed by IVRS;

(2) A qualified vocational rehabilitation counselor not employed by IVRS;

(3) A disability advocacy organization, such as the CAP or Disability Rights Iowa (DRI), or any other advocacy organization of the individual's choosing; or

(4) Resources other than those mentioned above, such as the individual's case manager or a representative of the division under the guidance of a division vocational rehabilitation counselor.

b. The IPE is not approved or put into practice until it is discussed and reviewed; amended, if applicable; and approved by the job candidate and the vocational rehabilitation counselor employed by the division.

c. There is no compensation for any expenses incurred while the IPE is developed with any entity not employed by the division.

d. If the job candidate is not on the division waiting list and needs some assessment services to develop the IPE, the job candidate is to discuss the needs in advance with the division counselor and obtain prior approval if financial assistance is needed from the division to pay for the assessment service.

e. For individuals entitled to benefits under Title II or XVI of the Social Security Act on the basis of a disability or blindness, the division must provide to the individual general information on additional supports and assistance for individuals with disabilities desiring to enter the workforce, including assistance with benefits planning.

f. The job candidate's signature on the IPE verifies the ticket assignment to the division unless otherwise directed by the job candidate.

g. The IPE implementation date begins on the date of the division counselor's signature.

33.7(3) *Content of the individualized plan for employment (IPE).* Each IPE will contain the content specified in 34 CFR Section 361.46.

No expenditures associated with the job candidate-developed plan are the responsibility of IVRS, unless agreed to and approved by the IVRS counselor. Written approval for services must be obtained prior to any IVRS financial obligation.

All IPE services are provided, unless amended and determined unnecessary. The division exercises its discretion in relation to the termination or amendment of the individual's IPE when, for any reason, it becomes evident that the IPE cannot be completed.

33.7(4) *Scope of services.*

a. Preemployment transition services (pre-ETS). In collaboration with the local educational agencies involved, the division ensures that pre-ETS are arranged and available to all students with disabilities, regardless of whether the student has applied or been determined eligible for vocational rehabilitation services, as defined in 34 CFR Section 361.5(c)(51). Pre-ETS include:

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(1) Required activities. The division is to provide the following activities:

1. Job exploration counseling;

2. Work-based learning experiences, which may include in-school or after school opportunities, or experience outside the traditional school setting (including internships), that is provided in an integrated environment in the community to the maximum extent possible;

3. Counseling on opportunities for enrollment in comprehensive transition or postsecondary educational programs at institutions of higher education;

4. Workplace readiness training to develop social skills and independent living; and

5. Instruction in self-advocacy (including instruction in person-centered planning), which may include peer mentoring (including peer mentoring from individuals with disabilities working in competitive integrated employment).

(2) Authorized activities. Funds available and remaining after the provision of the required activities may be used to improve the transition of students with disabilities from school to postsecondary education or an employment outcome by:

1. Implementing effective strategies to increase the likelihood of independent living and inclusion in communities and competitive integrated workplaces;

2. Developing and improving strategies for individuals with intellectual disabilities and individuals with significant disabilities to live independently; participate in postsecondary education experiences; and obtain, advance in and retain competitive integrated employment;

3. Providing instruction to vocational rehabilitation counselors, school transition personnel, and other persons supporting students with disabilities;

4. Disseminating information about innovative, effective, and efficient approaches to achieve the goals of this rule;

5. Coordinating activities with transition services provided by local educational agencies under the IDEA;

6. Applying evidence-based findings to improve policy, procedure, practice, and the preparation of personnel in order to better achieve the goals of this rule;

7. Developing model transition demonstration projects;

8. Establishing or supporting multistate or regional partnerships involving states, local educational agencies, designated state units, developmental disability agencies, private businesses, or other participants to achieve the goals of this rule; and

9. Disseminating information and strategies to improve the transition to postsecondary activities of individuals who are members of traditionally unserved and underserved populations.

(3) Preemployment transition coordination. Each local office of a designated state unit must carry out responsibilities consisting of:

1. Attending individualized education program meetings for students with disabilities, when invited;

2. Working with the local workforce development boards, one-stop centers, and employers to develop work opportunities for students with disabilities, including internships, summer employment and other employment opportunities available throughout the school year, and apprenticeships;

3. Working with schools, including those carrying out activities under Section 614(d) of the IDEA, to coordinate and ensure the provision of preemployment transition services under this rule; and

4. When invited, attending person-centered planning meetings for individuals receiving services under Title XIX of the Social Security Act (42 U.S.C. Section 1396 et seq.).

