



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).

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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
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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
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PRINTING SCHEDULE FOR IAB

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17	Friday, January 27, 2017	February 15, 2017
18	Friday, February 10, 2017	March 1, 2017
19	Friday, February 24, 2017	March 15, 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*****

ARCHITECTURAL EXAMINING BOARD[193B]

Reinstatement to active status—reporting of continuing education hours, 3.3(4) IAB 1/4/17 ARC 2876C	Board Office, Suite 350 200 E. Grand Ave. Des Moines, Iowa	January 24, 2017 9 a.m.
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ENVIRONMENTAL PROTECTION COMMISSION[567]

Air quality—permit application process, 22.1(3), 22.105(1) IAB 1/18/17 ARC 2895C	Conference Rooms, Air Quality Bureau 7900 Hickman Rd. Windsor Heights, Iowa	February 20, 2017 1 p.m.
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IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

Organization; benefits advisory committee; protection occupations; employers; coverage; benefits; beneficiary designations; rule making, amendments to chs 1, 3 to 6, 10 to 12, 14, 19, 20, 31, 33 IAB 1/18/17 ARC 2892C	IPERS 7401 Register Drive Des Moines, Iowa	February 7, 2017 9 a.m.
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PUBLIC HEALTH DEPARTMENT[641]

Plumbing and mechanical systems professionals—licensee application, examination, licensure, continuing education, fees, amendments to chs 23, 27 to 30 IAB 1/18/17 ARC 2903C	Conference Room 518 Lucas State Office Bldg. Des Moines, Iowa	February 7, 2017 1 p.m.
State plumbing code—update of references to 2015 edition of Uniform Plumbing Code, 25.1, 25.4 IAB 1/18/17 ARC 2900C	Conference Room 518 Lucas State Office Bldg. Des Moines, Iowa	February 7, 2017 1 p.m.

TRANSPORTATION DEPARTMENT[761]

Iowa transportation map, 28.1 to 28.3 IAB 1/18/17 ARC 2906C	Second Floor Conference Room Administration Bldg. 800 Lincoln Way Ames, Iowa	February 9, 2017 10 a.m. (If requested)
Autocycles, amendments to chs 400, 401, 425, 602, 604 IAB 1/18/17 ARC 2908C	Motor Vehicle Division Offices 6310 SE Convenience Blvd. Ankeny, Iowa	February 9, 2017 2 p.m. (If requested)
Federal motor carrier safety and hazardous materials regulations—adoption by reference, 520.1(1), 529.1, 607.10(1)“c” IAB 1/4/17 ARC 2878C	Motor Vehicle Division Offices 6310 SE Convenience Blvd. Ankeny, Iowa	January 26, 2017 10 a.m. (If requested)
Transportation network companies, ch 540 IAB 1/18/17 ARC 2907C	Motor Vehicle Division Offices 6310 SE Convenience Blvd Ankeny, Iowa	February 9, 2017 1 p.m. (If requested)

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Board Hearing Room
1375 E. Court Ave.
Des Moines, Iowa

January 24, 2017
1 p.m.

The following list will be updated as changes occur.

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

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

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

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ARC 2894C

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

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 192.110(1), the Department of Agriculture and Land Stewardship hereby gives Notice of Intended Action to amend Chapter 68, “Dairy,” Iowa Administrative Code.

This proposed amendment adopts by reference the most recent dairy manuals for public health service requirements.

Any interested persons may make written suggestions or comments on the proposed amendment on or before February 7, 2017. Written comments should be addressed to Margaret Thomson, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319. Comments may be submitted by fax to (515)281-6236 or by e-mail to Margaret.Thomson@IowaAgriculture.gov.

The proposed amendment is subject to the Department’s general waiver provisions.

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

This amendment is intended to implement Iowa Code section 192.110.

The following amendment is proposed.

Amend rule 21—68.13(192,194) as follows:

21—68.13(192,194) Public health service requirements.

68.13(1) Certification. A rating of 90 percent or more calculated according to the rating system as contained in Public Health Service “Methods of Making Sanitation Ratings of Milk Shippers,” ~~2013~~ 2015 Revision, shall be necessary to receive or retain a Grade A certification under Iowa Code chapter 192. That publication is hereby incorporated into this rule by this reference and made a part thereof insofar as applicable, and a copy is on file with the department.

68.13(2) Documents. The following publications of the Public Health Service of the Food and Drug Administration are hereby adopted. A copy of each is on file with the department:

1. “Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments,” ~~2013~~ 2015 Revision.

2. “Standards for the Fabrication of Single Service Containers and Closures for Milk and Milk Products,” as incorporated in the P.M.O., Appendix J.

3. “Evaluation of Milk Laboratories,” ~~2011~~ 2015 Revision.

This rule is intended to implement Iowa Code chapter 192.

ARC 2893C

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 Economic Development Authority hereby gives Notice of Intended Action to amend Chapter 42, “Iowa Tourism Grant Program,” Iowa Administrative Code.

The proposed amendments establish new requirements for eligible applications. These new requirements limit applicants to submitting one application per fiscal year and do not allow applicants to submit applications for substantially similar projects in consecutive fiscal years. The proposed amendments clarify application requirements and update the application scoring criteria to shift the emphasis to projects that have greater economic impact, have the ability to promote tourism industry growth, are sustainable and innovative, and have well-developed budgets. Finally, the proposed amendments clarify eligible and ineligible expense requirements.

The Economic Development Authority Board approved these amendments at its meeting held on December 16, 2016.

Interested persons may submit comments on or before February 7, 2017. Comments may be submitted to Nicole Shalla, Economic Development Authority, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)725-3043; e-mail: nicole.shalla@iowa.gov.

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 Iowa Code section 15.106A.

The following amendments are proposed.

ITEM 1. Amend rule ~~261—42.1(15)~~, definitions of “Collaborative application,” “Meetings, events and professional development,” and “Project,” as follows:

“Collaborative application” means an application in which ~~either~~ multiple partners are providing monetary support for the project ~~or multiple partners are actively participating in the project or both.~~

“Meetings, and events and professional development” means the acquisition of ~~or attendance at~~ regional or national tourism-related meetings and conventions; or execution of local festivals or similar tourism events that positively impact local and state economies; ~~or execution of local or regional tourism-related education opportunities.~~

“Project” means a tourism-related marketing initiative, ~~or a meeting, an or event or a professional development effort~~ that benefits both state and local economies.

ITEM 2. Rescind the definition of “Rural area” in rule ~~261—42.1(15)~~.

ITEM 3. Amend subrule 42.2(4) as follows:

~~42.2(4) There are two classes of applications: (1) tourism-related marketing initiatives and (2) event-based applications, which include meetings, events or professional development efforts. An applicant may submit two applications within a class type or one application within each class type but shall not submit more than two applications one application each fiscal year. If one of the applications the application submitted by the applicant is a collaborative application, it will be included among counted as the head applicant’s total number of allowed applications application for the fiscal year. An applicant shall not receive more than two awards per fiscal year.~~

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

ITEM 4. Adopt the following **new** subrule 42.2(5):

42.2(5) An applicant that has received an Iowa tourism grant award in the prior fiscal year cannot submit an application for a substantially similar project in the following fiscal year. If an applicant does submit an application for a substantially similar project in the following fiscal year, the application will be deemed ineligible.

ITEM 5. Amend paragraph **42.3(1)“b”** as follows:

b. The applicant shall demonstrate an amount of local match equal to at least 25 percent of the amount of grant funds to be received by the applicant under the program. The local match shall be in the form of cash. The local match must be spent on eligible expenses as described in rule 261—42.6(15).

ITEM 6. Amend subrule 42.3(2) as follows:

42.3(2) *Application requirements.* When submitting an application for grant funds under the program, an applicant shall include all of the following information:

a. No change.

b. A detailed description of the project, including an explanation of how the project either markets tourism in Iowa or is a tourism-related meeting, or event ~~or professional development opportunity~~, and an explanation of how state funds will support the project.

c. ~~Documentation~~ Written documentation that the grant request is consistent with the cost of implementing the project. Examples of written documentation include but are not limited to advertising rate sheets, bids, quotes, and invoices.

d. and *e.* No change.

f. A description of the applicant’s plan to recognize the authority’s Iowa tourism office for its investment in the project.

g. If the applicant is an event, attraction, restaurant or lodging facility, then the applicant must provide verification that the information about the applicant has been updated at or added to the authority’s Web site, www.traveliowa.com, within the 18 months preceding the application deadline. The authority may waive this requirement at its sole discretion.

ITEM 7. Amend rule 261—42.4(15) as follows:

261—42.4(15) Application scoring and approval process.

42.4(1) *Scoring criteria.* The authority will not review or score an application unless the application meets the requirements and deadlines of rule 261—42.3(15). An application meeting the requirements and deadlines of rule 261—42.3(15) will be given a numerical score between zero and 100. The higher an application’s numerical score, the more likely it will receive funding under the program. The criteria used to score the applications and the maximum number of points that may be attributed to each criterion are as follows:

a. ~~Project information~~ description: ~~45~~ 20 points. The applicant will explain the project, the time line for its creation and implementation and how state funds will support the project. The authority will view favorably information that clearly articulates the project, sets forth a reasonable time line for the project’s creation and implementation, and fully describes how state funds will be used to support the project.

b. ~~Tourism~~ Economic impact and ability to promote tourism industry growth: ~~45~~ 20 points. The authority will consider how the project supports the mission of the Iowa tourism office ~~and how the project grows state and local economies~~ and is part of the applicant’s broader marketing strategy to increase the economic impact of tourism locally and in the state of Iowa. ~~The authority will view favorably applications that are most in line with the mission of the Iowa tourism office and have the most potential to create economic growth.~~

c. ~~Participation in the tourism industry~~: ~~15~~ points. ~~The authority will view favorably applicants whose representatives are active in the tourism industry. Examples of active participation in the tourism industry include but are not limited to membership in one or more tourism regions; attendance at the Iowa tourism conference; participation in the Iowa tourism office’s partnership programs (cooperative and Iowa travel guide advertising); participation in the Travel Federation of Iowa’s District Leader Program;~~

