



IOWA ADMINISTRATIVE BULLETIN

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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]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)"a"]; and agricultural credit corporation maximum loan rates [535.12].

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, lettered paragraph, or numbered subparagraph).

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)

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 Rule Making 2017

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. 28 '16	Jan. 18 '17	Feb. 7 '17	Feb. 22 '17	Feb. 24 '17	Mar. 15 '17	Apr. 19 '17	July 17 '17
Jan. 13	Feb. 1	Feb. 21	Mar. 8	Mar. 10	Mar. 29	May 3	July 31
Jan. 27	Feb. 15	Mar. 7	Mar. 22	Mar. 24	Apr. 12	May 17	Aug. 14
Feb. 10	Mar. 1	Mar. 21	Apr. 5	Apr. 7	Apr. 26	May 31	Aug. 28
Feb. 24	Mar. 15	Apr. 4	Apr. 19	Apr. 21	May 10	June 14	Sep. 11
Mar. 10	Mar. 29	Apr. 18	May 3	May 5	May 24	June 28	Sep. 25
Mar. 24	Apr. 12	May 2	May 17	***May 17***	June 7	July 12	Oct. 9
Apr. 7	Apr. 26	May 16	May 31	June 2	June 21	July 26	Oct. 23
Apr. 21	May 10	May 30	June 14	June 16	July 5	Aug. 9	Nov. 6
May 5	May 24	June 13	June 28	***June 28***	July 19	Aug. 23	Nov. 20
May 17	June 7	June 27	July 12	July 14	Aug. 2	Sep. 6	Dec. 4
June 2	June 21	July 11	July 26	July 28	Aug. 16	Sep. 20	Dec. 18
June 16	July 5	July 25	Aug. 9	Aug. 11	Aug. 30	Oct. 4	Jan. 1 '18
June 28	July 19	Aug. 8	Aug. 23	***Aug. 23***	Sep. 13	Oct. 18	Jan. 15 '18
July 14	Aug. 2	Aug. 22	Sep. 6	Sep. 8	Sep. 27	Nov. 1	Jan. 29 '18
July 28	Aug. 16	Sep. 5	Sep. 20	Sep. 22	Oct. 11	Nov. 15	Feb. 12 '18
Aug. 11	Aug. 30	Sep. 19	Oct. 4	Oct. 6	Oct. 25	Nov. 29	Feb. 26 '18
Aug. 23	Sep. 13	Oct. 3	Oct. 18	***Oct. 18***	Nov. 8	Dec. 13	Mar. 12 '18
Sep. 8	Sep. 27	Oct. 17	Nov. 1	***Nov. 1***	Nov. 22	Dec. 27	Mar. 26 '18
Sep. 22	Oct. 11	Oct. 31	Nov. 15	***Nov. 15***	Dec. 6	Jan. 10 '18	Apr. 9 '18
Oct. 6	Oct. 25	Nov. 14	Nov. 29	***Nov. 29***	Dec. 20	Jan. 24 '18	Apr. 23 '18
Oct. 18	Nov. 8	Nov. 28	Dec. 13	***Dec. 13***	Jan. 3 '18	Feb. 7 '18	May 7 '18
Nov. 1	Nov. 22	Dec. 12	Dec. 27	***Dec. 27***	Jan. 17 '18	Feb. 21 '18	May 21 '18
Nov. 15	Dec. 6	Dec. 26	Jan. 10 '18	Jan. 12 '18	Jan. 31 '18	Mar. 7 '18	June 4 '18
Nov. 29	Dec. 20	Jan. 9 '18	Jan. 24 '18	Jan. 26 '18	Feb. 14 '18	Mar. 21 '18	June 18 '18
Dec. 13	Jan. 3 '18	Jan. 23 '18	Feb. 7 '18	Feb. 9 '18	Feb. 28 '18	Apr. 4 '18	July 2 '18
Dec. 27	Jan. 17 '18	Feb. 6 '18	Feb. 21 '18	Feb. 23 '18	Mar. 14 '18	Apr. 18 '18	July 16 '18

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
22	Friday, April 7, 2017	April 26, 2017
23	Friday, April 21, 2017	May 10, 2017
24	Friday, May 5, 2017	May 24, 2017

PLEASE NOTE:

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Friday, April 7, 2017, at 9:15 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Claims—forms, approval, 41.1(1) Filed **ARC 3002C** 3/29/17
 Internship appointments, 57.6(3) Filed **ARC 3003C** 3/29/17

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Home-delivered meals—eligibility assessment, 7.21(2)“a” Notice **ARC 2967C** 3/15/17
 Mandatory reporter training, amendments to ch 15 Notice **ARC 2968C** 3/15/17
 The service of case management, ch 21 Filed **ARC 2976C** 3/15/17
 Reduction of area agencies on aging, rescind ch 29 Filed **ARC 2977C** 3/15/17

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Dairy inspection manuals—adoption by reference, 68.13 Filed **ARC 2978C** 3/15/17

ATTORNEY GENERAL[61]

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BANKING DIVISION[187]

COMMERCE DEPARTMENT[181]“umbrella”

Regulated loans; industrial loans, chs 15, 16 Notice **ARC 2994C** 3/29/17
 Delayed deposit services, ch 17 Notice **ARC 2992C** 3/29/17
 Mortgage bankers, mortgage brokers, and real estate closing agents, amendments to ch 18
Notice **ARC 2993C** 3/29/17
 Mortgage loan originators, amendments to ch 19 Notice **ARC 2991C** 3/29/17

BEEF INDUSTRY COUNCIL, IOWA[101]

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ECONOMIC DEVELOPMENT AUTHORITY[261]

Career and technical skill assessment services and testing, amendments to chs 5, 7 to 9, 20, 58 Notice **ARC 2995C** 3/29/17
 Enterprise zone agreements; new investments, 59.15(3), 68.4 Notice **ARC 2996C** 3/29/17
 Renewable chemical production tax credit program, ch 81 Filed **ARC 3004C** 3/29/17
 Enhance Iowa board; sports tourism program, chs 214, 215 Filed **ARC 2980C** 3/15/17

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Agencies responsible for implementation of disaster-related assistance, 1.3 to 1.5 Notice **ARC 2964C** 3/15/17

HUMAN SERVICES DEPARTMENT[441]

Appeals and hearings, amendments to ch 7 Notice **ARC 2972C** 3/15/17
 Autism support program eligibility; crisis response service provider accreditation standards for organizational activities and staff, 22.1, 24.23, 24.24 Notice **ARC 2971C** 3/15/17
 Medicaid for employed people with disabilities—premiums, 75.1(39)“b”(3) Notice **ARC 3001C** 3/29/17
 Home health services; medical social services, 78.9 Filed **ARC 3005C** 3/29/17
 Medical assistance advisory council, 79.7 Filed **ARC 3006C** 3/29/17
 Certification standards for children’s residential facilities, ch 106 Filed **ARC 3007C** 3/29/17
 Child care settings—federal block grant mandate, CPR, amendments to chs 109, 110, 120
Notice **ARC 2998C** 3/29/17
 Child care settings—reporting of serious injuries, 109.10(10), 110.8(1)“s,” 120.8(1)“p”
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 Child care assistance—fee schedule, job search, amendments to ch 170 Notice **ARC 2973C** 3/15/17

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Organization; benefits advisory committee; protection occupations; employers; coverage; benefits; beneficiary designations; rule making, amendments to chs 1 to 6, 10 to 12, 14, 19, 20, 31, 33 Filed **ARC 2981C** 3/15/17

LABOR SERVICES DIVISION[875]

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Construction contractor registration, 150.4, 150.6(3) Notice **ARC 2965C**..... 3/15/17

PROFESSIONAL LICENSURE DIVISION[645]

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Funeral directors, funeral establishments, cremation establishments—licensure, practice, continuing education, discipline, amendments to chs 100 to 104 Notice **ARC 3000C** 3/29/17

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Bargaining and impasse procedures; binding arbitration, 7.8 to 7.10 Filed Emergency **ARC 2988C**..... 3/15/17

PUBLIC HEALTH DEPARTMENT[641]

Lead-based paint activities, 70.2 to 70.7, 70.10(1) Notice **ARC 2969C** 3/15/17

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Application for licensure—release of results and time frame for submittal of criminal history check, 1.21, 4.1(3), 5.7(5), 6.7 Notice **ARC 2966C** 3/15/17

REGENTS BOARD[681]

Iowa dental advanced standing program at the University of Iowa—application fee, 1.7 Filed **ARC 2982C**..... 3/15/17

REVENUE DEPARTMENT[701]

Renewable chemical production tax credit program, 42.56, 52.49 Filed **ARC 3008C**..... 3/29/17

Valuation of commercial real estate, 71.5 Notice **ARC 2990C** 3/29/17

TRANSPORTATION DEPARTMENT[761]

Iowa transportation map, 28.1 to 28.3 Filed **ARC 2983C** 3/15/17

Traffic signal system—adaptive signal control system, 143.1, 143.4(1) Filed **ARC 2984C**..... 3/15/17

Autocycles, amendments to chs 400, 401, 425, 602, 604 Filed **ARC 2985C**..... 3/15/17

Salvage; motor vehicle equipment, amendments to chs 405, 450 Notice **ARC 2989C** 3/29/17

Federal motor carrier safety and hazardous materials regulations—adoption by reference, 520.1(1), 529.1, 607.10(1)"c" Filed **ARC 2986C**..... 3/15/17

Transportation network companies, ch 540 Filed **ARC 2987C**..... 3/15/17

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]"umbrella"

Iowa electrical safety code, 25.2, 25.3, 25.5 Filed **ARC 3010C** 3/29/17

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Unemployment appeal hearings, amendments to ch 26 Filed **ARC 3009C** 3/29/17

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

Regular, statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.

Senator Mark Chelgren
819 Hutchinson
Ottumwa, Iowa 52501

Senator Mark Costello
37265 Rains Avenue
Imogene, Iowa 51645

Senator Wally Horn
101 Stoney Point Road, SW
Cedar Rapids, Iowa 52404

Senator Pam Jochum
2368 Jackson Street
Dubuque, Iowa 52001

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Representative Megan Jones
4470 Highway 71
Sioux Rapids, Iowa 50585

Representative Rick Olson
3012 East 31st Court
Des Moines, Iowa 50317

Representative Dawn Pettengill
P.O. Box A
Mt. Auburn, Iowa 52313

Representative Art Staed
2141 Coldstream Avenue NE
Cedar Rapids, Iowa 52402

Representative Guy Vander Linden
1610 Carbonado Road
Oskaloosa, Iowa 52577

Colin Smith
Administrative Rules Coordinator
Governor's Ex Officio Representative
Capitol, Room 18
Des Moines, Iowa 50319
Telephone (515)281-5211

BANKING DIVISION[187]

Regulated loans; industrial loans, chs 15, 16 IAB 3/29/17 ARC 2994C	Conference Room, Suite 300 200 East Grand Ave. Des Moines, Iowa	April 19, 2017 9 a.m.
Delayed deposit services, ch 17 IAB 3/29/17 ARC 2992C	Conference Room, Suite 300 200 East Grand Ave. Des Moines, Iowa	April 19, 2017 9 a.m.

LABOR SERVICES DIVISION[875]

Construction contractor registration, 150.4, 150.6(3) IAB 3/15/17 ARC 2965C	150 Des Moines St. Des Moines, Iowa	April 5, 2017 9 a.m. (If requested)
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PROFESSIONAL LICENSURE DIVISION[645]

Funeral directors, funeral establishments, cremation establishments—licensure, practice, continuing education, discipline, amendments to chs 100 to 104 IAB 3/29/17 ARC 3000C	Fifth Floor Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	April 18, 2017 8 to 8:30 a.m.
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PUBLIC HEALTH DEPARTMENT[641]

Lead-based paint activities, 70.2 to 70.7, 70.10(1) IAB 3/15/17 ARC 2969C	Room 518 Lucas State Office Bldg. Des Moines, Iowa	April 4, 2017 2 to 3 p.m.
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REAL ESTATE APPRAISER EXAMINING BOARD[193F]

Application for licensure—release of results and time frame for submittal of criminal history check, 1.21, 4.1(3), 5.7(5), 6.7 IAB 3/15/17 ARC 2966C	Small Conference Room, Third Floor 200 E. Grand Ave. Des Moines, Iowa	April 4, 2017 8:30 a.m.
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TRANSPORTATION DEPARTMENT[761]

Salvage; motor vehicle equipment, amendments to chs 405, 450 IAB 3/29/17 ARC 2989C	Motor Vehicle Division Offices 6310 SE Convenience Blvd. Ankeny, Iowa	April 20, 2017 10 a.m. (If requested)
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UTILITIES DIVISION[199]

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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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ARC 2994C

BANKING DIVISION[187]**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 17A.3, 536.21 and 536A.28, the Iowa Division of Banking (IDOB) hereby gives Notice of Intended Action to rescind Chapter 15, “Regulated Loans,” and Chapter 16, “Industrial Loans,” Iowa Administrative Code, and to adopt new Chapters 15 and 16 with the same titles.

This proposed rule making reflects partial compliance with Iowa Code section 17A.7(2), which states that, as of July 1, 2012, “over each five-year period of time, an agency shall conduct an ongoing and comprehensive review of all of the agency’s rules [and t]he goal of the review is the identification and elimination of all rules of the agency that are outdated, redundant, or inconsistent or incompatible with statute or its own rules or those of other agencies.” Proposed Chapters 15 and 16 are intended to eliminate outdated requirements and to modernize the format and structure of the rules in order to better conform to other rules relating to regulated nondepository entities. The reorganized chapters otherwise update the rules to reflect current administrative practices for licensees under Iowa Code chapters 536 and 536A, specifically practices related to applications, renewals, and record keeping. Reorganizing the chapters in this manner will make the rules easier to understand, thereby making it easier for licensees and applicants for licensure to comply with the requirements.

The proposed chapters will also revise the interest rate brackets for lenders licensed under Iowa Code chapter 536. Currently, the maximum interest rates such lenders may charge is 36 percent APR on any part of an unpaid balance not exceeding \$1,000, 24 percent APR on any part of an unpaid balance exceeding \$1,000 but not exceeding \$2,800, and 18 percent APR on any part of an unpaid balance exceeding \$2,800 but not exceeding \$10,000. The proposed chapters will permit lenders licensed under Iowa Code chapter 536 to charge an interest rate of 36 percent APR on any part of an unpaid balance not exceeding \$3,000, 24 percent APR on any part of an unpaid balance exceeding \$3,000 but not exceeding \$8,400, and 18 percent APR on any part of an unpaid balance exceeding \$8,400 but not exceeding \$10,000.

Any interested person may make written or oral suggestions or comments on the proposed chapters on or before April 19, 2017. Comments should be directed to Zachary Hingst, Legal Counsel, Iowa Division of Banking, 200 E. Grand Avenue, Suite 300, Des Moines, Iowa 50309; by telephone at (515)281-4014; or by e-mail to zak.hingst@idob.state.ia.us.

A public hearing will be held at 9 a.m. on April 19, 2017, at the offices of the Iowa Division of Banking, 200 E. Grand Avenue, Suite 300, Des Moines, Iowa. At the hearing, persons who wish to speak will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed chapters.

Any person who plans to attend the public hearing and has special requirements, such as those related to hearing or mobility impairments, should contact the IDOB to discuss specific needs.

No existing fees are being changed and no new fees are being added; therefore, the IDOB has concluded that the proposed rules will have no fiscal impact.

The new rules will be subject to waiver or variance pursuant to 187—Chapter 12.

Because no existing authorized activities are being restricted, no new activities are being authorized, no existing fees are being increased, and no new fees are being added, the IDOB has concluded that the proposed rules should not have a negative effect on jobs in Iowa.

These rules are intended to implement Iowa Code chapters 17A, 536, and 536A.

The following amendments are proposed.

BANKING DIVISION[187](cont'd)

ITEM 1. Rescind 187—Chapter 15 and adopt the following **new** chapter in lieu thereof:

CHAPTER 15
REGULATED LOANS

187—15.1(17A,536) Definitions. For the purposes of this chapter, the definitions in Iowa Code chapter 536 shall apply. In addition, unless the context otherwise requires:

“Business of making regulated loans” means making ten or more loans of money or other forms of credit in a calendar year for which a license is required under Iowa Code section 536.1, advertising the availability of such loans, or directly undertaking the collection of payments due on such loans or otherwise enforcing rights against borrowers who have entered into regulated loans.

“Nationwide multistate licensing system” or *“NMLS”* means a multistate licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of nondepository financial institutions.

“Regulated loan” means a loan made by a licensee acting under the terms of the Iowa regulated loan Act. A regulated loan qualifies as a consumer loan subject to the Iowa Consumer Credit Code if the borrower is a person other than an organization; the debt is incurred for personal, family, or household use; and the amount financed is below the statutory threshold.

187—15.2(17A,536) Utilization of NMLS.

15.2(1) All application and licensing information shall be submitted through the NMLS including but not limited to the following: original application information; changes in application information; license renewal information; changes in name, location, and control; and notices of significant events.

15.2(2) The applicant or licensee shall pay any fees required by NMLS including but not limited to the following: initial set-up fee and annual processing fees, background check fees, and credit background check fees.

187—15.3(17A,536) Application for license.

15.3(1) An application for a license to operate a regulated, loan business in Iowa shall be submitted to the superintendent, on the form provided and with the information requested, through the NMLS. The superintendent may consider an application withdrawn if it does not contain all of the information required and the missing information is not submitted to the superintendent within 30 days after the superintendent requests the missing information. The applicant may also request that the application be withdrawn at any time before the superintendent has decided to grant or deny the application.

15.3(2) Each officer, director, and individual who has control of an applicant must provide fingerprints, authorize a fingerprint background check through NMLS, and pay the appropriate fees for the purpose of conducting a national criminal history background check through the Federal Bureau of Investigation.

15.3(3) The applicant must submit the application fee and the initial license fee specified in Iowa Code section 536.2. The superintendent shall refund the initial license fee if the application is denied, but the application fee is not subject to refund. The applicant shall also pay any additional fees required by the NMLS including but not limited to the following: system processing fees, background check fees, and credit background check fees.

15.3(4) If any information material to the application changes after the applicant files the initial application, the applicant shall provide updated information to the superintendent within 10 days of the change. When such a material change in information has occurred, the superintendent may deny an application if the applicant fails to provide updated information within the prescribed time frame.

15.3(5) An applicant for a regulated loan company license must file with the superintendent a bond complying with the provisions of Iowa Code section 536.3. For applicants or licensees who do not make, arrange, broker, process, or underwrite any residential mortgage loans, as defined in Iowa Code section 535D.3(13), the bond shall be in the amount of \$25,000. For applicants or licensees who make, broker,

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process, or underwrite residential mortgage loans, as defined in Iowa Code section 535D.3(13), the bond amount required to be filed and maintained shall be set and adjusted annually by March 31 using the following scale, based on the volume of residential mortgage loans made, originated, arranged, brokered, processed, and underwritten, as the case may be, by the applicant or licensee during the preceding calendar year:

Loans	Bond Amount
\$0 – \$5,000,000	\$25,000
\$5,000,001 – \$20,000,000	\$50,000
\$20,000,001 – \$50,000,000	\$75,000
\$50,000,001 – \$100,000,000	\$100,000
Over \$100,000,000	\$150,000

15.3(6) Licenses expire on the next December 31 after they are issued, but licenses granted on or after November 1 but before January 1 will not expire until December 31 of the following year. For example, a license granted on November 17, 2017, would not expire until December 31, 2018.

187—15.4(17A,536) Grounds for approval or denial.

15.4(1) The superintendent shall approve or deny a license application in accordance with the provisions of Iowa Code section 536.4.

15.4(2) The following may be considered evidence that the business of the applicant may not be operated lawfully and honestly within the purposes of Iowa Code chapter 536 and may therefore be considered grounds for denial of an application:

a. An applicant, or an officer, director, or individual who has control of an applicant, has had a mortgage loan originator license or any lending license revoked in any governmental jurisdiction.

b. An applicant, or an officer, director, or individual who has control of an applicant, has been convicted of, or has pleaded guilty or no contest to, a felony in a domestic, foreign, or military court if such felony involved an act of fraud, dishonesty, or breach of trust, or money laundering.

187—15.5(17A,536) Renewal of license.

15.5(1) A licensee must renew a license before the expiration date of the license. A licensee who fails to renew a license before the expiration date is not authorized to make regulated loans in Iowa after the expiration date.

15.5(2) An application to renew a license shall be submitted to the superintendent, on the form provided and with the information requested, through the NMLS by December 1 of the year of expiration. For example, for a license that will expire on December 31, 2017, an application for renewal shall be submitted by December 1, 2017. All requested information, including any material change to information contained in the original application, shall be provided to the superintendent.

15.5(3) The superintendent shall grant an application to renew a license if:

a. The licensee submits the application and the appropriate renewal fee by December 1 or the licensee submits the application after December 1 but before January 1 and pays the appropriate renewal fee and the appropriate late fee;

b. The application is fully completed and includes all necessary information; and

c. The application does not reveal grounds to deny a license.

15.5(4) It is within the discretion of the superintendent to reject for processing a renewal application submitted after December 31 or to treat such an application as an application for a new license. A licensee who fails to renew a license before the expiration date is not authorized to make regulated loans in Iowa after the expiration date.

187—15.6(17A,536) Changes in the licensee's name, location, or control; fees.

15.6(1) A licensee wishing to change the name or location of a regulated loan business shall notify the superintendent through the NMLS at least 30 days prior to the effective date of the requested change.

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The notice shall include proof that the licensee has either obtained a new bond or amended the existing mandatory bond to reflect the new name or location. The licensee shall submit the appropriate fee in conjunction with the notice.

15.6(2) When a change of control of a licensee is proposed, the party that will assume control of the licensee shall give notice to the superintendent through the NMLS, at least 60 days before the proposed change will take effect. Change of control is defined in Iowa Code section 536.7A. The party that will assume control of the licensee shall furnish the superintendent through the NMLS with the same information required of initial applicants for a license, along with the appropriate fee. The party that will assume control may be required to provide fingerprints, authorize a fingerprint background check through NMLS, and pay the appropriate fees for the purpose of conducting a national criminal history background check through the Federal Bureau of Investigation. The superintendent shall approve or deny the request in accordance with the provisions of Iowa Code section 536.4 and rule 187—15.4(17A,536).

15.6(3) Failure to notify the administrator within the prescribed time as required by this rule may subject the licensee to disciplinary action.

187—15.7(17A,536) Notice of significant events. A licensee shall notify the administrator immediately and in writing within 10 days of the occurrence of any of the following events.

15.7(1) The licensee or any of the licensee's officers, directors, principal stockholders, or affiliates file for bankruptcy protection or commence reorganization proceedings.

15.7(2) A prosecuting authority files criminal charges against the licensee or any of a licensee's officers, directors, principal stockholders, or affiliates.

15.7(3) Another state or jurisdiction institutes license denial, cease and desist, suspension or revocation procedures, or other formal or informal regulatory action against the licensee or any of the licensee's officers, directors, principal stockholders, or affiliates.

15.7(4) The attorney general of Iowa, the Federal Trade Commission, or the enforcer of the consumer protection laws of any other jurisdiction initiates an action to enforce the consumer protection laws against the licensee or any of the licensee's officers, directors, principal stockholders, or affiliates.

187—15.8(17A,536) Administrative fees.

15.8(1) *Examination or investigation fees.* A licensee shall pay an investigation or examination fee as determined by the superintendent based on the actual cost of the operation of the finance bureau of the banking division, as described in Iowa Code section 536.10(3).

15.8(2) *Late fees for failing to respond.* In the process of administering Iowa Code chapter 536, the superintendent may require a person to provide responses to formal orders, examinations, or complaint inquiries. If a person fails to respond within 30 days of the request, the superintendent may assess a penalty of \$10 per day after the initial 30 days.

15.8(3) *NMLS system processing fees.* In addition to the fees set forth in this chapter, the applicant or licensee shall pay any fee assessed by the NMLS attributed to the licensee's record in the NMLS including but not limited to the initial set-up fee, an annual processing fee, and a loan sponsorship transfer fee.

187—15.9(17A,536) Licensee records.

15.9(1) *General records requirements.* A licensee must keep records that allow the superintendent to determine the licensee's compliance with relevant statutes and regulations.

a. The licensee may keep the records as a hard copy or in an electronic equivalent.

b. The licensee shall keep all records for at least 24 months from the date of the final transaction with the borrower.

c. The licensee shall maintain all books and records in good order and shall produce books and records for the superintendent upon request. Failure to produce such books and records within 30 days of the superintendent's request may be grounds for disciplinary action against the licensee.

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d. The obligation to maintain records continues even after the licensee ceases business operations in Iowa and turns in or surrenders its license. The owners and directors of the licensee are responsible for ensuring that this requirement is met.

15.9(2) Required records. A licensee shall keep, at its principal place of business, a loan register, an account ledger, an account ledger control, a loan file, an index, and a disbursement voucher.

15.9(3) Loan register. The loan register shall include the following information for every loan that is made: the account number, the date of the transaction, the name of the borrower, and the amount financed. The register shall be kept chronologically in the order the loans closed.

15.9(4) Account ledger.

a. An individual account ledger shall be kept for each account and shall show at least the loan number, name and address of the borrower, date of loan, date of first payment, date of final payment, terms of repayment including maturity date, amount financed, total of payments, face amount of note if different from amount financed or total payments, cash advanced to borrower, cash advanced to pay balance of previous regulated loan, interest or discount charge, service charge, attorney fee, fee paid or to be paid to a public official for recording or filing a mortgage or for satisfying a judgment or lien on any real or personal property securing the loan, nature of security, type and cost of each credit insurance policy and any other insurance policy with each premium stated separately, and name of each endorser, comaker or surety.

b. All payments shall be posted on the account ledger as of the date received. No erasures whatsoever may be made in the payment section of any account ledger. In case of error, corrections to the transaction history in the account ledger shall be made by corrective entry and not by erasure. The entries on the account ledger shall correspond with the receipts given to the borrower.

c. If payment is made in any way other than in the ordinary course of business, the method of payment shall be so designated on the account ledger; for example, payment by sale of security, insurance claim or endorser. When a death claim is filed, the exact date of death is to be recorded on the account ledger.

d. The account ledger for an interest-bearing loan shall show the amount of the loan if different from the amount financed, the amount and date of each payment received, the allocation of the payment to principal and interest, and the remaining principal balance. If a portion of the interest earned is not paid at the time payment is made, the account ledger for an interest-bearing loan must show either the date to which interest is paid or the amount of interest then due but unpaid.

e. The account ledger for a precomputed loan shall show the actual amount of the loan excluding the precomputed interest, the amount of the precomputed interest and the face amount of the note including interest, the amount and date of each payment applied to the note, the unpaid balance of the note after application of such payment and the type and amount of any additional charges collected or assessed. If a deferment charge is collected in whole or in part, the account ledger shall indicate any uncollected portion of the deferment charge, the particular installment deferred, the number of times deferred, plus the date of the final installment.

f. When any loan is prepaid in full, either by cash or renewal, the account ledger must show the date of prepayment, the amount paid to discharge the loan, the amount of the interest rebate, and any deduction from the rebate for previously earned but uncollected charges, and refunds of the unearned premiums of each credit insurance policy or other insurance policy. Each insurance refund shall be separately recorded on the account ledger.

g. Account ledgers relating to each type of business operation must be filed in separate groups. Paid-in-full and renewed account ledgers must also be filed in a similar manner and must be retained from one banking division examination to the next. After the examination, the account ledgers may be filed in a permanent file.

15.9(5) Account ledger control. A record showing the total number of accounts and total amount receivable for each type of business shall be maintained in the licensed office. This record shall be posted either daily or weekly.

15.9(6) Loan file. A separate file shall be maintained for each borrower in the office where the loan is outstanding. Such file shall contain the note, security agreement, wage assignment, and all other

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evidence of indebtedness or security pertaining to the loan except when the note is kept in a separate promissory note file or when said papers are in custody of a court or an agent for collection or are hypothecated. When a borrower is also a comaker, guarantor or endorser on another loan, the file of such borrower shall be cross-referenced to the other, unless such cross-referencing is included on the alphabetical record required by subrule 15.9(7) or on the individual account ledger required by subrule 15.9(4). All instruments taken in connection with a loan and signed by a borrower must bear the loan number.

15.9(7) *Index.* An alphabetical record shall be maintained and show the name of each borrower, endorser, comaker, or surety who is currently indebted to the licensee, together with sufficient information to locate the account ledger.

15.9(8) *Disbursement voucher.* Licensees shall use, in conjunction with each loan, a disbursement voucher or equivalent document showing a detailed itemization of the distribution of the loan proceeds.

15.9(9) *Denial file.* For each application the licensee denies, the licensee shall retain a copy of the application and a copy of the adverse action notice. The licensee may maintain this information in one file in either alphabetical or chronological order.

15.9(10) *General business records.* A licensee must keep the following general business records for at least 36 months:

a. All checkbooks, check registers, bank statements, deposit slips, withdrawal slips, and canceled checks (or copies thereof) relating to the regulated loan business of the licensee.

b. Complete records (including invoices and supporting documentation) for all expenses and fees paid on behalf of each loan applicant, including a record of the date and amount of all such payments actually made by each loan applicant.

c. Copies of all federal tax withholding forms, reports of income for federal taxation, and evidence of payments to all employees, independent contractors, and others compensated by a licensee in connection with the conduct of the regulated loan business.

d. All correspondence and other records relating to the maintenance of any surety bond required by Iowa Code chapter 536.

e. Copies of all reports of audits, examinations, inspections, reviews, investigations, or other similar functions performed by any third party, including but not limited to the superintendent or any other regulatory or supervisory authority.

f. Copies of all advertisements and solicitations concerning regulated loans directed at Iowa residents, including advertisements and solicitations on the Internet or by other electronic means, in the format (e.g., recorded sound, video, print) in which the advertisements and solicitations were published or distributed. An advertisement shall clearly show the licensee's unique NMLS identification number.

15.9(11) *Disposal of records.* If a licensee or former licensee disposes of records at the end of the retention period, the licensee or former licensee shall dispose of the records in a reasonable manner that safeguards any identification information, as defined in Iowa Code section 715A.8(1) "a." The owners and directors of licensees and former licensees are responsible for ensuring that this requirement is met.

187—15.10(17A,536) Complaints and investigations.

15.10(1) The superintendent may, at any time and as often as the superintendent deems necessary, investigate a licensee and examine the licensee's books, accounts, records, and files.

15.10(2) The superintendent may investigate complaints about, or alleged violations by, any licensee.

15.10(3) The following shall constitute a complaint or alleged violation:

a. A written complaint received from a consumer, member of the public, employee, business affiliate, or other governmental agency.

b. Notice to the superintendent from any source that the licensee has been the subject of disciplinary proceedings in another jurisdiction.

c. Notice to the superintendent from any source that an individual with control of the licensee has been convicted of forgery, embezzlement, obtaining money under false pretenses, extortion, conspiracy

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to defraud, or other similar offense, in a court of competent jurisdiction in this state or in any other state, territory, or district of the United States, or in any foreign jurisdiction.

187—15.11(17A,536) Disciplinary action.

15.11(1) The superintendent has authority pursuant to Iowa Code chapters 536 and 17A to impose discipline for violations of Iowa Code chapter 536 and the rules promulgated thereunder.

15.11(2) Grounds for discipline. The superintendent may impose any of the disciplinary sanctions set out in Iowa Code section 536.9(2) when the superintendent makes any of the findings in Iowa Code section 536.9(1) or when the superintendent finds any of the following:

- a. The licensee has abandoned its place of business for 60 or more days.
- b. The licensee fails to fully cooperate with an examination or investigation, including failing to respond to an inquiry from the superintendent within 30 days of the date the superintendent mails a written communication directed to the licensee's last-known address on file with the superintendent.
- c. The licensee has engaged in any conduct that subverts or attempts to subvert an examination or investigation by the superintendent.
- d. The licensee continues to operate a regulated loan business without an active and current license.
- e. The licensee fails to notify the superintendent within 10 days of the occurrence of one of the significant events set forth in rule 187—15.7(17A,536).
- f. The licensee fails to notify the superintendent of a change in control, name, or principal place of business.
- g. The licensee operates a regulated loan business in the same location as another business without the superintendent's written approval.
- h. Another state or jurisdiction has denied, suspended, revoked, or refused to renew the licensee's license, registration, or authorization to engage in the business of making loans under the other state's or jurisdiction's law.
- i. The licensee fails to create and maintain complete and accurate records as required by state or federal law, regulation, or rule.

15.11(3) The superintendent shall not refund the license fee, in whole or in part, of a license that has been suspended, revoked, or surrendered.

187—15.12(17A,536) Annual report. Licensees must file with the superintendent an annual report, on forms prescribed by the superintendent, on or before April 15. The information contained in the annual report shall be confidential, and the superintendent may publish the information only in composite form. The superintendent may assess a late fee of \$10 for each day the annual report is delinquent.

187—15.13(17A,536) Restrictions on making regulated loans. A licensee shall adhere to the following restrictions related to making regulated loans.

15.13(1) Jurisdiction. A licensee shall have authority to make and complete loans by mail, or by comparable electronic means, from the lender's licensed office. However, all loans made to Iowa residents pursuant to Iowa Code chapters 536 and 537 must comply with all applicable Iowa laws.

15.13(2) Default charge. Default charges are not to be collected if payment is made by a credit accident and health insurance claim.

15.13(3) Interest rate. Pursuant to the power granted to the superintendent under Iowa Code sections 536.13(1) "b" and 536.13(2), the maximum rate of interest that may be charged beginning July 1, 2017, and until such time as a different rate is fixed by the superintendent, is 36 percent per annum on any part of the unpaid balance not exceeding \$3,000 and 24 percent per annum on any part of the unpaid balance in excess of \$3,000, but not exceeding \$8,400 and 18 percent per annum on any part of the unpaid balance in excess of \$8,400, but not exceeding \$10,000.

15.13(4) Branch locations. Licensees may not establish branch locations outside of the United States.

These rules are intended to implement Iowa Code chapters 17A and 536.

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ITEM 2. Rescind 187—Chapter 16 and adopt the following **new** chapter in lieu thereof:

CHAPTER 16
INDUSTRIAL LOANS

187—16.1(17A,536A) Definitions. For the purposes of this chapter, the definitions in Iowa Code chapter 536A shall apply. In addition, unless the context otherwise requires:

“Business of making industrial loans” means making ten or more loans of money or other forms of credit in a calendar year for which a license is required under Iowa Code section 536A.3, advertising the availability of such loans, or directly undertaking the collection of payments due on such loans or otherwise enforcing rights against borrowers who have entered into industrial loans.

“Industrial loan” means a loan made by a person who is a licensee acting under the terms of the Iowa industrial loan law. An industrial loan qualifies as a consumer loan subject to the Iowa Consumer Credit Code if the borrower is a person other than an organization; the debt is incurred for personal, family, or household use; and the amount financed is below the statutory threshold.

“Industrial loan business” means the business of operating an industrial loan company as defined in Iowa Code section 536A.2(1).

“Nationwide multistate licensing system” or *“NMLS”* means a multistate licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of nondepository financial institutions.

187—16.2(17A,536A) Utilization of NMLS.

16.2(1) All application and licensing information shall be submitted through the NMLS including but not limited to the following: original application information; changes in application information; license renewal information; changes in name, location, and control; and notices of significant events.

16.2(2) The applicant or licensee shall pay any fees required by NMLS including but not limited to the following: initial set-up fee and annual processing fees, background check fees, and credit background check fees.

187—16.3(17A,536A) Application for license.

16.3(1) An application for a license to engage in the business of operating an industrial loan company in Iowa shall be submitted to the superintendent, on the form provided and with the information requested, through NMLS. The superintendent may consider an application withdrawn if it does not contain all of the information required and the missing information is not submitted to the superintendent within 30 days after the superintendent requests the missing information. The applicant may also request that the application be withdrawn at any time before the superintendent has decided to grant or deny the application.

16.3(2) Each officer, director, and individual who has control of an applicant must provide fingerprints, authorize a fingerprint background check through NMLS, and pay the appropriate fees for the purpose of conducting a national criminal history background check through the Federal Bureau of Investigation.

16.3(3) The applicant must submit the application fee and the initial license fee specified in Iowa Code section 536A.7(2). The superintendent shall refund the initial license fee if the application is denied, but the application fee is not subject to refund.