(4) Completion of the pre-ETS agreement outlines the agreed-upon preemployment transition services needed by the student with a disability. When it is necessary to purchase these services, written prior approval must be obtained from the division.

Once an individual applies for services, the division may provide certain services (e.g., assessments for the determination of eligibility and plan development). The preemployment transition services listed above may continue for students with disabilities (as applicable).

b. Vocational services for eligible individuals not on a waiting list are services described in an IPE and are necessary to assist the eligible individual in preparing for, obtaining, retaining, regaining,

or advancing in employment if the failure to advance is due to the disability, consistent with informed choice. Funding for such services is provided in accordance with the division policies. The services include:

(1) Assessment for determining services needed to achieve competitive integrated employment;

(2) Counseling and guidance, which means career counseling to provide information and support services to assist the eligible individual in making informed choices;

(3) Referral and other services necessary to assist applicants and eligible individuals to secure needed services from other agencies, including other components of the statewide workforce development system, and through agreements with other organizations and agencies as well as advising individuals about the client assistance program;

(4) Job-related services to facilitate the preparation for, obtaining of, and retaining of employment to include job search, job development, job placement assistance, job retention services, follow-up services and follow-along if necessary and required under the IPE;

(5) Vocational and other training services, including personal and vocational adjustment training; advanced training in, but not limited to, a field of science, technology, engineering, mathematics (including computer science), medicine, law, or business; books, tools, and other training materials, except that no training or training services in an institution of higher education (universities, colleges, community or junior colleges, vocational schools, technical institutes, or hospital schools of nursing or any other postsecondary education institution) may be paid for with IVRS funds unless maximum efforts have been made by the designated state unit and the individual to secure grant assistance in whole or in part from other sources to pay for that training, in accordance with the definition of that term in 34 CFR Section 361.48(b)(6);

(6) Physical and mental treatment may be provided to the extent that financial support is not readily available from another source other than IVRS, such as health insurance of the individual or a comparable service or benefit, as defined in 34 CFR Section 361.5(c)(39), and said treatment is essential to the progression of the individual to achieve the competitive integrated employment outcome according to the following provisions:

1. The service is necessary for the job candidate's satisfactory occupational adjustment;
2. The condition causing the disability is relatively stable or slowly progressive;
3. The condition is of a nature that treatment may be expected to remove, arrest, or substantially reduce the disability within a reasonable length of time;
4. The prognosis for life and employability is favorable.

(7) Maintenance services as defined in 34 CFR Section 361.5(c)(34), to the extent that the costs of maintenance shall not exceed the amount of increased expenses that the rehabilitation causes for the job candidate or the job candidate's family. Maintenance is not intended to provide relief from poverty or abject living conditions. Guidance regarding the financial support of maintenance is available from the division's policy manual;

(8) Transportation in connection with the provision of any vocational rehabilitation service and as defined in 34 CFR Section 361.5(c)(57), to the extent that when necessary to enable an applicant or a job candidate to participate in or receive the benefits of other vocational rehabilitation services, travel and related expenses, including expenses for training in the use of public transportation vehicles and systems, may be provided by the division. Transportation services may include the use of private or commercial conveyances (such as private automobile or van, public taxi, bus, ambulance, train, or plane) or the use of public transportation and coordination with a regional transit agency;

(9) Vocational rehabilitation services to family members, as defined in 34 CFR Section 361.5(c)(23), of an applicant or eligible individual if necessary to enable the applicant or eligible individual to achieve an employment outcome;

(10) Interpreter services, including sign language and oral interpreter services, for individuals who are deaf or hard of hearing and tactile interpreting services;

(11) Supported employment services as defined in 34 CFR Section 361.5(c)(42);

(12) Occupational licenses, tools, equipment, initial stocks and supplies;

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(13) Rehabilitation technology as defined in 34 CFR Section 361.5(c)(45), including vehicular modification, telecommunications, sensory, and other technological aids and devices;

(14) Transition services for a student or youth with a disability that facilitate the transition from school to postsecondary life, such as achievement of an employment outcome in competitive integrated employment, or preemployment transition services for students;

(15) Technical assistance and other consultation services to conduct market analyses, develop business plans, and otherwise provide resources, to the extent those resources are authorized to be provided through the statewide workforce development system, to eligible individuals who are pursuing self-employment or telecommuting or establishing a small business operation as an employment outcome;

(16) Customized employment as defined in 34 CFR Section 361.5(c)(11); and

(17) Other goods and services determined necessary for the individual with a disability to achieve an employment outcome.