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

~~and participation in other statewide tourism-related groups such as the Iowa Group Travel Association and Iowa Destination Marketing Alliance. Sustainability: 10 points. The authority will view favorably applications that illustrate capacity to implement and sustain the project upon completion.~~

~~d. Need: 15 points. The authority will consider the financial need of an applicant and will recognize the importance of funding projects that would not take place without assistance under the program allot more points to applications that demonstrate how the applicant has exhausted other areas of funding to support the project.~~

~~e. Quality and strategy: 15 points. The authority will view favorably projects that are part of a broader strategy to increase tourism locally and in the state of Iowa. Innovation: 20 points. The authority will consider the innovative quality of an event or marketing initiative and will view favorably new events and new marketing initiatives or those events and marketing initiatives that are enhanced or distinctive in nature.~~

~~f. Local cash match/leveraged funds ratio: 10 points. The authority will consider the proportion of local cash match to the project's total budget and will view favorably applications with the highest ratio of local cash match to the project's total budget. Budget: 10 points. The authority will view favorably budgets that are well-developed and relevant to the project and that provide documentation of planned project expenses.~~

~~g. Collaboration: 5 points. The authority will view favorably applications that either represent a collaboration of multiple entities or show the benefit of the project to multiple entities within the tourism industry, or both.~~

~~h. Iowa tourism office recognition: 5 points. Applicants may determine the most appropriate way to recognize the authority's Iowa tourism office for its investment in the project. The authority will view favorably applicants with a well-developed plan to recognize the Iowa tourism office.~~

~~i. Population diversity: 5 points. Applications from an applicant based in a rural area, as defined in rule 261—42.1(15), will receive 5 points. Applications from applicants not based in a rural area will receive zero points. If the application is a collaborative application, population diversity will be based on the community of the head applicant.~~

~~42.4(2) Approval process. The director of the authority will establish a review committee consisting of members of the individuals affiliated with the Iowa tourism industry. The committee will score all completed applications in accordance with the criteria described in rules 261—42.3(15) and 261—42.4(15) and will use those scores to determine successful applicants. The committee may recommend partial funding of any or all applicants. If, after initially scoring all of the completed applications, the review committee is not able to allocate all the funds available, the authority may allow one or more additional rounds of applications to be submitted and scored. Before the execution of contracts, the authority will provide an award letter for each successful applicant to indicate the applicant's acceptance or rejection of the recommended award amount. If any awards are rejected, the authority may allow one or more additional rounds of applications to be submitted and scored. For each additional round of applications, the authority will follow the same eligibility requirements and use the same scoring criteria as used in earlier rounds. The authority may accept as many rounds of applications for awards as it deems appropriate.~~

ITEM 8. Amend subrules 42.6(1) to 42.6(3) as follows:

42.6(1) General. Each grantee shall at all times incur expenses and be reimbursed for such expenses by the authority only as described in this chapter or in a contract executed hereunder. The authority may deny reimbursement for any expenditure not directly related to the implementation of a tourism-related marketing project or a initiative, meeting, an or event or a professional development project.

42.6(2) Eligible expenses. Only expenditures directly related to the implementation of a tourism-related marketing project or a initiative, meeting, an or event or a professional development project will be reimbursed under the program. Examples of eligible expenses include the following:

a. The costs associated with all phases of the execution of marketing tactics and strategies, including planning and design and production of tools such as advertising, print materials, digital tools and exhibits for consumer-focused tradeshows.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

- ~~b.~~—The cost to register for a tourism-related regional or national conference.
- ~~c.~~—The costs associated with producing or hosting a meeting or training that shares best practices or otherwise provides tourism-related education, including but not limited to payments to speakers, payments to vendors, venue rental, and equipment rental.
- ~~d.~~ b. The costs associated with acquiring a regional or national tourism-related meeting, including but not limited to bid fees, rights fees, sponsorships, payments to vendors, venue rental, and equipment rental.
- ~~e.~~ c. The costs associated with executing a local event or festival, including but not limited to payments to vendors, payments to speakers or entertainers, venue rental, and equipment rental for new events or existing events in Iowa in order to augment the event.

42.6(3) Ineligible expenses. Expenses that are not directly related to the implementation of a tourism-related marketing ~~project or a initiative~~, meeting, ~~an or event or a professional development project~~ will be deemed ineligible. Ineligible expenses include but are not limited to vertical infrastructure; staff salaries and wages; equipment and software; solicitation efforts; lobbying fees; items that are purchased for resale; prizes given to participants or event/festival attendees; alcoholic beverages; internships; all travel, meal and lodging costs of applicant staff or the applicant's contractor; projects that receive funding from the authority's regional sports authority district program; marketing programs already subsidized by the authority including, but not limited to, advertising in the Iowa travel guide or participation in the cooperative partnership program; or a project of an Iowa tourism region.

ARC 2895C**ENVIRONMENTAL PROTECTION COMMISSION[567]****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 455B.133, the Environmental Protection Commission (Commission) hereby gives Notice of Intended Action to amend Chapter 22, “Controlling Pollution,” Iowa Administrative Code.

The purpose of the proposed rule making is to formalize permitting process improvements identified during “LEAN” events involving the Department of Natural Resources (Department) and the Office of Lean Enterprise in the Department of Management and stakeholders from 3M Company, Grain Processing Corporation, Monsanto Company, Pella Corporation, and Stanley Consultants, Inc. LEAN is a collection of principles, methods, and tools that improve the speed and efficiency of any process by eliminating waste.

Item 1 amends the requirements for submitting construction permit applications to clarify the types of mailing services that may be used to submit applications and to clarify that applications are not required to be submitted by certified mail. Additionally, Item 1 describes what constitutes a valid electronic signature for construction permit applications that may be submitted electronically.

Item 1 also establishes electronic media submission requirements necessary for compliance with the federal Cross-Media Electronic Reporting Rule adopted in 567—Chapter 15. For example, submittal of an application by electronic mail or other electronic program would be acceptable if the application bears a valid electronic signature and otherwise complies with the requirements of the Cross-Media Electronic Reporting Rule. However, the Department's current electronic submittal system does not accommodate the use of a valid electronic signature. Therefore, an applicant could e-mail all the pages of an application to the Department except the signature page(s). The signature page(s) would need to meet the requirements of 567—Chapter 15. The Department anticipates making available in the near

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

future an electronic application system that does accommodate a valid electronic signature that complies with the Cross-Media Electronic Reporting Rule.

Item 1 also reduces the regulatory burden for construction permit applicants for projects that will not emit greenhouse gases (GHG) by eliminating the requirement for those applicants to submit the current three-page GHG form. Applicants will instead be able to indicate that the application includes no GHG emissions in the project description.

Item 2 amends the requirements for submitting Title V permit applications to clarify the types of mailing services that may be used to submit applications and to clarify that applications are not required to be submitted by certified mail. For the applicant's convenience, the Commission is proposing to require that only one copy of the application (rather than two) be submitted to the Department. Additionally, Item 2 describes what constitutes a valid electronic signature for Title V Operating Permit applications that may be submitted electronically.

Item 2 also establishes electronic media submission requirements necessary for compliance with the federal Cross-Media Electronic Reporting Rule adopted in 567—Chapter 15. For example, submittal of an application by electronic mail or other electronic program would be acceptable if the application bears a valid electronic signature and otherwise complies with the requirements of the Cross-Media Electronic Reporting Rule. However, the Department's current electronic submittal system does not accommodate the use of a valid electronic signature. Therefore, an applicant could e-mail all the pages of an application to the Department except the signature page(s). The signature page(s) would need to meet the requirements of 567—Chapter 15. As stated above, the Department anticipates making available in the near future an electronic application system that does accommodate a valid electronic signature that complies with the Cross-Media Electronic Reporting Rule.

Anyone may make written suggestions or comments on the proposed amendments on or before February 20, 2017. Written comments should be directed to Christine Paulson, Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Windsor Heights, Iowa 50324; fax (515)725-9501; or by e-mail to christine.paulson@dnr.iowa.gov.

A public hearing will be held on Monday, February 20, 2017, at 1 p.m. in the conference rooms at the Department's Air Quality Bureau office located at 7900 Hickman Road, Windsor Heights, Iowa. All comments must be received no later than 4:30 p.m. on February 20, 2017.

Any person who intends to attend the public hearing and has special requirements, such as those related to hearing or mobility impairments, should contact Christine Paulson at (515)725-9510 or by e-mail at christine.paulson@dnr.iowa.gov to advise of any specific needs.

Jobs Impact Statement

After analysis and review, the Commission has determined that the proposed amendments will have a positive impact on private sector jobs. These amendments clarify submittal aspects of the construction permit and Title V permit application processes and provide additional certainty for applications regarding the application submittal process and, in some cases, regulatory relief. For instance, facilities that had previously chosen to submit hard-copy applications by certified mail are likely to realize cost savings by using another, less expensive submittal method. In addition, there will be cost and time savings with having to submit only one copy of the Title V permit application to the Department. In addition, the requirement to submit GHG forms is being eliminated in many instances. These savings can be put back into the company (e.g., to be used for job creation).

These amendments are intended to implement Iowa Code section 455B.133.

The following amendments are proposed.

ITEM 1. Amend subrule 22.1(3) as follows:

22.1(3) Construction permits. The owner or operator of a new or modified stationary source shall apply for a construction permit. Two copies of a construction permit application for a new or modified stationary source shall be presented or mailed to Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Windsor Heights, Iowa 50324. Application submission methods may include, but are not limited to, U.S. Postal Service, private parcel delivery services, and hand delivery. Applications are not required to be submitted by certified mail. Alternatively, the owner or operator may

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apply for a construction permit for a new or modified stationary source through the electronic submittal format specified by the department.

Each permit application submitted to the department electronically must bear a valid electronic signature and must otherwise comply with the requirements of 567—Chapter 15. A valid electronic signature, as defined in 567—Chapter 15, means an electronic signature on an electronic document created by using an electronic signature device that the identified signatory is uniquely entitled to use for signing the electronic document, provided the device has not been compromised and provided the signatory is an individual authorized to sign the document by virtue of legal status or relationship to the entity on whose behalf this signature is created. At a minimum, the signature page(s) of an application must contain a valid electronic signature created using an electronic signature device. The remainder of the application may be submitted via e-mail or any other paper or electronic method. An owner or operator may submit applications with signatures that do not meet the definition of a valid electronic signature contained in 567—Chapter 15 when the documents are submitted via facsimile, electronic documents are submitted via magnetic or optical media, or non-federal state-only program information is submitted through an electronic submittal system.