16.3(4) If any information material to the application changes after the applicant files the initial application, the applicant shall provide updated information to the superintendent in writing within 10 days of the change. When such a material change in information has occurred, the superintendent may deny an application if the applicant fails to provide updated information within the prescribed time frame.

16.3(5) An applicant for an industrial loan company license must file with the superintendent a bond complying with the provisions of Iowa Code section 536A.7A. For applicants or licensees who do not make, arrange, broker, process, or underwrite any residential mortgage loans, as defined in Iowa

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Code section 535D.3(13), the bond shall be in the amount of \$25,000. For applicants or licensees who make, broker, process, or underwrite residential mortgage loans, as defined in Iowa Code section 535D.3(13), the bond amount required to be filed and maintained shall be set and adjusted annually by March 31 using the following scale, based on the volume of residential mortgage loans made, originated, arranged, brokered, processed, and underwritten, as the case may be, by the applicant or licensee during the preceding calendar year:

Loans	Bond Amount
\$0 – \$5,000,000	\$25,000
\$5,000,001 – \$20,000,000	\$50,000
\$20,000,001 – \$50,000,000	\$75,000
\$50,000,001 – \$100,000,000	\$100,000
Over \$100,000,000	\$150,000

16.3(6) Licenses expire on the next December 31 after they are issued, but licenses granted on or after November 1 but before January 1 will not expire until December 31 of the following year. For example, a license granted on November 17, 2017, would not expire until December 31, 2018.

187—16.4(17A,536A) Grounds for approval or denial.

16.4(1) The superintendent shall approve or deny a license application in accordance with the provisions of Iowa Code sections 536A.10 and 536A.11.

16.4(2) The following may be considered evidence that the business of the applicant may not be operated lawfully and honestly within the purposes of Iowa Code chapter 536A and may therefore be considered grounds for denial of an application:

a. An applicant, or an officer, director, or individual who has control of an applicant, has had a mortgage loan originator license or any lending license revoked in any governmental jurisdiction.

b. An applicant, or an officer, director, or individual who has control of an applicant, has been convicted of, or has pleaded guilty or no contest to, a felony in a domestic, foreign, or military court if such felony involved an act of fraud, dishonesty, or breach of trust, or money laundering.

187—16.5(17A,536A) Renewal of license.

16.5(1) To remain authorized to operate an industrial loan company, a licensee must renew a license before the expiration date of the license. A licensee who fails to renew a license before the expiration date is not authorized to make industrial loans in Iowa after the expiration date.

16.5(2) An application to renew a license shall be submitted to the superintendent, on the form provided and with the information requested, through the NMLS by December 1 of the year of expiration. For example, for a license that will expire on December 31, 2017, an application for renewal shall be submitted by December 1, 2017. All requested information, including any material change to information contained in the original application, shall be provided to the superintendent.

16.5(3) The superintendent shall grant an application to renew a license if:

a. The licensee submits the application and the appropriate renewal fee by December 1 or the licensee submits the application after December 1 but before January 1 and pays the appropriate renewal fee and the appropriate late fee;

b. The application is fully completed and includes all necessary information; and

c. The application does not reveal grounds to deny a license.

16.5(4) It is within the discretion of the superintendent to reject for processing a renewal application submitted after December 31, or to treat such an application as an application for a new license. A licensee who fails to renew a license before the expiration date is not authorized to engage in the business of making industrial loans in Iowa after the expiration date.

187—16.6(17A,536A) Changes in the licensee's name, location, or control.

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16.6(1) A licensee wishing to change the name or location of an industrial loan business shall notify the superintendent through the NMLS at least 30 days prior to the effective date of the change. The notice shall include proof that the licensee has either obtained a new bond or amended the existing mandatory bond to reflect the new name or location. The licensee shall submit the appropriate fee in conjunction with the notice.

16.6(2) When a change of control of a licensee is proposed, the party that will assume control of the licensee shall submit an application for certificate of approval of the proposed change of control to the superintendent, on the form provided and with the information requested, through the NMLS at least 60 days before the proposed change will take effect. Change of control is defined in Iowa Code section 536A.12(4). The party that will assume control of the licensee shall furnish the superintendent with the same information required of initial applicants for a license, along with the appropriate fee. The party that will assume control may be required to provide fingerprints, authorize a fingerprint background check through the NMLS, and pay the appropriate fees for the purpose of conducting a national criminal history background check through the Federal Bureau of Investigation. The superintendent shall approve or deny the request in accordance with the provisions of Iowa Code sections 536A.10 and 536A.11 and rule 187—16.4(17A,536A).

16.6(3) Failure to notify the administrator within the prescribed time as required by this rule may subject the licensee to disciplinary action.

187—16.7(17A,536A) Notice of significant events. A licensee shall notify the administrator immediately and in writing within 10 days of the occurrence of any of the following events.

16.7(1) The licensee or any of the licensee's officers, directors, principal stockholders, or affiliates file for bankruptcy protection.

16.7(2) A prosecuting authority files criminal charges against the licensee or any of a licensee's officers, directors, principal stockholders, or affiliates.

16.7(3) Another state or jurisdiction institutes license denial, cease and desist, suspension or revocation procedures, or other formal or informal regulatory action against the licensee or any of the licensee's officers, directors, principal stockholders, or affiliates.

16.7(4) The attorney general of Iowa, the Federal Trade Commission, or the enforcer of the consumer protection laws of any other jurisdiction initiates an action to enforce the consumer protection laws against the licensee or any of the licensee's officers, directors, principal stockholders, or affiliates.

187—16.8(17A,536A) Administrative fees.

16.8(1) *Examination or investigation fees.* A licensee shall pay an investigation or examination fee as determined by the superintendent based on the actual cost of the operation of the finance bureau of the banking division, as described in Iowa Code section 536A.15(4).

16.8(2) *Late fees for failing to respond.* In the process of administering this chapter, the superintendent may require a person to provide responses to formal orders, examinations, or complaint inquiries. If a person fails to respond within 30 days of the request, the superintendent may assess a penalty of \$10 per day after the initial 30 days.

16.8(3) *NMLS system processing fees.* In addition to the fees set forth in this chapter, the applicant or licensee shall pay any fee assessed by the NMLS attributed to the licensee's record in the NMLS including but not limited to the initial set-up fee, an annual processing fee, and a loan sponsorship transfer fee.

187—16.9(17A,536A) Licensee records.

16.9(1) *General records requirements.* A licensee must keep records that allow the superintendent to determine the licensee's compliance with relevant statutes and regulations.

a. The licensee may keep the records as a hard copy or in an electronic equivalent.

b. The licensee shall keep records for at least 24 months from the date of the final transaction with the borrower.

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c. The licensee shall maintain all books and records in good order and shall produce books and records for the superintendent upon request. The superintendent or the superintendent's duly appointed representative shall have the right to examine and investigate the books, accounts, and records wherever situated of all businesses authorized or conducted by a licensee licensed pursuant to Iowa Code chapter 536A. All books, accounts and records pertaining to businesses conducted pursuant to such licenses shall be made readily available to the examiners who may investigate without prior notice. Failure to produce such books and records within 30 days of the superintendent's request may be grounds for disciplinary action against the licensee.

d. The obligation to maintain records continues even after the licensee ceases business operations in Iowa and turns in or surrenders its license. The owners and directors of the licensee are responsible for ensuring that this requirement is met.

16.9(2) Required records. A licensee shall keep, at its principal place of business, a loan register, account ledgers, an account ledger control, a loan file, an index, and a disbursement voucher.

16.9(3) Loan register.

a. The loan register shall contain the original entry and shall show for every loan the loan number, date of loan, name of borrower, nature of security, and amount of note.

b. The loan register shall be kept chronologically in the order the loans are made.

16.9(4) Account ledger.

a. An individual account ledger shall be kept for each account and shall show at least the loan number, name and address of the borrower, date of loan, date of first payment, date of final payment, terms of repayment including maturity date, amount financed, total of payments, face amount of note if different from amount financed or total of payments, cash advanced to borrower, cash advanced to pay balance of previous industrial loan, interest or discount charge, service charge, attorney fee, fee paid or to be paid to a public official for recording or filing a mortgage or for satisfying a judgment or lien on any real or personal property securing the loan, nature of security, type and cost of each credit insurance policy, and type and cost of any other insurance policy.

b. All payments shall be credited upon the account ledger as of the date they are received. No erasures whatsoever may be made in the payment section of any account ledger. In case of error, corrections to the transaction history in the account ledger shall be made by corrective entry and not by erasure. The entries on the account ledger shall correspond with the receipts given to the borrower.

c. If payment is made in any way other than in the ordinary course of business, the method of payment shall be so designated on the account ledger; for example, if payment is made through the proceeds of an insurance claim or the sale of security, it shall be so designated. When a death claim is filed, the exact date of death is to be recorded on the account ledger.

d. The account ledger for an interest-bearing loan shall show the amount of the loan if different from the amount financed, the amount and date of each payment received, the allocation of the payment to principal and interest, and the remaining principal balance. If a portion of the interest earned is not paid at the time payment is made, the account ledger for an interest-bearing loan must show either the date to which interest is paid or the amount of interest then due but unpaid.

e. The account ledger for a precomputed loan shall show the actual amount of the loan excluding the precomputed interest, the amount of the precomputed interest and the face amount of the note including interest, the amount and date of each payment applied to the note, the unpaid balance of the note after application of such payment and the type and amount of any additional charges collected or assessed. If a deferment charge is collected in whole or in part, the account ledger shall indicate any uncollected portion of the deferment charge, the particular installment deferred, the number of times deferred, plus the date of the final installment.

f. When any loan is prepaid in full, either by cash or renewal, the account ledger must show the date of prepayment, the amount paid to discharge the loan, the amount of the interest rebate, and any deduction from the rebate for previously earned but uncollected charges, and refunds of the unearned premiums of each credit insurance policy or other insurance policy. Each insurance refund shall be separately recorded on the account ledger.

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g. Account ledgers relating to each type of business operation must be filed in separate groups. Paid-in-full or renewed account ledgers must also be filed in a similar manner and must be retained as a separate group from one banking division examination to the next. After the examination, these account ledgers may be filed in a permanent file.

16.9(5) *Account ledger control.* A record showing the total number of accounts and amount receivable for each type of business conducted shall be maintained in the licensed office. This record shall be posted either daily or weekly.

16.9(6) *Loan file.* A separate file shall be maintained for each borrower or loan account. Such file shall contain the promissory note, security agreement, wage assignment, and all other evidence of indebtedness or security pertaining to the loan except when the promissory note is kept in a separate promissory note file. Copies of the note and security agreement shall be substituted for the original documents if the loan has been sold, pledged or assigned as collateral security or if the original papers are in the custody of a court or agent for collection. If the promissory notes are not kept in the file of original papers and have not been sold, pledged or assigned as collateral security or placed in the custody of a court or agent for collection, then they must be kept in a promissory note file. When a borrower is also a comaker, guarantor, or endorser on another loan, the file of such borrower shall be cross-referenced to the other, unless such cross-referencing is included on the alphabetical record required by subrule 16.9(7) or the individual account ledger required by subrule 16.9(4). All instruments taken in connection with a loan and signed by a borrower must bear the loan number. No instrument or part thereof shall be left blank for completion after the borrower(s) has signed the instrument.

16.9(7) *Index.* An alphabetical index shall be maintained for each borrower, endorser, comaker, surety or other party currently indebted to the licensee or to any other business operated within the same office, room, suite or place of business. The index shall show the following information: the name of the obligor, the account number assigned to the obligor's indebtedness, the type of indebtedness (regulated loan, industrial loan, insurance, or any receivable), information showing whether the obligor is other than a borrower and sufficient information to locate all account ledgers.

16.9(8) *Disbursement voucher.* Licensees shall use, in conjunction with each loan, a disbursement voucher or equivalent document showing a detailed itemization of the distribution of the loan proceeds.

16.9(9) *Denial file.* For each application the licensee denies, the licensee shall retain a copy of the application and a copy of the adverse action notice. The licensee may maintain this information in one file in either alphabetical or chronological order.

16.9(10) *General business records.* A licensee must keep the following general business records for at least 36 months:

a. All checkbooks, check registers, bank statements, deposit slips, withdrawal slips, and canceled checks (or copies thereof) relating to the industrial loan business of the licensee.

b. Complete records (including invoices and supporting documentation) for all expenses and fees paid on behalf of each loan applicant, including a record of the date and amount of all such payments actually made by each loan applicant.

c. Copies of all federal tax withholding forms, reports of income for federal taxation, and evidence of payments to all employees, independent contractors, and others compensated by a licensee in connection with the conduct of the industrial loan business.

d. All correspondence and other records relating to the maintenance of any surety bond required by Iowa Code chapter 536A.

e. Copies of all reports of audits, examinations, inspections, reviews, investigations, or other similar functions performed by any third party, including but not limited to the superintendent or any other regulatory or supervisory authority.

f. Copies of all advertisements and solicitations concerning industrial loan services directed at Iowa residents, including advertisements and solicitations on the Internet or by other electronic means, in the format (e.g., recorded sound, video, print) in which the advertisements and solicitations were published or distributed.

16.9(11) *Disposal of records.* If a licensee or former licensee disposes of records at the end of the retention period, the licensee or former licensee shall dispose of the records in a reasonable manner that

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safeguards any identification information, as defined in Iowa Code section 715A.8(1) "a." The owners and directors of licensees and former licensees are responsible for ensuring that this requirement is met.

187—16.10(17A,536A) Complaints and investigations.

16.10(1) The superintendent may, at any time and as often as the superintendent deems necessary, investigate a licensee and examine the licensee's books, accounts, records, and files.

16.10(2) The superintendent may investigate complaints about, or alleged violations by, any licensee.

16.10(3) The following shall constitute a complaint or alleged violation:

a. A written complaint received from a consumer, member of the public, employee business affiliate, or other governmental agency.

b. Notice to the superintendent from any source that the licensee has been the subject of disciplinary proceedings in another jurisdiction.

c. Notice to the superintendent from any source that an individual with control of the licensee has been convicted of forgery, embezzlement, obtaining money under false pretenses, extortion, conspiracy to defraud, or other similar offense, in a court of competent jurisdiction in this state or in any other state, territory, or district of the United States, or in any foreign jurisdiction.

187—16.11(17A,536A) Disciplinary action.

16.11(1) The superintendent has authority pursuant to Iowa Code chapters 536A and 17A to impose discipline for violations of Iowa Code chapter 536A and the rules promulgated thereunder.

16.11(2) Grounds for discipline. The superintendent may impose any of the disciplinary sanctions set out in Iowa Code section 536A.18(2) when the superintendent finds any of the following:

a. The licensee has abandoned its place of business for 60 or more days.

b. The licensee fails to fully cooperate with an examination or investigation, including failing to respond to an inquiry from the superintendent within 30 days of the date the superintendent mails a written communication directed to the licensee's last-known address on file with the superintendent.

c. The licensee has engaged in any conduct that subverts or attempts to subvert an examination or investigation by the superintendent.

d. The licensee continues to operate an industrial loan business without an active and current license.

e. The licensee fails to notify the superintendent within 10 days of the occurrence of one of the significant events set forth in rule 187—16.7(17A,536A).

f. The licensee fails to notify the superintendent of a change in control, name, or principal place of business.

g. The licensee operates an industrial loan business in the same location as another business without the superintendent's written approval.

h. Another state or jurisdiction has denied, suspended, revoked, or refused to renew the licensee's license, registration, or authorization to engage in the business of making loans under the other state's or jurisdiction's law.

i. The licensee fails to create and maintain complete and accurate records as required by state or federal law, regulation, or rule.

16.11(3) The superintendent shall not refund the license fee, in whole or in part, of a license that has been suspended, revoked, or surrendered.

187—16.12(17A,536A) Other requirements.

16.12(1) Annual report. Licensees must file with the superintendent an annual report, on forms prescribed by the superintendent, on or before April 15. The information contained in the annual report shall be confidential, and the superintendent may publish the information only in composite form. The superintendent may assess a late fee of \$10 for each day the annual report is delinquent.

16.12(2) Reserved.

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187—16.13(17A,536A) Restrictions on making industrial loans. A licensee shall adhere to the following restrictions related to making industrial loans.

16.13(1) Jurisdiction. A licensee shall have authority to make and complete loans by mail, or by comparable electronic means, from the lender's licensed office. However, all loans made to Iowa residents pursuant to Iowa Code chapters 536A and 537 must comply with all applicable Iowa laws.

16.13(2) Default charge. Default charges are not to be collected from a borrower if payment is made by a credit accident and health insurance claim.

16.13(3) Branch locations. Licensees may not establish branch locations outside of the United States.

These rules are intended to implement Iowa Code chapters 17A and 536A.

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BANKING DIVISION[187]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 17A.3 and 533D.3(7), the Iowa Division of Banking (IDOB) hereby gives Notice of Intended Action to adopt new Chapter 17, “Delayed Deposit Services,” Iowa Administrative Code.

The proposed chapter establishes the procedures for an application for a delayed deposit services license; renewal of an existing delayed deposit services license; submission of required notices regarding changes in name, location, or control of a licensee; record-keeping requirements for licensees; and procedures for complaints, investigations, and disciplinary actions. The proposed chapter specifically instructs licensees and applicants regarding the requirements to use the nationwide multistate licensing system to apply for and maintain delayed deposit services licenses. The nationwide multistate licensing system makes the licensing process faster, easier, and more uniform for both licensees and the licensing staff who process applications and other submissions. In the interest of making state government more efficient and transparent, the structure of these rules is very similar to the structure of other rules applicable to nondepository financial institutions.

Any interested person may make written or oral suggestions or comments on the proposed chapter on or before April 19, 2017. Comments should be directed to Zachary Hingst, Legal Counsel, Iowa Division of Banking, 200 E. Grand Avenue, Suite 300, Des Moines, Iowa 50309; by telephone at (515)281-4014; or by e-mail to zak.hingst@idob.state.ia.us.

A public hearing will be held at 9 a.m. on April 19, 2017, at the offices of the Iowa Division of Banking, 200 E. Grand Avenue, Suite 300, Des Moines, Iowa. At the hearing, persons who wish to speak will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed chapter.

Any person who plans to attend the public hearing and has special requirements, such as those related to hearing or mobility impairments, should contact the IDOB to discuss specific needs.

No existing fees are being altered and no new fees are being added; therefore, the IDOB has concluded that the proposed rules will have no fiscal impact.

These rules are subject to waiver or variance pursuant to 187—Chapter 12.

No existing authorized activities are being restricted, no new activities are being authorized, no existing fees are being increased, and no new fees are being added. The IDOB has therefore concluded that the proposed rules should not have an impact on jobs in Iowa.

These rules are intended to implement Iowa Code chapters 17A and 533D.

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The following amendment is proposed.

Adopt the following **new** 187—Chapter 17:

CHAPTER 17
DELAYED DEPOSIT SERVICES

187—17.1(17A,533D) Definitions. For the purposes of this chapter, the definitions in Iowa Code chapter 533D shall apply. In addition, unless the context otherwise requires:

“*Delayed deposit transactions*” means the activities of a “delayed deposit services business” as defined in Iowa Code section 533D.2(2). These transactions qualify as consumer loans subject to the Iowa Consumer Credit Code, Iowa Code chapter 537, if the borrower is a person other than an organization and the debt is incurred for personal, family, or household use.

“*License application*” means an application submitted to the superintendent for a license to operate as a delayed deposit services business in accordance with the provisions of Iowa Code chapter 533D.

“*Maker*” means a person who issues a check in order to enter into a delayed deposit transaction.

“*Nationwide multistate licensing system*” or “*NMLS*” means a multistate licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and regulation of nondepository financial institutions.

187—17.2(17A,533D) Utilization of NMLS. All application and licensing information shall be submitted through the NMLS including but not limited to the following: original application information; changes in application information; license renewal information; changes in name, location, and control; and notices of significant events. The applicant or licensee shall pay any fees required by NMLS including but not limited to the following: system processing fees, background check fees, and credit background check fees.

187—17.3(17A,533D) Application for license.

17.3(1) An application for a license to operate a delayed deposit services business in Iowa shall be submitted to the superintendent on the form provided and with the information requested through the NMLS. The superintendent may consider an application withdrawn if it does not contain all of the information required and the missing information is not submitted to the superintendent within 30 days after the superintendent requests the missing information. The applicant may also request that the application be withdrawn at any time before the superintendent has decided to grant or deny the application.

17.3(2) Each officer, director and individual who has control of an applicant must provide fingerprints, authorize a fingerprint background check through NMLS, and pay the appropriate fees for the purpose of conducting a national criminal history background check through the Federal Bureau of Investigation.

17.3(3) The applicant shall submit with the application an application fee of \$100 and an initial license fee of \$250. The superintendent shall refund the initial license fee if the application is denied, but the application fee is not subject to refund.

17.3(4) If any information material to the application changes after the applicant files the initial application, the applicant shall provide updated information to the superintendent within 10 days of the change. When such a material change in information has occurred, the superintendent may deny an application if the applicant fails to provide updated information within the prescribed time frame.

17.3(5) An applicant for a license to enter into delayed deposit transactions must file with the superintendent a \$25,000 surety bond in compliance with the provisions of Iowa Code section 533D.3(3) “b.”

17.3(6) Licenses expire on the next December 31 after they are issued, but licenses granted on or after November 1 but before January 1 will not expire until December 31 of the following year. For example, a license granted on November 17, 2017, would not expire until December 31, 2018.

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187—17.4(17A,533D) Grounds for approval or denial.

17.4(1) The superintendent shall approve or deny a license application in accordance with the provisions of Iowa Code section 533D.3.

17.4(2) The following may be considered evidence that the business of the applicant may not be operated lawfully and honestly consistent with the purposes of Iowa Code chapter 533D and may therefore be considered grounds for denial of an application:

a. An applicant, or an officer, director, or individual who has control of an applicant, has had a mortgage loan originator license or any lending license revoked in any governmental jurisdiction.

b. An applicant, or an officer, director, or individual who has control of an applicant, has been convicted of, or pled guilty or no contest to, a felony in a domestic, foreign, or military court if such felony involved an act of fraud, dishonesty, or breach of trust, or money laundering.

187—17.5(17A,533D) Renewal of license.

17.5(1) To remain authorized to enter into delayed deposit transactions in Iowa, a licensee must renew a license before the expiration date of the license. A licensee who fails to renew a license before the expiration date is not authorized to enter into delayed deposit transactions after the expiration date.

17.5(2) An application to renew a license shall be submitted to the superintendent on the form provided and with the information requested through the NMLS by December 1 of the year of expiration. For example, for a license that will expire on December 31, 2017, an application for renewal shall be submitted by December 1, 2017. All requested information, including any material change to information contained in the original application, shall be provided to the superintendent.

17.5(3) The superintendent shall grant an application to renew a license if:

a. The licensee submits the application and the appropriate renewal fee by December 1, or the licensee submits the application after December 1 but before January 1 and pays the appropriate renewal fee and the appropriate late fee;

b. The application is fully completed and includes all necessary information; and

c. The application does not reveal grounds to deny a license.

17.5(4) It is within the discretion of the superintendent to reject for processing a renewal application submitted after December 31 or to treat such an application as an application for a new license. A licensee who fails to renew a license before the expiration date is not authorized to enter into delayed deposit transactions in Iowa after the expiration date.

187—17.6(17A,533D) Changes in the licensee's name, location, or control.

17.6(1) A licensee wishing to change the name or location of a delayed deposit services business shall notify the superintendent at least 30 days prior to the requested change. The request shall include proof that the licensee has either obtained a new bond or amended the existing bond to reflect the new name or location. The licensee shall submit a \$25 fee per license in conjunction with the request. A licensee may not enter into delayed deposit transactions under a different name without providing such notice and submitting the required fee.

17.6(2) A licensee wishing to establish a branch office must submit the application to the superintendent on the form provided and with the information requested through the NMLS, along with a fee of \$250. Licenses issued to branch offices are treated as independent licenses and are subject to the renewal requirements, fees, and procedures specified in rule 187—17.5(17A,533D).

17.6(3) When change of control of a licensee is proposed, the party that will assume control of the licensee shall give notice to the superintendent at least 60 days before the proposed change will take effect. Change of control is defined in Iowa Code section 533D.6. The party that will assume control of the licensee shall furnish the superintendent with the same information required of initial applicants for a license, along with a fee of \$100. The party that will assume control may be required to provide fingerprints, authorize a fingerprint background check through NMLS, and pay the appropriate fees for the purpose of conducting a national criminal history background check through the Federal Bureau of Investigation. The superintendent shall approve or deny the request in accordance with the provisions of Iowa Code section 533D.3.

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17.6(4) Failure to notify the administrator within the prescribed time as required by this rule may subject the licensee to disciplinary action.

187—17.7 Reserved.

187—17.8(17A,533D) Administrative fees.

17.8(1) *Examination or investigation fees.* A licensee shall pay an investigation or examination fee as determined by the superintendent based on the actual cost of the operation of the finance bureau of the banking division, as described in Iowa Code section 533D.11(3).

17.8(2) *Late fees for failing to respond.* In the process of administering this chapter, the superintendent may require a person to provide responses to formal orders, examinations, or complaint inquiries. If a person fails to respond within 30 days of the request, the superintendent may assess a penalty of \$10 per day after the initial 30 days.

17.8(3) *NMLS system processing fees.* In addition to the fees set forth in this chapter, the applicant or licensee shall pay any fee assessed by the NMLS attributed to the licensee's record in the NMLS including but not limited to the initial set-up fee and annual processing fee.

187—17.9(17A,533D) Licensee records.

17.9(1) *General record requirements.* A licensee must keep records that allow the superintendent to determine the licensee's compliance with relevant statutes and regulations.

a. The licensee may keep the records as a hard copy or in an electronic equivalent.

b. The licensee shall keep records for at least 24 months from the date of the final transaction with the borrower.

c. The licensee shall maintain all books and records in good order and shall produce books and records for the superintendent upon request. Failure to produce such books and records within 30 days of the superintendent's request may be grounds for disciplinary action against the licensee.

d. The obligation to maintain records continues even after the licensee ceases business operations in Iowa and turns in or surrenders its license. The owners and directors of the licensee are responsible for ensuring that this requirement is met.

17.9(2) *Required records.* A licensee making or servicing delayed deposit transactions shall keep, at its principal place of business, a loan register, an account ledger, a loan file, an index, an application log, a denial file, and a disbursement voucher.

17.9(3) *Loan register.* The loan register shall include the following information for every loan that is made: the account number, the date of the transaction, the name of the borrower, the amount financed, and the amount of the borrower's check. The register shall be kept chronologically in the order the loans closed. A licensee may combine the loan register with the application log.

17.9(4) *Account ledger.* A delayed deposit services licensee shall maintain an account ledger for each borrower, which shall show:

a. The name and address of the borrower, the loan number, the loan date, the maturity date, the payment terms, the amount financed, and the total of payments.

b. A transaction history that lists all transactions with the borrower. Payments shall be posted to the account ledger effective the date payments were received. Payment entries shall show the date payment was received, the total amount of the payment, and a description of how the payment was applied to the borrower's account. Other transactions shall be fully described. Corrections to the transaction history shall be made by corrective entry and not by erasure.

17.9(5) *Loan file.* The loan file consists of the application, the loan agreement, notice pursuant to Iowa Code section 533D.9(2), and all required truth-in-lending disclosures for each loan.

17.9(6) *Index.* An alphabetical record shall be maintained and show the name of each borrower, endorser, comaker, or surety who is currently indebted to the licensee, together with sufficient information to locate the account ledger.

17.9(7) *Application log.* The application log is a chronological list of applications received. The application log shall include the name of the applicant, the date when the application was received,

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whether the loan was made or denied, and the date when the loan was made or denied if that date differs from the date when the licensee received the application. For approved applications, the application log shall show the date when the loan closed and the name of the borrower. For record-keeping purposes, an application is a prospective borrower's oral or written request for a licensee to extend credit that is made in accordance with the procedures established by the licensee for the type of credit requested.

17.9(8) Denial file. For each application the licensee denies, the licensee shall retain a copy of the application and a copy of the adverse action notice. The licensee may maintain this information in one file in either alphabetical or chronological order.

17.9(9) Disbursement voucher. Licensees shall use a disbursement voucher or equivalent document in conjunction with each loan showing a detailed itemization of the distribution of the loan proceeds.

17.9(10) General business records. A licensee must keep the following general business records for at least 36 months:

a. All checkbooks, check registers, bank statements, deposit slips, withdrawal slips, and canceled checks (or copies thereof) relating to the delayed deposit services business of the licensee.

b. Complete records (including invoices and supporting documentation) for all expenses and fees paid on behalf of each loan applicant, including a record of the date and amount of all such payments actually made by each loan applicant.

c. Copies of all federal tax withholding forms, reports of income for federal taxation, and evidence of payments to all employees, independent contractors, and others compensated by a licensee in connection with the conduct of the delayed deposit services business.

d. All correspondence and other records relating to the maintenance of any surety bond required by Iowa Code chapter 533D.

e. Copies of all reports of audits, examinations, inspections, reviews, investigations, or other similar functions performed by any third party, including but not limited to the superintendent or any other regulatory or supervisory authority.

f. Copies of all advertisements and solicitations concerning delayed deposit services directed at Iowa residents, including advertisements and solicitations on the Internet or by other electronic means, in the format (e.g., recorded sound, video, print) in which the advertisements and solicitations were published or distributed.

17.9(11) Disposal of records. If a licensee or former licensee disposes of records at the end of the retention period, the licensee or former licensee shall dispose of the records in a reasonable manner that safeguards any identification information, as defined in Iowa Code section 715A.8(1) "a." The owners and directors of licensees and former licensees are responsible for ensuring that this requirement is met.

187—17.10(17A,533D) Complaints and investigations.

17.10(1) The superintendent may, at any time and as often as the superintendent deems necessary, investigate a licensee and examine the licensee's books, accounts, records, and files.

17.10(2) The superintendent may investigate complaints about, or alleged violations by, any licensee.

17.10(3) The following shall constitute a complaint or alleged violation:

a. A written complaint received from a consumer, member of the public, employee, business affiliate, or other governmental agency.

b. Notice to the superintendent from any source that the licensee has been the subject of disciplinary proceedings in another jurisdiction.

c. Notice to the superintendent from any source that an individual with control of the licensee has been convicted of forgery, embezzlement, obtaining money under false pretenses, extortion, conspiracy to defraud, or other similar offense, in a court of competent jurisdiction in this state or in any other state, territory, or district of the United States, or in any foreign jurisdiction.

187—17.11(17A,533D) Disciplinary action.

17.11(1) The superintendent has authority pursuant to Iowa Code chapters 533D and 17A to impose discipline for violations of Iowa Code chapter 533D and the rules promulgated thereunder.

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17.11(2) Grounds for discipline. The superintendent may impose any of the disciplinary sanctions set out in Iowa Code section 533D.12(2) when the superintendent finds any of the following:

- a.* The licensee has violated a provision of Iowa Code chapter 533D or a rule adopted under Iowa Code chapter 533D or any other state or federal law applicable to the conduct of the licensee's business.
- b.* A fact or condition exists which, had it existed at the time of the licensee's original application for a license, would have warranted the superintendent to refuse to issue the original license.
- c.* The licensee is found upon investigation to be insolvent, in which case the license shall be revoked immediately.
- d.* The licensee has violated an order of the superintendent.
- e.* The licensee fails to fully cooperate with an examination or investigation, including failing to respond to an inquiry from the superintendent within 30 days of the date the superintendent mails a written communication directed to the licensee's last-known address on file with the superintendent.
- f.* The licensee has engaged in any conduct that subverts or attempts to subvert an examination or investigation by the superintendent.
- g.* The licensee continues to operate a delayed deposit services business without an active and current license.
- h.* The licensee operates a delayed deposit services business in the same location as another business without the superintendent's written approval.
- i.* The licensee has abandoned its place of business for 60 or more days.
- j.* The licensee fails to notify the superintendent within 30 days of the occurrence of one of the significant events set forth in Iowa Code section 533D.5.
- k.* Another state or jurisdiction has denied, suspended, revoked, or refused to renew the licensee's license, registration, or authorization to operate a delayed deposit services business or enter into delayed deposit transactions under the other state's or jurisdiction's law.
- l.* The licensee fails to create and maintain complete and accurate records as required by state or federal law, regulation, or rule.
- m.* The licensee fails to notify the superintendent of a change in control, name, or principal place of business.
- n.* The licensee fails to pay a license fee required by Iowa Code chapter 533D or to maintain a bond required by Iowa Code chapter 533D.

17.11(3) The superintendent shall not refund a license fee, in whole or in part, of a license that has been suspended, revoked, or surrendered.

187—17.12(17A,533D) Annual report. Licensees must file with the superintendent an annual report, on forms prescribed by the superintendent, on or before April 15. The information contained in the annual report shall be confidential, and the superintendent may publish the information only in composite form. The superintendent may assess a late fee of \$10 for each day the annual report is delinquent.

187—17.13(17A,533D) Restrictions on making delayed deposit transactions. A licensee shall adhere to the following restrictions related to making delayed deposit transactions.

17.13(1) A licensee shall not engage in any of the acts prohibited by Iowa Code section 533D.10.

17.13(2) A licensee shall not enter into a new delayed deposit transaction with a maker on the same day the maker pays an existing delayed deposit transaction with the licensee unless:

- a.* The aggregate amount of the check(s) the maker is paying and the new check the maker is writing does not exceed the statutory maximum of \$500; and
- b.* The licensee does not hold more than two outstanding checks in the maker's name, including the check(s) being paid and the new check being issued.

These rules are intended to implement Iowa Code chapters 17A and 533D.

ARC 2993C

BANKING DIVISION[187]**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 17A.3 and 535B.14, the Iowa Division of Banking (IDOB) hereby gives Notice of Intended Action to amend Chapter 18, “Mortgage Bankers, Mortgage Brokers, and Real Estate Closing Agents,” Iowa Administrative Code.

The proposed amendments reflect partial compliance with Iowa Code section 17A.7(2), which states that, as of July 1, 2012, “over each five-year period of time, an agency shall conduct an ongoing and comprehensive review of all of the agency’s rules [and t]he goal of the review is the identification and elimination of all rules of the agency that are outdated, redundant, or inconsistent or incompatible with statute or its own rules or those of other agencies.” The amendments to Chapter 18 are proposed as a result of the IDOB’s review of the existing administrative rules. The proposed amendments are intended to replace antiquated terminology and statutory references, to eliminate outdated requirements, and to update certain ongoing requirements to accurately reflect current practice, specifically regarding the use of the nationwide multistate licensing system.

Any interested person may make written or oral suggestions or comments on the proposed amendments on or before April 19, 2017. Comments should be directed to Zachary Hingst, Legal Counsel, Iowa Division of Banking, 200 E. Grand Avenue, Suite 300, Des Moines, Iowa 50309; by telephone at (515)281-4014; or by e-mail to zak.hingst@idob.state.ia.us.

No existing fees are being altered and no new fees are being added; therefore, the IDOB has concluded that the proposed amendments will not have any fiscal impact.

These rules are subject to waiver or variance pursuant to 187—Chapter 12.

No existing authorized activities are being restricted, no new activities are being authorized, no existing fees are being increased, and no new fees are being added. The IDOB has therefore concluded that the proposed amendments should not have an impact on jobs in Iowa.

These amendments are intended to implement Iowa Code chapters 17A and 535B.

The following amendments are proposed.

ITEM 1. Amend rule **187—18.1(17A,535B)**, definitions of “License application,” “Licensee,” “Mortgage loan originator,” “Nationwide mortgage licensing system and registry” and “Services a loan,” as follows:

“*License application*” means an electronic application or registration submitted to the administrator for a license to operate as a mortgage banker, mortgage broker, or closing agent in accordance with the provisions of ~~2009 Iowa Code Supplement~~ section 535B.4 ~~as amended by 2010 Iowa Acts, Senate File 2348, section 4.~~

“*Licensee*” means a person who has a license to operate as a mortgage banker, mortgage broker, or closing agent in accordance with the provisions of ~~2009 Iowa Code Supplement~~ section 535B.4 ~~as amended by 2010 Iowa Acts, Senate File 2348, section 4.~~

“*Mortgage loan originator*” means a natural person who is licensed under ~~2009 Iowa Acts, Senate File 355, Iowa Code chapter 535D and 187—Chapter 19.~~

“*Nationwide mortgage multistate licensing system and registry*” or “*NMLS&R NMLS*” means a mortgage multistate licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of mortgage loan originators, mortgage providers, mortgage lenders, mortgage brokers, and mortgage servicers.