33.7(5) *Specific services requiring financial assessment.*

a. Financial need must be established prior to the provision of certain services at the division's expense and is evidenced by use of the financial inventory needs tool utilized by the division. No financial needs test will occur for the following services:

(1) Assessment for eligibility and priority of services and determining vocational rehabilitation needs under 34 CFR Section 361.48(b)(2);

(2) Vocational rehabilitation counseling and guidance under 34 CFR Section 361.48(b)(3);

(3) Referral and other services under 34 CFR Section 361.48(b)(4);

(4) Job-related services under 34 CFR Section 361.48(b)(12);

(5) Personal assistance services under 34 CFR Section 361.48(b)(14); and

(6) Any auxiliary aid or service (e.g., interpreter services under 34 CFR Section 361.48(b)(10) or reader services under 34 CFR Section 361.48(b)(11)) that an individual with a disability requires.

b. Recipients of SSDI/SSI and foster care youth are not subject to a financial needs test but must demonstrate eligibility under subrule 33.6(1) and rule 877—33.5(84H), as well as demonstrate need in the IPE.

(1) For the determination of financial need, the individual and the individual's family (when applicable) are required to provide information regarding all family income from any source that may be applied toward the cost of rehabilitation services, other than those services mentioned above, where the financial needs test does not apply. Family is considered to be any individuals who are financially responsible for the support of the job candidate, regardless of whether they reside in the same or separate households. A comparable services and benefits search is required for some services. The division shall not pay for more than the balance of the cost of services minus comparable services and benefits for the individual's documented contribution. When an individual refuses to supply information for the financial needs test, the individual assumes 100 percent responsibility for the costs of the rehabilitation.

(2) The division shall observe the following policies in deciding financial need based upon the findings:

1. All services requiring the determination of financial need are provided on the basis of supplementing the resources of the individual or of those responsible for the individual.

2. A division supervisor may grant an exception in cases where the individual's disability caused, or is directly related to, financial need and where all other sources of money have been exhausted by the individual and the guardian of the individual (when applicable).

3. Consideration will be given to the individual's responsibility for the immediate needs and maintenance of the individual's dependents, and the individual is expected to reserve sufficient funds to meet the individual's family obligations and to provide for the family's future care, education and medical expenses.

4. Income up to a reasonable amount should be considered and determined based on the federal poverty guidelines associated with family size, income, and exclusions.

5. General assistance from state or federal sources is disregarded as a resource unless the assistance is a grant award for postsecondary training.

6. Grants and scholarships based on merit, while not required to be searched for as a comparable benefit, may be considered as part of the determination of financial support of a plan when a request is beyond the basic support for college. Public grants and institutional grants or scholarships not based on merit are considered a considerable benefit.

7. The division does not fund services for which another entity is responsible.

8. The division seeks and purchases the most economical goods (items/models) or services that meet the individual's vocational needs.

9. Goods and services are only authorized to those facilities and entities qualified and equipped to provide such goods and services.

33.7(6) *Maximum rates of payment to training facilities.* In no case shall the amount paid to a training facility exceed the rate published, and in the case of facilities not having published rates, the amount paid to the facility is not to exceed the amount paid to the facility by other public agencies for similar services. The division will maintain information necessary to justify the rates of payment made to training facilities.

33.7(7) *Areas in which exceptions are unavailable.* Pursuant to federal law, an exception will not be granted for any requirements that do not allow for such an exception (e.g., eligibility, mandatory contents of the individualized plan for employment).

33.7(8) *Exceptions to duration of services.* As required by the Act and 34 CFR Section 361.50(d), the division will have a method of allowing for exceptions to its rules regarding the duration of services. In order to exceed the duration of service as defined in the IPE, a job candidate must follow through on the agreed-upon IPE and related activities and keep the division informed of the job candidate's progress.

877—33.8(84H) Purchasing principles for individual-specific purposes.

33.8(1) The division will follow the administrative rules for purchasing goods and services promulgated by the department of administrative services.

33.8(2) The division shall purchase only those items or models that allow for a job candidate to meet the job candidate's vocational objective. The division shall not pay for additional features that exceed the requirements to meet a job candidate's vocational objective or that serve primarily to enhance the job candidate's personal life.

33.8(3) The division shall seek out and purchase the most economical item or model that meets the job candidate's vocational needs.

33.8(4) The division shall encourage all job candidates to develop strategies and savings programs to pay for replacement items/models or upgrades.

33.8(5) Items purchased for a job candidate become the property of the job candidate but may be repossessed by the division, subject to reimbursement to the job candidate for the job candidate's share of the purchase price, if the job candidate does not attain employment prior to case closure.

33.8(6) The division shall inform the job candidate that any change to planned purchases must be discussed and approved jointly before a purchase is made.