The owner or operator of any new or modified industrial anaerobic lagoon or a new or modified anaerobic lagoon for an animal feeding operation other than a small operation as defined in rule 567—65.1(455B) shall apply for a construction permit. Two copies of a construction permit application for an anaerobic lagoon shall be presented or mailed to Department of Natural Resources, Water Quality Bureau, Henry A. Wallace Building, 502 East Ninth Street, Des Moines, Iowa 50319.

a. No change.

b. *Construction permit applications.* Each application for a construction permit shall be submitted to the department on the form “Air Construction Permit Application.” Final plans and specifications for the proposed equipment or related control equipment shall be submitted with the application for a permit and shall be prepared by or under the direct supervision of a professional engineer licensed in the state of Iowa in conformance with Iowa Code section 542B.1, or consistent with the provisions of Iowa Code section 542B.26 for any full-time employee of any corporation while doing work for that corporation. The application for a permit to construct shall include the following information:

(1) to (8) No change.

(9) A signed statement that ensures the applicant’s legal entitlement to install and operate equipment covered by the permit application on the property identified in the permit application. A signed statement shall not be required for rock crushers, portable concrete or asphalt equipment used in conjunction with specific identified construction projects which are intended to be located at a site only for the duration of the specific, identified construction project; ~~and~~

(10) Application fee.

1. The owner or operator shall submit a fee as required in 567—Chapter 30 to obtain a permit under subrule 22.1(1), rule 567—22.4(455B), rule 567—22.5(455B), rule 567—22.8(455B), rule 567—22.10(455B), 567—Chapter 31 or 567—Chapter 33;₂

2. For application submittals from a minor source as defined in 567—Chapter 30, the department shall not initiate review and processing of a permit application submittal until all required application fees have been paid to the department;₂ ~~and~~

(11) Quantity of greenhouse gas emissions for all applications for projects that will or do have greenhouse gas emissions. For all applications for projects that will not or do not have greenhouse gas emissions, the applicant shall indicate in the application that no greenhouse gases will be emitted, and the applicant will not be required to file an inventory of greenhouse gases with that application, unless requested by the department.

c. No change.

ITEM 2. Amend subrule 22.105(1) as follows:

22.105(1) Duty to apply. For each source required to obtain a Title V operating permit, the owner or operator or designated representative, where applicable, shall present or mail a complete and timely permit application in accordance with this rule to the following locations: Iowa Department of Natural

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Windsor Heights, Iowa 50324 (~~two copies~~ one copy); and U.S. EPA Region VII, 901 North 5th Street, Kansas City, Kansas 66101 (one copy); and, if applicable, the local permitting authority, which is either Linn County Public Health Department, Air Quality Division, 501 13th Street NW, Cedar Rapids, Iowa 52405 (one copy); or Polk County Public Works, Air Quality Division, 5885 NE 14th Street, Des Moines, Iowa 50313 (one copy). Application submission methods may include, but are not limited to, U.S. Postal Service, private parcel delivery services, or hand delivery. Applications are not required to be submitted by certified mail. Alternatively, an owner or operator may submit a complete and timely application through the electronic submittal format specified by the department.

Each permit application submitted to the department electronically must bear a valid electronic signature and must otherwise comply with the requirements of 567—Chapter 15. A valid electronic signature, as defined in 567—Chapter 15, means an electronic signature on an electronic document created by using an electronic signature device that the identified signatory is uniquely entitled to use for signing the electronic document, provided the device has not been compromised and provided the signatory is an individual authorized to sign the document by virtue of legal status or relationship to the entity on whose behalf this signature is created. At a minimum, the signature page(s) of an application must contain a valid electronic signature created using an electronic signature device. The remainder of the application may be submitted via e-mail or any other paper or electronic method. An owner or operator may submit documents with signatures that do not meet the definition of a valid electronic signature contained in 567—Chapter 15 when the documents are submitted via facsimile, electronic documents are submitted via magnetic or optical media, or non-federal state-only program information is submitted through an electronic submittal system.

An owner or operator of a source required to obtain a Title V permit pursuant to subrule 22.101(1) shall submit all required fees as required in 567—Chapter 30.

a. and *b.* No change.

ARC 2898C

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 sections 234.6 and 29C.20B, the Department of Human Services hereby gives Notice of Intended Action to amend Chapter 58, “Emergency Assistance,” Iowa Administrative Code.

These proposed amendments restructure the Emergency Assistance programs managed by the Department of Human Services. Within the administrative rules found in Chapter 58, definitions have been added to assist in providing consistent eligibility for both DHS-managed emergency assistance programs: Iowa Disaster Aid Individual Assistance Grant Program (IIAGP) and Iowa Disaster Case Management (IDCM) program. Additionally, grant amount guidelines have been updated. Amendments have also been proposed in this rule making for implementation of the IDCM program as authorized by Iowa Code section 29C.20B. Divisions III, IV, and V of Chapter 58 are rescinded as the programs are no longer in use.

Any interested person may make written comments on the proposed amendments on or before February 7, 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.

HUMAN SERVICES DEPARTMENT[441](cont'd)

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, these amendments may have an impact on private sector jobs, specifically in the areas where organizations may provide materials or services to disaster victims.

These amendments are intended to implement Iowa Code sections 234.6 and 29C.20B.

The following amendments are proposed.

ITEM 1. Adopt the following new definitions in rule **441—58.1(29C)**:

"Bona fide residence" or *"bona fide address,"* as set forth in Iowa Code section 321.1(6C), means the pre-disaster street or highway address of an individual's dwelling or dwelling unit. The bona fide residence of a homeless person is a primary nighttime residence meeting one of the criteria listed in Iowa Code section 48A.2(2).

"Dwelling" or *"dwelling unit"* means the structure in which a household resides. "Dwelling" or "dwelling unit" includes permanent structures, mobile homes, manufactured homes, modular homes, fifth-wheel travel trailers, travel trailers, and motor homes in which a household resides.

"Fifth-wheel travel trailer," as set forth in Iowa Code section 321.1(36C)(c), means a type of travel trailer which is towed by a pickup by a connecting device known as a fifth wheel. However, this type of travel trailer may have an overall length which shall not exceed 45 feet. If the vehicle is used in this state as a place of human habitation for more than 90 consecutive days in one location, the vehicle shall be classed as a manufactured or mobile home regardless of the size limitations provided in this definition.

"Home" means the pre-disaster dwelling or dwelling unit for a household.

"Manufactured home" or *"modular home,"* as set forth in Iowa Code section 321.1(36B), is a factory-built structure constructed under authority of 42 U.S.C. §5403, which is required by federal law to display a seal from the United States department of housing and urban development, and was constructed on or after June 15, 1976.

"Manufactured or mobile home," as set forth in Iowa Code section 321.1(36C)(a), means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons.

"Motor home," as set forth in Iowa Code section 321.1(36C)(d), means a motor vehicle designed as an integral unit to be used as a conveyance upon the public streets and highways and for use as a temporary or recreational dwelling and having at least four, two of which shall be systems specified in paragraph "1," "4," or "5" of this definition, of the following permanently installed systems which meet American National Standards Institute and National Fire Protection Association standards in effect on the date of manufacture:

1. Cooking facilities.
2. Ice box or mechanical refrigerator.
3. Potable water supply including plumbing and a sink with faucet either self-contained or with connections for an external source, or both.
4. Self-contained toilet or a toilet connected to a plumbing system with connection for external water disposal, or both.
5. Heating or air conditioning system or both, separate from the vehicle engine or the vehicle engine electrical system.
6. A 110- to 115-volt alternating current electrical system separate from the vehicle engine electrical system either with its own power supply or with a connection for an external source, or both, or a liquefied petroleum system and supply. If the vehicle is used in this state as a place of human habitation for more than 90 consecutive days in one location, the vehicle shall be classed as a manufactured or mobile home regardless of the size limitations provided in this definition.

"Owner" means one or more persons, jointly or severally, in whom is vested all or part of the legal title to property or all or part of the beneficial ownership and a right to present use and enjoyment of the property. "Owner" includes a mortgagee in possession.

"Rent" means an amount paid to the landlord under the rental agreement.

HUMAN SERVICES DEPARTMENT[441](cont'd)

“*Tenant*” means a person or persons entitled under a rental agreement to occupy a dwelling or dwelling unit to the exclusion of others.

“*Travel trailer*,” as set forth in Iowa Code section 321.1(36C)(b), means a vehicle without motive power used, manufactured, or constructed to permit its use as a conveyance upon the public streets and highways and designed to permit its use as a place of human habitation by one or more persons. The vehicle may be up to 8 feet, 6 inches in width and its overall length shall not exceed 45 feet. The vehicle shall be customarily or ordinarily used for vacation or recreational purposes and not used as a place of permanent habitation. If the vehicle is used in this state as a place of human habitation for more than 90 consecutive days in one location, the vehicle shall be classed as a manufactured or mobile home regardless of the size limitations provided in this definition.

ITEM 2. Adopt the following **new** subrule 58.2(3):

58.2(3) *Program extensions.*

a. The program may be extended beyond 120 days through an extension of the governor’s disaster proclamation; or

b. The program may be extended in 30-day intervals requested by the applicant household through the contracted entity and approved by the department.

ITEM 3. Amend rule 441—58.4(29C) as follows:

441—58.4(29C) Eligibility criteria. To be eligible for assistance, an applicant household must meet all of the following conditions:

58.4(1) The household’s bona fide residence was located in the area identified in the disaster declaration during the designated incident period and the household verifies occupancy at that residence.

58.4(2) to 58.4(5) No change.

58.4(6) Household eligibility for home repair assistance for a dwelling or dwelling unit damaged due to a proclaimed disaster is only available for a household that owns and occupies the dwelling or dwelling unit being repaired.