BANKING DIVISION[187](cont'd)

“Services a loan” or “servicing a loan” means undertaking the direct collection of payments on a loan from the borrower or holding the right to undertake direct collection of payments on a loan from the borrower. Undertaking the direct collection of payments means receiving any scheduled periodic payments from a borrower pursuant to the terms of any federally related mortgage loan. Holding the right to undertake direct collection of payments means holding the right to service a loan, including where the holder of this right contracts with or otherwise arranges for another person to service the loan.

ITEM 2. Amend rule 187—18.2(17A,535B) as follows:

187—18.2(17A,535B) Application for license.

18.2(1) Application for a license to operate as a mortgage banker, mortgage broker, or closing agent shall be submitted to the administrator through the ~~NMLS&R~~ NMLS, and all requested information shall be provided on or with the application form. The administrator may consider an application or registration withdrawn if ~~it~~ the application or registration does not contain all of the information required and the information is not submitted to the administrator within 30 days after the administrator requests the information.

18.2(2) Each officer, director, and individual who has control of an applicant must provide fingerprints, authorize a fingerprint background check through NMLS, and pay the appropriate fees for the purpose of conducting a national criminal history background check through the Federal Bureau of Investigation.

~~18.2(2)~~ **18.2(3)** The license application shall be accompanied by a fee of \$500 plus \$40 per additional branch location. The \$500 fee is not subject to refund. The applicant shall also pay any additional fees required by the ~~NMLS&R~~ NMLS including but not limited to the following: system processing fees, background check fees, and credit background check fees.

~~18.2(3)~~ **18.2(4)** If any information changes after the filing of the initial application, the applicant shall provide updated information to the administrator in writing within 10 ~~calendar~~ days of the change. Failure to provide updated information when a change has occurred may result in denial of the application.

~~18.2(4)~~ **18.2(5)** The administrator shall approve or deny a license application in accordance with the provisions of 2009 Iowa Code Supplement section 535B.5 ~~as amended by 2010 Iowa Acts, Senate File 2348, section 5.~~ A person shall not be eligible for licensing as a mortgage banker or mortgage broker unless all mortgage loan originators who are employed by, under contract with, or exclusive agents of the person have successfully completed the licensing requirements of Iowa Code chapter 535D.

~~18.2(5)~~ **18.2(6)** An applicant for a mortgage banker or mortgage broker license must file with the administrator a bond complying with the provisions of 2009 Iowa Code Supplement section 535B.9 ~~as amended by 2010 Iowa Acts, Senate File 2348, section 7.~~ The bond amount required to be filed and maintained by the applicant shall be set and adjusted as necessary annually in accordance with the following scale, based on the volume of residential mortgage loans made, originated, arranged, brokered, processed, underwritten, and serviced, as the case may be, by the applicant or licensee during the preceding calendar year:

Loans	Bond Amount
\$0 – \$100,000,000	\$100,000
Over \$100,000,000	\$150,000

~~18.2(6)~~ **18.2(7)** An applicant for a closing agent license must file with the administrator a bond in the amount of \$25,000 which complies with the provisions of 2009 Iowa Code Supplement section 535B.9 ~~as amended by 2010 Iowa Acts, Senate File 2348, section 7.~~

~~18.2(7)~~ **18.2(8)** Licenses expire on the next December 31 after issuance. However, licenses granted on or after November 1 but before January 1 will not expire until December 31 of the following year. For example, a license granted on November 17, 2008, would not expire until December 31, 2009.

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ITEM 3. Amend subrule 18.3(2) as follows:

18.3(2) Application to renew a license shall be submitted to the administrator ~~before~~ by December 1 of the year of expiration through the ~~NMLS&R~~ NMLS. All requested information shall be provided to the administrator as directed by the ~~NMLS&R~~ NMLS. Applications for renewal of a license to transact business solely as a mortgage broker or closing agent must be accompanied by a fee of \$200. Applications for renewal of a license to transact business as a mortgage banker must be accompanied by a fee of \$400. In addition, the mortgage banker or mortgage broker licensee shall pay a branch office renewal fee of \$40 per branch. The administrator may assess late fees of up to \$10 per day for applications submitted after December 1.

ITEM 4. Adopt the following new rule 187—18.4(17A,535B):

187—18.4(17A,535B) Grounds for approval or denial.

18.4(1) The superintendent shall approve or deny a license application in accordance with the provisions of Iowa Code section 535B.5.

18.4(2) The following may be considered evidence that the business of the applicant may not be operated honestly in the public interest consistent with the purposes of Iowa Code chapter 535B and may therefore be considered grounds for denial of an application:

a. An applicant, or an officer, director, or individual who has control of an applicant, has had a mortgage loan originator license or any lending license revoked in any governmental jurisdiction.

b. An applicant, or an officer, director, or individual who has control of an applicant, has been convicted of, or has pleaded guilty or no contest to, a felony in a domestic, foreign, or military court if such felony involved an act of fraud, dishonesty, or breach of trust, or money laundering. A pardon of a conviction shall not constitute a conviction for purposes of this subrule.

ITEM 5. Amend rule 187—18.7(17A,535B), introductory paragraph, as follows:

187—18.7(17A,535B) Notice of significant events. A licensee shall notify the administrator ~~immediately and in writing~~ within ~~five business~~ 10 days of the occurrence of any of the following events.

ITEM 6. Amend rule 187—18.8(17A,535B) as follows:

187—18.8(17A,535B) Changes in the licensee's business; fees.

18.8(1) No change.

18.8(2) A licensee shall notify the administrator through the ~~NMLS&R~~ NMLS of a change in the location, the addition, or the closing of any office prior to the change, addition, or closure.

18.8(3) A mortgage banker or mortgage broker licensee shall maintain on file with the administrator, through the ~~NMLS&R~~ NMLS, a list of all mortgage loan originators who are employed by, under contract with, or exclusive agents of the licensee. The licensee shall pay any fees assessed by the ~~NMLS&R~~ NMLS to add a mortgage loan originator to the licensee's list in the ~~NMLS&R~~ NMLS.

18.8(4) When a mortgage loan originator ceases to be employed by, under contract with, or an exclusive agent of a mortgage banker or mortgage broker licensee, the licensee shall notify the administrator, through the ~~NMLS&R~~ NMLS, within ~~five business~~ 10 days. The notification shall include the reasons for the termination of the mortgage loan originator's employment, contract, or agency.

18.8(5) A mortgage banker or mortgage broker licensee shall notify the administrator through the ~~NMLS&R~~ NMLS of the addition of any mortgage loan originator, owner, officer, partner, or director within ~~five business~~ 10 days of addition.

18.8(6) No change.

18.8(7) ~~NMLS&R~~ NMLS system processing fees. In addition to the fees set forth in this chapter, the applicant or licensee shall pay any fee assessed by the ~~NMLS&R~~ NMLS attributed to the licensee's record in the ~~NMLS&R system~~ NMLS including but not limited to the initial set-up fee, an annual processing fee, and a loan sponsorship transfer fee.

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18.8(8) When a change of control of a licensee is proposed, the party that will assume control of the licensee shall give notice to the superintendent through the NMLS at least 60 days before the proposed change will take effect. Control is defined in Iowa Code section 535B.6A. The party that will assume control of the licensee shall furnish the superintendent through the NMLS with the same information required of initial applicants for a license, along with the appropriate fee. The party that will assume control may be required to provide fingerprints, authorize a fingerprint background check through NMLS, and pay the appropriate fees for the purpose of conducting a national criminal history background check through the Federal Bureau of Investigation. The superintendent shall approve or deny the request in accordance with the provisions of Iowa Code section 535B.5 and rule 187—18.4(17A,535B).

ITEM 7. Amend subrule 18.16(4) as follows:

18.16(4) Application log. A mortgage banker or mortgage broker licensee shall maintain an application log. The application log is a chronological list of applications received. The application log shall include the name of the applicant; date the application was completed; the name of the broker, the lender, and the mortgage loan originator, as applicable, including the unique ~~NMLS&R~~ NMLS identification number assigned to each; notes for action taken on applications (such as “approved,” “denied,” or “withdrawn”); and date of action. For approved applications, the application log shall show the date the loan closed and the name of the lender. For purposes of these rules, information from an applicant becomes an application when the licensee obtains the name and social security number of the applicant.

ITEM 8. Amend subrule 18.16(5) as follows:

18.16(5) Loan register. A mortgage banker or mortgage broker licensee shall maintain a loan register. The loan register shall include the following information for every loan that is made: the date of the transaction; the name of the borrower; the name of the broker, the lender, the mortgage loan originator, and the closing agent, as applicable, including the unique ~~NMLS&R~~ NMLS identification number assigned to each; and the amount financed. The register shall be kept chronologically in the order the loans closed. The loan register may be combined with the application log.

ITEM 9. Amend subrule 18.16(6) as follows:

18.16(6) Application file. A mortgage banker or mortgage broker licensee shall maintain an application file for each application received. The application file shall contain copies of the application and any required disclosures. A copy of any adverse action taken on the application, including any documentation supporting that action such as an appraisal report or credit report, shall also be placed in the application file. The application file shall also contain the name of the broker, the lender, and the mortgage loan originator, as applicable, including the unique ~~NMLS&R~~ NMLS identification number assigned to each.

ITEM 10. Amend subrule 18.16(7) as follows:

18.16(7) Loan file. A mortgage banker or mortgage broker licensee shall maintain a loan file for each loan made. The loan file consists of the application file, the appraisal report, underwriting verifications, the closing file described in subrule 18.22(6) including other supporting documentation, and documents from the loan closing. These documents include: note, mortgage, all truth-in-lending disclosures, and all Real Estate Settlement Procedures Act disclosures. The loan file shall also contain the name of the broker, the lender, the mortgage loan originator, and the closing agent, as applicable, including the unique ~~NMLS&R~~ NMLS identification number assigned to each.

ITEM 11. Amend subparagraph **18.16(11)“a”(3)** as follows:

(3) Information included in the “~~good faith estimate~~” (GFE) initial disclosure required under the federal Real Estate Settlement Procedures Act, including the rate, the date of any interest rate lock, and an itemization of settlement charges and all broker compensation.

ITEM 12. Amend subparagraph **18.16(11)“a”(4)** as follows:

(4) Information included in the final ~~HUD-1 Settlement Statement~~ closing disclosure.

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ITEM 13. Amend rule 187—18.17(17A,535B) as follows:

187—18.17(17A,535B) Mortgage call reports. Each mortgage banker and mortgage broker licensee shall submit to the ~~NMLS&R~~ NMLS reports of condition, which shall be in such form and shall contain such information as the ~~NMLS&R~~ NMLS shall require. For each day after the ~~NMLS&R-established~~ NMLS-established due date that the report is ~~not~~ received, the administrator may assess late fees of \$10 per day.

ITEM 14. Amend paragraph **18.18(1)“d”** as follows:

d. An advertisement shall clearly show the licensee’s unique ~~NMLS&R~~ NMLS identification number.

ITEM 15. Amend paragraph **18.20(2)“j”** as follows:

j. The licensee fails to notify the administrator within ~~five~~ 10 days of the occurrence of one of the significant events set forth in rule 187—18.7(17A,535B).

ITEM 16. Amend subrule 18.22(2) as follows:

18.22(2) A closing agent shall disburse or deliver funds only in accordance with closing instructions from the lender, the attorney’s title opinion or title commitment, and the real estate purchase agreement, when applicable. All disbursements shall agree ~~to~~ with the final signed ~~settlement statement~~ closing disclosure.

ITEM 17. Amend paragraph **18.22(6)“b”** as follows:

b. A signed ~~settlement statement~~ closing disclosure that totals properly and is supported by written instructions for all amounts (such as closing instructions, invoices, or written payoffs). If the ~~settlement closing disclosure~~ requires changes, a copy of the new ~~settlement statement~~ closing disclosure with changes clearly documented shall be maintained in the file.

ITEM 18. Amend paragraph **18.22(6)“e”** as follows:

e. Detailed records of the individuals present at each closing, ~~including copies of photo identification~~, and specifying where and when each closing is held.

ITEM 19. Amend **187—Chapter 18**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter~~ chapters 17A and 535B and ~~2010 Iowa Acts, Senate File 2348.~~

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BANKING DIVISION[187]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 17A.3 and 535D.21, the Iowa Division of Banking (IDOB) hereby gives Notice of Intended Action to amend Chapter 19, “Mortgage Loan Originators,” Iowa Administrative Code.

The proposed amendments reflect partial compliance with Iowa Code section 17A.7(2), which states that, as of July 1, 2012, “over each five-year period of time, an agency shall conduct an ongoing and comprehensive review of all of the agency’s rules [and t]he goal of the review is the identification and elimination of all rules of the agency that are outdated, redundant, or inconsistent or incompatible with statute or its own rules or those of other agencies.” The proposed amendments to Chapter 19 are intended to clarify the meaning of Chapter 19, to eliminate outdated requirements, and to reflect current

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administrative practices, specifically those regarding the use of the nationwide multistate licensing system.

Any interested person may make written or oral suggestions or comments on the proposed amendments on or before April 19, 2017. Comments should be directed to Zachary Hingst, Legal Counsel, Iowa Division of Banking, 200 E. Grand Avenue, Suite 300, Des Moines, Iowa 50309; by telephone at (515)281-4014; or by e-mail to zak.hingst@idob.state.ia.us.

No current fees are being changed and no new fees are being added; therefore, the IDOB has concluded that the proposed amendments will not have a fiscal impact.

These rules are subject to waiver or variance pursuant to 187—Chapter 12.

Because no existing authorized activities are being restricted, no new activities are being authorized, no existing fees are being increased, and no new fees are being added, the IDOB has concluded that the proposed amendments will have no impact on jobs in Iowa.

These amendments are intended to implement Iowa Code chapters 17A and 535D.

The following amendments are proposed.

ITEM 1. Amend rule 187—19.1(17A,83GA,SF355) as follows:

187—19.1(17A,83GA,SF355 535D) Definitions. For the purposes of this chapter, the definitions in ~~2009 Iowa Acts, Senate File 355, Iowa Code section 535D.3~~ shall apply. In addition, unless the context otherwise requires, the following definitions shall apply to this chapter and to ~~2009 Iowa Acts, Senate File 355 Iowa Code chapter 535D~~:

“*Licensee*” means a person who has a license to operate as a mortgage loan originator in accordance with the provisions of ~~2009 Iowa Acts, Senate File 355, section 4 Iowa Code section 535D.4~~.

“*Nationwide mortgage multistate licensing system and registry*” or “*NMLS&R NMLS*” means a ~~mortgage~~ multistate licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of mortgage loan originators, mortgage providers, mortgage lenders, mortgage brokers, and mortgage servicers.

“*SAFE mortgage loan originator test*” means the licensing test approved by the ~~NMLS&R NMLS~~ in accordance with the provisions of ~~2009 Iowa Acts, Senate File 355, section 9 Iowa Code section 535D.8~~.

“*Servicer*” means a person that collects or receives payments, including principal, interest and trust items such as hazard insurance, property taxes and other amounts due, on behalf of a note holder or investor in accordance with the terms of a residential mortgage loan.

“*Superintendent*” means the superintendent of banking appointed pursuant to Iowa Code section 524.201.

“*Takes a residential mortgage loan application,*” with respect to ~~2009 Iowa Acts, Senate File 355, section 3, subsection 8 Iowa Code section 535D.3(8)~~, means:

1. Any communication, regardless of form, from a mortgage loan originator to a borrower soliciting a loan application or requesting information typically required in an application for the purpose of deciding whether or not to extend the requested offer of a loan to a borrower; or

2. Any communication, regardless of form, from a borrower to a mortgage loan originator for an offer or responding to a solicitation for an offer of residential mortgage loan terms or providing information typically required in an application for the purpose of deciding whether or not to extend the requested offer of a loan to a borrower.

ITEM 2. Amend rule 187—19.2(17A,83GA,SF355) as follows:

187—19.2(17A,83GA,SF355 535D) Mortgage loan originator requirements.

19.2(1) A natural person who applies for a license pursuant to ~~2009 Iowa Acts, Senate File 355, section 4, Iowa Code section 535D.4~~ to act as a mortgage loan originator in this state shall apply with the superintendent through the ~~NMLS&R NMLS~~. The superintendent may consider an application withdrawn if it does not contain all of the information required and the information is not submitted to the superintendent within 30 days after the superintendent requests the information.

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19.2(2) Prior to applying for a mortgage loan originator license, the applicant must complete the prelicensing education requirements pursuant to ~~2009 Iowa Acts, Senate File 355, section 8~~ Iowa Code section 535D.7.

19.2(3) Prior to applying for a mortgage loan originator license, the applicant must pass the SAFE mortgage loan originator test, which is comprised of two components: a national component and a state component. Applicants must pass each component with a score of 75 percent or higher. ~~Mortgage loan originators who passed the Iowa loan originator test as part of the registration process under 2009 Iowa Acts, Senate File 355, section 5, are not required to take the Iowa state component of the SAFE mortgage loan originator test. The superintendent will develop a process by which to certify to NMLS&R that the applicant has completed the state component. Such applicants are still required to pass the national component of the SAFE mortgage loan originator test.~~

19.2(4) The fee for an initial mortgage loan originator application is \$50. This fee is nonrefundable. This fee is in addition to any fees established and charged by the ~~NMLS&R~~ NMLS, any approved education course provider, any approved education testing provider, any law enforcement agency for fingerprints and background checks, or by any credit reporting agency used by the ~~NMLS&R~~ NMLS.

19.2(5) An applicant must provide fingerprints, authorize a fingerprint background check through NMLS&R NMLS, and pay the appropriate fees for the purpose of conducting a national criminal history background check through the Federal Bureau of Investigation. This requirement applies to all individuals, regardless of whether the applicant was previously registered under Iowa Code chapter 535B or if the applicant has previously submitted fingerprint cards for licensure. ~~Until the NMLS&R completes the implementation of the electronic fingerprint capture program, the applicant must submit to a criminal background check by providing a fingerprint card and waiver in a manner as required by the superintendent.~~

19.2(6) Each applicant must provide authorization to obtain a credit report through ~~NMLS&R~~ NMLS.

19.2(7) to 19.2(9) No change.

19.2(10) An individual who has completed 20 hours of prelicensure education pursuant to 12 U.S.C. 5104(c) must retake 20 hours of prelicensure education in order to be eligible for mortgage loan originator licensure if the individual:

a. Fails to acquire a valid state license or federal registration as a mortgage loan originator within three years from the date of federal compliance with 12 U.S.C. 5104(c); or

b. Fails to acquire a valid state license or federal registration as a mortgage loan originator within three years from the last date of licensure or registration as a mortgage loan originator.

ITEM 3. Amend rule 187—19.3(17A,83GA,SF355) as follows:

187—19.3(17A,83GA,SF355 535D) Grounds for denial of license.

19.3(1) The superintendent shall deny an application for a mortgage loan originator license if the applicant does not meet the qualifications outlined in ~~2009 Iowa Acts, Senate File 355, section 7~~ Iowa Code section 535D.6. For the purpose of applying ~~2009 Iowa Acts, Senate File 355, section 7, subsection 2~~ Iowa Code section 535D.6(2), “dishonesty or breach of trust” includes, but is not limited to, forgery, embezzlement, obtaining money under false pretenses, theft, extortion, fraud, conspiracy to defraud, tax evasion, or another similar offense.

19.3(2) The superintendent may deny an application for a mortgage loan originator license for any of the following reasons:

a. No change.

b. The applicant has been barred, removed, or prohibited from serving in any capacity in a financial institution by any state or federal regulatory agency, including but not limited to the Office of Comptroller of the Currency, ~~the Office of Thrift Supervision~~, the Federal Deposit Insurance Corporation (FDIC), the Board of Governors of the Federal Reserve System, or the U.S. Department of Housing and Urban Development.

c. to f. No change.

BANKING DIVISION[187](cont'd)

g. The applicant has demonstrated a lack of moral character in a manner that the superintendent reasonably believes will impair the applicant's ability to act as a mortgage loan originator in full compliance with the public interest and state policies described in Iowa Code ~~chapter~~ chapters 535B and 535D.

h. to j. No change.

ITEM 4. Amend rule 187—19.4(17A,83GA,SF355) as follows:

187—19.4(17A,83GA,SF355 535D) Renewal of mortgage loan originator license.

19.4(1) No change.

19.4(2) ~~Before~~ By December 1 of the year of expiration, a mortgage loan originator license shall be renewed through the ~~NMLS&R NMLS~~, with all requested information provided as directed by the ~~NMLS&R NMLS~~, and must be accompanied by a fee of \$50. This fee is nonrefundable. This fee is in addition to any fees established and charged by the ~~NMLS&R NMLS~~, any approved education course provider, any approved education testing provider, any law enforcement agency for fingerprints and background checks, or by any credit reporting agency used by the ~~NMLS&R NMLS~~. The superintendent may assess a late fee of \$5 per day not to exceed \$100 for a mortgage loan originator license renewal accepted for processing after December 1.

19.4(3) No change.

19.4(4) The superintendent shall grant an application to renew a mortgage loan originator license if the licensee meets the standards for renewal in ~~2009 Iowa Acts, Senate File 355, section 10,~~ Iowa Code section 535D.9 and:

a. to c. No change.

ITEM 5. Amend rule 187—19.5(17A,83GA,SF355), parenthetical implementation statute, as follows:

187—19.5(17A,83GA,SF355 535D) Reinstatement of license.

ITEM 6. Amend rule 187—19.6(17A,83GA,SF355), introductory paragraph, as follows:

187—19.6(17A,83GA,SF355 535D) Notice of significant events. A licensee shall notify the superintendent ~~either directly in writing or through the NMLS&R NMLS~~ within ~~five business~~ ten days of the occurrence of any of the following events.

ITEM 7. Amend rule 187—19.7(17A,83GA,SF355), parenthetical implementation statute, as follows:

187—19.7(17A,83GA,SF355 535D) Annual report.

ITEM 8. Amend rule 187—19.8(17A,83GA,SF355) as follows:

187—19.8(17A,83GA,SF355 535D) Administrative fees.

19.8(1) *Investigation or examination fees.* A licensee shall pay an investigation or examination fee as determined by the superintendent based on the actual cost of the operation of the finance bureau of the banking division as described in ~~2009 Iowa Acts, Senate File 355, section 12, subsection 2~~ Iowa Code section 535D.11(2).

19.8(2) and **19.8(3)** No change.

19.8(4) *Required annual report.* A licensee who fails to file with the superintendent the annual report required under rule 187—19.7(17A,83GA,SF355 535D) by March 31 of each year shall be subject to a late penalty of \$10 for each day the annual report is delinquent, but in no event shall the aggregate of late penalties exceed \$300. The superintendent may relieve any licensee from the payment of any penalty, in whole or in part, for good cause.

19.8(5) *NMLS&R NMLS system processing fees.* In addition to the fees set forth in this chapter, the applicant or licensee shall pay any fee assessed by the ~~NMLS&R NMLS~~ attributed to the licensee's

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record in the ~~NMLS&R system~~ NMLS, including but not limited to the initial set-up fee, an annual processing fee, and a loan sponsorship transfer fee.

ITEM 9. Amend rule 187—19.9(17A,83GA,SF355), parenthetical implementation statute, as follows:

187—19.9(17A,83GA,SF355 535D) Continuing education.

ITEM 10. Amend subrule 19.9(2) as follows:

19.9(2) Each continuing education course shall first be approved by the ~~NMLS&R~~ NMLS before the superintendent grants continuing education credit.

ITEM 11. Amend subrule 19.9(4) as follows:

19.9(4) The entity providing the continuing education course shall submit to the ~~NMLS&R~~ NMLS evidence of the licensee's satisfactory completion of approved continuing education.

ITEM 12. Amend subrule 19.9(6) as follows:

19.9(6) Each mortgage loan originator shall ultimately be responsible for maintaining verification records in the form of completion certificates or other documents providing evidence of satisfactory completion of approved continuing education courses. The mortgage loan originator shall retain documentation for a period of three years after the effective date of the mortgage loan originator license renewal. The superintendent may conduct random audits to verify the continuing education submitted to the ~~NMLS&R~~ NMLS.

ITEM 13. Amend rule 187—19.10(17A,83GA,SF355) as follows:

187—19.10(17A,83GA,SF355 535D) Independent contractor—loan processor or underwriter.

19.10(1) For the purpose of ~~2009 Iowa Acts, Senate File 355, section 4~~ Iowa Code section 535D.4, “a loan processor or underwriter who is an independent contractor” means any person who processes or underwrites residential mortgage loans and is not a W-2 employee of a company licensed under Iowa Code chapter 535B, 536, or 536A.

19.10(2) An independent contractor must meet all the licensure requirements found in rule 187—19.2(17A,83GA,SF355 535D) with the exception of subrule 19.2(8).

19.10(3) No change.

ITEM 14. Amend rule 187—19.11(17A,83GA,SF355) as follows:

187—19.11(17A,83GA,SF355 535D) NMLS&R NMLS information challenge process. A mortgage loan originator may challenge information entered into the ~~NMLS&R~~ NMLS by the superintendent by filing a dispute with the superintendent outlining the grounds for the dispute. The grounds for the dispute shall be limited to a review of the factual accuracy of the information regarding the mortgage loan originator's own license record submitted to the ~~NMLS&R~~ NMLS by the superintendent. A mortgage loan originator may not file a dispute in order to protest a disciplinary action taken by the superintendent or to appeal the underlying reasons for the disciplinary action. The superintendent shall conduct a paper review of the dispute and determine whether the information submitted to the ~~NMLS&R~~ NMLS was factually correct. The superintendent shall notify the mortgage loan originator of the determination within 60 days of the receipt of the dispute. If the superintendent determines the information submitted to the ~~NMLS&R~~ NMLS is factually incorrect, the superintendent shall take prompt steps to correct the information submitted.

ITEM 15. Amend rule 187—19.12(17A,83GA,SF355) as follows:

187—19.12(17A,83GA,SF355 535D) Disciplinary action.

19.12(1) The superintendent has authority, pursuant to ~~2009 Iowa Acts, Senate File 355, and Iowa Code chapter chapters 535D and 17A, to impose discipline for violations of 2009 Iowa Acts, Senate File 355, Iowa Code chapter 535D and the rules promulgated thereunder.~~

BANKING DIVISION[187](cont'd)

19.12(2) Grounds for discipline. The superintendent may impose any of the disciplinary sanctions set out in ~~2009 Iowa Acts, Senate File 355, section 14,~~ Iowa Code section 535D.13 when the superintendent finds any of the following:

a. The licensee has violated a provision of ~~2009 Iowa Acts, Senate File 355,~~ Iowa Code chapter 535D or a rule adopted ~~under 2009 Iowa Acts, Senate File 355,~~ thereunder or any other state or federal law applicable to the conduct of mortgage loan originators, including but not limited to Iowa Code chapters 535 and 535A.

b. No change.

c. The licensee fails at any time to meet the requirements of ~~2009 Iowa Acts, Senate File 355,~~ Iowa Code section 7 535D.6 or 40, 535D.9 or withholds information or makes a material misstatement in an application for a license or the renewal of a license.

d. No change.

e. The licensee fails to fully cooperate with an examination or investigation, including failure to respond to a superintendent inquiry within 30 ~~calendar~~ days of the date of mailing a written communication directed to the licensee's last-known address on file with the superintendent.

f. to i. No change.

j. The licensee fails to notify the superintendent within ~~five~~ ten days of the occurrence of one of the significant events set forth in rule 187—19.6(17A,83GA,~~SF355~~ 535D).

k. and l. No change.

19.12(3) No change.

ITEM 16. Amend the following implementation sentence in **187—Chapter 19:**

Rules 187—19.1(17A,83GA,~~SF355~~ 535D) to 187—19.12(17A,83GA,~~SF355~~ 535D) are intended to implement ~~2009 Iowa Acts, Senate File 355~~ Iowa Code chapters 17A and 535D.

ARC 2999C

BEEF INDUSTRY COUNCIL, IOWA[101]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 181.18, the Iowa Beef Industry Council hereby gives Notice of Intended Action to amend Chapter 1, “Organization and Operation,” Chapter 2, “Rules of Practice,” Chapter 3, “Excise Tax on Beef Sales,” Chapter 4, “Election of Members,” and Chapter 5, “Public Records and Fair Information Practices,” Iowa Administrative Code.

2016 Iowa Acts, House File 2269, changed the name of the Iowa Beef Industry Council to the Executive Committee. The Iowa Beef Cattle Producers Association will continue to do business as the Iowa Beef Industry Council. The legislation reinstated the state beef assessment and required that refunds be requested within 90 days of collection. The proposed amendments reflect other changes to the membership of the Executive Committee and update the address.

Any interested persons may make written suggestions or comments on the proposed amendments on or before April 18, 2017. Written comments should be addressed to Chris Freland, Iowa Beef Industry Council, P.O. Box 451, Ames, Iowa 50010. Comments may be sent by e-mail to chris@iabeef.org.

The proposed amendments are not subject to waiver.

After analysis and review of this rule making, no adverse impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 181.

The following amendments are proposed.

BEEF INDUSTRY COUNCIL, IOWA[101](cont'd)

ITEM 1. Amend the **Agency Name** as follows:

~~BEEF INDUSTRY COUNCIL~~ BEEF CATTLE
PRODUCERS ASSOCIATION, IOWA[101]

ITEM 2. Amend rule 101—1.1(181) as follows:

101—1.1(181) Iowa beef industry council composition **Composition and purpose.** ~~The Iowa beef cattle producers association is doing business as the Iowa beef industry council.~~ The Iowa beef industry council ~~is provides oversight to~~ the “executive committee” referred to in Iowa Code section ~~181.6(3)~~ 181.3. ~~It~~ The executive committee consists of ~~eight~~ ten members, two of whom serve ex officio and five of whom are elected and ~~one~~ three who ~~is~~ are appointed by the respective parties listed in that section. The council engages in market development for beef cattle and veal calves and their products, advances public relations for the beef cattle and veal calf industry, and administers the ~~excise tax~~ state assessment on beef cattle and veal calf sales imposed in Iowa Code chapter 181.

This rule is intended to implement ~~1986 Iowa Acts, House File 2379, section 3~~ Iowa Code chapter 181.

ITEM 3. Amend rule 101—1.2(181), introductory paragraph, as follows:

101—1.2(181) Officers. The officers of the Iowa beef industry council shall be as follows: Chair, vice chair, secretary, ~~and~~ treasurer and at large. Each officer shall be elected by a vote of the council. A term of office is one year.

ITEM 4. Amend rule 101—1.5(181) as follows:

101—1.5(181) Quorum. ~~Two-thirds~~ A majority of the members eligible to vote shall constitute a quorum. ~~Two-thirds of the council is six members.~~

ITEM 5. Amend subrule 1.7(1) as follows:

1.7(1) ~~Transmittal~~ Monthly remittance form. This form is used to accompany the receipt of checkoff moneys to the council.

ITEM 6. Amend rule 101—2.1(181) as follows:

101—2.1(181) Public information. The public is invited to obtain information or make informal requests of the council by addressing these matters, either orally or in writing, to the Iowa Beef Industry Council, ~~423 Airport Road~~ P.O. Box 451, Ames, Iowa 50010; or at 2055 Ironwood Court, Ames, Iowa 50014.

ITEM 7. Amend subrule 2.3(2) as follows:

2.3(2) The petition shall be filed at the office of the council at ~~423 Airport Road~~ 2055 Ironwood Court, Ames, Iowa 50014; or by mail to P.O. Box 451, Ames, Iowa 50010.

ITEM 8. Amend rule 101—2.4(181), introductory paragraph, as follows:

101—2.4(181) Petition for adoption of rules. An interested person may file with the council a written request that the council adopt, amend, or repeal a rule. The petition shall be addressed to the Iowa Beef Industry Council, ~~423 Airport Road~~ P.O. Box 451, Ames, Iowa 50010, and shall include:

ITEM 9. Amend **101—Chapter 3**, title, as follows:

~~EXCISE TAX~~ STATE ASSESSMENT ON BEEF SALES

ITEM 10. Amend rule 101—3.1(181) as follows:

101—3.1(181) Collection of tax assessment. All persons required to pay the ~~excise tax~~ state assessment under Iowa Code chapter 181 must remit to the council all ~~excise taxes~~ assessments collected during any calendar month, ~~no later than the last day of the month following that calendar month~~ by the fifteenth of the month following the end of the prior reporting period in which the cattle were sold pursuant to Iowa Code section 181.11(1).

BEEF INDUSTRY COUNCIL, IOWA[101](cont'd)

ITEM 11. Amend rule 101—3.2(181) as follows:

101—3.2(181) Refunds. Refunds shall be paid by the council to any person from whom the ~~excise tax~~ state assessment is collected, upon timely application to the council as prescribed in Iowa Code section 181.12.

ITEM 12. Amend rule 101—3.3(181), introductory paragraph, as follows:

101—3.3(181) Applicable dates. A tax is considered “paid” or “remitted,” and a refund application is considered “filed” when made within 90 days after the assessment’s collection:

ITEM 13. Amend rule 101—3.4(181) as follows:

101—3.4(181) ~~Suspension of excise tax~~ Reinstatement of state assessment. The state assessment, levy, and collection of the excise tax under collected pursuant to Iowa Code chapter 181 is suspended reinstated effective March 1, 2017. All state assessment remittances shall be paid by the fifteenth of the month following the end of the prior reporting period in which the cattle were sold pursuant to Iowa Code section 181.11(1).

This rule is intended to implement Iowa Code section 181.7A.

ITEM 14. Amend rule 101—4.3(181) as follows:

101—4.3(181) Place of filing. Nomination petitions shall be filed with the Iowa Beef Industry Council, 123 Airport Road P.O. Box 451, Ames, Iowa 50010.

ITEM 15. Amend rule 101—4.4(181) as follows:

101—4.4(181) Absentee ballot. Requests for absentee ballots may be made by producers by telephone, ~~telegram~~, in person, or in writing to the Executive Director of the Iowa Beef Industry Council, 123 Airport Road P.O. Box 451, Ames, Iowa 50010; or at 2055 Ironwood Court, Ames, Iowa 50014.

4.4(1) Absentee ballots shall be returned to the executive director of the Iowa beef industry council, and if returned by mail, shall be mailed with proper postage to the Executive Director of the Iowa Beef Industry Council, 123 Airport Road P.O. Box 451, Ames, Iowa 50010.

4.4(2) Reserved.

ITEM 16. Amend 101—Chapter 5, introductory paragraph, as follows:

The Iowa beef industry council hereby adopts, with the following exceptions and amendments, rules of the Governor’s Task Force on Uniform Rules of Agency Procedure relating to public records and fair information practices which are ~~printed in the first volume of the Iowa Administrative Code~~ published at <https://www.legis.iowa.gov/docs/Rules/Current/UniformRules.pdf> on the General Assembly’s Web site.

ITEM 17. Adopt the following **new** definitions in rule **101—5.1(17A,22)**:

“Cattle” means any live domesticated bovine animal regardless of age.

“Producer” means any person who owns or acquires ownership of cattle in this state. However, a person shall not be considered a producer if any of the following apply:

1. The person’s only share in the proceeds of a sale of cattle or beef is a sales commission, handling fee, or other service fee.

2. The person acquired ownership of cattle to facilitate the transfer of ownership of such cattle from the seller to a third party; resold such cattle no later than ten days from the date on which the person acquired ownership; and certified as required by the rules adopted by the executive committee.

“Purchase” occurs when a purchaser enters into a verbal or written agreement with a producer to accept delivery of cattle from the producer.

“Purchaser” means a person who purchases cattle from a producer.

BEEF INDUSTRY COUNCIL, IOWA[101](cont'd)

ITEM 18. Amend subrule 5.3(1) as follows:

5.3(1) Location of record. In lieu of the words “(insert agency head)”, insert “executive director”. In lieu of the words “(insert agency name and address)”, insert “Iowa Beef Industry Council, 123 Airport Road P.O. Box 451, Ames, Iowa 50010”.