33.8(7) The division will not participate in the modification to property not owned by the job candidate or the job candidate's family without a division-approved exception to policy.

33.8(8) When considering what item or model to purchase for a specific job candidate, the division shall in all cases consider the following factors:

a. Whether the item or model is required for the job candidate to be able to perform the essential functions of the job candidate's job.

b. Whether other parties or entities may be responsible for providing or contributing to the costs of an item.

877—33.9(84H) Review, mediation and appeal processes. At all times throughout the rehabilitation process, individuals accessing any IVRS services shall be informed of the right to appeal or mediation and the procedures by which to file. If an individual is dissatisfied with any agency decision that directly affects the individual, the individual or designated representative may appeal that decision or request mediation. The term "appellant" shall be used to indicate the individual or designated representative

who initiates an appeal. The appellant may initiate the appeal process either by calling a counselor or supervisor or by filing the appropriate division appeal form, available from any counselor or supervisor of the division. If the appeal process or mediation is initiated by telephone, the counselor or supervisor who received the call is to complete the appeal form to the best of that person's ability with information from the appellant. The division shall accept as an appeal or request for mediation a written letter, facsimile, or electronic mail that indicates that the applicant or job candidate desires to appeal or seek mediation. An appeal or mediation request must be filed within 90 days of notification of the disputed decision. Once the appeal form or request for mediation has been filed with the division administrator, a hearing is to be held before an IHO or mediator within the next 60 days unless an extension of time is mutually agreed upon or one of the parties shows good cause for an extension or one of the parties declines mediation. The appellant may request that the appeal go directly to impartial hearing, but the appellant shall be offered the opportunity for a supervisor review or mediation. The appellant may request assistance with an appeal or mediation from the Iowa client assistance program (ICAP) at any time in the appeal process.

33.9(1) *Supervisor review.* As a first step, the appellant shall be advised that a supervisor review of the counselor's decision may be requested by notifying the counselor or supervisor in person, by telephone or by letter of the decision to appeal. If the supervisor has been involved in decisions in the case to the extent that the supervisor cannot render a fair and impartial decision or if the supervisor is not available to complete the review in a timely manner, the appeal and case file shall be forwarded to the bureau chief for review. The appellant is not required to request supervisor review as a prerequisite for appeal before an IHO; however, if a supervisor review is requested, the following steps shall be observed:

a. Upon receipt of a request for supervisor review, the supervisor shall notify all appropriate parties of the date and nature of the appeal; examine case file documentation; discuss the issues and reasons for the decision with the immediate counselor and other counselors who may have been previously involved with the case or issue; and, if necessary, meet with any or all parties to discuss the dispute.

b. The supervisor shall have ten working days from receipt of the request for supervisor review to decide the issue and notify the appellant in writing. A copy of the supervisor's decision shall be sent to all appropriate parties.

c. If the supervisor's decision is adverse to the appellant, the copy of the written decision given to the appellant shall include further appeal procedures, including notification that the appellant has ten days from the date of the letter to file further appeal.

d. As an alternative to, but not to the exclusion of, filing for further appeal, the appellant may request mediation of the supervisor's decision or review by the chief of the rehabilitation services bureau.

33.9(2) *Mediation.* Regardless of whether a supervisor review is requested, an appellant may use the mediation procedures set forth in 34 CFR Section 361.57(d).

33.9(3) *Hearing before an impartial hearing officer.* Regardless of whether the appellant has used supervisor review or mediation or both, if the appellant requests a hearing before an IHO, the following provisions apply:

a. The division shall appoint the IHO from the pool of impartial hearing officers with whom the division has contracts. The IHO shall be assigned on a random basis or by agreement between the administrator of the division and the appellant.

b. The hearing shall be held within 20 days of the receipt of the appointment of the IHO. A written decision shall be rendered and given to the parties by the IHO within 30 days after completion of the hearing. Either or both of these time frames may be extended by mutual agreement of the parties or by a showing of good cause by one party.

c. The appellant shall be informed that the filing of an appeal confers consent for the release of the case file information to the IHO. The IHO shall have access to the case file or a copy thereof at any time following acceptance of the appointment to hear the case.

d. Within five working days after appointment, the IHO shall notify both parties in writing of the following:

(1) The role of the IHO;

(2) The IHO's understanding of the reasons for the appeal and the requested resolution;

(3) The date, time, and place for the hearing, which shall be accessible and located as advantageously as possible for both parties but more so for the appellant;

(4) The availability of the case file for review and copying in a vocational rehabilitation office prior to the hearing and how to arrange for the same;