ITEM 4. Rescind subrule 58.5(1) and adopt the following **new** subrule in lieu thereof:

58.5(1) Personal property and food assistance may be issued for damage to personal property or loss of food, including the following items, based on the item’s condition:

a. Kitchen items, excluding large appliances up to a maximum of \$560, including:

(1) Small appliances, e.g., toaster, blender, microwave, and

(2) Furnishings (e.g., tables, chairs).

b. Large kitchen appliances or laundry appliances, up to a maximum of \$700 per appliance and a maximum per household not to exceed \$2,800, if the appliances are owned by the household and not a landlord.

c. Food, up to a maximum of \$50 for one person plus \$25 for each additional person in the household.

d. Personal hygiene items, up to a maximum of \$30 per person and \$150 per household.

e. Bedroom furnishings, up to \$500 per person.

f. Clothing, up to a maximum of \$145 per person.

g. Living area furnishings, such as: couch, chair, end tables, and television, up to a maximum of \$1,000.

h. Other items, including:

(1) Dehumidifier, up to a maximum of \$250.

(2) One window air conditioner, up to a maximum of \$250.

i. Vehicle repair, up to a maximum of \$500.

ITEM 5. Amend subrule 58.5(2) as follows:

58.5(2) ~~Assistance~~ Home repair assistance may be issued for home repair for an owner-occupied dwelling or dwelling unit as needed to make the home dwelling or dwelling unit safe, sanitary, and secure, up to a maximum of \$5,000.

a. Assistance will be denied if preexisting conditions are the cause of the damage.

HUMAN SERVICES DEPARTMENT[441](cont'd)

- b.* Assistance may be authorized for:
- (1) The repair of structural components, such as the foundation and roof.
 - (2) The repair of floors, walls, ceilings, doors, windows, and carpeting of essential interior living space that was occupied at the time of the disaster.
 - (3) Debris removal, including trees, up to a maximum of \$1,000.
 - (4) ~~Replacement or repair of other items of necessity as approved by the department on a case-by-case basis up to a maximum of \$5,000.~~
- c.* Repairs to rental ~~property~~ dwellings or dwelling units or landlord-owned equipment are excluded under this program.
- d.* Bathroom, up to a maximum of \$1,500, including toilet, sink, and tub/shower.
- e.* Sump pump (in a flood event only), up to a maximum of \$200 installed.
- f.* Electrical or mechanical repairs, up to a maximum of \$2,000.
- g.* Water heater, up to a maximum of \$1,500 installed.
- h.* Heating systems, up to a maximum of \$2,100 installed.
- i.* Air-conditioning systems, up to a maximum of \$2,100 installed.
- j.* Water well repair for dwellings or dwelling units with no other source of water available, up to a maximum of \$2,000.
- k.* Water softener repair, up to a maximum of \$500.

ITEM 6. Amend subrule 58.5(3) as follows:

58.5(3) ~~Assistance~~ Temporary housing assistance may be issued for temporary housing assistance to a household, up to a limit of \$50 \$65 per day, for lodging at a licensed establishment, such as a hotel or motel, if the household's home is must be considered to be destroyed, uninhabitable, inaccessible, or unavailable to the household. Temporary housing assistance may also be granted for deposits for a new dwelling. Total temporary housing assistance may not exceed \$2,500.

ITEM 7. Adopt the following **new** subrule 58.5(4):

58.5(4) Replacement, repair, or provision of other items of necessity may be approved by the department on a case-by-case basis, up to a maximum of \$5,000.

ITEM 8. Amend subrule 58.6(1) as follows:

58.6(1) The contracted ~~administrative~~ entity or designee shall confirm that the bona fide address provided on the application is a valid address and is reasonably believed to be in the disaster-affected area. The department or contracted entity reserves the right to view the damaged property prior to providing any assistance pursuant to IIAGP.

ITEM 9. Amend paragraph **58.7(1)“b”** as follows:

b. To request reconsideration, the household shall submit a written request to the DHS ~~Office of the Director~~ Division of Field Operations—Emergency Assistance, 1305 East Walnut Street, Des Moines, Iowa 50319-0114, within 15 days of the date of the letter notifying the household of the department's decision.

ITEM 10. Adopt the following **new** Division II title in **441—Chapter 58**:

DIVISION II
IOWA DISASTER CASE MANAGEMENT

ITEM 11. Adopt the following **new** rules 441—58.21(29C) to 441—58.31(29C):

441—58.21(29C) Purpose. The purpose of these rules is to guide the provision of the Iowa disaster case management (IDCM) program during the time of emergency disaster for individual assistance when a disaster is proclaimed by the governor of the state of Iowa.

441—58.22(29C) Definitions.

“*Contracted entity*” means an entity chosen by the department as the contracted administrator for the IDCM program.

HUMAN SERVICES DEPARTMENT[441](cont'd)

“Emergency management coordinator” means the person appointed by the local emergency management commission pursuant to Iowa Code sections 29C.9 and 29C.10 to be responsible for development of the countywide emergency operations plan and for coordination and assistance to government officials when an emergency or disaster occurs.

“Household” means all adults and children who lived in the pre-disaster residence who request assistance, as well as any persons, such as infants, spouses, or part-time residents, who were not present at the time of the disaster but who are expected to return during the assistance period.

“Necessary services” means the guidance and advice in obtaining a service, or assistance in obtaining resources from various providers for any other activity that addresses a serious need.

441—58.23(29C) Program implementation.

58.23(1) Disaster proclamation. The Iowa disaster case management (IDCM) program shall be implemented when the governor issues a proclamation of a state of emergency disaster that authorizes individual assistance.

a. The program shall be in effect only in those counties named in the proclamation. Assistance for a state-only proclamation shall be provided for a period of up to 180 days from the date of proclamation.

b. A request for an additional 90-day extension to the period of performance will be considered when adequate justification is presented to the department.

c. The program shall commence on the day following proclamation of a disaster by the governor and remain in effect through 180 days even if the disaster becomes a presidentially proclaimed disaster that authorizes individual assistance.

d. The period of performance for presidentially proclaimed disaster is 24 months from the date of the presidential proclamation.

e. The reporting of the numbers of contacts, cases opened, cases pending, cases closed, and other required reports requested by the department shall be submitted weekly on a day determined by the department.

f. Audits of disaster case files, as well as cost management and expenditures, may be randomly performed by the department without notice.

58.23(2) Contracting. The administrative entity currently under contract for the Iowa disaster aid individual assistance grant program (IIAGP) shall receive an amended contract to specify administration of the IDCM program.

a. Future contract renewals shall be inclusive with the IIAGP and as amended to include the IDCM program.

b. If a local contracted entity is under contract with the state to provide other services or is implementing a state or federal program and the contract contains a sufficient surety bond or other adequate financial responsibility provision, the department shall accept the existing surety bond or financial responsibility provisions in lieu of applying a new or additional surety bond or financial responsibility requirement.

c. The contracted entity shall coordinate activities with emergency management coordinators and voluntary organizations active in the disaster while the program is active. The contracted entity may subcontract with other entities to provide disaster case management with the approval of the department.

441—58.24(29C) Eligibility criteria. To be eligible for assistance, an applicant household must meet all of the following conditions:

58.24(1) The household’s residence was located in the area identified in the disaster proclamation during the designated incident period and the household verifies occupancy at that residence.

58.24(2) Household members are citizens of the United States or are legally residing in the United States.

58.24(3) The household has disaster-related needs that represent a burden that the family is unable to resolve.

HUMAN SERVICES DEPARTMENT[441](cont'd)

441—58.25(29C) Services. Disaster case management is a time-limited resource and process that involves a partnership between a case manager and a household impacted by a disaster (also known as a client) to develop and carry out a disaster recovery plan. This partnership provides the client with a single point of contact to facilitate access to a broad range of resources, promoting sustainable assistance for individuals and a household's recovery. These services are client-focused and provided in a manner consistent with standards for trauma-informed practice in human services.

441—58.26(29C) Disaster-caused unmet needs. A disaster-caused unmet need is an unresourced item, support, or assistance that has been assessed by a representative from a local, state, tribal, federal agency, voluntary, or faith-based organization and that is needed for the client to recover from the disaster. Unmet disaster-caused needs may also include basic and immediate needs, such as food, clothing, shelter, or first aid, and long-term needs, such as financial, physical, emotional or spiritual well-being.

441—58.27(29C) Resources. Applicable resources may include, but not be limited to, insurance payments, state assistance, voluntary/faith-based and local community assistance, federal disaster assistance, small business administration loans, and personal resources.

441—58.28(29C) Standards and policies.

58.28(1) Access. The contracted entity shall provide clients with ease of access to disaster case management services.

58.28(2) Confidentiality and duplications of benefits.

a. The contracted entity shall have policies and procedures to meet requirements regarding maintaining confidentiality set forth by the department.

b. The contracted entity shall develop memorandums of agreement, memorandums of understanding, and release of information that will allow coordinated case advocacy and services and prevent the duplication of benefits.

58.28(3) Engagement. The case manager shall create a sustainable, trusting partnership with the client.

58.28(4) Screening. The case manager shall perform screening to determine eligibility and disaster-related unmet needs.

58.28(5) Intake and assessment. The case manager shall perform intake and assessment procedures to triage disaster-related needs of eligible households.

a. A case manager shall conduct an assessment specifically seeking targeted information to identify a client's disaster-related needs.

b. An assessment should focus on planning for recovery and meeting recovery goals.

c. An assessment should be conducted in person, when feasible, and should follow all standards for confidentiality and engagement.

58.28(6) Recovery planning.

a. A recovery plan should outline tasks for both the client and case manager based on an assessment and documentation of needed services.

b. The plan should identify priority needs and connect the client with resources, establish benchmarks and goals to measure progress toward recovery, and outline a case closure procedure.

c. The plan should be a joint effort between the case manager and the client.

d. The case manager should explain the available options, the resource and recovery alternatives, and the support services offered by the case manager.

58.28(7) Action and advocacy. The case manager's role in recovery includes: providing, referring or arranging for needed services and resources; verifying unmet needs, completing documentation and checking duplication of benefits; and actively advocating for the client through presentation, participation in recovery groups and interface with government and nongovernment resource providers.

58.28(8) Monitoring. Monitoring the services allows the case manager to keep documents up to date, to determine if the chosen resources are providing the services needed, and to evaluate whether adjustments are needed.