ITEM 19. Amend rule 101—5.10(17A,22) as follows:

101—5.10(17A,22) Personally identifiable information. Agency records include the following personally identifiable information: ~~excise tax~~ state assessment remittances identifying individual producers and the amounts remitted, refund requests from producers, and personal information in confidential personnel records. This information is collected pursuant to the authority of Iowa Code chapter 181 and is stored in the office files of the council office. ~~Personally identifiable~~ All information contained in ~~these records~~ the monthly remittance forms, private treaty forms, and refund requests submitted to the agency shall be confidential to the extent provided in Iowa Code section 22.7. ~~However,~~ appropriate Appropriate totals, summaries, aggregations, and other staff analyses of information contained in these files, when presented in a form not containing personally identifiable information, shall be public information.

ARC 2995C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 15.106A, the Iowa Economic Development Authority hereby gives Notice of Intended Action to amend Chapter 5, “Iowa Industrial New Jobs Training Program,” Chapter 7, “Iowa Jobs Training Program,” Chapter 8, “Workforce Development Fund,” Chapter 9, “Workforce Training and Economic Development Funds,” Chapter 20, “Accelerated Career Education (ACE) Program,” and Chapter 58, “New Jobs and Income Program,” Iowa Administrative Code.

The proposed amendments make technical changes to the Authority’s administrative rules by replacing the term “vocational” with “career and technical” as required by 2016 Iowa Acts, House File 2392.

The Economic Development Authority Board approved these amendments at its meeting held on February 17, 2017.

Interested persons may submit comments on or before April 18, 2017. Comments may be submitted to Jennifer Klein, Economic Development Authority, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)725-3124; e-mail Jennifer.Klein@IowaEDA.com.

These amendments do not have any fiscal impact to the state of Iowa.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement 2016 Iowa Acts, House File 2392.

The following amendments are proposed.

ITEM 1. Amend rule ~~261—5.3(15,260E)~~, definition of “Program services,” as follows:

“*Program services*” includes but is not limited to the following:

1. New jobs training.
2. Adult basic education and job-related instruction.
3. ~~Vocational~~ Career and technical skill-assessment services and testing.
4. to 9. No change.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

ITEM 2. Amend subrule 7.9(2) as follows:

7.9(2) The following costs associated with the provision of services for any project are eligible for program funding:

- a. ~~Vocational~~ Career and technical skill assessment testing.
- b. to j. No change.

ITEM 3. Amend subrule 8.6(5) as follows:

8.6(5) *Allowable activities.* Allowable activities include ~~vocational~~ career and technical skill assessment testing; adult basic education; job-related training; cost of a company, college, or contracted trainer or training services; training-related materials, equipment, software and supplies; curriculum development; lease and rental of training facilities and equipment; training-related travel and meals; and contracted or professional services. Costs associated with the administration of the project (i.e., fiscal and reporting activities, project supervision and coordination) are allowable but are limited to 15 percent of the total program budget.

ITEM 4. Amend subrule 8.9(4) as follows:

8.9(4) *Allowable activities.* Allowable program activities include purchase or development of training curricula and materials; purchase or provision of technological equipment and related materials needed for the delivery of training; activities needed to support a training program including, but not limited to, assessment, recruitment, outreach and applications; training site development; activities needed to develop a training program including, but not limited to, travel, research and development, focus group activities and legal fees; activities designed to creatively address a workforce development need identified by a community that, if successful, can be easily replicated in other communities; tuition and fee reimbursements for students; tutorial and remedial education services; counseling services; coordination services; ~~vocational~~ career and technical skill assessment testing; adult basic education; job-related training; cost of a company, college, or contracted trainer or training services; training-related materials, equipment, software, and supplies; lease and rental of training facilities and equipment; training-related travel and meals; and contracted or professional services. Costs associated with the administration of the project (i.e., fiscal and reporting activities, project supervision, and coordination) are allowable but are limited to 15 percent of the total program budget.

ITEM 5. Amend subrule 9.5(4) as follows:

9.5(4) Programs and courses that provide ~~vocational~~ career and technical training and programs for in-service training and retraining under Iowa Code section 260C.1, subsections 2 and 3. As it pertains to Iowa Code section 260C.1, subsection 2, ~~vocational~~ career and technical training shall mean new or expanded ~~vocational~~ career and technical coursework that has Iowa department of education approval and that results in the conferring of a diploma, degree, or certificate. The enhancement of academic core courses within the ~~vocational~~ career and technical program is also eligible. As it pertains to Iowa Code section 260C.1, subsection 3, eligible activities shall be short-term training and retraining projects.

ITEM 6. Amend subrule 9.6(4) as follows:

9.6(4) ~~Vocational~~ Career and technical training programs shall meet the requirements of new or expanded ~~vocational~~ career and technical training.

ITEM 7. Amend subrule 9.6(6) as follows:

9.6(6) Community colleges may use moneys from the fund for operational expenses associated with ~~vocational~~ career and technical training.

ITEM 8. Amend subrule 9.7(1) as follows:

9.7(1) How the allocation will be distributed for the allowable uses of ACE, Iowa jobs training program, career academies, ~~vocational~~ career and technical training programs, and in-service training and retraining projects;

ITEM 9. Amend subrule 20.3(1) as follows:

20.3(1) In order to receive tax credits from withholding under the program job credits component or financial assistance through the college student aid commission's accelerated career education grants

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

program, a program must be designated by a community college as an eligible ACE program. All programs must demonstrate increased capacity to enroll additional students. To be eligible, a program must be either:

- a. A credit career,~~vocational~~, or technical education program resulting in the conferring of a certificate, diploma, associate of science degree, or associate of applied science degree; or
- b. A credit-equivalent career,~~vocational~~, or technical education program consisting of not less than 540 contact hours of classroom and laboratory instruction and resulting in the conferring of a certificate or other recognized, competency-based credential.

ITEM 10. Amend paragraph **20.16(1)“c”** as follows:

- c. Educational profile (1 or 2 points).
 - 2 points Credit career,~~vocational~~ or technical educational program (see paragraph 20.3(1)“a”).
 - 1 point Credit-equivalent career,~~vocational~~ or technical educational program consisting of not less than 540 contact hours (see paragraph 20.3(1)“b”).

ITEM 11. Amend paragraph **58.4(3)“f,”** introductory paragraph, as follows:

f. New jobs insurance premium tax credit. If the eligible business is an insurance company, the business may claim an insurance premium tax credit as provided in Iowa Code section 15.333A. This new jobs insurance premium tax may be taken by an eligible business which has entered into a chapter 260E agreement with a ~~vocational~~ career and technical school or community college, and which has increased its base employment level in Iowa by at least 10 percent within the time set in the 260E training agreement. In the case of an eligible business without a base employment level, if the business adds new jobs within the time set in the 260E agreement, it is entitled to this new jobs insurance premium tax credit for the tax period to be selected by the business. In determining if the business has increased its base employment by 10 percent, only those new jobs resulting from the project covered by the 260E agreement shall be counted.

ARC 2996C**ECONOMIC DEVELOPMENT AUTHORITY[261]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 15.106A, the Iowa Economic Development Authority hereby gives Notice of Intended Action to amend Chapter 59, “Enterprise Zone (EZ) Program,” and Chapter 68, “High Quality Jobs Program (HQJP),” Iowa Administrative Code.

The proposed amendments make technical changes to the Authority’s administrative rules, as required by 2016 Iowa Acts, House File 2443. The amendment to rule 261—59.15(15E) provides that the Authority may amend an enterprise zone agreement for compliance reasons if the total award amount is not increased. The amendments to rule 261—68.4(15) change the existing phrase “new investment directly related to jobs created or retained by the project” to “new investment.”

The Economic Development Authority Board approved these amendments at its meeting held on February 17, 2017.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

Interested persons may submit comments on or before April 18, 2017. Comments may be submitted to Jennifer Klein, Economic Development Authority, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)725-3124; e-mail Jennifer.Klein@IowaEDA.com.

These amendments do not have any fiscal impact to the state of Iowa.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement 2016 Iowa Acts, House File 2443.

The following amendments are proposed.

ITEM 1. Amend subrule 59.15(3) as follows:

59.15(3) On or after July 1, 2014, a city or county shall not create an enterprise zone under Iowa Code chapter 15E, division XVIII, or enter into a new agreement ~~or amend an existing agreement~~ under Iowa Code chapter 15E, division XVIII. A city or county and the authority, with the approval of the authority board, may amend an agreement for compliance reasons if the amendment does not increase the amount of incentives awarded under the agreement.

ITEM 2. Amend subrule 68.4(4) as follows:

68.4(4) *Investment tax credit.*

a. Claiming the investment tax credit. Pursuant to Iowa Code section 15.333, the approved business may claim an investment tax credit equal to a percentage of the new investment ~~directly related to jobs created or retained by the project~~. The tax credit shall be earned when the qualifying asset is placed in service.

(1) to (3) No change.

b. Investment qualifying for the tax credit. For purposes of this subrule, new investment ~~directly related to jobs created or retained by the project~~ means all of the following:

(1) to (4) No change.

The approved business shall not claim a tax credit above the amount defined in the final award documentation or the amount specified in a contract entered into with the authority.

ITEM 3. Amend subrule 68.4(5) as follows:

68.4(5) *Insurance premium tax credit.* Pursuant to Iowa Code section 15.333A, the approved business may claim an insurance premium tax credit equal to a percentage of the new investment ~~directly related to jobs created or retained by the project~~.

a. Claiming the tax credit. The tax credit shall be earned when the qualifying asset is placed in service. The tax credit shall be amortized equally over a five-year period which the authority will, in consultation with the eligible business, define. The five-year amortization period shall be specified in a contract entered into with the authority. The tax credit shall be allowed against taxes imposed under Iowa Code chapter 432. A tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs first.

b. Investment qualifying for the tax credit. For purposes of this subrule, new investment ~~directly related to jobs created or retained by the project~~ means all of the following:

(1) to (4) No change.

The approved business shall not claim a tax credit above the amount defined in the final award documentation or the amount specified in a contract entered into with the authority.

ARC 3001C**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services hereby gives Notice of Intended Action to amend Chapter 75, “Conditions of Eligibility,” Iowa Administrative Code.

This amendment increases premiums for applicants and recipients under the Medicaid for Employed People with Disabilities (MEPD) program with income over 150 percent of the federal poverty level (FPL).

Iowa Code section 249A.3(2)“a”(1) requires that “the maximum premium payable by an individual whose income exceeds one hundred fifty percent of the official poverty guidelines shall be commensurate with the cost of state employees’ group health insurance in this state.” The average cost to the state for state employees’ health insurance for a single person is \$852 effective January 1, 2017. Therefore, the maximum premium must be set at that amount.

Any interested person may make written comments on the proposed amendment on or before April 18, 2017. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

This amendment does not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

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

The following amendment is proposed.

Amend subparagraph **75.1(39)“b”(3)** as follows:

(3) Premiums shall be assessed as follows:

IF THE INCOME OF THE APPLICANT IS ABOVE:	THE MONTHLY PREMIUM IS:
150% of Federal Poverty Level	\$ 33 <u>\$34</u>
165% of Federal Poverty Level	\$ 46 <u>\$47</u>
180% of Federal Poverty Level	\$ 55 <u>\$56</u>
200% of Federal Poverty Level	\$ 64 <u>\$66</u>
225% of Federal Poverty Level	\$ 76 <u>\$77</u>
250% of Federal Poverty Level	\$ 88 <u>\$89</u>
300% of Federal Poverty Level	\$ 110 <u>\$112</u>
350% of Federal Poverty Level	\$ 135 <u>\$137</u>
400% of Federal Poverty Level	\$ 158 <u>\$161</u>
450% of Federal Poverty Level	\$ 183 <u>\$186</u>
550% of Federal Poverty Level	\$ 228 <u>\$232</u>
650% of Federal Poverty Level	\$ 276 <u>\$280</u>
750% of Federal Poverty Level	\$ 324 <u>\$329</u>

HUMAN SERVICES DEPARTMENT[441](cont'd)

IF THE INCOME OF THE APPLICANT IS ABOVE:	THE MONTHLY PREMIUM IS:
850% of Federal Poverty Level	\$ 383 <u>\$389</u>
1000% of Federal Poverty Level	\$ 460 <u>\$467</u>
1150% of Federal Poverty Level	\$ 539 <u>\$547</u>
1300% of Federal Poverty Level	\$ 622 <u>\$631</u>
1480% of Federal Poverty Level	\$ 718 <u>\$729</u>
1530% of Federal Poverty Level	\$ 735 <u>\$746</u>
1590% of Federal Poverty Level	\$ 767 <u>\$778</u>
<u>1660% of Federal Poverty Level</u>	<u>\$812</u>
<u>1740% of Federal Poverty Level</u>	<u>\$852</u>

ARC 2998C**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 237A.12, the Department of Human Services hereby gives Notice of Intended Action to amend Chapter 109, “Child Care Centers,” Chapter 110, “Child Development Homes,” and Chapter 120, “Child Care Homes,” Iowa Administrative Code.

The following amendments are federally mandated as a result of the Child Care and Development Block Grant (CCDBG) reauthorization. The proposed amendments:

- Require child care centers, child development homes and child care homes to have written emergency plans for response to food or allergic reactions;
- Include the preservice/orientation training component of child development; and
- Clarify the intent of essential child care training requirements for substitutes.

In addition, these amendments provide technical updates to rules for child care regarding first aid/CPR requirements.

Any interested person may make written comments on the proposed amendments on or before April 18, 2017. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 237A.12.

The following amendments are proposed.

ITEM 1. Adopt the following **new** subparagraph **109.7(1)“e”(10)**:

(10) Child development, on or after August 1, 2017.

ITEM 2. Adopt the following **new** paragraph **109.9(2)“g”**:

g. For any child with allergies, a written emergency plan is available in case of an allergic reaction. A copy of this information shall accompany the child if the child leaves the premises.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 3. Adopt the following **new** paragraph **109.10(3)“d”**:

d. A child care staff member shall not provide medications to a child if the staff member has not completed preservice/orientation training that includes medication administration.

ITEM 4. Amend paragraph **110.9(3)“e”** as follows:

e. Certification or other documentation that minimum health and safety training has been completed in compliance with paragraph 110.10(1)~~“a.”~~ “a” within three months of a substitute’s hiring or before a substitute provides care, whichever occurs first.

ITEM 5. Amend subrule 110.9(4) as follows:

110.9(4) Children’s files. An individual file for each child shall be maintained and updated annually or when the provider becomes aware of changes. The file shall contain:

a. to *g.* No change.

h. For any child with allergies, a written emergency plan in case of an allergic reaction. A copy of this information shall accompany the child if the child leaves the premises.

~~*i.*~~ *i.* A list that is signed by the parent and names persons authorized to pick up the child. The authorization shall include the name, telephone number, and relationship of the authorized person to the child.

~~*j.*~~ *j.* Written permission from the parent for the child to attend activities away from the child development home. The permission shall include:

(1) Times of departure and arrival.

(2) Destination.

(3) ~~Persons~~ Names of persons who will be responsible for the child.

~~*k.*~~ *k.* Injury report forms documenting injuries requiring first aid or medical care.

~~*l.*~~ *l.* If the child meets the definition of homelessness as defined by Section 725(2) of the McKinney-Vento Homeless Education Assistance Act, the family shall receive a 60-day grace period to obtain medical documentation.

ITEM 6. Adopt the following **new** subparagraph **110.10(1)“a”(10)**:

(10) Child development, on or after August 1, 2017.

ITEM 7. Amend subparagraph **110.10(1)“c”(2)** as follows:

(2) ~~First-aid~~ CPR training shall include certification in infant and child ~~first-aid~~ CPR.

ITEM 8. Amend subrule 120.9(2) as follows:

120.9(2) The file shall contain:

a. to *g.* No change.

h. For any child with allergies, a written emergency plan in case of an allergic reaction. A copy of this information shall accompany the child if the child leaves the premises.

~~*i.*~~ *i.* Written permission from the parent for the child to attend activities away from the child care home. The permission shall include:

(1) Times of departure and arrival.

(2) Destination.

(3) Names of persons who will be responsible for the child.

~~*j.*~~ *j.* If the child meets the definition of homelessness as defined by Section 725(2) of the McKinney Vento Homeless Education Assistance Act, the family shall receive a 60-day grace period to obtain medical documentation.

ITEM 9. Adopt the following **new** paragraph **120.10(1)“j”**:

j. Child development, on or after August 1, 2017.

ITEM 10. Amend paragraph **120.10(3)“b”** as follows:

b. ~~First-aid~~ CPR training shall include certification in infant and child ~~first-aid~~ CPR.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 11. Adopt the following **new** subrule 120.10(5):

120.10(5) Approved substitutes must have certification or other documentation that minimum health and safety training has been completed in compliance with 441—subrule 110.10(1) within three months of a substitute's hiring or before a substitute provides care, whichever occurs first.

ARC 2997C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 237A.12, the Department of Human Services hereby gives Notice of Intended Action to amend Chapter 109, “Child Care Centers,” Chapter 110, “Child Development Homes,” and Chapter 120, “Child Care Homes,” Iowa Administrative Code.

The proposed amendments revise the rules to require that child care providers report to the Department serious injuries that occur in child care settings. As a result, better data will be maintained allowing parents to make better-informed decisions regarding child care for their children.

Any interested person may make written comments on the proposed amendments on or before April 18, 2017. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217). After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 237A.12.

The following amendments are proposed.

ITEM 1. Rescind subrule 109.10(10) and adopt the following **new** subrule in lieu thereof:

109.10(10) *Recording incidents.*

a. Incidents involving a child, including minor injuries, minor changes in health status, or other minor behavioral concerns, shall be reported to the parents, guardians, and legal custodians on the day of the incident. Incidents resulting in an injury to a child shall be reported to the parent on the day of the incident.

b. Incidents resulting in a serious injury, as defined in Iowa Code section 702.18, to a child in the child care facility or in the care of child care facility staff or incidents resulting in a significant change in the health status of a child shall be verbally reported to the parents, guardians, and legal custodians immediately.

(1) Serious injuries shall be reported to the department within 24 hours of the incident.

(2) Serious injuries shall be documented and information maintained in the child's file as required by subrule 109.9(2).

c. The parents, guardians, and legal custodians of any child included in incidents involving inappropriate, sexually acting-out behavior shall be notified immediately after the incident. A written report fully documenting every incident shall be provided to the parent or person authorized to remove the child from the center. The written report shall be prepared by the staff member who observed the incident, and a copy shall be retained in the child's file.

ITEM 2. Adopt the following **new** paragraph **110.8(1)“s”**:

s. Serious injuries.

HUMAN SERVICES DEPARTMENT[441](cont'd)

(1) Serious injuries, as defined in Iowa Code section 702.18, that occur in a child care facility or when a child is in the care of child care facility staff shall be reported to the department within 24 hours of the incident.

(2) Serious injuries shall be documented and information maintained in the child's file as required by subrule 110.9(4).

ITEM 3. Adopt the following **new** paragraph **120.8(1)“p”**:

p. Serious injuries.

(1) Serious injuries, as defined in Iowa Code section 702.18, that occur in a child care home or when a child is in the care of child care home staff shall be reported to the department within 24 hours of the incident.

(2) Serious injuries shall be documented and information maintained in the child's file as required by subrule 120.9(2).

ARC 3000C**PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Mortuary Science hereby gives Notice of Intended Action to amend Chapter 100, “Practice of Funeral Directors, Funeral Establishments, and Cremation Establishments,” Chapter 101, “Licensure of Funeral Directors, Funeral Establishments, and Cremation Establishments,” Chapter 102, “Continuing Education for Funeral Directors,” Chapter 103, “Disciplinary Proceedings,” and Chapter 104, “Enforcement Proceedings Against Nonlicensees,” Iowa Administrative Code.

These proposed amendments provide clarification in the licensing process; update legal citations and references to the Board's Web site; rescind language duplicated in the Division's chapters of rules common to all of the licensing boards; and make other changes that are technical in nature.

Interested parties were provided an opportunity to comment on the proposed amendments prior to publication of this Notice. The proposed amendments were distributed to the Iowa Funeral Directors Association (IFDA) members, the Bureau of Vital Statistics of the Iowa Department of Public Health, and the Des Moines Area Community College Mortuary Science Program.

Any interested person may make written comments on the proposed amendments no later than April 18, 2017, addressed to Susan Reynolds, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; e-mail susan.reynolds@idph.iowa.gov.

A public hearing will be held on April 18, 2017, from 8 to 8:30 a.m. in Conference Room 526, Lucas State Office Building, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapters 21, 147, 142D, 144C, 156 and 272C.

The following amendments are proposed.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 1. Amend rule 645—100.1(156) as follows:

645—100.1(156) Definitions.

“*Alternative container*” means an unfinished wood box or other nonmetal receptacle or enclosure, without ornamentation or a fixed interior lining, which is designed for the encasement of human remains and which is made of fiberboard, pressed wood, composition materials (with or without an outside covering) or like materials which prevents the leakage of body fluid.

“*Authorized person*” means that person or persons upon whom a funeral director may reasonably rely when making funeral arrangements including, but not limited to, embalming, cremation, funeral services, and the disposition of human remains pursuant to 2008 Iowa Acts, Senate File 473, section 10 Iowa Code section 144C.5.

“*Autopsy*” means the postmortem examination of a human remains.

“*Board*” means the board of mortuary science.

“*Body parts*” means appendages or other portions of the anatomy that are from a human body.

“*Burial.*” See “*Interment.*”

“*Burial transit permit*” means a legal document authorizing the removal and transportation of a human remains.

“*Casket*” means a rigid container which is designed for the encasement of human remains and which is usually constructed of wood, metal, fiberglass, plastic or like material and ornamented and lined with fabric.

“*Cemetery*” means an area designated for the final disposition of human remains.

~~“*Change of ownership*” means a change of controlling interest in a funeral establishment or crematory establishment.~~

“*Columbarium*” means a structure, room or space in a mausoleum or other building containing niches or recesses for disposition of cremated remains.

~~“*Common carrier*” means any carrier engaged in the business of transportation of persons or property from place to place for compensation, and who offers services to the public generally.~~

“*Cremated remains*” means all the remains of the cremated human body recovered after the completion of the cremation process, including pulverization which leaves only bone fragments reduced to unidentifiable dimensions and may possibly include the residue of any foreign matter including casket material, bridgework or eye glasses that were cremated with the human remains.

“*Cremation*” means the technical process, using heat and flame, that reduces human remains to bone fragments. The reduction takes place through heat and evaporation. Cremation shall include the processing, and may include the pulverization, of the bone fragments.

“*Cremation authorization form*” means a form, completed and signed by a funeral director and authorized person, to accompany all human remains accepted for cremation.

“*Cremation chamber*” means the enclosed space within which ~~the~~ a cremation takes place.

~~“*Cremation establishment*” means a place of business which any person, partnership or corporation that is licensed by the board and provides any aspect of cremation services.~~

“*Cremation permit*” means a permit issued by a medical examiner allowing cremation ~~of~~ for human remains.

“*Cremation room*” means the room in which the cremation chamber is located.

~~“*Crematory*” means any person, partnership or corporation that performs cremation.~~

“*Crypt*” means a chamber in a mausoleum of sufficient size to contain casketed human remains.

“*Custody*” means immediate charge and control exercised by a person or an authority.

“*Dead body.*” See “*Human remains.*”

“*Death certificate*” means a legal document containing vital statistics pertaining to the life and death of the decedent.

“*Decedent.*” See “*Human remains.*”

“*Disinterment*” means to remove a human remains from ~~their~~ its place of final disposition.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

~~“Disinterment application” means a legal document requesting authorization from the department of public health to disinter a casketed human remains or an urn containing cremated remains from its place of final disposition.~~

“Disinterment permit” means a permit from the department of public health which allows the removal of a human remains from its original place of burial, entombment or interment for the purpose of autopsy or reburial.

~~“Disinterment application permit number” means the number assigned to a disinterment application permit by the department of public health, giving the funeral director the authority to disinter a casketed human remains or an urn containing cremated remains~~ remove a human remains from its place of final disposition.

~~“Embalming” means the disinfecting~~ disinfection ~~or preserving~~ temporary preservation of dead human remains, entire or in part, by the use of chemical substances, fluids or gases in the body, or by the introduction of same into the body by vascular or hypodermic injections, or by surface application into or on the organs or cavities for the purpose of temporary preservation or disinfection.

“Embalming record” means a record completed by the licensed funeral director or registered intern for each body embalmed in Iowa, or otherwise prepared for disposition by the licensee. “Embalming record” includes, at a minimum, a case analysis and a detailed listing of the procedures or treatments or both performed on the deceased.

“Entombment” means to place a casketed body or an urn containing cremated remains in a structure such as a mausoleum, crypt, tomb or columbarium.

“Final disposition” means the burial, interment, cremation, removal from the state, or other disposition of a dead body or fetus.

~~“First call” means the original notification to the funeral director indicating the place of death from which the human remains are to be removed.~~

“Funeral ceremony” means a service commemorating the decedent.

“Funeral director” means a person licensed by the board to practice mortuary science.

“Funeral establishment” means a place of business as defined and licensed by the board devoted to providing any aspect of mortuary science.

“Funeral rule” means the Federal Trade Commission rule Funeral Rule.

“Funeral services” means any services which may be used to (1) care for and prepare deceased human remains for burial, cremation or other final disposition; and (2) arrange, supervise or conduct the funeral ceremony or final disposition of deceased human remains.

“Holding facility” means an area isolated from the general public that is designated for the temporary retention of human remains.

“Human remains” means a deceased human being for which a death certificate or fetal death certificate is required.

“Interment” means to place a casketed human remains or an urn containing cremated remains in the ground.

“Intern” means a person registered by the board to practice mortuary science under the direct supervision of a preceptor certified by the board pursuant to 645—subrule 101.5(2).

“Mausoleum” means an aboveground structure designed for entombment of human remains.

“Medical examiner” means a public official whose primary function is to investigate and determine the cause of death when death may be thought to be from other than natural causes.

“Memorial ceremony” means a service commemorating the decedent.

“Niche” means a recess or space in a columbarium or mausoleum used for placement of cremated human remains.

~~“Outer burial container” means any container which is designed for placement in the ground around a casket or an urn including, but not limited to, containers commonly known as burial vaults, urn vaults, grave boxes, grave liners, and lawn crypts.~~

“Preparation room” means a room in a funeral establishment where human remains are prepared, sanitized, embalmed or held for ceremonies and final disposition.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

“*Pulverization*” means a process following cremation which reduces identifiable bone fragments into granulated particles.

“*Removal*” means the act of taking a human remains from the place of death or place where a human remains is being held, to a funeral establishment or other designated place.

“*Scattering area*” means a designated area where cremated remains may be commingled with other cremated remains.

“*Temporary ~~cremated remains~~ cremation container*” means a durable receptacle designed for short-term retention of cremated remains.

“*Their own dead*” refers to the legal authority the authorized person has regarding a human remains.

“*Topical disinfection*” means the direct application of chemical substances on the surface of a human remains for the purpose of temporary preservation or disinfection.

“*Transfer.*” See “*Removal.*”

“*Universal precautions*” means a concept of care based upon the assumption that all blood and body fluids, and materials that have come into contact with blood or body fluids, are potentially infectious as prescribed by the Centers for Disease Control (CDC).

“*Urn*” means a receptacle designed for permanent retention of cremated remains.

ITEM 2. Amend subrule 100.2(1) as follows:

100.2(1) Practices requiring a funeral director’s license include but are not limited to:

- a. Removal as specified in rule 645—100.4(142,156).
- b. Embalming ~~deceased human beings~~ remains as specified in rule 645—100.6(156) and completing embalming records as specified in paragraph 100.11(2)“d.”
- c. Conducting funeral arrangements as specified in subrule 100.7(2).
- d. Conducting funeral services when contracted to do so, including:
 - (1) Direct supervision of visitation and viewing.
 - (2) Funeral and memorial ceremonies.
 - (3) Committal and final disposition services.
- e. ~~Cremation~~ Conducting cremation services as specified in rule 645—100.10(156).
- f. Signing death certificates and performing associated duties under Iowa Code chapter 144.

ITEM 3. Amend rule 645—100.3(156) as follows:

645—100.3(156) Permanent identification tag.

100.3(1) The funeral director who assumes possession of ~~the~~ a human remains shall attach a permanent identification tag.

100.3(2) The identification tag shall initially contain, at a minimum, the name of the deceased.

100.3(3) Before final disposition, the identification tag shall contain the name of the deceased; and the date of birth, date of death and social security number of the deceased and the name and license number of the funeral ~~home~~ establishment in charge of disposition.

100.3(4) The identification tag shall be attached to the human remains throughout the entire time the ~~body is~~ human remains are in the possession of the funeral ~~home~~ establishment and shall remain with the human remains.

ITEM 4. Amend rule 645—100.4(142,156) as follows:

645—100.4(142,156) Removal and transfer of dead human remains and fetuses.

100.4(1) Removal and transfer of ~~dead~~ human remains. The funeral director shall perform the following duties upon notification of a death.

a. Comply with jurisdictional authority, with respect to ~~medico-legal~~ medicolegal responsibilities, regarding the removal of the human remains.

b. Provide signature and license number when removing a ~~dead~~ human remains from a hospital, nursing establishment or any other institution involved with the care of the public.

100.4(2) After the funeral director has assumed custody of the human remains, the funeral director may delegate the task of transferring the ~~dead~~ human remains to an unlicensed employee or agent. Prior

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to transfer, the funeral director shall topically disinfect the body, secure all body orifices to retain all secretions, place the human remains in a leakproof container for transfer that will control odor and prevent the leakage of body fluids, and issue a burial transit permit.

100.4(3) A funeral director may delegate the transportation of unembalmed human remains to an unlicensed employee or agent of the funeral ~~home~~ establishment without first assuming custody and without topically disinfecting or securing body orifices if all of the following are true:

- a. The transportation is to or from the medical examiner's office, or otherwise at the direction of the medical examiner;
- b. The remains are placed in a leakproof container by medical examiner personnel; and
- c. The employee or agent is issued a burial transit permit or other evidence of authorization.

100.4(4) An unlicensed employee or agent referred to in subrules 100.4(2) and 100.4(3) shall have completed the annual OSHA training related to blood-borne pathogens.

ITEM 5. Amend rule 645—100.5(135,144) as follows:

645—100.5(135,144) Burial transit permits. A licensed funeral director may issue a burial transit permit for the removal and transfer of ~~dead~~ human remains and such burial transit permit shall be issued in accordance with state law and the administrative rules promulgated by the department of public health regarding burial transit permits.

ITEM 6. Amend rule 645—100.6(156) as follows:

645—100.6(156) ~~Prepreparation~~ Preparation and embalming activities.

100.6(1) The funeral director shall perform the following duties prior to and during embalming according to commonly accepted industry standards.

a. ~~Permission for embalming. The funeral director shall obtain~~ Obtain authorization for embalming from an authorized person. If permission to embalm cannot be obtained from the authorized person, the funeral director may proceed with the embalming if necessary to comply with subrule 100.6(3).

b. ~~Embalming shall be done~~ Embalm entirely in private. No one except the funeral director, intern, immediate family, or student shall be allowed in the preparation room without the written permission of the authorized person. A student must be under the direct physical supervision of the funeral director and currently enrolled and attending a program of mortuary science which is recognized by the board to be allowed in the preparation room without written permission during the embalming ~~without written permission~~.

c. ~~The human remains shall be properly covered~~ Keep the human remains properly covered at all times.

d. Conduct a preembalming case analysis of the human remains. Recognize the potential chemical effects on the body and select the proper embalming chemicals based upon the analysis.

e. Position the human remains on the preparation table and pose the facial features.

f. Select points of drainage and injection, and raise the necessary vessels.

g. ~~Embalming shall include~~ Embalm by arterial and cavity injection of embalming chemicals. If the condition of the human remains does not allow arterial and cavity injection of embalming chemicals, topical embalming, using appropriate chemicals and procedures, shall be performed.

h. ~~Once the arterial and cavity injection of the embalming chemicals is complete, evaluate~~ Evaluate the distribution of the embalming chemicals and perform treatment for discoloration, vascular difficulties, decomposition, dehydration, purge and close any incisions once the arterial and cavity injection of the embalming chemicals is complete.

100.6(2) Postembalming activities. The funeral director shall perform the following duties at the conclusion of the embalming activities if necessary.

a. Pack or otherwise secure all body orifices with material which will absorb and retain all secretions.

b. Apply chemicals topically and perform hypodermic treatments.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- c. Bathe, disinfect and reposition the human remains.
- d. Clean and disinfect the embalming instruments, equipment and preparation room.
- e. Perform any restorative treatments.
- f. Select and apply the appropriate cosmetic treatments.
- g. Prepare the human remains for viewing.

100.6(3) Care of the unembalmed human remains.

a. Embalming may be omitted provided that interment or cremation is performed within 72 hours after death or within 24 hours of taking custody if ~~the~~ a human remains ~~were~~ was previously in the custody of others, whichever is longer.

b. If refrigeration is utilized, embalming or final disposition may be extended up to 72 hours longer than the maximum period provided in paragraph 100.6(3) "a." The body must be kept between 38 and 42 degrees Fahrenheit.

c. If viewing of the unembalmed human remains is requested, the human remains shall be topically disinfected and all body orifices shall be packed or otherwise secured with material which will absorb and retain all secretions.

ITEM 7. Amend paragraph **100.7(2)"b,"** introductory paragraph, as follows:

b. Present, discuss and explain the mandated ~~Federal Trade Commission~~ FTC price lists and assist or provide the consumer with:

ITEM 8. Amend rule 645—100.8(142,156) as follows:

645—100.8(142,156) Unclaimed dead human remains for scientific use.

100.8(1) A human remains is unclaimed when:

- a. The decedent did not express a desire to be interred, entombed or cremated.
- b. Relatives or friends of the decedent did not request that the decedent's human remains be interred, entombed or cremated.

100.8(2) Friend distinguished from casual acquaintance. A friend shall be distinguished from a casual acquaintance by the friend's having been closely associated with the decedent during the decedent's lifetime.

100.8(3) Delivery of human remains for scientific purposes. The funeral director, the medical examiner or managing officer of a public health institution, hospital, county home, penitentiary or reformatory shall notify the state Iowa department of public health as soon as any unclaimed human remains; which ~~are unclaimed and~~ may be suitable for scientific purposes; shall come into ~~their~~ the person's custody.

100.8(4) Department instructions. When the department of public health receives notice, the funeral director shall be instructed as to the proper disposition of ~~the~~ a human remains.

100.8(5) Expenses incurred by funeral director. The expenses incurred by the funeral director for the transportation of ~~the~~ a human remains to a medical college shall be paid by the medical college receiving the human remains.

ITEM 9. Amend rule 645—100.9(144) as follows:

645—100.9(144) Disinterments. A funeral director in charge of a disinterment shall ensure that the disinterment is performed in accordance with rules promulgated by the Iowa department of public health and shall first secure a disinterment ~~application~~ permit issued by the Iowa department of public health.

1- **100.9(1)** No person shall disinter a human remains or cremated remains unless the funeral director, in charge of the disinterment; has a numbered disinterment ~~application~~ permit which has been issued by the department of public health or by an order of the district court of the county in which the human remains or cremated remains are interred or entombed.

2- **100.9(2)** All disinterment ~~applications~~ permits shall be requested and provided by the department of public health.

3- **100.9(3)** All disinterment ~~applications~~ permits shall be signed by the authorizing person.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

4. **100.9(4)** Disinterment ~~applications~~ permits shall be furnished upon request from the department of public health and will remain valid for 30 days after issuance.

5. **100.9(5)** Disinterment ~~numbers~~ permits will only be issued to the funeral director, and the disinterment must be done under the direct supervision of the funeral director.

6. **100.9(6)** Disinterment ~~applications and numbers~~ permits shall be required for any relocation of a human remains or cremated remains from the original site of interment or entombment.

7. **100.9(7)** No disinterment ~~application or number~~ permit is necessary to remove a human remains or cremated remains from a holding facility for interment or entombment in the same cemetery where being temporarily held.

100.9(8) A funeral director may await a court order before proceeding with disinterment if the funeral director is aware of a dispute among:

a. Persons who are members of the same class of persons described in 641—subrule 97.14(4) as having authority to control the human remains; or

b. Persons who are authorized pursuant to 641—subrule 97.14(4) and the executor named in the decedent's will or personal representative appointed by the court.

ITEM 10. Amend rule 645—100.10(156) as follows:

645—100.10(156) Cremation of human remains and fetuses.

100.10(1) Record keeping.

a. Delivery receipt.