(5) That the hearing shall be closed to the public unless the appellant specifically requests an open hearing;

(6) That the appellant may present evidence and information personally, may call witnesses, may be represented by counsel or other appropriate advocate at the appellant's expense, and may examine all witnesses and other relevant sources of information and evidence;

(7) The availability to the appellant of the ICAP for possible assistance;

(8) Information about the amount of time it will take to complete the hearing process;

(9) The possibility of reimbursement of necessary travel and related expenses; and

(10) The availability of interpreter and reader services for appellants not proficient in the English language and those who are deaf or hard of hearing and the availability of transportation or attendant services for those appellants requiring such assistance.

e. Existing division services provided to an appellant shall not be suspended, reduced, or terminated pending the decision of the IHO, unless so requested by the appellant.

f. The IHO shall provide a full written decision, including the findings of fact and grounds for the decision. The appellant or the division may request administrative review, and the IHO decision is submitted to the administrator of the division. Both parties may provide additional evidence not heard at the hearing for consideration for the administrative review. If no additional evidence is presented, the IHO decision stands. Unless either party chooses to seek judicial review pursuant to Iowa Code chapter 17A, the decision of the IHO is final. If judicial review is sought after administrative review, the IHO's decision shall be implemented pending the outcome of the judicial review.

877—33.10(84H) Case record. The division has the authority to collect and maintain records on individuals under the Act, the state plan for vocational rehabilitation services, and the Social Security Act. Under this authority, the division maintains a record for each case. The case record contains pertinent case information as defined in division policy including, as a minimum, the basis for determination of eligibility, the basis justifying the plan of services and the reason for closing the case, together with a justification of the closure and supporting documents. Case information is contained in the agency's case management system and a hard copy file. A combination of these data collections instruments constitutes the official case record. The hard copy files are retained for a minimum of four years, but there are instances when a case may be stored longer based on the services received.

877—33.11(84H) Personally identifiable information. This rule describes the nature and extent of the personally identifiable information collected, maintained, and retrieved by the division by personal identifier in record systems as defined herein. The record systems maintained by the division include the following:

33.11(1) *Personnel records.* Personnel records contain information relating to initial application, job performance and evaluation, reprimands, grievances, notes from and reports of investigations of allegations related to improper employee behavior, and reports of hearings and outcomes of reprimands and grievances.

33.11(2) *Job candidate case records.* An individual file is maintained for each person who has been referred to or has applied for the services of the division, as described in rule 877—33.10(84H). The file contains a variety of personal information about the job candidate, which is used in the establishment of eligibility and the provision of agency services. All information is personally identifiable and is confidential.

33.11(3) *Job candidate service record computer database.* The job candidate service record computer database contains personal data items about individual job candidates. Data identifying a job candidate is confidential. Data in the aggregate is not personally identifiable and thus is not confidential.

33.11(4) *Vendor purchase records.* Vendor purchase records are records of purchases of goods or services made for the benefit of job candidates. If a record contains the job candidate's name or other personal identifiers, the record is confidential. Lists of non-job candidate vendors, services purchased, and the costs of those services are not confidential when retrieved from a data processing system without personally identifiable information.

33.11(5) *Records and transcripts of hearings or client appeals.* Records and transcripts of hearings or client appeals contain personally identifiable information about a client's case, appeal from or for some action, and the decision that has been rendered. The personally identifiable information is confidential. Some of the information is maintained in an index provided for in Iowa Code section 17A.3(1)*"d."* Information is available after confidential personally identifiable information is deleted.

33.11(6) *All computer databases of client and applicant names and other identifiers.* The data processing system contains client status records organized by a variety of personal identifiers. These records are confidential as long as any personally identifiable information is present.

33.11(7) *All computer-generated reports that contain personally identifiable information.* The division may choose to draw or generate from a data processing system reports that contain information or an identifier that would allow the identification of an individual client or clients. This material is for internal division use only and is confidential.

33.11(8) *Personally identifiable information and acceptance of federal requirements.* Pursuant to Iowa Code section 84H.1, the state of Iowa accepts the social security system rules for the disability determination program of the division. Failure to follow the provisions of the Act can result in the loss of federal funds. All personally identifiable information is confidential and may be released only with informed written consent, except as permitted by federal law. Any contrary provision in Iowa Code chapter 22 must be waived in order for the state to receive federal funds, services, and essential information for the administration of vocational rehabilitation services.

877—33.12(84H) Other groups of records routinely available for public inspection. This rule describes groups of records maintained by the division other than record systems. These records are routinely available to the public, with the exception of parts of the records that contain confidential information. This rule generally describes the nature of the records, the type of information contained therein, and whether the records are confidential in whole or in part.