HUMAN SERVICES DEPARTMENT[441](cont'd)

58.28(9) Closure.

a. Closure procedures should be outlined in the recovery plan and the roles and responsibilities of the client and case manager clearly defined.

b. Case closure acknowledges the recovery goals achieved, recognizes the progress made toward unmet goals, and identifies needed resources to continue progress.

441—58.29(29C) Planning and training. Training shall adhere to the disaster case management criteria, as prescribed by the Federal Administration for Children and Families, and follow the disaster case management guidelines as designed by the Iowa disaster human resource council or the approved rules of the department. The department shall request from the executive council of the state of Iowa funds to perform training in disaster case management as requested and required to prepare for disaster response.

441—58.30(29C) Payment for services.

58.30(1) The department will negotiate payment with the contracted entity when the contract is established. Payment will be based on the contracted entity's actual direct and indirect costs.

58.30(2) The department will accept the contracted entity's federally approved indirect cost rates as required by the federal Office of Management and Budget (OMB).

58.30(3) The local administrative entity may draw down grant funding to pay valid claims on at least a weekly basis.

58.30(4) Exhaustion of funds. The program shall be discontinued when the funds available for the program have been exhausted. The department will notify the contracted entity of the total available funds for the IDCM program once funds have been approved by the executive council. To ensure equitable treatment, assistance shall be approved on a first-come, first-served basis until all funds have been exhausted.

441—58.31(29C) Contested cases.**58.31(1) Reconsideration.**

a. The household may request reconsideration of decisions regarding eligibility.

b. To request reconsideration, the household shall submit a written request to the DHS Division of Field Operations—Emergency Assistance, 1305 East Walnut Street, Des Moines, Iowa 50319-0114, within 15 days of the date of the letter notifying the household of the contracted entity's decision.

c. The department shall review any additional evidence or documentation submitted and issue a reconsideration decision within 15 days of receipt of the request.

58.31(2) Appeal. The household may appeal the department's reconsideration decision according to procedures in 441—Chapter 7.

a. Appeals must be submitted in writing, either on Form 470-0487 or 470-0487(S), Appeal and Request for Hearing, or in any form that provides comparable information, to the DHS Appeals Section, 1305 East Walnut Street, Des Moines, Iowa 50319-0114, within 15 days of the date of the reconsideration decision.

b. A written appeal is filed on the date the envelope sent to the department is postmarked or, when the postmarked envelope is not available, on the date the appeal is stamped received by the agency.

These rules are intended to implement Iowa Code sections 234.6 and 29C.20B.

ITEM 12. Reserve rules **441—58.32** to **441—58.40**.

ITEM 13. Rescind rules **441—58.41(217)** to **441—58.45(249A)**.

ITEM 14. Rescind **441—Chapter 58, Division IV** preamble, and rules **441—58.51(234)** to **441—58.58(234)**.

ITEM 15. Rescind **441—Chapter 58, Division V** preamble, and rules **441—58.61(234)** to **441—58.68(234)**.

ARC 2897C

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 78, “Amount, Duration and Scope of Medical and Remedial Services,” Iowa Administrative Code.

These proposed 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.”

Any interested person may make written comments on the proposed amendments on or before February 7, 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 also 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 249A.4.

The following amendments are proposed.

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.

HUMAN SERVICES DEPARTMENT[441](cont'd)

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.

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.

ARC 2899C

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 sections 249A.4 and 249A.4B, the Department of Human Services hereby gives Notice of Intended Action to amend Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

The proposed amendment 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.

HUMAN SERVICES DEPARTMENT[441](cont'd)

- 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.
- 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.

Any interested person may make written comments on the proposed amendment on or before February 7, 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 sections 249A.4 and 249A.4B.

The following amendment is proposed.

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:

HUMAN SERVICES DEPARTMENT[441](cont'd)

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 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.

HUMAN SERVICES DEPARTMENT[441](cont'd)

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.

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.

HUMAN SERVICES DEPARTMENT[441](cont'd)

(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.

(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.

HUMAN SERVICES DEPARTMENT[441](cont'd)

- 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.
- 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.

ARC 2892C**IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]****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 97B.4 and 97B.15, the Iowa Public Employees' Retirement System (IPERS) hereby gives Notice of Intended Action to amend Chapter 1, “Organization,” Chapter 2, “Investment Board,” Chapter 3, “Benefits Advisory Committee,” Chapter 4, “Employers,” Chapter 5, “Employees,” Chapter 6, “Covered Wages,” Chapter 10, “Interest on Accumulated Contributions,” Chapter 11, “Application for, Modification of, and Termination of Benefits,” Chapter 12, “Calculation of Monthly Retirement Benefits,” Chapter 14, “Death Benefits and Beneficiaries,” Chapter 19, “Declaratory Orders,” Chapter 20, “Recognition of Agents,” Chapter 31, “Agency Procedure for Rule Making,” and Chapter 33, “Uniform Rules for Waivers,” Iowa Administrative Code.

IPERS proposes the following amendments: to conform rules with other rules and statutes or rescind rules that are outdated, redundant or inconsistent, or no longer in effect to meet the requirements of the statutorily required five-year review of rules (Chapters 3 and 31 reflect the most substantive changes with this review, to better conform with the controlling statutes and IPERS' practice and procedures); to implement contribution rates for regular and special service members beginning July 1, 2017; to add, pursuant to legislation in 2016, two new protection occupations to the list in the rule defining such occupations; to clarify student coverage and noncoverage and that student loan repayments are not IPERS-covered wages; to amend a rule regarding spousal signature so that a member may submit updated beneficiary designations electronically, absent written signature if the member's spouse is the sole primary beneficiary; to clarify the rules regarding revocation of representative agents; to clarify proof-of-birth documentation that is needed at the time a member applies for retirement benefits; and to clarify what members are required to file with IPERS when they are past 70.5 years of age and have already begun receiving benefits while still employed and are now retiring.

These amendments were prepared after consultation with IPERS' staff, IPERS' tax counsel and the Benefits Advisory Committee.

Any interested person may make written suggestions or comments on the proposed amendments on or before February 7, 2017. Such written suggestions or comments should be directed to the IPERS

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

Administrative Rules Coordinator at IPERS, 7401 Register Drive, P.O. Box 9117, Des Moines, Iowa 50306-9117. Persons who wish to present their comments orally may contact the IPERS Administrative Rules Coordinator at (515)281-7623. Comments may also be submitted by fax to (515)281-0045 or by e-mail to adminrule@ipers.org.

A public hearing will be held on February 7, 2017, at 9 a.m. at IPERS, 7401 Register Drive, Des Moines, Iowa. 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 matter of the amendments.

There are no waiver provisions included in 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 chapter 97B.

The following amendments are proposed.

ITEM 1. Amend rule 495—1.1(97B) as follows:

495—1.1(97B) Organization. The agency shall administer the retirement system created by Iowa Code chapter 97B. Specific powers and duties of the agency, CEO, board, committee, and agency staff are set forth in Iowa Code chapter 97B and these administrative rules.

Operational units within the agency shall develop and administer policies and procedures governing retirement system programs, including accounting functions for the collection of funds from employers and employee members; disbursement of retirement benefits, death benefits, lump sum payments, and disability retirement benefits; training to employers and subsequent review of employer records for compliance with Iowa Code chapter 97B, rules and policies; ~~legal counsel to IPERS staff and members regarding eligibility for disbursement of benefits and other legal matters;~~ preparation and release of informational newsletters and the annual report; and investment of funds contributed to the retirement system by employers and employee members. The retirement system is also the state administrator to the federal Social Security Administration.

ITEM 2. Amend rule **495—1.2(97B)**, definitions of “Agency” and “System,” as follows:

“*Agency*” means the Iowa ~~Public Employees’ Retirement System~~ public employees’ retirement system (IPERS) created as an independent agency within the executive branch of state government to administer Iowa Code chapter 97B.

“*System*” means the ~~retirement plan~~ Iowa public employees’ retirement system created pursuant to Iowa Code chapter 97B.

ITEM 3. Amend rule 495—2.1(97B) as follows:

495—2.1(97B) Investment board. The principal place of business of the board is IPERS’ headquarters, 7401 Register Drive, Des Moines, Iowa.

1. No change.

2. At the first meeting in each fiscal year, the voting members shall elect a chair and vice chair. Future meeting dates for the year shall also be decided at the first meeting. Advance notice of time, date, tentative agenda, and place of each meeting shall be given in compliance with Iowa Code chapter 21. All meetings of the board are open to the public and shall be held in accordance with Robert’s Rules of Order, Newly Revised Edition.

3. to 8. No change.

ITEM 4. Amend rule 495—3.1(97B) as follows:

495—3.1(97B) Benefits advisory committee.

3.1(1) Scope. These rules shall govern the conduct of business by the ~~IPERS’~~ IPERS benefits advisory committee (BAC) pursuant to Iowa Code section 97B.8B.

3.1(2) Purpose. The BAC shall be an advisory committee that serves as a channel for employers and employees to help formulate policies and recommendations regarding the provision of benefits and services to members of the system.

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

3.1(3) *Governmental body.* The BAC is a governmental body as defined by Iowa Code section 21.2(1).

ITEM 5. Amend rule 495—3.2(97B) as follows:

495—3.2(97B) Membership organizations and representatives.

3.2(1) The BAC membership organizations shall number no less than 9 and no more than 14, and the composition of the BAC must at all times meet the specific membership and voting requirements of Iowa Code section 97B.8B. A current list of organizations, appointees, terms and voting status is maintained on IPERS' Web Internet site and may be obtained in writing upon request.

3.2(2) Appointment of BAC representatives. Each membership organization shall appoint a representative to serve on the BAC. ~~The citizen representative shall be elected by the eight voting representatives who serve under subrules 3.4(1) and 3.4(2).~~ All BAC representatives shall provide in writing to IPERS or the chairperson the name, address, and telephone number of and other information about the representative as required by IPERS or the chairperson. The BAC shall not entertain petitions disputing a membership organization's choice of its representative. In addition, a citizen representative who is not a member of IPERS will also serve, pursuant to subrule 3.3(3).

3.2(3) Attendance. Any representative shall be deemed to have submitted a resignation from participation in the BAC if either of the following events occurs:

- a. The representative does not attend three or more consecutive regularly scheduled meetings.
- b. The representative attends fewer than one-half of the regularly scheduled meetings of the BAC each fiscal year.