(1) When a human remains is delivered to a ~~crematory~~ cremation establishment, the ~~crematory~~ cremation establishment shall furnish to the delivery person a delivery receipt containing:

~~(1) 1.~~ 1. The name, address, age, gender, and cause of death of the decedent whose human remains ~~that~~ are delivered to the crematory cremation establishment.

~~(2) 2.~~ 2. The date and time of delivery and the type of container that contains the human remains.

~~(3) 3.~~ 3. If applicable, the name of the funeral director who sent the human remains and the name and license number of the funeral director's associated funeral establishment.

~~(4) 4.~~ 4. The signature of the person who delivered the human remains.

~~(5) 5.~~ 5. The signature of the person receiving the human remains on behalf of the crematory cremation establishment.

~~(6) 6.~~ 6. The name and business address of the crematory cremation establishment.

(2) The crematory cremation establishment shall retain a copy of ~~this~~ the delivery receipt in its permanent records.

b. Receiving receipt.

(1) The ~~crematory authority~~ cremation establishment shall furnish to any person who receives the cremated remains from the crematory cremation establishment a receiving receipt containing:

~~(1) 1.~~ 1. The name of the decedent whose cremated remains are released from the crematory cremation establishment.

~~(2) 2.~~ 2. The date and time when the cremated remains were released from the crematory cremation establishment.

~~(3) 3.~~ 3. The name of the person to whom the cremated remains are released and the name and license number of the funeral establishment, cemetery, family or other person or entity with which ~~they~~ are that person is affiliated.

~~(4) 4.~~ 4. The signature of the person who receives the cremated remains.

~~(5) 5.~~ 5. The signature of the person who released the cremated remains on behalf of the crematory cremation establishment.

~~(6) 6.~~ 6. The name of the crematory cremation establishment operator and the date and time of the cremation.

(2) The crematory cremation establishment shall retain a copy of ~~this~~ the receiving receipt in its permanent records.

c. Permanent record. A crematory cremation establishment shall maintain at its place of business a permanent record that includes the following:

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- (1) Name of the deceased person.
- (2) Date and time of the cremation.
- (3) Copies of the delivery receipt and the receiving receipt.
- (4) Disposition of the cremated remains.
- (5) Cremation authorization.
- (6) ~~Permit for cremation from a medical examiner~~ Cremation permit if required in the jurisdiction of death.

100.10(2) *Employment of a funeral director by a ~~crematory~~ cremation establishment.* No aspect of these rules shall be construed to require a funeral director to supervise or perform any functions at a ~~crematory~~ cremation establishment not otherwise required by law to be performed by a funeral director. The ~~crematory~~ cremation establishment shall contract only with a licensed funeral establishment and shall not contract directly with the general public.

100.10(3) *Authorizing person and preneed cremation arrangements.* The authorized person has legal authority and may make decisions regarding the final disposition of the decedent.

100.10(4) *Authorization to cremate.*

a. The ~~crematory~~ cremation establishment shall have the authority to cremate human remains upon the receipt of the following:

(1) Cremation authorization form signed by the authorizing person. The cremation authorization form shall contain the following:

1. The name, address, age and gender of the decedent whose human remains are to be cremated.
2. The date, time of death and cause of death of the decedent.
3. The name and license number of the funeral establishment and of the funeral director who obtained the cremation authorization form signed by the authorizing person.
4. The signature of the funeral director.
5. The name and address of the ~~crematory~~ cremation establishment authorized to cremate ~~the a~~ human remains.
6. The name and signature of the authorizing person granting permission to cremate the human remains and the authorizing person's relationship to the decedent.
7. A representation that the authorizing person has the right to authorize the cremation of the decedent in accordance with this rule.
8. A representation that in the event there is another person who has superior priority right to that of the authorizing person, the authorizing person has made all reasonable efforts to contact that person and has no reason to believe that the person would object to the cremation of the decedent.
9. A representation that ~~the a~~ human remains ~~do~~ does not contain any material or implants that may be potentially hazardous to equipment or persons performing the cremation.
10. A representation that the authorizing person has made a positive identification of the decedent or, if the authorizing person is unavailable or declines, there are alternative means of positive identification.

11. The name of the person, funeral establishment or funeral establishment's designee to which the cremated remains are to be released.

12. The manner of the final disposition of the cremated remains.

13. A listing of all items of value and instructions for their disposition.

(2) ~~Permit for cremation from a medical examiner~~ The cremation permit if required in the jurisdiction of death.

(3) Any other documentation required by this state.

b. If the authorizing person is not available to execute the cremation authorization form in person, the funeral director may accept written authorization by facsimile, E-mail, or such alternative written or electronic means the funeral director reasonably believes to be reliable and credible.

c. The authorizing person may revoke the authorization and instruct the funeral director or funeral establishment to cancel the cremation. The ~~crematory~~ cremation establishment shall honor any

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instructions from a funeral director or funeral establishment under this rule if the crematory cremation establishment receives instructions prior to beginning the cremation.

100.10(5) Cremation procedures.

a. A crematory cremation establishment shall cremate human remains within 24 hours of issuance of the delivery receipt as defined in subrule 100.10(1).

b. No crematory cremation establishment shall cremate human remains when it has actual knowledge that the human remains contain a pacemaker or have any other implants or materials which will present a health hazard to those performing the cremation and processing and pulverizing the cremated remains.

c. No crematory cremation establishment shall refuse to accept human remains for cremation because such human remains are not embalmed.

d. Whenever a crematory cremation establishment is unable or unauthorized to cremate human remains immediately upon taking custody of the remains, the crematory cremation establishment shall place the human remains in a holding facility in accordance with the crematory cremation establishment rules and regulations and within the parameters of rules 645—100.5(135,144) and 645—100.6(156).

e. No crematory cremation establishment shall accept human remains unless they are delivered to the crematory cremation establishment in a container which prevents the leakage of body fluids.

f. Under no circumstances shall an alternative container or casket be opened at the cremation establishment except to facilitate proper cremation.

g. The container in which ~~the~~ a human remains ~~are~~ is delivered to the crematory cremation establishment shall be cremated with the human remains or safely destroyed.

h. The simultaneous cremation of the human remains of more than one person within the same cremation chamber, without the prior written consent of the authorized person, is prohibited. Nothing in this rule, however, shall prevent the simultaneous cremation within the same cremation chamber of body parts delivered to the crematory cremation establishment from multiple sources, or the use of cremation equipment that contains more than one cremation chamber.

i. No unauthorized person shall be permitted in the holding facility or cremation room while any human remains are being held there awaiting cremation, being cremated, or being removed from the cremation chamber.

j. A crematory cremation establishment shall not allow removal of any dental gold, body parts, organs, or any item of value prior to or subsequent to a cremation without previously having received specific written authorization from the authorizing person and written instructions for the delivery of these items to the authorizing person.

k. Upon the completion of each cremation, and insofar as is practicable, all of the recoverable residue of the cremation process shall be removed from the cremation chamber.

l. If all of the recovered cremated remains will not fit within the receptacle that has been selected, the remainder of the cremated remains shall be returned to the authorizing person or this person's designee in a separate container. The crematory cremation establishment shall not return to an authorized person or this person's designee more or less cremated remains than were removed from the cremation chamber.

m. A crematory cremation establishment shall not knowingly represent to an authorized person or this person's designee that a temporary cremation container or urn contains the cremated remains of a specific decedent when it does not.

n. Cremated remains shall be shipped only by a method that has an internal tracing system available and that provides a receipt signed by the person accepting delivery.

o. A crematory cremation establishment shall maintain an identification system that shall ensure the identity of human remains in ~~its~~ the cremation establishment's possession throughout all phases of the cremation process. A noncombustible tag or disc that includes the name and license number of the crematory cremation establishment and the city and state where the crematory cremation establishment is

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located shall be attached to the plastic bag with the cremated remains or placed in amongst the cremated remains.

100.10(6) *Disposition of cremated remains.* If responsible, the funeral director shall supervise the final disposition of the cremated remains as follows:

a. Cremated remains may be disposed of by placing them in a grave, crypt, or niche; or by scattering them in a scattering area as defined in these rules; or they may remain in the personal care and custody of the authorized person. After supervising the transfer of cremated remains to the authorized person or place of final disposition, the funeral director shall be discharged.

b. Upon the completion of the cremation process, the ~~crematory~~ cremation establishment shall release the cremated remains to the funeral establishment or the authorized person or the authorized person's designee. Upon the receipt of the cremated remains, the individual receiving them may transport them in any manner in this state without a burial transit permit and may dispose of them in accordance with this rule. After releasing the cremated remains, the ~~crematory~~ cremation establishment shall be discharged from any legal obligation or liability concerning the cremated remains.

c. If, after a period of 60 days from the date of the cremation, the authorizing person or designee has not instructed the funeral director to arrange for the final disposition of the cremated remains, the funeral director may dispose of the cremated remains in any manner permitted by this rule. The funeral establishment, however, shall keep a permanent record identifying the site of final disposition. The authorizing person shall be responsible for reimbursing the funeral establishment for all reasonable expenses incurred in disposing of the cremated remains. Any entity that was in possession of cremated remains prior to the effective date of these rules may dispose of them in accordance with this rule.

d. Except with the express written permission of the authorizing person, no funeral director or cremation establishment shall:

(1) Dispose of cremated remains in a manner or in a location so that the cremated remains are commingled with those of another person. This prohibition shall not apply to the scattering of cremated remains in an area located in a cemetery and used exclusively for those purposes.

(2) Place cremated remains of more than one person in the same temporary cremation container or urn.

100.10(7) *Scope of rules.* These rules shall be construed and interpreted as a comprehensive cremation statute, and the provisions of these rules shall take precedence over any existing laws containing provisions applicable to cremation, but that do not specifically or comprehensively address cremation.

~~**100.10(8) *Establishment rule.***~~ Rescinded IAB 4/2/03, effective 5/7/03.

ITEM 11. Amend subrule 100.11(1) as follows:

100.11(1) At a minimum, the following information, if applicable, relating to each human remains which enters the custody of the establishment/licensee shall be maintained as the permanent record of licensed activity:

- a.* Name of the deceased;
- b.* Date, time, and place of death (institution or other place, city, state, zip);
- c.* Name and address of the person or funeral establishment to whom ~~the dead body or fetus~~ a human remains is released;
- d.* Date and from whom the funeral director assumed custody, including the name of the institution or other place of death releasing ~~the dead human body or fetus~~ a human remains;
- e.* Date, time, and name of the licensed funeral director or registered intern completing embalming or other preparation for final disposition;
- f.* Date, place and method of final disposition of ~~the dead body or fetus~~ a human remains.

ITEM 12. Amend rule ~~645—101.1(156)~~, definition of "Reactivate," as follows:

"*Reactivate*" or "*reactivation*" means the process as outlined in rule ~~645—101.18(17A,147,272C)~~ 645—101.11(17A,147,272C) by which an inactive license is restored to active status.

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ITEM 13. Adopt the following new definitions in rule ~~645—101.1(156)~~:

“Change of ownership” means a change of controlling interest ((1) an interest in a partnership of greater than 50 percent; or (2) greater than 50 percent of the issued and outstanding shares of a stock of a corporation) in a funeral establishment or cremation establishment.

“Full time” means a minimum of a 35-hour work week.

“Outer burial container” means any container which is designed for placement in the ground around a casket or an urn including, but not limited to, containers commonly known as burial vaults, urn vaults, grave boxes, grave liners, and lawn crypts.

ITEM 14. Amend rule ~~645—101.2(156)~~ as follows:

~~645—101.2(156) Requirements for licensure.~~ The following criteria shall apply to licensure:

101.2(1) The applicant shall be eligible to apply for a license to practice mortuary science by the board pursuant to subrule 101.2(2) when the applicant has completed the educational requirements and examination requirements, followed by a completed internship as prescribed below, in the following alphabetical order:

a. Educational qualifications:

(1) A minimum of 60 hours of college credit as indicated on the transcript from a regionally accredited college or university with a minimum of a 2.0 or “C” grade point average. The 60 college semester hours shall not include any technical mortuary science course; and

(2) A program in mortuary science from a school accredited by the American Board of Funeral Service Education; and

(3) A college course of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science content areas including, but not limited to, Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed services.

b. Examination requirements. The board shall accept a certificate of examination issued by the International Conference of Funeral Service Examining Boards, Inc., indicating a passing score on both the arts and sciences portions of the examination.

c. Internship requirements as outlined in rule ~~645—101.3(147,156)~~.

~~101.2(1)~~ 101.2(2) The applicant shall complete a board-approved application packet. Application forms may be obtained from the board’s Web site (~~http://www.idph.state.ia.us/licensure~~) (<http://idph.iowa.gov/Licensure/Iowa-Board-of-Mortuary-Science/Licensure>) or directly from the board office. All applications shall be sent to Board of Mortuary Science, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

~~101.2(2)~~ a. The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

~~101.2(3)~~ b. Each application shall be accompanied by the appropriate fees payable to the Board of Mortuary Science. The fees are nonrefundable.

~~101.2(4)~~ c. No application will be considered by the board until official copies of academic transcripts showing the completion of training in a college of mortuary science approved by the ~~Iowa board of mortuary science~~ have been sent directly from the school to the board.

~~101.2(5)~~ d. Licensees who were issued their initial licenses within six months prior to the renewal shall not be required to renew their licenses until the renewal month two years later.

~~101.2(6)~~ e. Incomplete applications that have been on file in the board office for more than two years shall be:

~~a-~~ (1) Considered invalid and shall be destroyed; or

~~b-~~ (2) Maintained upon written request of the candidate. The candidate is responsible for requesting that the file be maintained.

101.2(3) Foreign-trained funeral directors shall:

a. Provide an equivalency evaluation of their educational credentials by International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, California 90231-3665, telephone (310)258-9451, Web site www.ierf.org, or e-mail at info@ierf.org. The

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professional curriculum must be equivalent to that stated in these rules. A candidate shall bear the expense of the curriculum evaluation.

b. Provide a notarized copy of the certificate or diploma awarded to the applicant from a mortuary science program in the country in which the applicant was educated.

c. Receive a final determination from the board regarding the application for licensure.

d. Successfully complete a college course of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science content areas including, but not limited to, Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed.

ITEM 15. Rescind rules **645—101.3(156)** and **645—101.4(156)**.

ITEM 16. Renumber rules **645—101.5(147,156)** to **645—101.8(156)**, **645—101.10(156)**, **645—101.13(272C)** to **645—101.15(17A,147,272C)**, **645—101.18(17A,147,272C)** and **645—101.19(17A,147,272C)** as **645—101.3(147,156)** to **645—101.12(17A,147,272C)**.

ITEM 17. Amend renumbered rule 645—101.3(147,156) as follows:

645—101.3(147,156) Internship and preceptorship.

101.3(1) Internship.

a. The intern must serve a minimum of one year of internship under the direct supervision of an Iowa board-certified preceptor. The beginning and ending dates of the internship shall be indicated on the internship certificate. The intern shall engage in the practice of mortuary science only during the time indicated on the internship certificate.

b. The intern shall, during the internship, be a full-time employee with the funeral establishment at the site of internship except as provided in paragraph ~~401.5(2)~~“j.” 101.3(2)“i.”

c. No licensed funeral director shall permit any person in the funeral director’s employ or under the funeral director’s supervision or control to serve an internship in funeral directing unless that person has a certificate of registration as a registered intern from the department of public health. The registration shall be posted in a conspicuous place in the intern’s primary place of practice.

~~d. No licensed funeral director or licensed funeral establishment shall have more than one intern funeral director for the first 100 human remains embalmed or funerals conducted per year, and with a maximum of two interns per funeral establishment.~~

~~e. d.~~ Registered interns shall not advertise or hold themselves out as funeral directors or use the degree F.D. or any other title or abbreviation indicating that the intern is a funeral director.

~~f. e.~~ The intern shall, during the internship, complete the requirements outlined in ~~401.5(3)~~ 101.3(3), including to embalm not fewer than 25 human remains and direct or assist in the direction of not fewer than 25 funerals under the direct supervision of the certified preceptor and to submit reports on forms furnished by the department of public health. Work on the first 5 embalming cases, first 5 funeral arrangements, and first 5 funeral or memorial services must be completed in the physical presence of the preceptor. The first 12 embalming cases and the first 12 funeral case reports must be completed and submitted by the completion of the sixth month of the internship.

~~g. f.~~ Before being eligible for licensure, the intern must have filed the 25 completed embalming and funeral directing case reports and a 6-month and a 12-month evaluation form with the department of public health. These reports shall be answered in full and signed by both the intern and preceptor.

~~h. g.~~ When, for any valid reason, the board determines that the education a registered intern is receiving under the supervision of the present preceptor might be detrimental to the intern or the profession at large, the intern may be required to serve the remainder of the internship under the supervision of a licensed funeral director who is approved by the board.

~~i. h.~~ The length of an internship may be extended if the board determines that the intern requires additional time or supervision in order to meet the minimum proficiency in the practice of mortuary science.

~~j. i.~~ The board views a one-year internship completed in a consecutive 12-month period as the best training option. If an internship is interrupted, the internship must be completed within 24 months of the date it started in order to be readily accepted by the board. Internships that are not completed

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within 24 months shall be preapproved by the board on such terms as the board deems reasonable under the circumstances. The board may require any or all of the following:

(1) Completion of a college course or continuing education course covering mortuary science laws and rules;

(2) Additional case reports;

(3) Extension of an internship up to an additional 12 months depending on such factors as the number of months completed during the internship, length of time that has lapsed since the intern was actively involved in the internship program, and the experience attained by the intern.

~~k. j.~~ Application for change of preceptor or any other alteration must be made in writing and approval granted by the board before the status of the intern is altered.

~~l. k.~~ The intern shall complete on a form provided by the board a confidential evaluation of the preceptorship program at the end of the internship. This form shall be submitted before ~~the a~~ a funeral director's director license is issued to the intern.

~~m. l.~~ The intern must be approved and licensed following a successful internship before the intern may practice mortuary science.

101.3(2) Preceptorship.

a. A preceptor must have completed a training course within five years prior to accepting an intern. This training course shall cover Iowa law and rule content areas, including, but not limited to, Iowa law and rules governing licensure and the practice of mortuary science and human resource issues. The training course may be counted toward the continuing education hours required for the licensure biennium in which the training course was completed.

b. Any duly Iowa-licensed funeral director who has been practicing for a minimum of five years and who has not had any formal disciplinary action within the past five years with the board of mortuary science and has completed a preceptor training course detailed in paragraph ~~401.5(2) "a"~~ 101.3(2) "a" will be eligible to be a preceptor.

c. The preceptor shall be affiliated with a funeral establishment that has not had any formal disciplinary action within the past five years.

~~d. The preceptor is required to file a progress report of the intern that has been signed by both the preceptor and the intern on a board-prescribed form. The 6-month progress report form shall be submitted to the board by the end of the sixth month. The 12-month progress report form shall be submitted to the board by the end of the twelfth month.~~

~~e. d.~~ The preceptor shall certify that the intern engages in the practice of mortuary science only during the time frame designated on the official intern certificate.

~~f. e.~~ A preceptor's duties shall include the following:

(1) Ensure the intern completes the training program outlined in ~~401.5(3)~~ subrule 101.3(3);

(2) Be physically present and supervise the first five embalming cases, first five funeral arrangements, and first five funeral or memorial services;

(3) Familiarize the intern in the areas specified by the preceptor training outline;

(4) Read, add appropriate comments to, and sign each of the 25 embalming reports and the 25 funeral directing reports completed by the intern;

(5) Complete a written six-month report of the intern on a form provided by the board. This report is to be reviewed with and signed by the intern and submitted to the board before the end of the seventh month; and

(6) At the end of the internship, complete a confidential evaluation of the intern on a form provided by the board. This evaluation shall be submitted within two weeks of the end of the internship. The 12-month report shall be submitted to the board for review and approval prior to the board's approval of the intern for licensure.

~~g. f.~~ Failure of a preceptor to fulfill the requirements set forth by the board, including failure to remit the required six-month progress report, as well as the final evaluation, shall result in an investigation of the preceptor by the board and may result in actions which may include, but not be limited to, the loss of preceptor status for current and future interns or discipline or both.

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~~h. g.~~ If a preceptor does not serve the entire year, the board will evaluate the situation; and if a certified preceptor is not available, a licensed funeral director may serve with the approval of the board.

~~i. h.~~ No licensed funeral director or licensed funeral establishment shall have more than one intern funeral director for the first 100 human remains embalmed or funerals conducted per year, and with a maximum of two interns per funeral establishment.

~~j. i.~~ With prior board approval, an intern may serve under the supervision of more than one preceptor under the following terms and conditions:

- (1) A single preceptor must act in the role of the primary preceptor.
- (2) The primary preceptor is responsible for coordinating all intern training and activities.
- (3) The intern shall be a full-time employee of the funeral establishment of the primary preceptor; however, compensation may be shared between preceptors.
- (4) The primary preceptor may make arrangements with a maximum of two additional preceptors to share preceptor responsibilities for such purposes as providing an intern with a higher volume practice or a broader range of intern experiences.
- (5) Each preceptor shall be individually responsible for directly supervising the intern's activities performed under the preceptor's guidance, but the primary preceptor remains responsible for coordinating the intern's activities and submitting all forms to the board.

101.3(3) Intern training requirements.

a. The board-approved preceptor shall ensure that the intern is knowledgeable of each of the following items during the internship:

- (1) The requirements of the Federal Trade ~~Commission~~ Commission's funeral rule.
- (2) The requirements of the Occupational Safety and Health Act.
- (3) The requirements of the Americans ~~With~~ with Disabilities Act.
- (4) The benefits of the Social Security and Veterans Health Administrations.
- (5) The requirements of Iowa funeral law and forms (for example, preneed in Iowa Code chapter 523A, death certificates and Iowa burial transit permits in Iowa Code chapter 144, authorized person in Iowa Code chapter 144C, Iowa department of public health's law and rules governing funeral practice, and the board's laws and rules).

b. The board-approved preceptor shall ensure that the intern performs each of the following under the preceptor's direct supervision:

- (1) Assists with or performs a minimum of 10 transfers of human remains.
- (2) Performs 25 embalmings of human remains to include:
 1. Obtaining permission to embalm.
 2. Placement of human remains on preparation table.
 3. Pre-embalming analysis.
 4. Primary disinfection.
 5. Setting features.
 6. Selection of injection/drainage sites and raising those vessels.
 7. Selection and mixing of embalming chemicals and operation of the embalming machine.
 8. Injection and drainage methods.
 9. Cavity treatment.
 10. Suturing techniques.
- (3) Prepares a minimum of 10 human remains for viewing to include:
 1. Dressing.
 2. Cosmetizing.
 3. Casketing.
- (4) Assists with cremation procedures to include:
 1. Contacting the medical examiner.
 2. Completing required cremation forms.
 3. Preparing human remains for cremation.
- (5) Makes complete funeral arrangements with a minimum of 10 families to include each of the following, as applicable:

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1. Presentation of funeral goods, products and services.
2. Presentation of payment options for families.
3. Contacting third-party suppliers of goods and services, such as clergy, cemetery personnel, outer burial container provider, ~~crematory~~ cremation establishment, florist, and musicians.
4. Completing the obituary.
5. Presentation of general price list and associated price lists.
6. Preparation and presentation of statement of funeral goods and services.
- (6) Coordinates, at a minimum, 10 visitations to include:
 1. Preparing the chapel, visitation room or other facility.
 2. Setting up floral arrangements.
 3. Setting up register book and memorial folders or prayer cards.
- (7) Directs a minimum of 25 funerals or memorial services to include, as applicable:
 1. Greeting funeral attendees.
 2. Assisting casket bearers.
 3. Preparing for funeral procession.
 4. Driving a vehicle in procession.
 5. Assisting at graveside committal.
 6. Transporting flowers.
 7. Coordinating with officiant and family.

ITEM 18. Amend renumbered rule 645—101.5(156) as follows:

645—101.5(156) Funeral establishment license or cremation establishment license or ~~both establishment licenses.~~

101.5(1) A place of business devoted to providing any aspect of mortuary science or cremation services shall hold an establishment license issued by the board. An establishment license shall not be issued more than 30 days prior to the opening of a new establishment.

a. A funeral establishment, or a cremation establishment, ~~or a combined funeral and cremation establishment~~ shall not be operated until it has obtained a license from the board. ~~Such an~~ Each establishment shall timely renew the license in order to continue operations.

b. A funeral or cremation establishment shall surrender its license to the board if ~~it~~ the establishment fails to engage in or ceases to engage in the business for which the license was issued, pursuant to Iowa Code section 156.15(2) “*d.*”

c. A funeral or cremation establishment license is not transferable or assignable.

d. A change in ownership shall require the issuance of a new license. A change in ownership shall be reported to the board prior to the date ownership will change or, in the case of change of ownership by death or other unexpected event, within 30 days following change of ownership. The board may request legal proof of the ownership transfer. ~~A change in ownership shall be defined as any change of controlling interest in any corporation or other business entity.~~

e. An establishment license shall be issued for a specific physical location. A change in location or site of an establishment shall require the submission of an application for a new license and payment of the fee required by 645—subrule ~~105.1(9)~~ 5.9(9). A new establishment license must be issued prior to the commencement of business in a new location.

f. A change in the name of an establishment shall be reported to the board within 30 days. The establishment owner shall pay the fee for reissuing the certificate license.

g. A change in address or of the funeral director in responsible charge shall be reported to the board within 30 days.

h. An establishment shall have an employment or other relationship with one or more licensed funeral directors who shall perform all mortuary science services for which licensure as a funeral director is required by Iowa Code chapter 156. A cremation establishment is not, however, required to employ or contract with a funeral director on an ongoing basis because a cremation establishment shall not offer services directly to the general public. When a funeral establishment has an employment or other relationship with multiple funeral directors, the funeral establishment shall designate the funeral

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director who shall be in responsible charge of all mortuary science services performed at the funeral establishment. The funeral establishment shall report to the board any change of the funeral director in responsible charge within 30 days of the change.

~~i.~~ ~~Rescinded IAB 10/8/08, effective 11/12/08.~~

~~j.~~ i. The board shall not routinely issue more than one establishment license for a single location, but the board may do so if the multiple applicants provide proof, satisfactory to the board, that the establishments are wholly separate except for the sharing of facilities. If the board issues more than one establishment license for a single location, the licensees shall ensure that the public will not be confused or deceived as to the establishment with which the public is interacting. A facility may have a funeral establishment license and a separate cremation establishment license at a single location.

~~k.~~ j. The establishment license shall be displayed in a conspicuous place at the location of the establishment.

~~l.~~ k. Failure to comply with any of these rules shall constitute grounds for discipline pursuant to 645—Chapter 103 or civil penalties for unlicensed practice pursuant to 645—Chapter 104.

101.5(2) A funeral establishment, or cremation establishment, ~~or both establishments~~ shall be subject to applicable local, state and federal health and environmental requirements and shall obtain all necessary licenses and permits from the agencies with jurisdiction.

101.5(3) License application. An application for a funeral establishment license, or a cremation establishment license, ~~or both establishment licenses~~ shall be in writing on forms furnished by the board and shall be accompanied by the funeral or cremation establishment fee. If there is both a funeral establishment and a cremation establishment at the same location, two establishment license applications will be required, along with the payment of two establishment license fees. The application shall contain all of the following:

- a. The name, mailing address and telephone number of the applicant.
- b. The physical location of the establishment.
- c. The mailing address, telephone number, fax number and E-mail address of the establishment.
- d. The name, home address and telephone number of the individual in charge who has the authority and responsibility for the establishment's compliance with laws and rules pertaining to the operation of the establishment.
- e. The name and address of all owners and managers of the establishment (e.g., sole proprietor, partner, director, officer, managing partner, member, or shareholder with 10 percent or more of the stock).
- f. The legal name of the establishment and all trade names, assumed names, or other names used by the establishment.
- g. The signature of the responsible authority at the site of the establishment and an acknowledgment of the funeral director in responsible charge of mortuary science services at the funeral establishment that the funeral director is aware of and consents to the designation.
- h. The names and license numbers of all funeral directors employed by or associated with the establishment through contract or otherwise who provide mortuary science services at or for the establishment. When a funeral establishment has an employment or other relationship with multiple funeral directors, the funeral establishment shall designate the funeral director who shall be in responsible charge of all mortuary science services performed at the funeral establishment. No funeral establishment shall be issued a license if it fails to designate the funeral director in responsible charge of the mortuary science services to be performed at the establishment.
- i. All felony or misdemeanor convictions of the applicant and all owners and managing officers of the applicant (except minor traffic offenses with fines of less than \$500).
- j. All disciplinary actions against any professional or occupational license of the applicant by any jurisdiction including, but not limited to, disciplinary action by the Iowa insurance division under Iowa Code chapter 523A or 523I, or action by the Federal Trade Commission.
- k. Further information that the board may reasonably require, such as whether the establishment includes a preparation room.

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ITEM 19. Amend renumbered rule 645—101.6(156) as follows:

~~645—101.6(156) Licensure by endorsement. An applicant who has been a licensed funeral director under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. Applicants licensed before 1980 are exempt from showing a passing grade on the national board examination. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:~~

~~101.6(1) Submits to the board a completed application.~~

~~101.6(2) Pays the licensure fee.~~

~~101.6(3) Shows evidence of licensure requirements that are similar to those required in Iowa.~~

~~101.6(4) Provides official copies of the academic transcripts showing the completion of a mortuary science program accredited by the American Board of Funeral Service Education.~~

~~101.6(5) Provides official transcript of grades showing 60 semester hours from a regionally accredited college or university with a minimum of a 2.0 or “C” grade point average.~~

~~101.6(6) Completes a college course of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science content areas, including but not limited to Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed.~~

~~101.6(7) Furnishes certified evidence of:~~

~~a. Two or more years of actual practice as a licensed funeral director in the state from which the applicant desires to endorse; or~~

~~b. Having met requirements substantially equivalent to those in 101.5(1) “g” and 101.5(3).~~

~~101.6(8) Was issued the initial license by endorsement within six months of the birth month and will not be required to renew the license until the fifteenth day of the birth month two years later. The new licensee is exempt from meeting the continuing education requirement for the continuing education biennium in which the license was originally issued.~~

101.6(1) The applicant shall be eligible to apply for a license to practice mortuary science issued by the board when the applicant has completed the educational qualifications, examination requirements, and documentation of experiences as prescribed below:

a. Educational qualifications.

(1) A minimum of 60 hours of college credit as indicated on the transcript from a regionally accredited college or university with a minimum of a 2.0 or “C” grade point average. The 60 college semester hours shall not include any technical mortuary science course; and

(2) A program in mortuary science from a school accredited by the American Board of Funeral Service Education; and

(3) A college course of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science content areas including, but not limited to, Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed services.

b. Examination requirements. The board shall accept a certificate of examination issued by the International Conference of Funeral Service Examining Boards, Inc., indicating a passing score on both the arts and sciences portions of the examination.

c. Documentation of experience. The applicant shall furnish certified evidence of:

(1) Two or more years of actual practice as a licensed funeral director in the state from which the applicant desires to endorse; or

(2) Having met requirements substantially equivalent to those in paragraph 101.3(1) “f” and subrule 101.3(3).

101.6(2) The applicant shall complete a board-approved application packet. Application forms may be obtained from the board’s Web site (<http://idph.iowa.gov/Licensure/Iowa-Board-of-Mortuary-Science/Licensure>) or directly from the board office. All applications shall be sent to Board of Mortuary Science, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

a. The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

b. Each application shall be accompanied by the appropriate fees payable to the Board of Mortuary Science. The fees are nonrefundable.

c. No application will be considered by the board until official copies of academic transcripts showing the completion of training in a college of mortuary science approved by the board have been sent directly from the school to the board.

d. Licensees who were issued their initial licenses within six months prior to the renewal shall not be required to renew their licenses until the renewal month two years later.

e. Incomplete applications that have been on file in the board office for more than two years shall be:

(1) Considered invalid and shall be destroyed; or

(2) Maintained upon written request of the candidate. The candidate is responsible for requesting that the file be maintained.

~~101.6(9)~~ **101.6(3)** ~~Provides~~ The applicant shall provide verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

a. Licensee's name;

b. Date of initial licensure;

c. Current licensure status; and

d. Any disciplinary action taken against the license.

~~101.6(10)~~ **101.6(4)** ~~Satisfies~~ The applicant shall satisfy the provisions of ~~101.18(3)~~ subrule 101.11(3), if the applicant is not actively licensed in another jurisdiction.

ITEM 20. Amend renumbered rule 645—101.7(156), catchwords, as follows:

645—101.7(156) ~~License renewal~~ Renewal of funeral director license.

ITEM 21. Amend renumbered subrule 101.7(6) as follows:

101.7(6) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule ~~105.1(3)~~ 5.9(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

ITEM 22. Amend renumbered rule 645—101.8(272C), catchwords, as follows:

645—101.8(272C) Renewal of a funeral establishment license or a cremation establishment license ~~or both establishment licenses.~~

ITEM 23. Amend renumbered rule 645—101.9(272C) as follows:

645—101.9(272C) Inactive funeral establishment license or cremation establishment license ~~or both establishment licenses.~~

101.9(1) If the renewal application and fee are not postmarked within 30 days after the license expiration date, the funeral establishment license or cremation establishment license is inactive. To reactivate a funeral establishment license or a cremation establishment license, the reactivation application and fee shall be submitted to the board office.

101.9(2) A funeral establishment or a cremation establishment that has not renewed the funeral establishment license or cremation establishment license within the required time frame will have an inactive license and shall not provide mortuary science services until the license is reactivated.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 24. Amend renumbered rule 645—101.10(17A,147,272C) as follows:

~~645—101.10(17A,147,272C) License reinstatement~~ **Reinstatement of a funeral establishment license or a cremation establishment license.** For a funeral or cremation establishment license that has been revoked, suspended, or voluntarily surrendered, the owner must apply for and receive reinstatement of the license in accordance with rule 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with ~~645—101.14(272C)~~ rule 645—101.9(272C) prior to offering mortuary science services from that establishment in this state.

ITEM 25. Amend renumbered subrule 101.11(2) as follows:

101.11(2) Pay the reactivation fee that is due as specified in ~~645—Chapter 105 rule 645—5.9(147,156).~~

ITEM 26. Amend renumbered subparagraph **101.11(3)“a”(3)** as follows:

(3) Verification of completion of 2 hours of continuing education in current Iowa law and rules covering mortuary science content areas including, but not limited to, Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed. These 2 hours shall be included as a part of the 24 hours required in ~~401.18(3)“a”(2)~~ subparagraph 101.11(3)“a”(2).

ITEM 27. Amend renumbered rule 645—101.12(17A,147,272C) as follows:

~~645—101.12(17A,147,272C) License reinstatement~~ **Reinstatement of a funeral director license.** A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with rule 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with ~~645—101.18(17A,147,272C)~~ rule 645—101.11(17A,147,272C) prior to practicing as a funeral director in this state. The owner of a funeral home establishment whose establishment license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the establishment license and must apply for and be granted reactivation of the establishment license prior to reopening the funeral home establishment.

ITEM 28. Amend rule 645—102.1(272C) as follows:

645—102.1(272C) Definitions. For the purpose of these rules, the following definitions shall apply:

“Active license” means a license that is current and has not expired.

~~*“Approved program/activity”* means a continuing education program/activity meeting the standards set forth in these rules.~~

“Audit” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“Board” means the board of mortuary science.

“Continuing education” means planned, organized learning acts that are designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public and that meet the standards set forth in these rules.

~~*“Direct supervision”* means under the direction and immediate supervision of a licensed funeral director.~~

~~*“Full-time”* means a minimum of a 35-hour work week.~~

“Hour of continuing education” means at least 50 minutes spent by a licensee in actual attendance at and completion of ~~an approved~~ continuing education activity.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“Independent study” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in these rules and includes a posttest.

“License” means license to practice.

“Licensee” means any person licensed to practice as a funeral director in the state of Iowa.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 29. Amend subrule 102.2(1) as follows:

102.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on the fifteenth day of the licensee's birth month and ending on the fifteenth day of the licensee's birth month. Each biennium, each person who is licensed to practice as a licensee in this state holds an active license shall be required to complete a minimum of 24 hours of continuing education approved by the board activity. Two of the 24 hours of continuing education shall be in current Iowa law and rules covering mortuary science content areas including, but not limited to, Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed. ~~Beginning January 1, 2009, A minimum of 12 hours of the 24 hours of continuing education required for renewal shall be earned by completing a program in which an instructor conducts the class employing either in-person or live, real-time interactive media.~~

ITEM 30. Amend subrule 102.2(4) as follows:

102.2(4) No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal in subrule 102.2(2). A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

ITEM 31. Amend paragraph **102.3(1)“e”** as follows:

e. Provides proof of attendance to licensees in attendance including:

- (1) Date(s), location, course title, presenter(s);
- (2) Number of program contact hours; and
- (3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

All licensees must retain the information identified in paragraph 102.3(1)“e” for two years after the biennium has ended.