33.12(1) *Rulemaking.* Rulemaking records, including public comments on proposed rules, are not confidential.

33.12(2) *Council and commission records.* Agendas, minutes, and materials presented to any council or commission required under the Act are available to the public with the exception of those records that are exempt from disclosure under Iowa Code section 21.5. Council and commission records are available from the main office of the division at 510 E. 12th Street, Des Moines, Iowa 50319.

33.12(3) *Publications.* News releases, annual reports, project reports, agency newsletters, and other publications are available from the main office of the division at 510 E. 12th Street, Des Moines, Iowa 50319. Brochures describing various division programs are also available at local offices of the division.

33.12(4) *Statistical reports.* Periodic reports of statistical information on expenditures, numbers and types of case closures, and aggregate data on various client characteristics are compiled as needed for agency administration or as required by the federal funding source and are available to the public.

33.12(5) *Grants.* Records of persons receiving grants from division services are available through the main office of the division. Grant records contain information about grantees and may contain information about employees of a grantee that has been collected pursuant to federal requirements.

33.12(6) *Published materials.* The division uses many legal and technical publications, which may be inspected by the public upon request. Some of these materials may be protected by copyright law.

33.12(7) *Policy manuals.* Manuals containing the policies and procedures for programs administered by the division are available on the division website. Printed copies of all or some of the documents are available at the cost of production and handling. Requests should be addressed to Vocational Rehabilitation Services Division, 510 E. 12th Street, Des Moines, Iowa 50319.

33.12(8) *Operating expense records.* The division maintains records of the expense of operation of the division, including records related to office rent, employee travel expenses, and costs of supplies and postage, all of which are available to the public.

33.12(9) *Training records.* Lists of training programs, the persons approved to attend, and associated costs are maintained in these records, which are available to the public.

33.12(10) *Other records.* The division maintains records of various sources not previously mentioned in this rule that are exempted from disclosure by law.

877—33.13(84H) State rehabilitation council.

33.13(1) *Composition.* The state rehabilitation council's composition is set forth in 34 CFR Section 361.17(b). The appointing authority is to select members of the council after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities. In selecting members, the appointing authority must consider, to the greatest extent practicable, the extent to which minority populations are represented on the council. A majority of members must be individuals with disabilities who meet the requirements of 34 CFR Section 361.5(c)(28) and are not employed by the designated state unit.

33.13(2) *Chairperson.* The chairperson must be selected by the members of the council from among the voting members of the council.

33.13(3) *Terms.* Each member of the council shall be appointed for a term of no more than three years. Each member of the council, other than the representative of the client assistance program, shall serve for no more than two consecutive full terms. A member appointed to fill a vacancy occurring prior to the end of the term for which the predecessor was appointed must be appointed for the remainder of the predecessor's term and may serve one additional three-year term. The terms of service of the members initially appointed is to be for a varied number of years to ensure that terms expire on a staggered basis.

33.13(4) *Vacancies.* The governor will fill a vacancy in council membership.

33.13(5) *Functions.* The council, after consulting with the state workforce development board, performs the functions set forth in 34 CFR Section 361.17(h).

33.13(6) *Meetings.* The council must convene at least four meetings a year. The meetings must be publicly announced, open, and accessible to the general public, including individuals with disabilities, unless there is a valid reason for an executive session. The council's meetings are subject to Iowa Code chapter 21, the open meetings law.

33.13(7) *Forums or hearings.* The council shall conduct forums or hearings, as appropriate, that are publicly announced, open, and accessible to the public, including individuals with disabilities.

33.13(8) *Conflict of interest.* No member of the council may cast a vote on any matter that would provide direct financial benefit to the member or the member's organization or otherwise give the appearance of a conflict of interest under state law.

33.13(9) *Specific implementation clause.* This rule is intended to implement 34 CFR Sections 361.16 and 361.17.

877—33.14(84H) Iowa self-employment program: purpose. The division of vocational rehabilitation services works in collaboration with the department for the blind to administer the Iowa self-employment (ISE) program. The purpose of the program is to provide business development funds in the form of technical assistance (up to $10,000) and financial assistance (up to $10,000) to qualified Iowans with disabilities who start, expand, or acquire a business within the state of Iowa. Actual assistance is based on the requirements of the business, not to exceed the technical assistance and financial assistance limits.

877—33.15(84H) Program requirements.

33.15(1) Clients of the division or the department for the blind may apply for the program.