This provision applies only to a period beginning on or after the date when the person assumes the position of representative. In the event that a representative is deemed to have resigned under this provision, the chairperson shall immediately notify the representative's organization and require the appointment of a different representative within 30 days.

If a representative is unable to attend a meeting, an alternate designated by the membership organization may attend the meeting, ~~but shall not be able to cast a vote.~~ Attendance by an alternate shall not relieve the regular representative of the responsibility of attendance at regularly scheduled meetings.

3.2(4) Replacement of membership organizations due to nonparticipation. If a membership organization, after receiving written notice from the BAC under subrule 3.2(3), fails to appoint a new representative to serve on the BAC, the chairperson shall send a second written notice to that membership organization again requiring that the organization appoint its representative within the next 30 days. The notice shall further state that, in order for the appointment to become effective, the newly appointed representative must also attend the next regularly scheduled BAC meeting. The attendance of an alternative representative at said meeting shall not fulfill the requirements of this subrule.

If the organization does not timely appoint a new representative, or its newly appointed representative does not attend the next regularly scheduled BAC meeting, the organization shall be deemed to have relinquished its seat on the BAC.

When a membership organization has relinquished its seat on the BAC for nonparticipation, the subcommittee on membership shall, as soon as practicable, meet to consider a replacement organization. If a seat relinquished for nonparticipation was not filled and the subcommittee on membership determines that the composition of the BAC would continue to satisfy subrule 3.2(1), the subcommittee on membership may recommend any type of qualified interested organization as a replacement, or it may recommend leaving the seat open. However, if the subcommittee determines that the composition of the BAC would not satisfy subrule 3.2(1) if a seat relinquished for nonparticipation was not filled, the subcommittee must recommend a replacement, and the replacement must be one that permits the BAC to meet the requirements of subrule 3.2(1).

Any qualified, interested organization may file a petition for consideration as a replacement membership organization. The subcommittee shall review all such petitions, if any, which have been filed after the most recent formal review under this rule. The subcommittee may also solicit petitions for BAC membership from any qualified interested organization.

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The subcommittee shall make its recommendation for a replacement membership organization, if any, at the next regularly scheduled BAC meeting or as soon as practicable. The BAC, by a majority vote of the nine voting ~~membership~~ representatives, shall approve or reject the subcommittee's recommendation.

If the subcommittee's recommendation is rejected and the seat must be filled, the subcommittee shall reconvene as soon as practicable and the foregoing process shall be repeated until such time as the subcommittee's recommendation is approved.

In order to be considered for BAC membership under this rule, an organization must be a "qualified, interested organization." "Qualified, interested organization" means a unit of the executive branch or a formally organized corporation or association representing a viable and identifiable group of covered employers or covered employees as determined by the BAC in its sole discretion.

This subrule shall not be construed to affect the BAC positions reserved for the director of the department of administrative services or the position reserved for a citizen ~~who has pension benefits experience and~~ who is not a member of IPERS.

3.2(5) Replacement of current membership organizations other than through nonparticipation. A qualified, interested organization that wishes to replace an existing membership organization may petition the BAC to do so. Such petitions for BAC membership must be submitted in writing to the BAC as set forth in this rule and will be considered according to the schedule established below.

An organization petitioning for membership on the BAC must include the official name of the organization, a description of its organizational structure, the number of employers or employees represented, a description of prior activities by that organization regarding IPERS issues, and a brief explanation of the reasons why the organization should be selected as a replacement organization. The petition should also include the name and contact information for the organization's proposed representative and the name and contact information of the person completing the petition.

~~As soon as practicable after May 31, 2006, the subcommittee will conduct a formal review of all petitions under this rule that have been received during the preceding three years. For this first formal review, the contents of such petitions shall not be required to meet the specific requirements set forth below, but must be sufficiently detailed or supplemented to permit a reasoned analysis and decision.~~

~~After the first formal review, a~~ A formal review of petitions under this rule shall be conducted every three years. IPERS shall provide 60 days' prior written notice of the next formal review session to members who have indicated in writing that they wish to file such a petition. IPERS will provide 60 days' prior written notice of the next formal review to all other potential petitioners through its Web Internet site.

The subcommittee chosen to make recommendations regarding the replacement of a current membership organization shall not include the individual representing that organization on the BAC. However, any membership organization whose seat is being contested under this rule shall have the opportunity to submit written materials and make oral presentations to the subcommittee in support of its continued existence as a BAC membership organization.

For each formal review, the subcommittee on membership shall review all petitions for membership, if any, that have been filed after the most recent formal review under this rule. The subcommittee may also solicit petitions for BAC membership from any qualified, interested organization.

When one or more qualified, interested organizations have filed a petition to replace a current membership organization, the subcommittee on membership shall meet at least 30 days prior to the next formal review session to determine whether to recommend approval or rejection.

If the subcommittee on membership determines that the composition of the BAC would continue to satisfy subrule 3.2(1) regardless of the type of qualified, interested organization recommended, the subcommittee on membership may recommend any type of qualified, interested organization for a seat being sought under this rule.

However, if the subcommittee on membership determines that the composition of the BAC will only continue to satisfy subrule 3.2(1) if a current membership organization's seat is filled by a certain specific type of organization, the subcommittee on membership must limit its recommendations for approval to

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the types of organizations that would permit the composition of the BAC to continue to satisfy subrule 3.2(1).

The subcommittee shall present its recommendation regarding the replacement of a current membership organization at the next regularly scheduled formal review of petitions under this rule. The BAC, by a majority vote of the nine voting membership representatives, shall approve or reject the subcommittee's recommendation.

If the subcommittee determines that two qualified, interested organizations are competing for the same seat, the subcommittee shall, in its sole discretion, evaluate the competing organizations and make a recommendation that meets the requirements of this rule and takes into consideration the following factors: the number of employers or employees represented, the diversity of the representation, the degree to which the applicable constituents already have BAC representation through other BAC membership organizations, prior involvement in BAC activities, and prior activities as an IPERS advocate in other forums.

If the BAC votes to replace a current membership organization that holds a voting seat with a new membership organization, the replacement membership organization shall complete the remainder of the term for that voting seat. Otherwise, the new membership organization shall be seated as a nonvoting organization. Thereafter, if a vacancy occurs in a voting seat and the new membership organization is qualified to fill that voting seat, the new membership organization may compete for the vacant voting seat.

An organization that petitions for a seat under this rule and after a formal review is not selected must resubmit its petition for membership in order to receive consideration for a seat during the next scheduled formal review.

This subrule shall not be construed to affect the BAC position reserved for the director of the department of administrative services or the position reserved for a citizen ~~who has pension benefits experience and~~ who is not a member of IPERS.

ITEM 6. Renumber rules ~~495—3.4(97B)~~, ~~495—3.6(97B)~~ and ~~495—3.7(97B)~~ as ~~495—3.3(97B)~~, ~~495—3.4(97B)~~ and ~~495—3.5(97B)~~, respectively.

ITEM 7. Amend renumbered rule 495—3.3(97B) as follows:

495—3.3(97B) Voting representatives. The BAC shall have nine voting representatives. Four shall represent employers, four shall represent ~~active and retired~~ members of the system, and one shall be a citizen ~~who has pension benefits experience and~~ who is not a member of IPERS.

3.3(1) Employer voting representatives. One voting representative shall be the director of the department of administrative services. The remaining employer voting representatives shall be elected by the full membership of the BAC as follows: one shall be a representative of an employer group representing cities, one shall be a representative of an employer group representing counties, and one shall be a representative of an employer group representing local school districts.

3.3(2) Employee voting representatives. One voting representative shall be elected by the full membership of the BAC from ~~the a membership organizations organization that represent~~ represents teachers. The other three voting representatives ~~of active and retired members who represent members of the system~~ shall be elected by the remaining full membership of the BAC ~~representatives not automatically selected by virtue of legally mandated seats or designated as voting members by the full membership of the BAC under subrule 3.4(1) or this subrule. No, with no more than one of these voting members shall be~~ being the representative of an employee group that solely represents the public safety protection classes.

3.3(3) The citizen representative shall be elected by the eight voting representatives who serve under subrules 3.3(1) and 3.3(2).

~~3.3(3)~~ **3.3(4) Voting rights.** ~~No~~ A membership organization shall be permitted to designate a substitute voting representative to cast the vote of a the membership organization at a meeting in the event that the named representative cannot attend the meeting. No membership organization shall have more than one vote on a matter brought before the BAC.

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~~3.3(4)~~ **3.3(5)** *Terms of voting representatives.* The term of each voting representative shall be three years, beginning and ending as provided in Iowa Code section 97B.8B, except as otherwise indicated in this subrule.

The terms of the voting representatives shall be staggered, so as to maintain an acceptable level of continuity and experience on the BAC. ~~Accordingly, the terms of voting representatives chosen to begin July 1, 2002, shall be set as follows: The voting representatives shall draw lots to determine the length of their terms of office. Two shall serve for one year, three shall serve for two years, and two shall serve for three years. This formula recognizes that two voting representatives, the director of the department of administrative services and the citizen representative, are required by law to be voting members. The citizen representative shall serve for three years. At the expiration of the one-, two- or three-year term, the voting representative elected to fill that position shall serve for a three-year term.~~

If a voting representative resigns or is replaced by the appointing organization, the appointing organization shall appoint a successor who shall be a voting member for the remainder of the term in question.

If an organization that is not currently a membership organization successfully petitions to replace a membership organization that is represented by a voting representative, the representative of the replacement membership organization shall complete the remainder of the term of the voting representative in question.

~~3.3(5)~~ **3.3(6)** *Quorum, and voting requirements and voting procedures.* A majority of the

a. Quorum. Five voting representatives of the BAC ~~constitutes~~ constitute a quorum.

a. b. Voting requirements. A quorum of the BAC must be present, whether the representatives are attending in person or remotely, at the time any vote is taken. ~~In order for a motion to pass or for the BAC to conduct business, a majority of the full voting membership must vote in favor of the motion or other business matter.~~

b. c. Voting procedures. The chairperson shall rule as to whether the vote will be by voice or roll call. A roll-call vote shall be taken anytime a voice vote is not unanimous. Minutes of the BAC shall indicate the vote of each voting member if a roll-call vote is taken.