ITEM 32. Amend paragraphs **102.3(2)“c”** and **“d”** as follows:

c. Attendance at or participation in a program or course which is offered or sponsored by a state or national funeral association that meets the criteria in subrule 102.3(1) and paragraph 102.3(2)“a.” is accepted.

d. ~~Independent study, including television viewing, Internet, video or sound-recorded programs, or correspondence work, or by other similar means that meet the criteria in paragraph 102.3(2)“a.”~~ Independent study credits, including those obtained by television viewing, Internet, video- or sound-recorded programs, or correspondence work or by other similar means that meet the criteria in paragraph 102.3(2)“a,” must be accompanied by a certificate from the sponsoring organization that indicates successful completion of the test. ~~After January 1, 2009, continuing~~ Continuing education credit obtained by independent study shall not exceed 12 hours of the 24 hours required during the compliance period.

ITEM 33. Amend rule 645—103.3(17A,147,156,272C), introductory paragraph, as follows:

645—103.3(17A,147,156,272C) Grounds for discipline against funeral directors. The board may initiate disciplinary action against a licensed funeral director based on Iowa Code section 156.9 and any of the following grounds:

ITEM 34. Amend paragraph **103.3(4)“g”** as follows:

g. Embalming or attempting to embalm a deceased human body without first having obtained authorization from a family member or representative of the deceased, except where embalming is done to meet the requirements of applicable state or local law. However, a funeral director may embalm without authority when, after due diligence, no authorized person can be contacted and embalming is in accordance with legal or accepted standards in the community, or the licensee has good reason to believe that the family wishes embalming. The order of priority for those persons authorized to permit embalming is found in Iowa Code section ~~142A.2(2)~~ 144C.5. If embalming is performed under these circumstances, the licensee shall not be deemed to be in violation of the prohibition in this paragraph.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 35. Amend subrule 103.3(14) as follows:

103.3(14) Failure to comply with conditions of Iowa Code ~~section~~ sections 142C.10 and 142C.10A.

ITEM 36. Amend subrule 103.4(6) as follows:

103.4(6) The licensee or owner of the establishment has violated the smokefree air Act, ~~2008 Iowa Acts, House File 2212~~ Iowa Code chapter 142D.

ITEM 37. Rescind and reserve rule ~~645—103.7(156)~~.

ITEM 38. Amend rule 645—104.4(156) as follows:

645—104.4(156) Subpoenas. Pursuant to Iowa Code sections 17A.13(1) and 156.16, the board is authorized in connection with an investigation of an unlicensed person or establishment to issue subpoenas to compel persons to testify and to compel persons to produce books, papers, records and any other real evidence, whether or not privileged or confidential under law, which the board deems necessary as evidence in connection with the civil penalty proceeding or relevant to the decision of whether to initiate a civil penalty proceeding. Board procedures concerning investigative subpoenas are set forth in ~~645 IAC 9.5(17A,272C)~~ rule 645—9.5(17A,272C).

ARC 2990C

REVENUE DEPARTMENT[701]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 421.14, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 71, “Assessment Practices and Equalization,” Iowa Administrative Code.

This proposed amendment clarifies that for owner-occupied commercial property, the assessor may not consider data relating to the business operations of the owner.

Any interested person may make written suggestions or comments on the proposed amendment on or before April 18, 2017. Such written comments should be directed to Legal Services, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. Persons who want to convey their views orally should contact Legal Services, Department of Revenue at (515)281-8450 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by April 18, 2017.

After analysis and review of this rule making, the Department finds no fiscal impact.

Any person who believes that the application of the discretionary provisions of this rule would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

After analysis and review of this rule making, no negative impact on jobs has been found.

This amendment is intended to implement Iowa Code section 441.21.

The following amendment is proposed.

Amend rule 701—71.5(421,428,441), introductory paragraph, as follows:

701—71.5(421,428,441) Valuation of commercial real estate. Commercial real estate shall be assessed at its actual value as defined in Iowa Code section 441.21. In determining the actual value of commercial real estate, city and county assessors shall use the appraisal manual issued by the department of revenue pursuant to Iowa Code section 421.17(18) as well as a locally conducted assessment/sales ratio study, an analysis of sales of comparable properties, and any other relevant data available. In cases involving the

REVENUE DEPARTMENT[701](cont'd)

valuation of owner-occupied commercial property, the data relating to the financial performance of the owner or the owner's business, including but not limited to its sales, revenue, expenses, or profits, shall not be considered relevant in determining the property's actual value.

ARC 2989C**TRANSPORTATION DEPARTMENT[761]****Notice of Intended Action**

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

Pursuant to the authority of Iowa Code sections 307.12, 307A.2 and 321.383, the Iowa Department of Transportation hereby gives Notice of Intended Action to amend Chapter 405, "Salvage," and Chapter 450, "Motor Vehicle Equipment," Iowa Administrative Code.

The proposed amendments to subrule 405.8(3) and paragraph 405.15(1)"e" comply with 2016 Iowa Acts, chapter 1098, sections 31 and 32, which amended Iowa Code sections 321.24(5) and 321.52(4)"c." The proposed amendment to subrule 405.8(3) adds a second exception to stipulate that an owner who surrenders a foreign salvage title and obtains a salvage theft examination pursuant to Iowa Code section 321.52(4)"b" within 30 days of the date the owner was assigned the foreign salvage title is not required to first obtain an Iowa salvage title. The proposed amendment to paragraph 405.15(1)"e" strikes the language concerning the fee amount and distribution of the fee and adds a new sentence stating that the owner or owner's representative shall electronically make payment for the salvage theft examination at the time the examination is scheduled and that the fees collected shall be distributed in accordance with Iowa Code section 321.52(4)"c."

The proposed amendment to rule 761—450.6(321) complies with 2016 Iowa Acts, chapter 1023, section 1, which amended Iowa Code section 321.383(1) to allow implements of husbandry that are not self-propelled to be towed in tandem when capable of being towed. Also, language related to equipment standards concerning lighting and turn signals was updated to reflect the changes made in Iowa Code section 321.383(1).

These rules do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Any person or agency may submit written comments concerning these proposed amendments or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to Tracy George, Rules Administrator, Iowa Department of Transportation, Operations and Finance Division, 800 Lincoln Way, Ames, Iowa 50010; e-mail: tracy.george@iowadot.us.
5. Be received by the Department's rules administrator no later than April 18, 2017.

A meeting to hear requested oral presentations is scheduled for Thursday, April 20, 2017, at 10 a.m. at the Iowa Department of Transportation's Motor Vehicle Division offices located at 6310 SE Convenience Boulevard, Ankeny, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 321.24, 321.52 and 321.383.

The following amendments are proposed.

TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 1. Amend subrule 405.8(3) as follows:

405.8(3) *Converting foreign salvage title to Iowa title.* If the prior title for a vehicle is a foreign title indicating that the vehicle is salvage, a regular Iowa title shall not be issued for the vehicle unless an Iowa salvage title is first issued. After an Iowa salvage title is issued for the vehicle, a regular Iowa title may be obtained pursuant to rule 761—405.7(321).

EXCEPTION 1: As provided in subrule 405.3(3), a licensed new motor vehicle dealer or an authorized vehicle recycler is not required to obtain an Iowa salvage title upon assignment of a foreign salvage title to the dealer or recycler, provided a vacant reassignment space is available on the title.

EXCEPTION 2: As provided in Iowa Code section 321.24(5), an owner who surrenders a foreign salvage title and obtains a salvage theft examination pursuant to Iowa Code section 321.52(4) “b” within 30 days of the date the owner was assigned the foreign salvage title is not required to first obtain an Iowa salvage title.

ITEM 2. Amend paragraph **405.15(1)“e”** as follows:

~~e. A \$30 fee paid by check or money order made payable to the agency conducting the salvage theft examination shall be collected. The agency shall retain \$20 and forward \$10 to the office of vehicle services at the Des Moines address. The department shall deposit the \$10 into the funds specified by law. The owner or owner’s representative shall electronically make payment for the salvage theft examination at the time the examination is scheduled, and the fee collected shall be distributed in accordance with Iowa Code section 321.52(4)“c.”~~

ITEM 3. Amend subrule 450.4(1) as follows:

450.4(1) *Application.* As outlined in rule 761—400.16(32 321), the applicant shall submit the required application forms and exhibits to the county treasurer. The vehicle and ownership documents shall be examined by the department. If the department determines that the motor vehicle complies with this rule, that the integral parts and components have been identified as to ownership, and that the application forms have been completed properly, the department shall assign an identification number to the vehicle and certify that the motor vehicle is eligible for titling and registration. If the frame specified on an application for a specially constructed or reconstructed motorcycle or motorized bicycle is designated “not for highway use,” the application shall not be approved. The exchange of compatible body parts does not constitute a specially constructed or reconstructed motorcycle or motorized bicycle. The removal, addition, or substitution of a reconstructed motorcycle or motorized bicycle part modifies the vehicle’s external appearance so that it does not reflect the original make or manufacturer model. EXEMPTION: The conversion of a manufactured motorcycle from two wheels to three-wheel operation by the addition or substitution of a bolt-on conversion kit shall not constitute a reconstructed motorcycle.

ITEM 4. Amend rule 761—450.6(321) as follows:

761—450.6(321) *Safety requirements for the movement of implements of husbandry on a roadway.* The following standards are minimum safety requirements for the movement of implements of husbandry on a roadway.

450.6(1) *Towing standard.* No power unit operated by a retail seller or manufacturer shall tow more than one implement of husbandry, except those implements of husbandry that are not self-propelled and are capable of being towed in tandem, from the manufacturer to the retail seller, from the retail seller to the farm purchaser, or from the manufacturer to the farm purchaser.

450.6(2) *Equipment standards.*

a. and b. No change.

c. *Lighting.* The towing or towed vehicle, the rearmost implement of husbandry being towed in tandem, or a self-propelled implement of husbandry shall be equipped with at least one rear taillight which exhibits a red light plainly visible from a distance of 500 feet to the rear. The rear taillight equipment standard may be met by the use and installation of a temporary rear taillight. If an implement of husbandry is being towed by a vehicle which is equipped with brake lights, the towed unit must also have brake lights, constructed and located on the implement of husbandry so as to give a signal of intention to stop. The light shall be red or yellow in color. The signal shall be plainly visible in normal

TRANSPORTATION DEPARTMENT[761](cont'd)

sunlight and at night from a distance of 100 feet to the rear and may be met by the use and installation of a temporary light.

d. Turn signal. The towing or towed vehicle, the rearmost implement of husbandry being towed in tandem, or a self-propelled implement of husbandry shall be equipped with a turn-signal device that operates in conjunction with or separately from the rear taillight. The signal shall be plainly visible and understandable from a distance of 100 feet to the rear. The turn-signal device equipment standard may be met by the use and installation of a temporary turn-signal device.

e. to g. No change.

This rule is intended to implement Iowa Code section 321.383.

USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph "a," the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

April 1, 2016 — April 30, 2016	3.75%
May 1, 2016 — May 31, 2016	4.00%
June 1, 2016 — June 30, 2016	3.75%
July 1, 2016 — July 31, 2016	3.75%
August 1, 2016 — August 31, 2016	3.75%
September 1, 2016 — September 30, 2016	3.50%
October 1, 2016 — October 31, 2016	3.50%
November 1, 2016 — November 30, 2016	3.75%
December 1, 2016 — December 31, 2016	3.75%
January 1, 2017 — January 31, 2017	4.25%
February 1, 2017 — February 28, 2017	4.50%
March 1, 2017 — March 31, 2017	4.50%
April 1, 2017 — April 30, 2017	4.50%

ARC 3002C

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Adopted and Filed

Pursuant to the authority of Iowa Code section 8A.104(5), the Department of Administrative Services hereby amends Chapter 41, "Auditing Claims," Iowa Administrative Code.

The Department of Administrative Services/State Accounting Enterprise (DAS/SAE) seeks a wording and procedure update in rule 11—41.1(8A) concerning wording on the Authorized Signature Form and the Pre-auditor's Authorized Signature Form. The amendment to subrule 41.1(1) includes replacing the word "signatures" with "signators" and removing provisions regarding a rubber-stamped signature and the need to sign or initial the rubber stamp by the employee authorized to use the rubber stamp. The amendment also replaces the words "social security number" with "vendor/customer code" to reflect best practices in protecting employees', vendors' and customers' confidential information.

In February 2016, a DAS/SAE Form Transition Lean Event was held to identify efficiencies for two forms, the Authorized Signature Form and the Pre-auditor's Authorized Signature Form. As a result, a new transmission process for all three branches of Iowa state government was developed for the two forms, beginning with the approval process, through the transmission stage, to the final stage of Department approval (or disapproval).

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2790C** on October 26, 2016. No public comment was received. No changes were made to the amendment published under Notice.

While the amendment will result in operational efficiency, the fiscal impact is both indeterminable and believed minimal.

The Department does not intend to grant waivers under the provisions of these rules, other than as may be allowed under the Department's general rules concerning waivers.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code sections 8A.514 and 17A.4.

This amendment will become effective May 3, 2017.

The following amendment is adopted.

Amend subrule 41.1(1) as follows:

41.1(1) *Submission of claims and approval.* All claims shall be typewritten, or written in ink, and be itemized and certified by the claimant.

EXCEPTION: The claimant's certification is not needed when the original invoice is attached to the claim. The original invoice shall indicate in detail the items of service, expense, thing furnished, or contract upon which payment is sought.

Approval of the claim shall be certified thereon by the head of the state agency, or the deputy, or the chair of the board or commission or its executive officer, or by a person delegated by the head of the state agency to fulfill this responsibility. A list of authorized ~~signatures~~ signators shall be provided to the department of administrative services, state accounting enterprise. ~~If a rubber stamp signature is used, the claim shall be signed or initialed by the employee authorized to use the rubber stamp.~~

All travel claims submitted shall be the actual expense incurred (not exceeding maximum limitations) by the claimant, and shall not include expenses paid for other individuals, or for the purchase of miscellaneous items which are not needed in the performance of official duties while traveling. All travel vouchers shall contain the ~~social security number~~ vendor/customer code of the employee or other individual identification (with prior written approval by the department of administrative services, state accounting enterprise).

All claims shall show in the space provided the Iowa Code reference for the appropriation or fund from which the claim is payable.

When an original invoice is submitted by a vendor, rather than the claimant signing the voucher, the vendor shall provide the state agency with an original invoice that the vendor would use in the normal conduct of its business. A state agency shall not impose additional or different requirements

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

on submission of invoices than those contained in these rules unless the department of administrative services, state accounting enterprise, exempts the agency from these invoice requirements upon a finding that compliance would result in poor accounting or management practices.

[Filed 3/9/17, effective 5/3/17]

[Published 3/29/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/29/17.

ARC 3003C**ADMINISTRATIVE SERVICES DEPARTMENT[11]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 8A.104(5), the Administrative Services Department hereby amends Chapter 57, "Appointments," Iowa Administrative Code.

Rule 11—57.6(8A) outlines procedures for internship appointments. The amendment to the rule involves allowing for successful completion of an internship appointment to be done in at least 480 hours, instead of 90 calendar days. The amendment aligns subrule 57.6(3) with subparagraph 54.2(4)"a"(3). Subparagraph 54.2(4)"a"(3) was amended to specify an hourly measure rather than a daily measure because of confusion as to how many hours made up one calendar day's worth of work. Rule 11—57.6(8A) was not changed at the same time. This amendment converts 90 calendar days to 480 hours and reduces the number of days for successful completion of an internship with the State of Iowa by 30 days.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2794C** on November 9, 2016. No public comment was received. No changes were made to the amendment published under Notice.

There is no fiscal impact to the State. Many internships are unpaid positions. The Department does not have reliable data by which to gauge the impact on paid internships.

The Department does not intend to grant waivers under the provisions of these rules, other than as may be allowed under the Department's general rules concerning waivers.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 8A.402(1)"e."

This amendment will become effective May 3, 2017.

The following amendment is adopted.

Amend subrule 57.6(3) as follows:

57.6(3) Successful completion of an internship appointment of at least ~~90 calendar days~~ 480 hours shall authorize the appointee to be on promotional or all-applicant lists. Only persons formally enrolled in the department's intern development program are eligible to be on promotional lists. Successful completion shall be as determined by the director at the time of enrollment.

[Filed 3/9/17, effective 5/3/17]

[Published 3/29/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/29/17.

ARC 3004C**ECONOMIC DEVELOPMENT AUTHORITY[261]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 15.106A and Iowa Code section 15.321 as created by 2016 Iowa Acts, chapter 1065, division II, the Iowa Economic Development Authority (IEDA) hereby

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adopts new Chapter 81, “Renewable Chemical Production Tax Credit Program,” Iowa Administrative Code.

This amendment creates a new chapter of rules governing the administration of the Renewable Chemical Production Tax Credit Program. The program was created by 2016 Iowa Acts, chapter 1065. The new chapter provides for the administration of the program by IEDA and governs eligibility requirements, the application process and application review, the agreement, calculation of the tax credit, administration of the tax credit wait list, the process for claiming the credit, and the process to add additional building block chemicals by administrative rule.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2867C** on December 21, 2016. The Authority did not receive any written or oral comments on the rules. However, after further review and discussion with stakeholders regarding the tax credit claim process, the Authority has decided to make clarifying edits to subrule 81.3(2) and to subrule 81.6(1) by adding a new paragraph 81.6(1)“c.” These edits clarify that an eligible business may only claim up to the maximum amount of tax credit set forth in rule 261—81.6(15), even if the business has ownership interests in multiple facilities or businesses that are eligible for the credit.

The Economic Development Authority Board adopted these rules at its meeting held on February 17, 2017.

This rule making does not have any fiscal impact to the state of Iowa. While the tax credit program itself will have a fiscal impact, 2016 Iowa Acts, chapter 1065, division I, reduced the award cap for the High Quality Jobs Program by \$25 million each year for the next five fiscal years, bringing the net fiscal impact of the bill to zero.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code sections 15.315 through 15.322.

This amendment will become effective on May 3, 2017.

The following amendment is adopted.

Adopt the following **new** 261—Chapter 81:

CHAPTER 81
RENEWABLE CHEMICAL PRODUCTION TAX CREDIT PROGRAM

261—81.1(15) Purpose. The purpose of this chapter is to encourage development of the renewable chemicals industry and stimulate job growth using the renewable chemical production tax credit program to incentivize new and existing businesses to produce high-value renewable chemicals in Iowa from biomass feedstock.

261—81.2(15) Definitions. As used in this chapter, the following definitions shall apply:

“*Authority*” means the economic development authority created in Iowa Code section 15.105.

“*Authority’s Web site*” means the information and related content found at www.iowaeconomicdevelopment.com/ and may include integrated content at affiliate sites.

“*Biobased content percentage*” means, with respect to any renewable chemical, the amount, expressed as a percentage, of renewable organic material present as determined by testing representative samples using the American Society for Testing and Materials standard D6866.

“*Biomass feedstock*” means sugar, polysaccharide, crude glycerin, lignin, fat, grease, or oil derived from a plant or animal, or a protein capable of being converted to a building block chemical by means of a biological or chemical conversion process.

“*Board*” means the members of the economic development authority board appointed by the governor and in whom the powers of the authority are vested pursuant to Iowa Code section 15.105.

“*Building block chemical*” means a molecule converted from biomass feedstock as a first product or a secondarily derived product that can be further refined into a higher-value chemical, material, or consumer product. “Building block chemical” includes but is not limited to high-purity glycerol, oleic acid, lauric acid, methanoic or formic acid, arabonic acid, erythronic acid, glyceric acid, glycolic acid, lactic acid, 3-hydroxypropionate, propionic acid, malonic acid, serine, succinic acid, fumaric

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acid, malic acid, aspartic acid, 3-hydroxybutyrolactone, acetoin, threonine, itaconic acid, furfural, levulinic acid, glutamic acid, xylonic acid, xylaric acid, xylitol, arabitol, citric acid, aconitic acid, 5-hydroxymethylfurfural, lysine, gluconic acid, glucaric acid, sorbitol, gallic acid, ferulic acid, nonfuel butanol, nonfuel ethanol, or such additional molecules as may be included by the authority following the procedure in rule 261—81.8(15).

“*Crude glycerin*” means glycerin with a purity level below 95 percent.

“*Director*” means the director of the economic development authority or the director’s designee.

“*Eligible business*” means a business meeting the requirements of rule 261—81.3(15).

“*Food additive*” means a building block chemical that is not primarily consumed as food but which, when combined with other components, improves the taste, appearance, odor, texture, or nutritional content of food. The authority, in its discretion, shall determine whether or not a building block chemical is primarily consumed as food.

“*High-purity glycerol*” means glycerol with a purity level of 95 percent or higher.

“*Pre-eligibility production threshold*” means, with respect to each eligible business, the number of pounds of renewable chemicals produced, if any, by an eligible business during the calendar year prior to the calendar year in which the business first qualified as an eligible business pursuant to rule 261—81.3(15).

“*Production year*” means any calendar year after the year in which the eligible business’s pre-eligibility production threshold was established and in which the eligible business produces renewable chemicals.

“*Program*” means the renewable chemical production tax credit program administered pursuant to this chapter.

“*Renewable chemical*” means a building block chemical with a biobased content percentage of at least 50 percent. “Renewable chemical” does not include a chemical sold or used for the production of food, feed, or fuel. “Renewable chemical” includes cellulosic ethanol, starch ethanol, or other ethanol derived from biomass feedstock, fatty acid methyl esters, or butanol, but only to the extent that such molecules are produced and sold for uses other than food, feed, or fuel. “Renewable chemical” also includes a building block chemical that can be a food additive as long as the building block chemical is not primarily consumed as food and is also sold for uses other than food. “Renewable chemical” also includes supplements, vitamins, nutraceuticals, and pharmaceuticals, but only to the extent that such molecules do not provide caloric value so as to be considered sustenance as food or feed.

“*Sugar*” means the organic compound glucose, fructose, xylose, arabinose, lactose, sucrose, starch, cellulose, or hemicellulose.

261—81.3(15) Eligibility requirements. To be eligible to receive the renewable chemical production tax credit pursuant to the program, a business shall meet all of the following requirements:

81.3(1) Physical location. The business must have a facility that produces renewable chemicals and is physically located in the state of Iowa. If a business has facilities located in more than one state, only those renewable chemicals produced at facilities physically located in the state of Iowa may be counted for the purpose of calculating the tax credit under subrule 81.6(1).

81.3(2) Operated for profit and under single management. The business must be operated for profit and under single management. For purposes of this rule, “single management” means that if the same eligible business has an ownership or equity interest in multiple facilities at which renewable chemicals are produced, the facilities under common ownership will be considered a single eligible business for purposes of calculating the maximum tax credit amount under rule 261—81.6(15). In calculating the maximum tax credit amount under rule 261—81.6(15), only the pro rata share of each eligible business’s ownership in a facility will be attributed to that eligible business.

81.3(3) Type of business. The business may not be an entity providing professional services, health care services, or medical treatments or an entity engaged primarily in retail operations.

81.3(4) Organization. The business must have organized, expanded, or located in the state on or after April 6, 2016.

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81.3(5) *Not reducing operations.* The business shall not be relocating or reducing operations as described in Iowa Code section 15.329(1) “b” and as determined under the discretion of the authority.

81.3(6) *Compliance.* The business must be in compliance with all agreements entered into under this program or other programs administered by the authority.

261—81.4(15) Application process and review.

81.4(1) An eligible business that produces a renewable chemical in this state from biomass feedstock during a calendar year may apply to the authority for the renewable chemical production tax credit.

81.4(2) The application shall be made to the authority in the manner prescribed by the authority. Information about the program and a link to the online application and instructions may be obtained by contacting the authority or by visiting the authority’s Web site:

Iowa Economic Development Authority
Business Development Division
200 East Grand Avenue
Des Moines, Iowa 50309
(515)725-3000
www.iowaeconomicdevelopment.com/

81.4(3) The application shall be made to the authority during the calendar year following the calendar year in which the renewable chemicals were produced. For example, an eligible business may submit an application in calendar year 2018 to receive a tax credit based on renewable chemicals produced in calendar year 2017.

81.4(4) The application may be submitted to the authority electronically during the annual filing window. This filing window shall be from February 15 to March 15 of each calendar year. The authority may adjust the annual filing window dates under extenuating circumstances and will notify affected parties of such circumstances.

81.4(5) The application shall include all of the following information:

- a. The name of the qualifying building block chemical produced by the eligible business for which the business is claiming a tax credit.
- b. The amount of renewable chemicals produced in the state from biomass feedstock by the eligible business during the calendar year, measured in pounds.
- c. The amount of renewable chemicals produced in the state from biomass feedstock by the eligible business during the calendar year prior to the year in which the business first qualified as an eligible business under the program.
- d. The city or county where the plant producing renewable chemicals is located.
- e. The type of feedstock used to produce the renewable chemicals.
- f. The date on which the eligible business organized, expanded or located in the state.
- g. Any other information reasonably required by the authority in order to establish and verify eligibility under the program.

81.4(6) Applications will be reviewed by the authority on a first-come, first-served basis as described in subrule 81.6(5). Applications shall be date- and time-stamped by the authority in the order in which such applications are received. If the authority deems that additional information is needed before a determination of eligibility can be made, and the authority makes a written request for additional information from the applicant, the applicant must provide the requested information within 30 days of the date that the written request from the authority was made. If an applicant does not provide the requested information within 30 days, the applicant will be placed at the end of the queue of applications received. The authority shall review the queue of applications for eligibility and maintain a list of successful applicants as required by subrule 81.6(5).

81.4(7) The authority shall notify an applicant when the applicant has been placed on the list of successful applicants.

- a. For applicants on the list for whom there are sufficient tax credits available in the aggregate cap for the fiscal year, the applicant must sign the agreement within 60 days of being notified of eligibility

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for the tax credit. Upon request by the applicant, the authority may extend the time period for signing the agreement by an additional 30 days.

b. For applicants on the wait list established in subrule 81.6(5), the authority shall notify the applicant of the applicant's status and position on the wait list.

261—81.5(15) Agreement.

81.5(1) Agreement. Before being issued a tax credit pursuant to this chapter, an eligible business shall enter into an agreement with the authority for the successful completion of all requirements of the program. As part of the agreement, and as a condition of receiving the tax credit, the eligible business shall agree to collect and provide any information reasonably required by the authority in order to allow the board to fulfill the board's reporting obligation under Iowa Code section 15.320.

81.5(2) Fees. The compliance cost fees authorized in rule 261—187.6(15) shall apply to all agreements entered into under this program and shall be collected by the authority in the same manner and to the same extent as described in that rule.

81.5(3) Requirements. An eligible business shall fulfill all the requirements of the program and the agreement before receiving a tax credit or entering into a subsequent agreement under this rule. The authority may decline to enter into a subsequent agreement under this rule or to issue a tax credit if an agreement is not successfully fulfilled.

81.5(4) Issuance of credit. Upon establishing that all requirements of the program and the agreement have been fulfilled, the authority shall issue a tax credit and related tax credit certificate to the eligible business stating the amount of renewable chemical production tax credit the eligible business may claim. The amount of the tax credit shall not exceed the amount allowable under rule 261—81.6(15).

261—81.6(15) Renewable chemical production tax credit.

81.6(1) Calculation of tax credit amount. An eligible business that has entered into an agreement pursuant to rule 261—81.5(15) may be issued a tax credit in an amount equal to the product of five cents multiplied by the number of pounds of renewable chemicals produced in this state from biomass feedstock by the eligible business during a given production year.

a. The maximum amount of tax credit that may be issued under the program to an eligible business for the production of renewable chemicals in a calendar year shall not exceed the following:

(1) In the case of an eligible business that has been in operation in the state for five years or less at the time of application, \$1 million.

(2) In the case of an eligible business that has been in operation in the state for more than five years at the time of application, \$500,000.

b. For purposes of this subrule, "operation" begins on the date the eligible business first began commercial production.

c. If an eligible business has been in operation in the state for five years or less at the time of application but is more than fifty percent owned by an eligible business that has been in operation in the state for more than five years, then that eligible business will be considered in operation in the state for more than five years pursuant to subparagraph 81.6(1) "a"(2).

81.6(2) Eligible business only. An eligible business shall not receive a tax credit for renewable chemicals produced before the date the business first qualified as an eligible business pursuant to rule 261—81.3(15).

81.6(3) Production above pre-eligibility production threshold. An eligible business shall only receive a tax credit for renewable chemicals produced in a calendar year to the extent such production exceeds the eligible business's pre-eligibility production threshold as defined in rule 261—81.2(15). For example, if an eligible business produces 3 million pounds of renewable chemicals during calendar year 2016 and first becomes an eligible business under this chapter in calendar year 2017, the pre-eligibility production threshold for the business is 3 million pounds. If the same eligible business produces 10 million pounds of renewable chemicals during calendar year 2017, the eligible business may only receive a tax credit for the amount produced over the pre-eligibility production threshold, which in this example equals 7 million pounds.

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81.6(4) *Maximum number of credits.* An eligible business shall not receive more than five tax credits under the program. Each tax credit must be applied for separately, and each application will be reviewed independently of past tax credits. Receipt of a tax credit in one year does not guarantee receipt of a tax credit in a subsequent year.

81.6(5) *Tax credit wait list.*

a. The authority shall issue tax credits under the program on a first-come, first-served basis until the maximum amount of tax credits allocated pursuant to Iowa Code section 15.119(2) “h” is reached for any given fiscal year. The authority shall maintain a list of successful applicants under the program, so that if the maximum aggregate amount of tax credits is reached in a given fiscal year, eligible businesses that successfully applied but for which tax credits were not issued shall be placed on a wait list in the order the eligible businesses applied and shall be given priority for receiving tax credits in succeeding fiscal years.

b. Placement on a wait list pursuant to this subrule shall not constitute a promise binding the state. The availability of a tax credit and issuance of a tax credit certificate pursuant to this rule in a future fiscal year is contingent upon the availability of tax credits in that particular fiscal year.

81.6(6) *Termination and repayment.* The failure by an eligible business in fulfilling any requirement of the program or any of the terms and obligations of an agreement entered into pursuant to this chapter may result in the reduction, termination, or rescission of the tax credits under Iowa Code section 15.319 and may subject the eligible business to the repayment or recapture of tax credits claimed. The repayment or recapture of tax credits pursuant to Iowa Code section 15.319(4) shall be accomplished in the same manner as provided in Iowa Code section 15.330(2).

81.6(7) *Issuance of credit.* The authority shall not issue a tax credit certificate prior to July 1, 2018.

261—81.7(15) Claiming the tax credit.

81.7(1) *Maximum tax credit claimed.* An eligible business that has entered into an agreement pursuant to rule 261—81.5(15) may claim a tax credit in an amount equal to the product of five cents multiplied by the number of pounds of renewable chemicals produced in this state from biomass feedstock by the eligible business during a given production year within the limits set forth in rule 261—81.6(15). An eligible business may claim a tax credit for the production of more than one qualifying renewable chemical under this chapter, provided that the total tax credit claimed by the eligible business does not exceed the limits set forth in subrule 81.6(1). However, an eligible business shall not receive a tax credit for the production of a secondarily derived building block chemical if that chemical is also the subject of a credit at the time of production as a first product. The renewable chemical production tax credit shall not be available for any renewable chemical produced before the 2017 calendar year or after the 2026 calendar year.

81.7(2) *Who may claim the credit.* The tax credit shall be allowed against taxes imposed under Iowa Code chapter 422, division II or III. The tax credit shall be claimed for the tax year during which the eligible business was issued the tax credit. An individual may claim a tax credit under this chapter of a partnership, limited liability company, S corporation, cooperative organized under Iowa Code chapter 501 and filing as a partnership for federal tax purposes, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual’s earnings from the partnership, limited liability company, S corporation, cooperative, estate, or trust.

a. To claim a tax credit under this rule, a taxpayer shall include one or more tax credit certificates with the taxpayer’s tax return.

b. The tax credit certificate shall contain the taxpayer’s name, address, and tax identification number, the amount of the credit, the name of the eligible business, and any other information required by the department of revenue.

c. The tax credit certificate, unless rescinded by the authority, shall be accepted by the department of revenue as payment for taxes imposed pursuant to Iowa Code chapter 422, divisions II and III, subject to any conditions or restrictions placed by the authority upon the face of the tax credit certificate and subject to the limitations of the program.

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81.7(3) Refundability. Any tax credit in excess of the tax liability is refundable. In lieu of claiming a refund, the taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following tax year.

81.7(4) Transferability. Tax credit certificates issued pursuant to this chapter shall not be transferred to any other person.

261—81.8(15) Process to add building block chemicals.

81.8(1) General process. The authority may add additional molecules to the definition of "building block chemical" in rule 261—81.2(15) pursuant to Iowa Code section 15.316. The authority may initiate the administrative rule-making process for the addition of such molecules to this chapter.

81.8(2) Request to include additional molecules. Any individual or business may request that an additional molecule be added to the definition of "building block chemical" by submitting a written request to the authority. Such requests shall be made in the form prescribed by the authority and shall be submitted to the authority during the filing windows prescribed by the authority. At a minimum, the authority shall accept requests between April 1 and May 1 of each calendar year and October 1 and November 1 of each calendar year. The authority may adjust these dates under extenuating circumstances and will notify affected parties of such circumstances.

81.8(3) Consultation with experts. Prior to initiating a rule making to add molecules to the definition of "building block chemical" in rule 261—81.2(15), the authority shall consult with appropriate experts from Iowa state university, including but not limited to the Iowa state university center for biorenewable chemicals. The authority shall conduct an initial staff review of any requests received by the authority pursuant to subrule 81.8(2). Following the initial staff review, the authority shall consult with the experts at Iowa state university regarding the molecules that the authority believes are consistent with the definitions under this chapter. The experts at Iowa state university shall provide a written recommendation to the authority indicating which chemicals, in the experts' opinion, meet the definition of "building block chemical" consistent with this chapter.

81.8(4) Initiation of rule-making proceedings. Following the consultation and review process set forth in subrule 81.8(3), the authority may initiate the administrative rule-making process to amend the definition of "building block chemical" to add molecules which the authority, in the authority's sole discretion, finds to be consistent with the definitions in this chapter.

261—81.9(15) Additional information—confidentiality—annual report.

81.9(1) Additional information. The authority may at any time request additional information and documentation from an eligible business regarding the operations, job creation, and economic impact of the eligible business, and the authority may use the information in preparing and publishing any reports to be provided to the governor and the general assembly.

81.9(2) Confidential information. Except as provided in subrule 81.9(3), any information or record in the possession of the authority with respect to the program shall be presumed by the authority to be a trade secret protected under Iowa Code chapter 550 or common law and shall be kept confidential by the authority unless otherwise ordered by a court.

81.9(3) Public information. The identity of a tax credit recipient and the amount of the tax credit shall be considered public information under Iowa Code chapter 22.

These rules are intended to implement Iowa Code sections 15.315 to 15.322.

[Filed 3/10/17, effective 5/3/17]

[Published 3/29/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/29/17.

ARC 3005C**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services hereby amends Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Iowa Administrative Code.

These amendments change the requirement for a review of the treatment plan for home health services to be conducted every 60 days instead of every 62 days to conform to federal regulations, 42 CFR 440.

These amendments also define the time frame in which a face-to-face encounter between a physician or certain nonphysician practitioners and a member must occur for home health services to be received.

These amendments rescind the subrule on medical social services. Medical social services are not included in the Medicaid state plan amendment and are no longer needed due to the managed care organizations. The care coordination, case management and targeted case management services are already provided to those members who are eligible for mental health supports available through fee for service.

Finally, these amendments change the term “mental retardation” to “intellectual disability.”

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2897C** on January 18, 2017. The Department did not receive any comments during the public comment period. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on March 8, 2017.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217). After analysis and review of this rule making, no impact on jobs has been found.

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

These amendments will become effective May 3, 2017.

The following amendments are adopted.