33.15(2) All of the following conditions are also applicable:

a. The division may limit or deny ISE assistance to an applicant who has previously received educational or training equipment from the division through another rehabilitation program when such equipment could be used in the applicant's proposed business.

b. Any equipment purchased for the applicant under this program that is no longer used by the applicant may be returned to the division, at the discretion of the division.

c. An applicant must demonstrate that the applicant has at least 51 percent ownership in a for-profit business that is actively owned, operated, and managed in Iowa.

d. Recommendation for and approval of financial assistance are based upon acceptance of a business plan feasibility study and documentation of the applicant's ability to match dollar-for-dollar the amount of funds requested.

e. To receive financial support from the ISE program, the applicant's business plan feasibility study is to result in self-sufficiency for the applicant as measured by earnings that equal or exceed 80 percent of substantial gainful activity.

f. The division cannot support the purchase of real estate or improvements to real estate.

g. The division cannot provide funding to be used as a cash infusion, for personal or business loan repayments, or for personal or business credit card debt.

h. The division may deny ISE assistance to an applicant who desires to start, expand, or acquire any of the following types of businesses:

(1) A hobby or similar activity that does not produce income at the level required for self-sufficiency;

(2) A business venture that is speculative in nature or considered high risk by the Better Business Bureau or similar organization;

(3) A business registered with the federal Internal Revenue Service as a Section 501(c)(3) entity or other entity set up deliberately to be not for profit;

(4) A business that is not fully compliant with all local, state, and federal zoning requirements and all other applicable local, state, and federal requirements;

(5) A multitiered marketing business.

877—33.16(84H) Application procedure.

33.16(1) *Application.* Application materials for the program are available from the division and the department for the blind.

33.16(2) *Submittal.* Completed applications will be submitted to a counselor employed by the division or the department for the blind.

33.16(3) *Review.* Applications will be forwarded to a business development specialist employed by the division for review. Approval of technical assistance funding is based upon the results of a business plan feasibility study. If the application is for financial assistance only, a business plan feasibility study will be required at the time of submission of the application. Approval of financial assistance funding is based upon acceptance of a business plan feasibility study and documentation of the applicant's ability to match dollar-for-dollar the amount of funds requested.

33.16(4) *Funding.* Before the division will provide funding for a small business, the job candidate must complete an in-depth study about the business the job candidate intends to start and demonstrate that the business is feasible.

33.16(5) *Appeal.* If an application is denied, an applicant may appeal the decision to the division or the department for the blind. An appeal is governed by the appeal processes of the division or the department for the blind.

877—33.17(84H) Award of technical assistance funds.

33.17(1) *Awards.* Technical assistance funds may be used for specialized consulting services as determined necessary by the counselor, the business development specialist, and the job candidate. Technical assistance funds may be awarded, based on need, up to a maximum of $10,000 per applicant. Specialized technical assistance may include, but is not limited to, engineering, legal, accounting, and computer services and other consulting services that require specialized education and training.

33.17(2) *Technical assistance.* When technical assistance is needed for specialized services beyond the expertise of the business development specialist, technical assistance will be provided to assist the job candidate.

WORKFORCE DEVELOPMENT BOARD AND WORKFORCE DEVELOPMENT CENTER ADMINISTRATION DIVISION[877](cont'd)

33.17(3) *Technical assistance contracts.* The division shall negotiate contracts with qualified consultants for delivery of services to an applicant if specialized services are deemed necessary. The contracts are to state hourly fees for services, the type of service to be provided, and a timeline for delivery of services. Authorization of payment will be made by a counselor employed by the division or the department for the blind based upon the negotiated rate as noted in the contract. A copy of each contract will be filed with the division.

33.17(4) *Consultants.* Applicants will be provided a list of qualified business consultants by the business development specialist if specialized consultation services are necessary. The selection of the consultant(s) is the responsibility of the applicant.

33.17(5) *Case management.* The business development specialist or counselor will be available as needed for direct consultation to each applicant to ensure that quality services for business planning are provided in a timely manner.

877—33.18(84H) Business plan feasibility study procedure. Information and materials are available from the division and the department for the blind. The job candidate is to submit the job candidate's business plan feasibility study to the job candidate's counselor if the study is completed at the time application is made or to the business development specialist if the business plan feasibility study is completed after application approval. The business development specialist is available to guide and assist in the analysis of the feasibility study.

877—33.19(84H) Award of financial assistance funds.