~~3.3(6)~~ **3.3(7)** *Officers and election elections.*

a. Officers. The officers of the BAC are the chairperson and vice chairperson and shall be elected by a vote of the full membership of the BAC.

b. Elections. Election of officers shall take place at the first BAC meeting held ~~on or after July 1, 2002,~~ and at the beginning of each fiscal year thereafter. If an officer does not serve out the elected term, a special election shall be held at the first meeting after notice is provided to the BAC to elect a representative to serve out the remainder of the term.

ITEM 8. Amend renumbered rule 495—3.4(97B) as follows:

495—3.4(97B) Duties. The BAC shall review and advise on the following matters insofar as they impact benefits and services provided to members and member employers under Iowa Code chapter 97B: overall plan design, benefits policy and goals, budget, benchmarking and quality assessment efforts, research and strategic planning. ~~Through its voting representatives, the BAC shall make recommendations to the system, the governor and the general assembly about programs, benefits and services.~~ The BAC shall also participate in annual performance evaluations of the chief benefits officer and, when that position becomes vacant, assist the chief executive officer in the process of ~~defining and~~ selecting a replacement. In addition, the BAC shall recommend to the governor at least two nominees for each vacant position on the investment board reserved for active or retired members of the system. The chairperson of the BAC shall solicit nominations for such vacancies from the entire BAC membership and, through a meeting of the BAC, select the names to be forwarded to the governor.

At least every two years, the BAC shall review the benefits and services provided to members; and the voting representatives shall make recommendations to the system, the governor, and the general assembly concerning the benefits and services provided to members and the system's benefits policies and benefits goals. All of the membership of the BAC, including nonvoting representatives, may have input into formulating such recommendations.

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ITEM 9. Amend renumbered rule 495—3.5(97B) as follows:

495—3.5(97B) Committee meetings Meetings. The BAC shall meet at least quarterly, or at the call of the chairperson, or upon the written request by the chief executive officer, ~~or designee, or upon written request of a majority of the BAC representatives.~~ The chairperson shall establish the dates of all regularly scheduled meetings and provide, with reasonable effort, at least one month's notice of those meeting dates, locations, and agenda. ~~Meetings, unless~~ Unless otherwise specified in the agenda, meetings will generally be held at IPERS' headquarters, 7401 Register Drive, Des Moines, Iowa.

3.5(1) Notice of meetings and Meeting agenda and minutes.

~~a.—Form of notice.~~ Notice of meetings is given by the posting and distributing of the agenda. The agenda lists the time, date, place, and topics to be discussed at the meeting.

~~b. a. Posting of Meeting agenda.~~ The agenda for each meeting will be posted at IPERS' headquarters at least 24 hours prior to the meeting unless, for good cause, notice is impossible or impractical, in which case as much notice as is reasonably possible will be given.

~~b. Minutes.~~ Minutes shall be reviewed and approved by the BAC and maintained by IPERS.

~~c.—Distribution of agenda.~~ An agenda shall be provided to each BAC representative and to anyone who files a request with the chairperson. The request should state whether the agenda for a particular meeting is desired or whether the agendas for all meetings are desired.

~~d.—Amendments to agenda.~~ After an agenda has been posted and distributed, any amendments to the agenda will be posted, but not distributed. The amended agenda will be posted at least 24 hours prior to the meeting unless, for good cause, notice is impossible or impractical, in which case as much notice as is reasonably possible will be given.

~~e.—Supporting material.~~ Written materials provided to the BAC with the agenda may be examined and copied. Copies of the materials may be distributed at the discretion of the chairperson to persons requesting the materials. The chairperson may require a fee to cover the reasonable cost to the agency to provide the copies.

3.5(2) Recordings, transcripts and minutes of meetings.

~~a.—Recordings.~~ The chairperson shall record by mechanized means each meeting and shall retain the recording for at least one year. Recordings of closed sessions shall be sealed and retained at least one year.

~~b.—Transcripts.~~ Transcripts of meetings will not routinely be prepared. The chairperson will have transcripts prepared upon receipt of a request for a transcript and payment of a fee to cover its cost.

~~c.—Minutes.~~ The chairperson shall record minutes of each meeting. Minutes shall be reviewed, approved, and maintained by the BAC. The chairperson shall sign the approved minutes.

3.5(3) 3.5(2) Attendance and participation by the public.

~~a. Attendance.~~ All meetings of the BAC are open to the public and shall be held in accordance with Robert's Rules of Order, Newly Revised Edition. The BAC may exclude the public from portions of the meeting in accordance with Iowa Code section 21.5 (closed session).

~~b. Participation.~~

(1) Items on agenda. Persons who wish to address the BAC on a matter on the agenda should notify IPERS or the chairperson in writing at least five days before 24 hours prior to the meeting. ~~Presentations to the BAC may be made at the discretion of the chairperson.~~

(2) Items not on agenda. ~~Iowa Code section 21.4 requires the BAC to give notice of its proposed agenda. Therefore, the BAC discourages persons from raising matters not on the agenda. Persons who wish to address the BAC on a matter not on the agenda should file a request with notify IPERS or the chairperson to place the matter on the agenda of a subsequent meeting in writing at least five days prior to the meeting.~~

~~c. Coverage by press.~~ Cameras and recording devices may be used during meetings provided they do not interfere with the orderly conduct of the meeting. ~~The chairperson may order that the use of these~~

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~~devices be discontinued if they cause interference and may exclude those persons who fail to comply with that order.~~

ITEM 10. Rescind and reserve rule ~~495—3.8(97B)~~.

ITEM 11. Amend subrule 4.2(2), introductory paragraph, as follows:

4.2(2) Required information. Records shall show with respect to each employee:

ITEM 12. Amend subrule 4.2(3) as follows:

4.2(3) Reports.

a. Each employer shall make reports as IPERS may require and shall comply with the instructions provided by IPERS for the reports.

b. Effective July 1, 1991, employers must report all terminating employees to IPERS within seven working days following the employee's termination date. This report shall contain the employee's last-known mailing address and such other information as IPERS might require.

c. ~~Effective December 31, 2004, and annually thereafter, employers whose job classes include correctional officers, correctional supervisors, and others whose primary purpose is, through ongoing direct inmate contact, to enforce and maintain discipline, safety and security within a correctional facility shall submit to IPERS each calendar year a list of jobs that qualify for protection occupation class coverage. This report shall also contain any changes in the designation of jobs as qualifying or not qualifying for protection occupation class coverage and effective dates of changes. IPERS' sole responsibility with respect to protection occupation status determinations is to ascertain whether IPERS' records correctly reflect service credit and contributions that are in accordance with the employer's designation of a position as being within a protection occupation class. The Iowa department of administrative services and the Iowa department of corrections shall notify IPERS prior to adding additional job classifications to the protection occupation class. The notification shall include the effective date, names and social security numbers of the employees involved.~~

ITEM 13. Amend subrule 4.3(2) as follows:

4.3(2) *Wage reports.* For wages paid on or after July 1, 2008, all ~~IPERS-covered~~ IPERS-covered employers are required to file wage reports on a monthly basis. IPERS will provide the forms and instructions for wage reporting to employers. Each wage report must include the required information for all employees who earned reportable wages or wage equivalents under IPERS. The reports must be received by IPERS on or before the fifteenth day of the month following the month in which the wages were paid. If the fifteenth day falls on a weekend or state-observed holiday, the wage report is due on the next regularly scheduled business day.

Effective August 1, 2008, IPERS shall accept wage reports electronically via ~~the IPERS' employer self-service Web~~ self-service Internet application, ~~on compact discs,~~ or as a paper report. However, for those employers submitting reports ~~on compact discs or on paper~~ other than via IPERS' employer self-service Internet application, IPERS shall charge a fee as described in subrule 4.3(6).

ITEM 14. Amend paragraph **4.3(3)“a”** as follows:

a. Contributions must be paid monthly and must be received by IPERS on or before the fifteenth day of the month following the month in which wages were paid. If the fifteenth day falls on a weekend or state-observed holiday, the contribution is due on the next regularly scheduled business day.

ITEM 15. Amend subrule 4.3(4) as follows:

4.3(4) *Request for time extension.* A request for an extension of time to file a wage report or pay a contribution may be granted by IPERS for good cause if a request is made before the due date, but no extension shall exceed 15 days beyond the due date. If an employer that has been granted an extension fails to submit the wage report or pay the contribution on or before the end of the extension period, the applicable interest and fees shall be charged and paid from the original due date as if no extension had been granted. If the fifteenth day falls on a weekend or state-observed holiday, the contribution or wage report is due on the next regularly scheduled business day.

To establish good cause for an extension of time to file a wage report or pay contributions, the employer must show that the delinquency was not due to mere negligence, carelessness or inattention.

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The employer must affirmatively show that it did not file the wage report or timely pay a contribution because of some occurrence beyond the control of the employer.

ITEM 16. Amend subrule 4.3(6) as follows:

4.3(6) Fees for noncompliance. IPERS is authorized to impose reasonable fees on employers that do not file wage reports through the IPERS' employer ~~self service Web~~ self-service Internet application as described in subrule 4.3(2), that fail to timely file accurate wage reports, or that fail to pay contributions when due pursuant to subrule 4.3(3).

For submissions filed on or after August 1, 2008, IPERS shall charge employers a processing fee of \$20 plus 25 cents per employee for late submissions and manual processing of wage reports by IPERS. Employers that are late or that do not use IPERS' employer ~~self service Web~~ self-service Internet application may be charged both fees. In addition, if a fee for noncompliance is not paid by the fifteenth day of the month after the fee is assessed, the fee will accrue interest daily at the interest rate provided in Iowa Code section 97B.70. No fee will be charged on late contributions received as a result of a wage adjustment, but interest on the amount due will be charged until paid in full.

If the due date for a fee falls on a weekend or state-observed holiday, the due date shall be the next regularly scheduled business day.

ITEM 17. Amend paragraph **4.6(1)“b”** as follows:

b. Effective July 1, 2012, and every year thereafter, the contribution rates for regular members shall be publicly declared by IPERS staff no later than the preceding December as determined by the annual valuation of the preceding fiscal year. The public declaration of contribution rates will be followed by rule making that will include a notice and comment period and that will become effective July 1 of the next fiscal year. Contribution rates for regular members are as follows.