ITEM 1. Amend subrule 78.9(1) as follows:

78.9(1) Treatment plan. A plan of treatment shall be completed prior to the start of care and at a minimum reviewed every ~~62~~ 60 days thereafter. There must be a face-to-face encounter between a physician, a nurse practitioner, a clinical nurse specialist, a certified nurse-midwife, or a physician assistant and the Medicaid member no more than 90 days before or 30 days after the start of service. The plan of care shall support the medical necessity and intensity of services to be provided by reflecting the following information:

- a. to i.* No change.
- j.* Certification period (no more than ~~62~~ 60 days).
- k. and l.* No change.

ITEM 2. Rescind and reserve subrule **78.9(8)**.

ITEM 3. Amend subparagraph **78.9(9)“c”(4)** as follows:

(4) Preexisting mental or physical disabilities such as deaf, blind, ~~hemiplegic hemiplegic~~, activity-limiting disease, sickle cell anemia, uncontrolled hypertension, uncontrolled diabetes, mental illness, or ~~mental retardation~~ intellectual disability.

ITEM 4. Amend subparagraph **78.9(9)“d”(6)** as follows:

(6) Genetic disorders, such as Down’s syndrome, and phenylketonuria or other metabolic conditions that may lead to ~~mental retardation~~ intellectual disability.

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ITEM 5. Amend subparagraph **78.9(9)“e”(2)** as follows:
 (2) ~~Mental retardation~~ Intellectual disability or other physical disabilities necessitating long-term follow-up or major readjustments in family lifestyle.

[Filed 3/8/17, effective 5/3/17]

[Published 3/29/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/29/17.

ARC 3006C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 249A.4 and 249A.4B, the Department of Human Services hereby amends Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

This amendment to Chapter 79 clarifies the roles, responsibilities and membership of the Medical Assistance Advisory Council (MAAC) in accordance with Iowa Code section 249A.4B, which was amended by 2016 Iowa Acts, chapter 1139, section 99, by rescinding the existing rule pertaining to the MAAC and adopting a new rule that:

- Replaces the chairperson and vice-chairperson positions with co-chairperson positions.
- Adds criteria for the co-chairperson who is a public member of the MAAC, including criteria relating to:
 - Election of the “public” co-chairperson.
 - The public co-chairperson’s term of office.
 - The voting rights of the public co-chairperson.
- Clarifies that the responsibilities of the co-chairpersons are to:
 - Create the council meeting agenda in consultation with Department staff.
 - Appoint members to committees approved by the council.
- Clarifies the membership of the council and the members’ terms of service.
- Designates public members and professional and business members as voting members.
- Designates partner agency and medical school representatives as nonvoting members.
- Clarifies the process for electing council members to fill executive committee vacancies.
- Clarifies the membership and terms of service of the executive committee.
- Clarifies that the responsibilities of the Department are to:
 - Provide clerical support to arrange for MAAC meetings.
 - Provide reports, data, and proposed rule amendments for comment.
 - Present the annual budget.
 - Grant access to internal-policy subject matter experts.
 - Maintain the current list of council members and executive committee members.
 - Organize committee meetings.
 - Maintain meeting minutes.
- Provides clarification that written notice of council meetings shall be electronically mailed at least five business days in advance of the meeting. Each notice shall include an agenda for the meeting. The final agenda will be distributed no later than 24 hours prior to the meeting.
 - Provides council procedures regarding topics for review and consideration.
 - Clarifies the executive committee’s responsibility to make recommendations to the Director regarding the budget, policy, and administration of the medical assistance program.
 - Clarifies that council procedures apply to both the executive committee and the council.
 - Adds a requirement that the council regularly review Medicaid managed care.

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- Adds a requirement that the council submit an executive summary of pertinent information regarding deliberations during the prior year relating to Medicaid managed care to the Department no later than November 15 annually.
- Adds a requirement that the council submit to the chairpersons and ranking members of the human resources committees of the Senate and House of Representatives and to the chairpersons and ranking members of the Joint Appropriations Subcommittee on Health and Human Services, on a quarterly basis, minutes of the council meetings during which the council addressed Medicaid managed care.
- Adds a requirement that the council review the recommendations submitted by the executive committee regarding feedback received at the IA Health Link statewide public comment meetings outlined in 2016 Iowa Acts, chapter 1139, section 102.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2899C** on January 18, 2017. The Department received no comments during the public comment period. This amendment is identical to the one published under Notice of Intended Action.

The Council on Human Services adopted this amendment on March 8, 2017.

This amendment does not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code sections 249A.4 and 249A.4B.

This amendment will become effective June 1, 2017.

The following amendment is adopted.

Rescind rule 441—79.7(249A) and adopt the following **new** rule in lieu thereof:

441—79.7(249A) Medical assistance advisory council.

79.7(1) Officers.

a. Definitions.

“*Co-chairpersons*” means the public health director co-chairperson and the public co-chairperson.

“*Public co-chairperson*” means the individual selected by the other publicly appointed members of the council to serve as a co-chairperson of the council.

“*Public health director co-chairperson*” means the director of the department of public health, who serves as a co-chairperson of the council.

b. The public co-chairperson's term of office shall be two years. A public co-chairperson shall serve no more than two consecutive terms.

c. The public co-chairperson shall have the right to vote on any issue before the council. The public health director co-chairperson serves as a nonvoting member of the council.

d. The position of public co-chairperson shall be held by one of the ten publicly appointed council members. Ballots will be distributed to the public council members at the quarterly meeting closest to the beginning of the next state fiscal year and will be collected in paper and electronic format and administered by department of human services staff.

e. The co-chairpersons shall appoint members to other committees approved by the council.

f. The co-chairpersons shall also serve on the executive committee and will serve as the co-chairpersons of that committee.

g. Responsibilities.

(1) The co-chairpersons shall be responsible for development of the agendas for meetings of the full council. Agendas will be developed and distributed in compliance with the advance notice requirements of Iowa Code section 21.4. Agendas will be developed in consultation with the staff and director of human services, taking into consideration the following:

1. **Workplans.** Items will be added to the council's agenda as various tasks for the council are due to be discussed based on calendar requirements. Council deliberations are to be conducted within a time frame to allow the executive committee to receive the council's feedback and make recommendations to the director and for the director to consider those recommendations as budgets and policy for the medical

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assistance program are developed for the review of the council on human services and the governor, as well as for the upcoming legislative session.

2. Requests from the director of human services.

3. Discussion and action items from council members. The co-chairpersons will review any additional suggestions from council members at any time, including after the draft agenda has been distributed. The agenda will be distributed in draft form five business days prior to the council meeting, and the final agenda will be distributed no later than 24 hours prior to the council meeting.

(2) The co-chairpersons shall preside over all council and executive committee meetings, calling roll, determining a quorum, counting votes, and following the agenda for the meeting.

(3) The co-chairpersons shall consult with the department of human services on other administrative tasks to oversee the council and shall participate in workgroups and subcommittees as appropriate.

79.7(2) Membership. The membership of the council and its executive committee shall be as prescribed at Iowa Code sections 249A.4B(2), 249A.4B(3), and 249A.4B(4a).

a. Council membership.

(1) Council membership of professional and business entities shall consist of those entities outlined in Iowa Code section 249A.4B(2). Professional and business entities shall identify their representatives and report information to the department of human services.

1. If an entity's representative does not attend more than three consecutive meetings, the department of human services will notify the entity and representative and verify whether an alternate contact is needed.

2. Professional and business entities shall determine the length of appointment of their representatives. The department of human services will confirm each representative's participation every two years, regardless of the representative's meeting attendance.

3. All professional and business entities will be voting members of the council.

(2) Council membership of public representatives shall consist of ten representatives which may include members of consumer groups, including recipients of medical assistance or their families, consumer organizations, and others, appointed by the governor for staggered terms of two years each, none of whom shall be members of, or practitioners of, or have a pecuniary interest in any of the professional or business entities specifically represented in Iowa Code sections 249A.4B(2) and 249A.4B(3) and a majority of whom shall be current or former recipients of medical assistance or members of the families of current or former recipients. All public representatives will be voting members of the council.

(3) A member of the HAWK-I board, created in Iowa Code section 514I.5, selected by the members of the HAWK-I board, shall be a member of the council. The HAWK-I board member representative will be a voting member of the council.

(4) Council membership shall also consist of state agency and medical school partners, including representatives from the department of public health, the department on aging, the office of the long-term care ombudsman, Des Moines University and the University of Iowa College of Medicine.

1. Partner agency and medical school representatives will be nonvoting members of the council.

2. If an agency's or school's representative does not attend more than three consecutive meetings, the department of human services will notify the agency or school.

3. Partner agencies and medical schools shall determine the length of appointment of their representatives. The department of human services will confirm each representative's participation every two years, regardless of the representative's meeting attendance.

(5) The following members of the general assembly shall be members of the council, each for a term of two years as provided in Iowa Code section 69.16B. Members appointed from the general assembly will serve as nonvoting members of the council.

1. Two members of the house of representatives, one appointed by the speaker of the house of representatives and one appointed by the minority leader of the house of representatives from their respective parties.

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2. Two members of the senate, one appointed by the president of the senate after consultation with the majority leader of the senate and one appointed by the minority leader of the senate.

b. Executive committee membership. Executive committee membership shall consist of the following:

(1) Five professional and business entities identified in Iowa Code section 249A.4B(2). The entity, not the individual representative, is selected for membership on the executive committee. Each selected entity shall appoint its individual representative. Professional and business entities of the council vote to select the business and professional entities of the executive committee.

(2) Five individuals appointed to the council as public members, pursuant to Iowa Code section 249A.4B(2).

1. One of the five public member positions on the executive committee will be held by the co-chairperson identified in subrule 79.7(1).

2. At least one public member shall be a recipient of medical assistance.

3. Public members of the council vote to select the public members of the executive committee.

(3) The co-chairpersons identified in subrule 79.7(1), who shall serve as the co-chairpersons of the executive committee.

(4) The executive committee will be elected for two-year terms, beginning at the start of a state fiscal year.

1. All voting members of the council will be eligible for election to the executive committee, based on the criteria outlined in this paragraph.

2. Ballots will be distributed at the quarterly meeting closest to the beginning of the next state fiscal year and will be collected in paper and electronic format and administered by department of human services staff.

3. Should any vacancy occur on the executive committee, a special election will be held following the standards outlined in this paragraph.

4. Ballots should include the professional and business entity name but omit the name of the representative of the entity.

79.7(3) Responsibilities, duties and meetings. The responsibility of the medical assistance advisory council is to provide recommendations on the medical assistance program to the department of human services through the executive committee of the council.

a. Recommendations. Recommendations made by the executive committee from the council shall be advisory and not binding upon the department of human services or the professional and business entities represented. The director of the department of human services shall consider the recommendations in the director's preparation of medical assistance budget recommendations to the council on human services, pursuant to Iowa Code section 217.3 and implementation of medical assistance program policies.

b. Council. The council shall be provided with information to deliberate and provide input on the medical assistance program. The executive committee will use that input in making final recommendations to the department of human services.

(1) Council meetings.

1. The council will meet no more than quarterly.

2. Meetings may be called by the co-chairpersons; upon written request of at least 50 percent of members; or by the director of the department of human services.

3. Meetings shall be held in the Des Moines, Iowa, area unless other notification is given. Meetings will also be made available via teleconference, when available.

4. Written notice of council meetings shall be electronically mailed at least five business days in advance of the meeting. Each notice shall include an agenda for the meeting. The final agenda will be distributed no later than 24 hours prior to the meeting.

(2) The council shall advise the professional and business entities represented and act as liaison between them and the department.

(3) The council shall perform other functions as may be provided by state or federal law or regulation.

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(4) Pursuant to 2016 Iowa Acts, chapter 1139, section 93, the council shall regularly review Medicaid managed care. The council shall submit an executive summary of pertinent information regarding deliberations during the prior year relating to Medicaid managed care to the department of human services no later than November 15 annually.

(5) Pursuant to 2016 Iowa Acts, chapter 1139, section 94, the council shall submit to the chairpersons and ranking members of the human resources committees of the senate and house of representatives and to the chairpersons and ranking members of the joint appropriations subcommittee on health and human services, on a quarterly basis, minutes of the council meetings during which the council addressed Medicaid managed care.

(6) The council shall review the recommendations submitted by the executive committee regarding feedback received at the IA Health Link statewide public comment meetings outlined in 2016 Iowa Acts, chapter 1139, section 102.

c. Executive committee.

(1) Executive committee meetings.

1. The executive committee shall meet on a monthly basis.

2. Meetings may be called by the co-chairpersons; upon written request of at least 50 percent of executive committee members; or by the director of the department of human services.

3. Meetings shall be held in the Des Moines, Iowa, area unless other notification is given. Meetings will also be made available via teleconference, when available.

4. In a month when a council meeting is held, the executive committee shall meet after the council meeting, allowing committee members to discuss and make recommendations based on the topics discussed by council members.

(2) Based on the deliberations of the full council, the executive committee shall make recommendations to the director of human services regarding the budget, policy, and administration of the medical assistance program. Such recommendations may include:

1. Recommendations on the reimbursement for medical services rendered by providers of services.

2. Identification of unmet medical needs and maintenance needs which affect health.

3. Recommendations for objectives of the program and for methods of program analysis and evaluation, including utilization review.

4. Recommendations for ways in which needed medical supplies and services can be made available most effectively and economically to program recipients.

5. Advice on such administrative and fiscal matters as the director of human services may request.

(3) Pursuant to 2016 Iowa Acts, chapter 1139, section 102, the executive committee shall review the compilation of the input and recommendations from the public meetings convened statewide and shall submit recommendations based upon the compilation to the director of human services on a quarterly basis through December 31, 2017.

79.7(4) Procedures.

a. Procedures shall apply to both the council and the executive committee.

b. A quorum shall consist of 50 percent of the current voting members.

c. Where a quorum is present, a position is carried by two-thirds of the council members present.

d. Minutes of council meetings and other written materials developed by the council shall be distributed by the department to each member of the full council.

e. In cases not covered by these rules, Robert's Rules of Order shall govern.

79.7(5) Expenses, staff support, and technical assistance. Expenses of the council and executive committee, such as those for clerical services, mailing, telephone, and meeting place, shall be the responsibility of the department of human services. The department shall arrange for a meeting place, related services, and accommodations. The department shall provide staff support and independent technical assistance to the council and the executive committee.

a. The department shall provide reports, data, and proposed and final amendments to rules, laws, and guidelines to the council for its information, review, and comment.

b. The department shall present the annual budget for the medical assistance program for review and comment.

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- c. The department shall permit staff members to appear before the council to review and discuss specific information and problems.
- d. The department shall maintain a current list of members on the council and executive committee.
- e. The department shall be responsible for the organization of all council and executive committee meetings and notice of meetings.
- f. As required in Iowa Code section 21.3, minutes of the meetings of the council and of the executive committee will be kept by the department. The co-chairpersons will review minutes before distribution.
- g. The department shall compile input and recommendations received at the public meetings established in 2016 Iowa Acts, chapter 1139, section 102, and submit the information to the executive committee for review.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/29/17.

ARC 3007C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 234.6 and 237C.4, the Department of Human Services hereby rescinds Chapter 106, "Safety Standards for Children's Centers," and adopts a new Chapter 106, "Certification Standards for Children's Residential Facilities," Iowa Administrative Code.

These rules describe the certificate of approval process for a new children's residential setting created in 2016 Iowa Acts, Senate File 2304, which also enacted Iowa Code chapter 237C, "Children's Residential Facilities — Certification and Inspection," and repealed Iowa Code chapter 237B.

These rules provide governmental oversight to entities that operate residential-based programs serving children not under the jurisdiction of the Department of Human Services, juvenile court, or any other governmental entity but that do not have governmental oversight today. These rules address the basic health and educational needs of children; protection of children from mistreatment, abuse, and neglect; background and records checks of persons providing care to children in facilities certified under this chapter; the use of seclusion, restraint, or other restrictive interventions; health; safety; emergency; and the physical premises.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2918C** on February 1, 2017. The Department received comments from one respondent during the public comment period. A summary of the comments and the Department's response are as follows:

Comment: Amend the proposed administrative rule that currently says "No child over the age of five years shall occupy a bedroom with a member of the opposite sex" in order to avoid an interpretation of the rule that may place children in a manner that is discriminatory to transgender, gender nonconforming, and intersex children. The commenter provided substitute language that would give children a choice to be housed based on their gender identity and provided definitions of the related terms.

Department response: The proposed rule will not be changed at this time because the Department is not yet certain about what the most comprehensive and appropriate ways to serve these populations are. Related national and state discussions, policies, and court actions continue to cloud the issue.

However, the Department values this comment. The accompanying information will be used to inform Department policy development around this emerging subject. The Department strives to ensure that rules not only ensure nondiscrimination, but also promote best practice.

The Department is watching and learning how approaches to best serve transgender, gender nonconforming, and intersex children are evolving nationwide. Assessing the results of these actions is critical to Iowa policy development.

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These rules are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these rules on March 8, 2017.

These rules do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These rules are intended to implement Iowa Code section 234.6 and chapter 237C.

These rules will become effective May 3, 2017.

The following amendment is adopted.

Rescind 441—Chapter 106 and adopt the following new chapter in lieu thereof:

CHAPTER 106

CERTIFICATION STANDARDS FOR CHILDREN'S RESIDENTIAL FACILITIES

PREAMBLE

It is the policy of this state to provide appropriate protection for children who are separated from the direct personal care of their parents, relatives, or guardians. Therefore, the intent of this chapter is to establish certification standards for facilities that meet the definition of "children's residential facility" pursuant to Iowa Code chapter 237C. Iowa Code chapter 237C requires the department to establish standards that shall, at a minimum, address the basic health and educational needs of children; protection of children from mistreatment, abuse, and neglect; background and records checks of persons providing care to children in facilities certified under this chapter; the use of seclusion, restraint, or other restrictive interventions; health; safety; emergency; and the physical premises on which care is provided by a children's residential facility.

Iowa Code chapter 237C specifies that the standards established by the department shall not regulate religious education curricula at children's residential facilities.

These rules cover definitions, application of the standards, the certification process, and provisions to address basic needs; educational programs and services; protection of children from mistreatment, abuse, and neglect; discipline; background and records checks of persons providing care to children in facilities certified under this chapter; the use of seclusion, restraint, or other restrictive interventions; health; safety; emergencies; the physical premises where care is provided by a children's residential facility; sanitation, water, and waste disposal; staffing; and reports and inspections.

441—106.1(237C) Definitions.

"Administrator" means the administrator of that division of the department designated by the director of human services to administer this chapter or the administrator's designee.

"Agency," unless otherwise provided by law, means an individual, corporation, limited liability company, business trust, estate, trust, partnership or association, or any other legal entity which provides care as a children's residential facility.

"Chemical restraint" means the use of chemical agents, including psychotropic drugs, as a form of restraint.

"Child" or *"children"* means an individual or individuals less than 18 years of age.

"Children's residential facility" means a private facility designed to serve children who have been voluntarily placed for reasons other than an exclusively recreational activity outside of their home by a parent or legal guardian and who are not under the custody or authority of the department of human services, juvenile court, or another governmental agency, that provides 24-hour care, including food, lodging, supervision, education, or other care on a full-time basis by a person other than a relative or guardian of the child, but does not include an entity providing any of the following:

1. Care furnished by an individual who receives the child of a personal friend as an occasional and personal guest in the individual's home, free of charge and not as a business.

2. Care furnished by an individual with whom a child has been placed for lawful adoption, unless that adoption is not completed within two years after placement.

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3. Child care furnished by a child care facility as defined in Iowa Code section 237A.1.
4. Care furnished in a hospital licensed under Iowa Code chapter 135B or care furnished in a health care facility as defined in Iowa Code section 135C.1.
5. Care furnished by a juvenile detention home or juvenile shelter care home approved under Iowa Code section 232.142.
6. Care furnished by a child foster care facility licensed under Iowa Code chapter 237.
7. Care furnished by an institution listed in Iowa Code section 218.1.
8. Care furnished by a facility licensed under Iowa Code chapter 125.
9. Care furnished by a psychiatric medical institution for children licensed under Iowa Code chapter 135H.

“Control room” means a locked room used for treatment purposes.

“Department” means the Iowa department of human services.

“Mechanical restraint” means restriction of a child’s mobility or ability to use the child’s hands, arms, or legs by the use of a mechanical device.

“Physical restraint” means direct physical contact required on the part of a staff member to prevent a child from hurting self, others, or property.

“Prone restraint” means a physical restraint in which a child is held face down on the floor.

“Staff” means any person providing care or services to or on behalf of the facility whether the person is an employee of the facility, an independent contractor or any other person who contracts with the facility, an employee of an independent contractor or any other person who contracts with the facility, or a volunteer.

441—106.2(237C) Application of the standards. These rules shall apply to all facilities that meet the definition of “children’s residential facility” pursuant to Iowa Code chapter 237C. In the event that a children’s residential facility is also subject to licensure, certification, registration, or regulation pursuant to another provision of law, those legal requirements shall take precedence over these rules.

441—106.3(237C) Application for a certificate of approval. A person shall not operate a children’s residential facility without a certificate of approval to operate issued by the administrator.

106.3(1) Right to apply.

a. Any adult individual or agency may apply for a certificate of approval.

b. Parties wishing to apply for certification as a children’s residential facility shall contact the department using the department’s Web site or by contacting the Iowa Department of Human Services, Division of Adult, Children and Family Services, Attn: children’s residential facility certification, 1305 East Walnut Street, Des Moines, Iowa 50319-0114.

106.3(2) Application. An applicant shall complete Form 470-0723, Application for License or Certificate of Approval.

106.3(3) Withdrawal of an application. The applicant shall report the withdrawal of an application promptly to the department.

106.3(4) Evaluation of the application. Each application will be evaluated by the department to ensure that all standards are met.

a. Before it results in adverse action, a founded abuse report on a director, a sole proprietor involved in the facility’s operation, or any facility staff shall be evaluated by the department to determine if the abuse merits prohibition of employment, volunteer work, or certification.

b. The department shall evaluate all founded child abuse on a case-by-case basis. Considerations shall include, but not be limited to:

- (1) The applicant’s or certified entity’s response (e.g., immediate termination of involved staff).
- (2) Whether the abuse was an isolated incident or is symptomatic of a broader, systemic problem.

106.3(5) Reports and information. The applicant shall furnish requested reports and information relevant to the certification determination to the department.

106.3(6) Applications for renewal of certificate of approval.

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a. The department or its agent shall send the certificate of approval holder an application for renewal 90 days before the certificate expires. Applications for certificate renewal shall be made on the form specified in subrule 106.3(2).

b. Applications for certificate renewal shall be made at least 30 days but no more than 90 days before the certificate of approval expires. Applications for renewal of a children's residential facility certificate of approval shall be submitted to the address listed in paragraph 106.3(1)"*b.*"

106.3(7) Notification. The department shall notify a children's residential facility of approval or denial of a certificate within 90 days of the department's receipt of complete application or reapplication information.

106.3(8) Fire inspection.

a. Before the administrator issues or reissues a certificate of approval to a children's residential facility, the facility shall comply with standards adopted by the state fire marshal under Iowa Code chapter 100.

b. Each children's residential facility shall procure an annual fire inspection approved by the state fire marshal and shall meet the recommendations thereof.

c. In the case of a conflict between rules and standards adopted pursuant to this chapter and local rules and standards, the more stringent requirement applies.

This rule is intended to implement Iowa Code sections 237C.4 and 237C.6.

441—106.4(237C) Certificate of approval.

106.4(1) A new certificate of approval shall be obtained when the certified location moves or the facility is remodeled.

106.4(2) The certificate of approval shall state on its face the name of the holder of the certificate, the particular premises for which the certificate is issued, and the number of children who may be cared for by the children's residential facility on the premises at one time under the certificate of occupancy issued by the state fire marshal or the state fire marshal's designee. The certificate of approval shall be posted in a conspicuous place in the children's residential facility.

106.4(3) A children's residential facility shall operate only in a building or on premises designated in the certificate of approval.

106.4(4) A new certificate of approval shall be requested when the children's residential facility wishes to be certified for a different number of children.

106.4(5) The department shall issue Form 470-0620, Certificate of Approval, without cost to any children's residential facility that meets the standards. The department may offer consultation to assist applicants in meeting the standards.

106.4(6) Children's residential facilities shall be certified for a term of one year.

This rule is intended to implement Iowa Code sections 237C.6 and 237C.7.

441—106.5(237C) Denial, suspension, or revocation.

106.5(1) The administrator may deny an application for issuance or reissuance of a certificate of approval if:

a. The applicant or certificate holder, as applicable, fails to comply with these rules or knowingly makes a false statement concerning a material fact or conceals a material fact on the application for the issuance or reissuance of a certificate of approval or in a report regarding operation of the children's residential facility submitted to the administrator.

b. The applicant or any person residing in the children's residential facility or any facility staff has a record of founded child abuse unless an evaluation of the founded abuse has been made by the department which concludes that the abuse does not merit prohibition of employment, volunteer work, or certification.

106.5(2) The administrator may suspend a certificate of approval if:

a. The applicant or certificate holder, as applicable, fails to comply with these rules or knowingly makes a false statement concerning a material fact or conceals a material fact on the application for the

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issuance or reissuance of a certificate of approval or in a report regarding operation of the children's residential facility submitted to the administrator.

b. A children's residential facility failure to meet the certification requirements poses a danger to the health, safety, or well-being of the children being served.

c. A children's residential facility's fails to comply with Iowa Code section 282.34.

106.5(3) All operations of a children's residential facility shall cease during a period of suspension or revocation of a certificate of approval, including during an appeal. A suspension of a certificate of approval shall not extend beyond six months, and the existence of the condition requiring suspension shall be corrected within six months and documented in the record of the holder of the certificate of approval.

106.5(4) Effective period of suspension. A suspension shall be effective on the date the notice is received by the holder of the certificate of approval and shall remain in effect until one of the following occurs:

a. The department withdraws the suspension due to a change in conditions in the children's residential facility.

b. The court orders the certificate of approval reinstated.

c. The action is reversed by a final decision in accordance with 441—Chapter 7.

d. The certification period expires.

106.5(5) Method and content of notice. The notice of suspension shall be sent by restricted certified mail or personal service and shall include the following:

a. The condition requiring the suspension.

b. The specific law or rule violated.

106.5(6) The administrator may revoke a certificate of approval if:

a. The applicant or certificate holder, as applicable, fails to comply with these rules or knowingly makes a false statement concerning a material fact or conceals a material fact on the application for the issuance or reissuance of a certificate of approval or in a report regarding operation of the children's residential facility submitted to the administrator.

b. The conditions requiring suspension are not corrected within six months.

c. A children's residential facility fails to comply with Iowa Code section 282.34.

106.5(7) Right to appeal suspension or revocation. The holder of the certificate of approval has the right to appeal a suspension or revocation of the certificate of approval, but initiation of an appeal does not alter the suspension or revocation. Notices of adverse actions and the right to appeal shall be given to applicants and certificate of approval holders in accordance with 441—Chapter 7.

106.5(8) Corrective action. The facility shall furnish the department with a plan of action to correct deficiencies that resulted in the suspension or revocation of a certificate of approval. The plan shall give specific dates upon which the corrective action will be completed.

This rule is intended to implement Iowa Code section 237C.6.

441—106.6(237C) Providing for basic needs.

106.6(1) A children's residential facility shall provide the following for children in its care:

a. Adequate shelter.

b. Nourishing food and water.

c. Opportunities for adequate sleep, exercise, cleanliness, and health maintenance.

106.6(2) A children's residential facility shares responsibility for meeting these basic needs with the children's parents, guardians, or other primary caretakers.

106.6(3) A children's residential facility shall have written policies related to:

a. Children's communication with their parents or guardians.

b. Children's ability to receive visitors who have been approved by their parents or guardians.

c. Confidentiality and reasonable privacy for children. The children's residential facility shall afford children and their families privacy and confidentiality unless doing so would jeopardize a child's health or safety.

d. Children's ability to keep personal belongings such as clothing, pictures, and other items.

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e. Children's ability to participate in normal community activities.

106.6(4) A children's residential facility shall not impose rules and restrictions that prevent communication with parents, guardians, other family members, or others.

106.6(5) A children's residential facility shall share its written policies related to communication, visitors, personal belongings, and participation in community activities with a child's parents or guardians before a child is admitted to the children's residential facility.

441—106.7(237C) Educational programs and services. A children's residential facility operating under a certificate of approval issued under Iowa Code chapter 237C shall comply with rules adopted by the state board of education pursuant to Iowa Code section 282.34.

441—106.8(237C) Protection from mistreatment, physical abuse, sexual abuse, and neglect.

106.8(1) The state of Iowa prohibits child abuse as defined in Iowa Code chapter 232, criminal assault, and other criminal acts of violence. A children's residential facility shall not use discipline that amounts to child abuse or a criminal act of assault or violence.

106.8(2) A children's residential facility's written policies shall:

a. Prohibit mistreatment, physical abuse, sexual abuse, and neglect of children.
b. Specify reporting and enforcement procedures for the children's residential facility. Alleged violations shall be reported immediately to the director of the facility and appropriate department of human services personnel.

c. Prohibit the use of corporal punishment. The facility's policies shall clearly prohibit staff or the children from utilizing corporal punishment as a method of discipline or correcting children.

d. These policies shall be communicated in writing to all staff of the facility.

This rule is intended to implement Iowa Code section 237C.3.

441—106.9(237C) Discipline.

106.9(1) Generally. The facility shall have written policies, which shall be available to all staff and to the child's family, regarding methods used for control and discipline of children. Agency staff shall be in control of and responsible for discipline at all times. Discipline shall not include the withholding of basic necessities such as food, clothing, or sleep.

106.9(2) Corporal punishment is prohibited. The facility shall have a policy that clearly prohibits staff or the children from utilizing corporal punishment as a method of disciplining or correcting children. This policy is to be communicated in writing to all staff of the facility.

106.9(3) The administration of discipline by a child to another child is prohibited.

106.9(4) Behavior expectations. The facility shall make available to the child and the child's parents or guardian written policies regarding the following areas:

a. The general expectation of behavior, including the facility's rules and practices.
b. The range of reasonable consequences that may be used to deal with inappropriate behavior.

106.9(5) Discipline policies shall be discussed with:

a. Staff, volunteers, or others who perform duties under a subcontract with the children's residential facility; and

b. Parents or guardians before children are admitted to the children's residential facility.

441—106.10(237C) Record checks.

106.10(1) A children's residential facility shall conduct record checks for:

a. Any owner, director, staff member, volunteer, or other person who performs duties under a subcontract with the children's residential facility and who:

(1) Has direct responsibility for children, or
(2) Has access to a child when the child is alone.

b. Anyone living in the children's residential facility who is 14 years of age or older.

106.10(2) The record checks shall be conducted to determine whether the person:

a. Has any founded child abuse reports.

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- b.* Has any founded dependent adult abuse reports.
- c.* Has any criminal convictions.
- d.* Has been placed on the sex offender registry.

106.10(3) Every applicant for employment shall submit to the children's residential facility a written, signed and dated statement that discloses:

- a.* Any substantiated instances of child abuse, neglect, or sexual abuse committed by the person.
- b.* Any substantiated instances of dependent adult abuse committed by the person.
- c.* Any convictions of crimes involving the mistreatment or exploitation of a child.

106.10(4) A children's residential facility may request additional information from the central abuse registry or the Iowa department of public safety.

106.10(5) If a record of criminal conviction or founded child abuse or founded dependent adult abuse exists, the children's residential facility shall evaluate the crime or founded child abuse or dependent adult abuse to determine whether or not the crime or founded child abuse or founded dependent adult abuse merits prohibition of employment or any voluntary or subcontracted position. The evaluation shall consider:

- a.* The nature and seriousness of the crime or founded abuse in relation to the position sought,
- b.* The time elapsed since the commission of the crime or founded abuse,
- c.* The circumstances under which the crime or founded abuse was committed,
- d.* The degree of rehabilitation,
- e.* The number of crimes or founded abuses committed by the person involved, and
- f.* The likelihood that the person will commit the crime or founded abuse again.

441—106.11(237C) Seclusion and restraints.

106.11(1) A children's residential facility shall not physically restrain a child unless necessary to prevent the child from hurting self, others, or property. Physical restraint must be conducted in a standing position whenever possible. Prone restraint is prohibited.

- a.* No staff person shall use any restraint that obstructs the airway of a child.
- b.* Staff persons who find themselves involved in the use of a prone restraint when responding to an emergency must take immediate steps to end the prone restraint.
- c.* If a staff person physically restrains a child who uses sign language or an augmentative mode of communication as the child's primary mode of communication, the child shall be permitted to have the child's hands free of restraint for brief periods unless the staff person determines that such freedom appears likely to result in harm to the child, others, or property.
- d.* The rationale and authorization for the use of physical restraint and staff action and procedures carried out to protect the child's rights and to ensure safety shall be clearly set forth in the child's record by the responsible staff persons.

106.11(2) A children's residential facility shall not put a child into time-out seclusion for more than one hour. A child shall never be secluded in an area that is locked or out of the view of staff, volunteers, or others who perform duties under a subcontract with the children's residential facility.

106.11(3) At no time shall a children's residential facility use a control room, mechanical restraint, or chemical restraint.

441—106.12(237C) Health.

106.12(1) A children's residential facility shall obtain, store, prepare, and serve food and water free from contamination.

106.12(2) A children's residential facility shall have written health policies that describe how the facility will care for a sick child residing there.

106.12(3) A children's residential facility shall have written policies and procedures related to disease control and the use of universal precautions for handling of any bodily excrement or discharge, including blood and breast milk. A children's residential facility shall take precautions to prevent the spread of infectious and communicable disease.

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106.12(4) A children's residential facility shall seek immediate medical attention for a child when it is necessary to ensure that the child remains healthy. There shall be 24-hour emergency and routine medical and dental services available and provided when prescribed. Provision of these services shall be documented.

106.12(5) A children's residential facility shall have written policies and procedures to ensure that staff, volunteers, or others who perform duties under a subcontract with the children's residential facility demonstrate clean personal hygiene sufficient to prevent or minimize the transmission of illness or disease and are certified in the provision of first aid and cardiopulmonary resuscitation.

106.12(6) A children's residential facility shall be required to report any reportable disease to the department of public health.

106.12(7) A children's residential facility shall have written policies on physical examination reports or health status statements for all children in the facility's care.

106.12(8) A children's residential facility shall have written policies and procedures for the dispensing, storage, authorization, and recording of all prescription and nonprescription medications.

106.12(9) A children's residential facility shall ensure that a clearly labeled first-aid kit is available and easily accessible to staff, volunteers, or others who perform duties under a subcontract with the children's residential facility at all times when children are in the facility, in the outdoor play area, and on field trips. The first-aid kit shall be sufficient to address first aid related to minor injury or trauma and shall be stored in an area inaccessible to children.

106.12(10) A children's residential facility shall have written policies on reporting illness or injury to parents or guardians. These policies shall be shared with parents or guardians before a child is admitted to the children's residential facility. A significant change in health status or incidents resulting in a serious injury to or death of a child shall be reported immediately to the parent or guardian.

106.12(11) A children's residential facility shall have written policies on smoking and tobacco use that comply with Iowa state law.

441—106.13(237C) Safety.

106.13(1) A children's residential facility shall provide a sufficient number of staff to ensure safe practices that are based on the ages and needs of the children in care to ensure adequate supervision and child safety. This requirement applies to daytime and overnight hours.

106.13(2) Poison control centers' telephone numbers shall be posted in prominent locations and readily available. All poisonous or caustic drugs or materials shall:

- a. Be plainly labeled.
- b. Be stored separately from other drugs in a specific, well-illuminated cabinet, closet, or storeroom.
- c. Be stored in a manner that prevents accidental or intentional ingestion.
- d. Be accessible only to authorized persons.

106.13(3) A children's residential facility shall have written policies regarding fishing ponds, lakes, or any bodies of water located on or near the facility's grounds and accessible to children.

- a. All swimming pools shall conform to state and local health and safety regulations.
- b. Adult supervision shall be provided at all times when children are near or in the water.

106.13(4) A children's residential facility shall have written policies regarding transportation of a child that ensure compliance with Iowa Code section 321.446 regarding child restraint devices.

- a. Drivers of vehicles shall possess a valid driver's license.
- b. Drivers shall not operate a vehicle while under the influence of alcohol, illegal drugs, or prescription or nonprescription drugs that could impair the drivers' ability to operate a motor vehicle.
- c. All vehicles used for children's residential facility activities shall be maintained in safe operating condition.

d. A children's residential facility shall have proof of current insurance that covers all vehicles and drivers used to transport children.