33.19(1) *Awards.* Following the business development specialist's review of the business plan feasibility study, the business development specialist will issue a recommendation to support or not to support the proposed business venture. The counselor is to make a decision regarding approval or denial of the recommendation. If the plan is approved, the job candidate and counselor will review conditions of the financial assistance award and sign the appropriate forms of acknowledgment.

a. Financial assistance funds may be awarded, based on need, up to $10,000 after approval of a business plan feasibility study and evidence of business need or evidence of business progression. Before receiving financial assistance, the job candidate must demonstrate a dollar-for-dollar match based on the amount of funding needed. The match may be provided through approved existing business assets, cash, conventional financing or other approved sources.

b. Financial assistance funds may be approved for, but are not limited to, equipment, tools, printing of marketing materials, advertising, rent (up to six months), direct-mail postage, raw materials, inventory, insurance (up to six months), and other approved start-up, expansion, or acquisition costs.

33.19(2) *Award process.* The amount that may be recommended by the business development specialist and approved by the counselor will be provided when there is a need. Recipients of financial assistance must demonstrate ongoing cooperation by providing the business development specialist with financial information needed to assess business progress before additional funds are expended.

33.19(3) *Financial assistance contracts.* Contracts for financial assistance funds are the responsibility of the division and will be consistent with the authorized use of Title I vocational rehabilitation funds and policy.

33.19(4) *Vendors.* Procurement of goods or services will follow procedures established by the department of administrative services. The type of goods or services to be obtained, as well as a timeline for delivery of such, are to be stated by the vendor and agreed upon by the division. Authorization for goods or services shall be made by a counselor employed by the division or the department for the blind based upon the negotiated rate and terms as noted in the contract. A copy of each contract is to be filed

with the division. Approval for payment of authorized goods or services is to be made by authorized division personnel.

These rules are intended to implement Iowa Code chapter 84H, the federal Rehabilitation Act of 1973, and the federal Social Security Act (42 U.S.C. Section 301 et seq.).

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/3/24.

CORRECTION TO EFFECTIVE DATE OF ARC 7698C

ARC 7698C, an Adopted and Filed rulemaking to amend Chapters 1, 2, 3, and 4 and to rescind Chapter 5 of the Child Advocacy Board's administrative rules, was published in the Iowa Administrative Bulletin (IAB) on March 6, 2024. The Child Advocacy Board provides this informational notice to correct the erroneous effective date of April 10, 2024, that was published in the preamble of **ARC 7698C**. The correct effective date for **ARC 7698C** is July 1, 2024. This July 1, 2024, date is the effective date that was adopted by the Child Advocacy Board on December 8, 2023.

CORRECTION TO EFFECTIVE DATE OF ARC 7710C

ARC 7710C, an Adopted and Filed rulemaking to amend Chapter 1 and to rescind Chapters 2, 3, 4, 5, 6, and 7 of the Department of Human Rights' administrative rules, was published in the Iowa Administrative Bulletin (IAB) on March 6, 2024. The Department of Health and Human Services provides this informational notice to correct the erroneous effective date of April 10, 2024, that was published in the preamble of **ARC 7710C**. The correct effective date for **ARC 7710C** is July 1, 2024. This July 1, 2024, date is the effective date that was adopted by the Health and Human Services Council on November 9, 2023.

CORRECTION TO EFFECTIVE DATE OF ARC 7711C

ARC 7711C, an Adopted and Filed rulemaking to amend Chapters 1 and 9 of the Department of Human Services' administrative rules, was published in the Iowa Administrative Bulletin (IAB) on March 6, 2024. The Department of Health and Human Services provides this informational notice to correct the erroneous effective date of April 10, 2024, that was published in the preamble of **ARC 7711C**. The correct effective date for **ARC 7711C** is July 1, 2024. This July 1, 2024, date is the effective date that was adopted by the Health and Human Services Council on November 9, 2023.

CORRECTION TO EFFECTIVE DATE OF ARC 7712C

ARC 7712C, an Adopted and Filed rulemaking to rescind Chapters 170, 171, 172, 173, 174, and 175 and to amend Chapter 176 of the Department of Public Health's administrative rules, was published in the Iowa Administrative Bulletin (IAB) on March 6, 2024. The Department of Health and Human Services provides this informational notice to correct the erroneous effective date of April 10, 2024, that was published in the preamble of **ARC 7712C**. The correct effective date for **ARC 7712C** is July 1, 2024. This July 1, 2024, date is the effective date that was adopted by the Health and Human Services Council on November 9, 2023.

AGENCY	RULE	DELAY
Racing and Gaming Commission[491]	13.2, 13.5, 13.6(3), 14.7(2), 14.8 [IAB 6/28/23, **ARC 7634C**]	Effective date of March 27, 2024, delayed until the adjournment of the 2025 Legislative Session by the Administrative Rules Review Committee at its meeting held March 11, 2024. [Pursuant to §17A.8(9)]