106.13(5) Animals kept on site shall:

- a. Be in good health with no evidence of disease.

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- b.* Be of such disposition as to not pose a safety threat to any person.
- c.* Be maintained in a clean and sanitary manner.

106.13(6) Weapons and ammunition are prohibited on the premises of a children's residential facility.

441—106.14(237C) Emergencies.

106.14(1) A children's residential facility shall have written emergency plans for responding to evacuations, fires, tornadoes, floods, blizzards, other weather incidents, power failures, bomb threats, chemical spills, earthquakes, or other natural or man-made disasters that could create structural damage to the children's residential facility or pose health or safety hazards.

a. The emergency plans shall include guidelines for responding to situations involving intruders within the children's residential facility and grounds, intoxicated persons, lost or abducted children, and evacuations.

b. Emergency plans shall be coordinated with county emergency planning agencies.

c. Evacuations and how to seek protective shelter shall be practiced periodically.

106.14(2) The emergency plans shall include procedures for annual training regarding the contents and implementation of the plans for staff, volunteers, or others who perform duties under a subcontract with the children's residential facility.

106.14(3) A children's residential facility shall have:

a. Written policies and procedures for medical and dental emergencies.

b. Sufficient information and authorization to meet the medical and dental needs or emergencies of children.

106.14(4) Emergency telephone numbers shall be readily available, including emergency telephone numbers for parents or guardians.

441—106.15(237C) Buildings and physical premises. A children's residential facility shall ensure that the facility and grounds, playground surfaces and other areas, and all related equipment are safe and free from hazards.

106.15(1) A children's residential facility shall comply with requirements established by the fire marshal for the applicable type of occupancy and shall comply with any applicable additional fire safety requirements established by local ordinance, including fire inspections.

106.15(2) A children's residential facility shall be structurally sound. Any new facility or existing facility that is extensively renovated shall be constructed in compliance with applicable requirements of the state of Iowa building code established pursuant to Iowa Code chapter 103A and with any local building code in force at the time of construction.

106.15(3) A children's residential facility located in a building built before 1960 shall conduct a visual assessment for lead hazards that exist in the form of peeling or chipping paint.

a. If the presence of peeling or chipping paint is found, the paint shall be presumed to be lead-based paint unless a certified inspector as defined in department of public health rules at 641—Chapter 70 determines that the paint is not lead-based.

b. In the absence of the determination that peeling or chipping paint is not lead-based, a children's residential facility shall use safe work methods as defined by the state department of public health to eliminate human exposure or likely exposure to lead-based paint hazards.

106.15(4) Living areas.

a. All living areas shall:

(1) Have screens on windows used for ventilation.

(2) Be maintained in clean, sanitary conditions, free from vermin, rodents, dampness, noxious gases and objectionable odors.

(3) Be in safe repair.

(4) Provide for adequate lighting when natural sunlight is inadequate.

(5) Have heating and storage areas separated from sleeping or play areas.

(6) Have walls and ceiling surfaced with materials that are asbestos-free.

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- b.* All sleeping rooms shall:
 - (1) Provide a minimum of 60 square feet per child for multiple occupancy.
 - (2) Provide a minimum of 80 square feet per child for single occupancy.
 - (3) Not sleep more than four children per room.
 - (4) Be of finished construction.
- c.* Rooms aboveground shall:
 - (1) Have a ceiling height of at least 7 feet, 6 inches.
 - (2) Have a window area of at least 8 percent of the floor area unless mechanical ventilation is provided that is capable of removing dampness and odors.
- d.* Rooms belowground shall:
 - (1) Have a ceiling height of at least 6 feet, 8 inches.
 - (2) Have a window area of at least 2 percent of the floor area unless mechanical ventilation is provided that is capable of removing dampness and odors.
 - (3) Have floor and walls constructed of concrete or other materials with an impervious finish and free from groundwater leakage.

106.15(5) Bedrooms.

- a.* Each child in care shall have a solidly constructed bed.
- b.* Sheets, pillowcases, and blankets shall be provided for each child and shall be kept clean and in good repair.
- c.* Each child in care shall have adequate storage space for private use and a designated space for hanging clothing in proximity to the bedroom occupied by the child.
- d.* No child over the age of five years shall occupy a bedroom with a member of the opposite sex.

106.15(6) Heating.

- a.* The heating unit shall be located and operated to maintain the temperature in the living quarters at a minimum of 65 degrees Fahrenheit during the day and 55 degrees Fahrenheit during the night. Variances may be made in case of health problems. Temperature is measured at 24 inches above the floor in the middle of the room.
- b.* All space heaters and water heaters involving the combustion of fuel, such as gas, oil or similar fuel, shall be vented to the outside atmosphere.
- c.* Neither rubber nor plastic tubing shall be used as supply lines for gas heaters.
- d.* The heating or cooling plant shall be checked at least annually and kept in safe working condition at all times.

These rules are intended to implement Iowa Code section 237C.3.

441—106.16(237C) Sanitation, water, and waste disposal. In the case of a conflict between rules and standards adopted pursuant to this chapter and local rules and standards, the more stringent requirement applies.

106.16(1) Bathroom facilities.

- a.* Bathrooms shall have an adequate supply of hot and cold running water.
- b.* Each bathroom shall be properly equipped with toilet tissue, towels, soap, and other items required for personal hygiene unless children are individually given these items. Paper towels, when used, and toilet tissue shall be in dispensers.
- c.* Toilets and baths or showers shall provide for individual privacy.
- d.* There shall be a shower or tub for each ten children or portion thereof.
- e.* Tubs and showers shall have slip-proof surfaces.
- f.* At least one toilet and one lavatory shall be provided for each six children or portion thereof.
- g.* Toilet facilities shall be provided with natural or artificial ventilation capable of removing odors and moisture.
- h.* Toilet facilities adjacent to a food preparation area shall be separated completely by an enclosed solid door.
- i.* All toilet facilities shall be kept clean.
- j.* When more than one stool is used in one bathroom, partitions providing privacy shall be used.

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k. Toilets, wash basins, and other plumbing or sanitary facilities shall be maintained in good operating condition.

106.16(2) Food preparation and storage.

- a. Cracked dishes and utensils shall not be used in the preparation, serving, or storage of food.
- b. Storage areas for perishable foods shall be kept at 45 degrees Fahrenheit or below.
- c. Storage areas for frozen foods shall be kept at 0 degrees Fahrenheit or below.
- d. Food that is to be served hot shall be maintained at 140 degrees Fahrenheit or above.
- e. Food that is to be served cold shall be maintained at 45 degrees Fahrenheit or below.
- f. The kitchen and food storage areas shall be kept clean and neat. Foods shall not be stored on the floor.
- g. The floor and walls shall be of smooth construction and in good repair.

106.16(3) Personnel handling food. Personnel who handle food shall:

- a. Be free of infection.
- b. Be clean and neatly groomed.
- c. Wear clean clothes.
- d. Not use tobacco in any form while preparing or serving food.

106.16(4) Dishwashing facilities.

- a. Manual dishwashing will be allowed in facilities that normally serve 15 or fewer people at one meal.
- b. Commercial dishwashers shall be used in facilities serving more than 15 people at one meal and shall meet the following criteria:
 - (1) When chemicals are added for sanitation purposes, they shall be automatically dispensed.
 - (2) Machines using hot water for sanitizing must maintain wash water at a temperature of at least 150 degrees Fahrenheit and rinse water at a temperature of at least 180 degrees Fahrenheit or a single temperature machine at 165 degrees Fahrenheit for both wash and rinse.
 - (3) All machines shall be thoroughly cleaned and sanitized at least once each day or more often if necessary to maintain satisfactory operating condition.
- c. Soiled and clean dish table areas shall be of adequate size to accommodate the dishes for one meal.
- d. All handheld food preparation and serving equipment shall be cleaned and sanitized following each meal. Dispensers, urns, and similar equipment shall be cleaned and sanitized daily.

106.16(5) Foods not prepared at site of serving.

- a. The place where food is prepared for off-site serving shall conform to all requirements for on-site food preparation.
- b. Food shall be transported in covered containers or completely wrapped or packaged so as to be protected from contamination.
- c. During transportation, and until served, hot foods shall be maintained at 140 degrees Fahrenheit or above and cold food shall be maintained at 45 degrees Fahrenheit or below.

106.16(6) Milk supply. When fluid milk is used, it shall be pasteurized Grade A.

106.16(7) Public water supply. The water supply is approved when the water is obtained from a public water supply system, as regulated by the department of natural resources.

106.16(8) Private water supplies. Any facility that serves at least 25 people for at least 60 days during the year and is supplied by its own well meets the definition of a public water supply and must be regulated by the department of natural resources.

a. Each privately operated water supply shall be maintained and operated in a manner that ensures safe drinking water. Each water supply used as part of a facility shall be annually inspected and evaluated for deficiencies that may allow contaminants access to the well interior. Items such as open or loose well caps, missing or defective well vents, poor drainage around the wells, and the nearby storage of potential contaminants shall be evaluated. All deficiencies shall be corrected within 30 days of discovery by a well contractor certified by the state.

b. Evaluation and water testing. As part of the inspection and evaluation, water samples shall be collected and submitted by the local health sanitarian or a well contractor certified by the state to the

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state hygienic laboratory or other laboratory certified for drinking water analysis by the department of natural resources. The minimum yearly water analysis shall include coliform bacteria and nitrate (NO₃-) content. Total arsenic testing shall be performed once every three years. The water shall be deemed safe when there are no detectible coliform bacteria, when nitrate levels are less than 10 mg/L as nitrogen, and when total arsenic levels are 10 µg/L or less. A copy of the laboratory analysis report shall be provided to the department within 72 hours of receipt by the water supply.

c. Multiple wells supplying water. When the water supply obtains water from more than one well, each well connected to the water distribution system shall meet all of the requirements of these rules.

d. Deficiencies. When no apparent deficiencies exist with the well or its operations and the water supply is proven safe by meeting the minimum sampling and analysis requirements, water safety requirements have been met. Wells with deficiencies that result in unsafe water analysis require corrective actions through the use of a well contractor certified by the state.

e. When water is proven unsafe. When the water supply is proven unsafe by sampling and analysis, the facility shall immediately provide a known source of safe drinking water for all water users and hang notification at each point of water use disclosing the water is not safe to consume. In addition, the facility shall provide a written statement to the department disclosing the unsafe result and detail a plan on how the water supply deficiencies will be corrected and the supply brought back into a safe and maintained condition. The statement shall be submitted to the department within 10 days of the laboratory notice. All corrective work shall be performed and the water supply sampled and analyzed again within 45 days from any water test analysis report that indicates the water supply is unsafe for drinking water uses.

f. Water obtained from another source through hauling and storage must meet the requirements of the department of natural resources.

106.16(9) Heating or storage of hot water. Each tank used for the heating or storage of hot water shall be provided with a pressure and temperature relief valve.

106.16(10) Sewage treatment.

a. A children's residential facility shall be connected to a public sewer system where available.

b. Private disposal systems shall be designed, constructed, and maintained so that no unsanitary or nuisance conditions exist, such as surface discharge of raw or partially treated sewage or failure of the sewer lines to convey sewage properly.

106.16(11) Garbage storage and disposal.

a. A sufficient number of garbage and rubbish containers shall be provided to properly store all material between collections.

b. Containers shall be insect-, rodent-, and leakproof and shall be maintained in a sanitary condition.

441—106.17(237C) Staffing.

106.17(1) Children's residential facility staff shall be 21 years of age or older with appropriate training and experience related to job duties.

106.17(2) A children's residential facility shall have written policies and procedures regarding staff supervision, development, training requirements, and orientation to children's residential facility policies and practices.

106.17(3) A children's residential facility shall provide a sufficient number of staff to ensure proper supervision and child safety at all times and at all activities conducted by a children's residential facility off its premises.

441—106.18(237C) Reports and inspections.

106.18(1) The administrator may require submission of reports by a certificate of approval holder and shall cause at least one annual unannounced inspection of a children's residential facility to assess compliance with applicable requirements and standards.

106.18(2) The inspections shall be conducted by the department of inspections and appeals in addition to initial, renewal, and other inspections that result from complaints or self-reported incidents.

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106.18(3) The department of inspections and appeals and the department of human services may examine records of a children's residential facility and may inquire into matters concerning the children's residential facility and its employees, volunteers, and subcontractors relating to requirements and standards for children's residential facilities under this chapter.

These rules are intended to implement Iowa Code chapter 237C.

[Filed 3/8/17, effective 5/3/17]

[Published 3/29/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/29/17.

ARC 3008C

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 422.68 and 15.321, the Department of Revenue hereby amends Chapter 42, "Adjustments to Computed Tax and Tax Credits," and Chapter 52, "Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits," Iowa Administrative Code.

These amendments are necessary to implement the Renewable Chemical Production Tax Credit Program that resulted from 2016 Iowa Acts, chapter 1065, division II. The rules describe the Department of Revenue's role in the program. Items 1 and 2 are largely the same; the distinction is that Item 1 sets forth the rule for individual income tax while Item 2 sets forth the rule for corporation income tax. The program is administered in coordination with the Economic Development Authority. The Economic Development Authority's Adopted and Filed rule making on the program is published herein as **ARC 3004C**.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2865C** on December 21, 2016. No public comments were received. Changes have been made to add the word "and" to paragraph 52.49(3)"c" and to update two citations to the Iowa Code to reflect the codification of 2016 Iowa Acts, chapter 1065, division II. Also, references to the Economic Development Authority's proposed 261—Chapter 81 have been updated to reflect the adoption of that chapter in **ARC 3004C**, as noted above.

Any person who believes that the application of the discretionary provisions of these rules would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

The Department adopted these amendments on March 1, 2017.

These amendments have no known impact on jobs.

These amendments are intended to implement Iowa Code sections 15.319, 422.10B, and 422.33(22).

These amendments will become effective May 3, 2017.

The following amendments are adopted.

ITEM 1. Adopt the following new rule 701—42.56(15,422):

701—42.56(15,422) Renewable chemical production tax credit program. An eligible business that has received a renewable chemical production tax credit certificate from the economic development authority may claim a tax credit against individual income tax. The credit is equal to the product of five cents multiplied by the number of pounds of renewable chemicals produced in Iowa from biomass feedstock by the eligible business during a given production year, subject to the limitations described in Iowa Code sections 15.315 through 15.322, 261—Chapter 81, and this rule. The economic development authority's rules on eligibility for the credit may be found in 261—Chapter 81.

42.56(1) Application and agreement for the credit. To be eligible for the tax credit, the eligible business must apply to and enter into an agreement with the economic development authority. The economic development authority's rules on the application and agreement process may be found in 261—Chapter 81.

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42.56(2) Computation of the amount of credit and certificate issuance. Upon establishing that all requirements of the program and the agreement have been fulfilled and verifying the taxpayer's eligibility for the tax credit, the economic development authority calculates the credit. Then the economic development authority issues the related tax credit certificate to the eligible business stating the amount of the renewable chemical production tax credit that the eligible business may claim. A tax credit certificate shall not be issued by the economic development authority prior to July 1, 2018. The economic development authority's rules on credit certificate issuance may be found in 261—Chapter 81.

42.56(3) Claiming the tax credit.

a. Claiming the credit, generally. To claim the credit, a taxpayer must include one or more tax credit certificates with the taxpayer's tax return for the tax year during which the eligible business was issued the tax credit certificate or certificates. If the taxpayer claiming the credit has already filed a return for the tax year for which the credit certificate was issued, the taxpayer may claim the credit on an amended return. The taxpayer must file the amended return within the statute of limitations applicable to such amended return. No tax credit may be claimed under this program by a taxpayer prior to September 1, 2018.

b. Claiming the credit of a pass-through entity. To claim the credit of an eligible business that is a pass-through entity, an individual taxpayer must claim the credit on the tax return for the tax year during which the eligible business received the tax credit certificate. Such tax year may be either the tax year of the eligible business or of the individual.

EXAMPLE: A partnership has a fiscal year of September 2017 through August 2018. The partnership receives a renewable chemical production tax credit certificate under this program in July 2018, which is during the partnership's 2017 tax year. A partner in the partnership files individual returns on a calendar year basis, which means that the credit was issued in the partner's 2018 tax year. That partner may file an amended 2017 tax return to claim the credit based on the partnership's tax year, or that partner may claim the credit on the partner's 2018 tax return based on the partner's own tax year.

c. Information required. The tax credit certificate shall include the taxpayer's name, address, tax identification number, the amount of the credit, the name of the eligible business, and any other information required by the department of revenue.

d. Allocation to the individual owners of the entity or beneficiaries of an estate or trust. An individual may claim the credit of a partnership, limited liability company, S corporation, cooperative organized under Iowa Code chapter 501 and filing as a partnership for tax purposes, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based on the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, cooperative, estate, or trust.

e. Refundability. Any credit in excess of the tax liability is refundable. In lieu of claiming a refund, the taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following tax year.

f. Transferability. Tax credit certificates shall not be transferred to any other person.

g. Rescission and recapture. The tax credit certificate, unless rescinded by the economic development authority, shall be accepted by the department of revenue, subject to any conditions or restrictions placed upon the face of the tax credit certificate by the economic development authority and subject to the limitations of the program. Should the economic development authority reduce, terminate, or rescind any tax credits issued under the program, the eligible business may be subject to the repayment or recapture of any credits already claimed. The economic development authority's rules related to the program may be found in 261—Chapter 81. The repayment of tax credits or recapture by the department of revenue shall be accomplished in the same manner as provided in Iowa Code section 15.330(2).

This rule is intended to implement Iowa Code section 422.10B.

ITEM 2. Adopt the following **new** rule 701—52.49(15,422):

701—52.49(15,422) Renewable chemical production tax credit program. An eligible business that has received a renewable chemical production tax credit certificate from the economic development

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authority may claim a tax credit against corporation income tax. The credit is equal to the product of five cents multiplied by the number of pounds of renewable chemicals produced in Iowa from biomass feedstock by the eligible business during a given production year, subject to the limitations described in Iowa Code sections 15.315 through 15.322, 261—Chapter 81, and this rule. The economic development authority's rules on eligibility for the credit may be found in 261—Chapter 81.

52.49(1) *Application and agreement for the credit.* To be eligible for the tax credit, the eligible business must apply to and enter into an agreement with the economic development authority. The economic development authority's rules on the application and agreement process may be found in 261—Chapter 81.

52.49(2) *Computation of the amount of credit and certificate issuance.* Upon establishing that all requirements of the program and the agreement have been fulfilled and verifying the taxpayer's eligibility for the tax credit, the economic development authority calculates the credit. Then the economic development authority issues the related tax credit certificate to the eligible business stating the amount of the renewable chemical production tax credit that the eligible business may claim. A tax credit certificate shall not be issued by the economic development authority prior to July 1, 2018. The economic development authority's rules on credit certificate issuance may be found in 261—Chapter 81.

52.49(3) *Claiming the tax credit.*

a. Claiming the credit, generally. To claim the credit, a taxpayer must include one or more tax credit certificates with the taxpayer's tax return for the tax year during which the eligible business was issued the tax credit certificate or certificates. If the taxpayer claiming the credit has already filed a return for the tax year for which the credit certificate was issued, the taxpayer may claim the credit on an amended return. The taxpayer must file the amended return within the statute of limitations applicable to such amended return. No tax credit may be claimed under this program by a taxpayer prior to September 1, 2018.

b. Claiming the credit of a pass-through entity. To claim the credit of an eligible business that is a pass-through entity, an individual taxpayer must claim the credit on the tax return for the tax year during which the eligible business received the tax credit certificate. Such tax year may be either the tax year of the eligible business or of the individual.

EXAMPLE: A partnership has a fiscal year of September 2017 through August 2018. The partnership receives a renewable chemical production tax credit certificate under this program in July 2018, which is during the partnership's 2017 tax year. A partner in the partnership files individual returns on a calendar year basis, which means that the credit was issued in the partner's 2018 tax year. That partner may file an amended 2017 tax return to claim the credit based on the partnership's tax year, or that partner may claim the credit on the partner's 2018 tax return based on the partner's own tax year.

c. Information required. The tax credit certificate shall include the taxpayer's name, address, and tax identification number, the amount of the credit, the name of the eligible business, and any other information required by the department of revenue.

d. Allocation to the individual owners of the entity or beneficiaries of an estate or trust. An individual may claim the credit of a partnership, limited liability company, S corporation, cooperative organized under Iowa Code chapter 501 and filing as a partnership for tax purposes, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based on the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, cooperative, estate, or trust.

e. Refundability. Any credit in excess of the tax liability is refundable. In lieu of claiming a refund, the taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following tax year.

f. Transferability. Tax credit certificates shall not be transferred to any other person.

g. Rescission and recapture. The tax credit certificate, unless rescinded by the economic development authority, shall be accepted by the department of revenue, subject to any conditions or restrictions placed upon the face of the tax credit certificate by the economic development authority and subject to the limitations of the program. Should the economic development authority reduce, terminate, or rescind any tax credits issued under the program, the eligible business may be subject to

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the repayment or recapture of any credits already claimed. The economic development authority's rules related to the program may be found in 261—Chapter 81. The repayment of tax credits or recapture by the department of revenue shall be accomplished in the same manner as provided in Iowa Code section 15.330(2).

This rule is intended to implement Iowa Code section 422.33(22).

[Filed 3/8/17, effective 5/3/17]

[Published 3/29/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/29/17.

ARC 3010C

UTILITIES DIVISION[199]

Adopted and Filed

Pursuant to Iowa Code sections 17A.4, 476.1, 476.1B, 476.2, 476A.12, 478.19, and 478.20, the Utilities Board (Board) gives notice that on March 9, 2017, the Board issued an order in Docket No. RMU-2016-0009, In re: Review of Iowa Electrical Safety Code Rules [199 IAC Chapter 25], "Order Adopting Amendments," amending the Board's rules that comprise the Iowa Electrical Safety Code. The order adopted amendments with additional nonsubstantive editorial revisions to add a new Item 3 and make changes to Item 5, herein renumbered as Item 6, to replace references to the 2012 version of the National Electrical Safety Code (NESC) with references to the 2017 version of that code.

These amendments were published under Notice of Intended Action in the Iowa Administrative Bulletin in Vol. XXXIX, No. 11 (11/23/16) p. 1031, as **ARC 2815C**.

These amendments update references to the NESC to specify that the Board is adopting the 2017 version of that code. These amendments also clarify rules regarding utility inspection plans, record-keeping requirements, incident-reporting requirements, and public information campaigns regarding hazards of constructing grain bins near power lines.

The Board received written comments in response to the Notice of Intended Action from MidAmerican Energy Company (MidAmerican); ITC Midwest, LLC (ITC); and the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice. Written comments were also received in response to a preliminary "Order Requesting Stakeholder Comment on Potential Rule Changes" issued on August 5, 2016, from MidAmerican, ITC, OCA, and Interstate Power and Light Company. MidAmerican, ITC, OCA, and the Iowa Association of Electric Cooperatives appeared at the oral presentation held on January 24, 2017. Oral and written comments have been generally supportive of the amendments.

The order adopting amendments and approving this Adopted and Filed rule making can be found on the Board's Electronic Filing System (EFS) Web site, <http://efs.iowa.gov>, in Docket No. RMU-2016-0009.

After analysis and review, the Board tentatively concludes that the adopted amendments will not have a detrimental effect on jobs in Iowa.

These amendments are intended to implement Iowa Code sections 17A.4, 476.1, 476.1B, 476.2, 476A.12, 478.19, and 478.20.

These amendments will become effective on May 3, 2017.

The following amendments are adopted.

ITEM 1. Amend subrule 25.2(1) as follows:

25.2(1) National Electrical Safety Code. The American National Standards Institute (ANSI) ~~C2-2012~~ C2-2017, "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.

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ITEM 2. Amend subrule 25.2(2), introductory paragraph, as follows:

25.2(2) *Modifications and qualifications to ANSI C2 the NESC.* The standards set forth in ANSI C2 the NESC are modified or qualified as follows:

ITEM 3. Amend subparagraph **25.2(2)“b”(4)** as follows:

(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 ~~2012~~ 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 ~~2012~~ 2017 editions of the NESC.)

ITEM 4. Amend paragraph **25.2(2)“d”** as follows:

d. Rule ~~217C.1~~ 217C1 is changed to read:

“The ground end of anchor guys exposed to pedestrian or vehicle traffic 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. Green, white, gray or galvanized steel colors are not reliably conspicuous against plant growth, snow, or other surroundings. Noncomplying guy markers shall be replaced as part of the utility’s inspection and maintenance plan.”

ITEM 5. Amend paragraph **25.2(2)“f”** as follows:

f. There is added to the first paragraph of Rule ~~110.A.1~~ 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 must also be latched or fastened if there is a gate-latching mechanism.

ITEM 6. Amend subrule 25.2(3) as follows:

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. ~~Where drawings and formulas from the NESC are used as part of public information campaigns, they are to be based on the “Errata to 2012 Edition National Electrical Safety Code” Correction Sheet issued February 6, 2012.~~

b. An electric utility may refuse to provide electric service to any grain bin built near an existing electric line which does not provide the clearances required by the American National Standards Institute (ANSI) ~~C2-2012~~ C2-2017 “National Electrical Safety Code,” Rule 234F. This paragraph “b” shall apply 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.

ITEM 7. Amend subrule 25.3(2) as follows:

25.3(2) *Annual report.* Each 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.

ITEM 8. Amend subrule 25.3(4) as follows:

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.

UTILITIES DIVISION[199](cont'd)

ITEM 9. Amend subrule 25.5(3) as follows:

25.5(3) The board shall be notified immediately, or as soon as practical thereafter, by e-mail to the board duty officer at dutyofficer@iub.iowa.gov or, ~~in appropriate circumstances~~ if e-mail 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.

ITEM 10. Amend subrule 25.5(4) as follows:

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 shall include the information required for ~~telephone~~ 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.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/29/17.

ARC 3009C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Adopted and Filed

Pursuant to the authority of Iowa Code section 96.11, the Director of Workforce Development hereby amends Chapter 26, "Contested Case Proceedings," Iowa Administrative Code.

These amendments update, clarify and simplify the procedures in preparing for and participating in unemployment appeal hearings.

Notice of Intended Action was published on November 23, 2016, as **ARC 2823C**. No comments were received. The rules were on the agenda for the Administrative Rules Review Committee meeting on December 13, 2016, and no questions or comments were received during this meeting. These amendments are identical to those published under Notice.

This rule making does not have a fiscal impact on the state of Iowa.

Waiver provisions pursuant to Iowa Code section 17A.4(2) are not applicable.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 96.

These amendments will become effective May 3, 2017.

The following amendments are adopted.

ITEM 1. Amend subrule 26.3(1) as follows:

26.3(1) Time shall be computed as provided in Iowa Code section ~~4.1(22)~~ 4.1(34).

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

ITEM 2. Amend rule 871—26.6(17A,96) as follows:

871—26.6(17A,96) Notice of hearing.

~~26.6(1) A telephone or in-person hearing shall not be scheduled before the seventh calendar day after the parties receive notice of the hearing. Notice~~ A notice of hearing shall be sent by first-class mail or via e-mail to all parties at their last-known address at least ten calendar days in advance of the hearing date and shall include:

a. The date, time and place of an in-person hearing, or the date and time of a telephone hearing, including instructions for calling the appeals bureau in advance of the hearing to provide the names and telephone numbers of all participants and witnesses; and

b. The nature of the hearing, including the legal authority and jurisdiction under which the hearing is held; and

c. A statement of the issues and the applicable sections of the Iowa Code or Iowa Administrative Code; and

d. A description of the administrative law judge who will serve as presiding officer.

~~26.6(2) The seven-day~~ ten-day notice of hearing may be waived upon the agreement of the parties.

~~26.6(3) No change.~~

~~26.6(4) A hearing shall be scheduled promptly and shall be conducted by telephone unless a party requests that it be held in person. A request for an in-person hearing may be denied if factors such as the distance between the parties, the number of parties or the health of any party makes make it impractical or impossible to conduct a fair hearing in person. An in-person hearing may be scheduled at the discretion of the presiding officer to whom the contested case is assigned or, in that presiding officer's absence, the by the manager or chief administrative law judge of the appeals bureau. The party requesting an in-person hearing will ordinarily be required to travel the greater distance if all parties are not located near the same hearing site. As a matter of discretion, the appeals bureau may schedule an in-person hearing at a regular hearing site approximately equidistant from the parties. In the discretion of the presiding officer to whom the contested case is assigned, or the manager or chief administrative law judge of the appeals bureau, witnesses or representatives may be allowed to participate via telephone in an in-person hearing, provided that each party has at least one witness present at the hearing site. When two or more parties are involved, the evidence shall be presented during the same hearing.~~

~~26.6(5) to 26.6(8) No change.~~

ITEM 3. Amend rule 871—26.8(17A,96) as follows:

871—26.8(17A,96) Withdrawals, dismissals, and postponements.

~~26.8(1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of the presiding officer to whom the case is assigned~~ an administrative law judge or the manager or chief administrative law judge of the appeals bureau. Requests for withdrawal may be made in writing or orally, provided the oral request is tape-recorded by the presiding officer.

An appeal may be dismissed upon the request of a party or in the agency's discretion when the issue or issues on appeal have been resolved in the appellant's favor.

~~26.8(2) No change.~~

~~26.8(3) If, due to emergency or other~~ for good cause, a party, having received due notice, is unable to attend a hearing or request postponement within the prescribed time, the presiding officer may, if no decision has been issued, reopen the record and, with notice to all parties, schedule another hearing. If a decision has been issued, the decision may be vacated upon the presiding officer's own motion or at the request of a party within 15 days after the mailing date of the decision and in the absence of an appeal to the employment appeal board of the department of inspections and appeals. If a decision is vacated, notice shall be given to all parties of a new hearing to be held and decided by another presiding officer. Once a decision has become final as provided by statute, the presiding officer has no jurisdiction to reopen the record or vacate the decision.

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

“Good cause” for purposes of this rule is defined as an emergency circumstance that is beyond the control of the party and that prevents the party from being able to participate in the hearing. Examples of good cause include, but are not limited to, death, sudden illness, or accident involving the party or the party’s immediate family (spouse, partner, children, parents, sibling) or other circumstances evidencing an emergency situation which was beyond the party’s control and was not reasonably foreseeable. Examples of circumstances that do not constitute good cause include, but are not limited to, a lost or misplaced notice of hearing, confusion as to the date and time for the hearing, failure to follow the directions on the notice of hearing, oversleeping, or other acts demonstrating a lack of due care by the party.

~~26.8(4)~~ A request to reopen a record or vacate a decision ~~may be heard ex parte by the presiding officer~~ must be made in writing. If necessary, the presiding officer may hear, ex parte, additional information regarding the request for reopening. The granting or denial of such a request may be used as a grounds for appeal to the employment appeal board of the department of inspections and appeals upon the issuance of the presiding officer’s final decision in the case.

~~26.8(5)~~ No change.

ITEM 4. Amend rule 871—26.10(17A,96) as follows:

871—26.10(17A,96) Ex parte communications.

~~26.10(1) to 26.10(7)~~ No change.

~~26.10(8)~~ The presiding officer may impose appropriate sanctions for violations of this rule, including dismissal of an appellant’s contested case, a decision against the offending party, censure, or suspension or revocation of the privilege to practice before the agency. Violation of ex parte communication prohibitions by agency personnel shall be reported to the manager or chief administrative law judge of the appeals bureau for possible sanctions.

ITEM 5. Amend rule 871—26.13(17A,96) as follows:

871—26.13(17A,96) Subpoenas and witnesses.

~~26.13(1) and 26.13(2)~~ No change.

~~26.13(3)~~ The written request shall include:

- ~~a.~~ The name and address of the person to be served; and
- ~~b.~~ A statement of the relevance of the witness’s testimony and that it will not repeat or duplicate the testimony of other witnesses; and
- ~~c.~~ A statement that the witness refuses to testify voluntarily despite the party’s request that the person do so.

~~26.13(4)~~ No change.

~~26.13(5)~~ Documents subpoenaed for telephone hearings shall be mailed, or faxed, or e-mailed to the appeals section bureau and to the other parties to the proceeding prior to the hearing to facilitate the exchange of documents among the parties. Documents subpoenaed for in-person hearings shall be brought to the hearing site at the time of the contested case hearing, unless otherwise ordered by the presiding officer.

~~26.13(6) to 26.13(10)~~ No change.

ITEM 6. Amend rule 871—26.14(17A,96) as follows:

871—26.14(17A,96) Conduct of hearings.

~~26.14(1) to 26.14(5)~~ No change.

~~26.14(6)~~ ~~In the event that~~ If one or more parties which ~~have~~ received notice for a contested case hearing fail to appear at the time and place of an in-person hearing, the presiding officer may proceed with the hearing. If the appealing party fails to appear, the presiding officer may decide the party is in default and dismiss the appeal. The hearing may be reopened if the absent party makes a request in writing to reopen the hearing under subrule 26.8(3) and shows good cause for reopening the hearing.

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

a. If an absent party arrives for an in-person hearing while the hearing is in session, the presiding officer shall pause to admit the party, summarize the hearing to that point, administer the oath, and resume the hearing.

b. If an absent party arrives for an in-person hearing after the record has been closed and after any party which had participated in the hearing has departed, the presiding officer shall not take the evidence of the late party. ~~Instead, the presiding officer shall inquire ex parte as to the reason the party was late. For good cause shown, the presiding officer shall cause notice of hearing to be issued to all parties of record and reopen the record. The record shall not be reopened if the presiding officer does not find a good cause for the party's late arrival.~~

26.14(7) If a party has not responded to a notice of telephone hearing by providing the appeals bureau with the names and telephone numbers of the persons who are participating in the hearing by the scheduled starting time of the hearing or is not available at the telephone number provided, the presiding officer may proceed with the hearing. If the appealing party fails to provide a telephone number or is unavailable for the hearing, the presiding officer may decide the appealing party is in default and dismiss the appeal as provided in Iowa Code section 17A.12(3). The record may be reopened if the absent party makes a request in writing to reopen the hearing under subrule 26.8(3) and shows good cause for reopening the hearing.

a. If an absent party responds to the hearing notice while the hearing is in progress, the presiding officer shall pause to admit the party, summarize the hearing to that point, administer the oath, and resume the hearing.

b. If a party responds to the notice of hearing after the record has been closed and any party which has participated is no longer on the telephone line, the presiding officer shall not take the evidence of the late party. ~~Instead, the presiding officer shall inquire ex parte as to why the party was late in responding to the notice of hearing. For good cause shown, the presiding officer shall reopen the record and cause further notice of hearing to be issued to all parties of record. The record shall not be reopened if the presiding officer does not find good cause for the party's late response to the notice of hearing.~~

c. Failure to read or follow the instructions on the notice of hearing shall not constitute good cause for reopening the record.

26.14(8) to 26.14(10) No change.

26.14(11) In the discretion of the presiding officer, witnesses may be excluded from the hearing room or telephone hearing until called to testify. The presiding officer shall admonish such witnesses not to discuss the case among themselves until after the record has been closed. All witnesses shall be subject to examination by the presiding officer and by all parties.

26.14(12) and 26.14(13) No change.

ITEM 7. Adopt the following **new** subrule 26.15(5):

26.15(5) Proposed exhibits should be sent to the appeals bureau and to the party or parties to the proceeding prior to the hearing by mail, fax, or e-mail.

ITEM 8. Amend subrule 26.17(1) as follows:

26.17(1) The presiding officer shall issue a written, signed decision as soon as practicable after the closing of the record in a contested case. Each decision shall:

a. Set forth the issues, appeal rights, a concise history of the case, findings of essential facts, the reasons for the decision and the actual disposition of the case;

b. Be based on the kind and quality of evidence upon which reasonably prudent persons customarily rely for the conduct of their serious affairs, even if none of such evidence would be admissible in a jury trial in the Iowa district court; and

c. Be sent by first-class mail or e-mail to each of the parties in interest and their representatives.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/29/17.

AGENCY	RULE	DELAY
Education Department[281]	rescind chs 46, 47; adopt ch 46 [IAB 2/15/17, ARC 2947C]	Effective date of March 22, 2017, delayed until the adjournment of the 2018 General Assembly by the Administrative Rules Review Committee at its meeting held March 10, 2017. [Pursuant to §17A.8(9)]