	Effective July 1, 2012	Effective July 1, 2013	Effective July 1, 2014	Effective July 1, 2015	Effective July 1, 2016	Effective July 1, 2017
Combined rate	14.45%	14.88%	14.88%	14.88%	14.88%	14.88%
Employer	8.67%	8.93%	8.93%	8.93%	8.93%	8.93%
Employee	5.78%	5.95%	5.95%	5.95%	5.95%	5.95%

ITEM 18. Amend subrule 4.6(2) as follows:

4.6(2) Contribution rates for sheriffs and deputy sheriffs are as follows.

	Effective July 1, 2012	Effective July 1, 2013	Effective July 1, 2014	Effective July 1, 2015	Effective July 1, 2016	Effective July 1, 2017
Combined rate	19.80%	19.76%	19.76%	19.76%	19.26%	18.76%
Employer	9.90%	9.88%	9.88%	9.88%	9.63%	9.38%
Employee	9.90%	9.88%	9.88%	9.88%	9.63%	9.38%

ITEM 19. Amend subrule 4.6(3) as follows:

4.6(3) Contribution rates for protection occupations are as follows.

	Effective July 1, 2012	Effective July 1, 2013	Effective July 1, 2014	Effective July 1, 2015	Effective July 1, 2016	Effective July 1, 2017
Combined rate	17.11%	16.90%	16.90%	16.40%	16.40%	16.40%
Employer	10.27%	10.14%	10.14%	9.84%	9.84%	9.84%
Employee	6.84%	6.76%	6.76%	6.56%	6.56%	6.56%

ITEM 20. Adopt the following new paragraph **4.6(4)“p”**:

p. Effective July 1, 2016, a peace officer employed by an institution under the control of the state board of regents whose position requires law enforcement certification pursuant to Iowa Code section 262.13.

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ITEM 21. Adopt the following **new** paragraph **4.6(4)“q”**:

q. Effective July 1, 2016, a person employed by the department of human services as a psychiatric security specialist at a civil commitment unit for sexually violent offenders facility.

ITEM 22. Amend rule 495—4.7(97B) as follows:

495—4.7(97B) Employee information to be provided by covered employers. Covered employers are required to enroll new employees prior to reporting wages for the new employees using IPERS' employer self-service Internet application. Enrollment information shall include, but is not limited to, the following: member's name, social security number, date of birth, date of hire, occupation code, gender, mailing address, ~~termination date and last check date, when appropriate,~~ and employer identification number. When an employee terminates employment with a covered employer, the employer shall provide the termination date and the date of the employee's final paycheck.

~~For new employee enrollments submitted on or after August 1, 2008, employers shall submit the required information using IPERS' employer self service Web application, on compact discs, or on paper. However, those employers submitting information on compact discs or on paper will be charged a fee as described in subrule 4.3(6).~~

ITEM 23. Rescind and reserve rule **495—4.8(97B)**.

ITEM 24. Amend subrule 5.2(18) as follows:

5.2(18) ~~Persons who are enrolled as students and whose primary occupations are as students shall not be covered.~~ Full-time or part-time students employed part-time by the educational institution where they are enrolled shall not be covered IPERS-covered. ~~All other students beyond high school are not exempt from IPERS coverage.~~ Full-time and part-time student status is as defined by the individual educational institutions. Full-time and part-time employment status is as defined by the individual employers. If the employer is not the institution where the college student is enrolled, the college student is not exempt from IPERS coverage and employers would determine IPERS coverage by applying the usual permanent or temporary rules.

~~The paragraph above shall not be construed to require or permit IPERS coverage for high school students and students in the lower grades who are concurrently employed (including employment during breaks between quarters, semesters, or annual academic terms) by a covered employer. High school and lower grade students continue to be exempt from IPERS coverage.~~

ITEM 25. Amend subrule 6.3(6) as follows:

6.3(6) Special lump sum payments. Wages do not include special lump sum payments made during or at the end of service as a payoff of unused accrued sick leave or of unused accrued vacation. Wages do not include special lump sum payments made during or at the end of service as an incentive to retire early or as payments made upon dismissal, severance, or a special bonus payment intended as an early retirement incentive. Wages do not include: catastrophic leave paid in a lump sum, bonuses, tips, or honoraria, or student loan repayment compensation. Exclusion of payments as described in this subrule applies whether the payment is in a lump sum or in installments.

ITEM 26. Rescind and reserve subrule **6.3(11)**.

ITEM 27. Amend rule 495—6.4(97B), introductory paragraph, as follows:

495—6.4(97B) Month for which wages are to be reported. Wages are reportable for the month in which they are actually paid to the employee, except when employees are awarded lump sum payments of back wages, whether as a result of litigation or otherwise, receive lump sum payments of extra duty pay, ~~or request wage restorations following EMRH,~~ and similar situations involving regular and periodic lump sum payments which IPERS in its sole discretion determines should be treated as covered wages. The employer shall file with IPERS wage adjustment reporting forms with IPERS adjustments allocating the wages to the periods of service for which such payments are awarded. Employers shall forward the required employer and employee contributions and interest to IPERS.

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ITEM 28. Amend rule 495—10.1(97B) as follows:

495—10.1(97B) Interest on accumulated contributions of active and inactive members.

~~10.1(1)~~ The term “interest” as used in this rule means statutory interest plus, if applicable, the interest dividend a per annum interest rate at one percent above the interest rate on one-year certificates of deposit which shall be credited to the member’s contributions and the employer’s contributions to become part of the accumulated contributions. For purposes of this rule, the interest rate on one-year certificates of deposit shall be determined by IPERS based on the average rate for such certificates of deposit as of the first business day of each year as published in a publication, including Internet-based publications, of general acceptance in the business community. The per annum interest rate shall be credited on a quarterly basis by applying one quarter of the annual interest rate to the sum of the accumulated contributions as of the end of the previous calendar quarter. Interest shall be applied through the calendar quarter preceding the quarter in which any distribution is made.

a. For calendar years prior to January 1, 1997, ~~statutory interest is a credit to the accumulated contributions of active members and inactive vested members at a rate of two percent per annum. The interest dividend is a credit to the accumulated contributions of active members and inactive vested members that equals the excess of the average rate of interest earned on the retirement fund through investment during a calendar year over the statutory interest as determined in Iowa Code section 97B.70(1) “a” plus twenty-five hundredths of one percent.~~

b. For calendar years beginning January 1, 1997, a per annum interest rate at one percent above the interest rate on one-year certificates of deposit shall be credited to the member’s contributions and the employer’s contributions to become part of the accumulated contributions. For purposes of this paragraph, the interest rate on one-year certificates of deposit shall be determined by IPERS based on the average rate for such certificates of deposit as of the first business day of each year as published in a publication, including Internet-based publications, of general acceptance in the business community. The per annum interest rate shall be credited on a quarterly basis by applying one quarter of the annual interest rate to the sum of the accumulated contributions as of the end of the previous calendar quarter.

~~10.1(2)~~ For all periods, if a member is vested upon termination, interest will continue to accrue through the month (or quarter, as applicable under Iowa Code section 97B.70) preceding the month (or quarter, as applicable under Iowa Code section 97B.70) of payment of the refund benefit, or in the case of retirement benefits, through the month (or quarter, as applicable under Iowa Code section 97B.70) preceding the first month of entitlement. For periods ending prior to July 1, 1995, if a member is not vested upon termination, interest will cease to accrue on termination of covered employment for as long as the member remains inactive. For periods beginning July 1, 1995, interest will cease to accrue if a member is not vested upon termination of employment for as long as the member is inactive or nonvested. Effective July 1, 1995, interest will be credited to an inactive nonvested member’s account as provided in Iowa Code section 97B.70, beginning with the first month (or quarter, as applicable under Iowa Code section 97B.70) thereafter that such a member becomes a vested member as provided in Iowa Code section 97B.1A(25).

ITEM 29. Rescind and reserve rule **495—10.4(97B)**.

ITEM 30. Amend subrule 11.1(2), introductory paragraph, as follows:

11.1(2) Proof required in connection with application. Proof of date of birth to be submitted with an application for benefits shall be in the form of a birth certificate, a U.S. passport, an infant baptismal certificate, an identification card or driver’s license issued by the state of Iowa, a state identification card that is issued in compliance with the REAL ID Act of 2005, or a driver’s license that is issued in compliance with the REAL ID Act of 2005. If these records do not exist, the applicant shall submit two other documents or records which will verify the day, month and year of birth. A photographic identification record may be accepted even if now expired unless the passage of time has made it impossible to determine if the photographic identification record is that of the applicant. The following records or documents are among those deemed acceptable to IPERS as proof of date of birth:

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ITEM 31. Amend subrule 11.7(8) as follows:

11.7(8) Rights of appeal. A recipient who is notified of an overpayment and required to make repayments under this rule may appeal IPERS' determination in writing to the ~~chief executive officer~~ CEO or CEO's designee. The written request must explain the basis of the appeal and must be received by IPERS' office within 30 days of overpayment notice pursuant to 495—Chapter 26.

ITEM 32. Amend rule 495—12.6(97B) as follows:

495—12.6(97B) Recalculation for a member aged 70. A member remaining in covered employment after attaining the age of 70 years may receive a retirement allowance without terminating the covered employment. A member who is in covered employment, attains the age of 70 and begins receiving a retirement allowance must terminate all covered employment before the member's retirement allowance can be recalculated to take into account service after the member's original FME. The termination of employment must be a true severance lasting at least 30 days. The formula to be used in recalculating such a member's retirement allowance depends on the date of the member's FME and the member's termination date, as follows:

If the member is receiving a retirement allowance with an FME prior to July 1, 2000, and terminates covered employment on or after January 1, 2000, the member's retirement formula for recalculation purposes shall be the formula in effect at the time of the member's termination from covered employment or, if later, the date the member applies for a recalculation.

In all other cases, the recalculation for a member aged 70 who retires while actively employed shall use the retirement formula in effect at the time of the member's FME.

Payments under this rule shall begin no earlier than the month following the month of termination, upon IPERS' receipt of a member's application for recalculation. It is the member's responsibility to apply for the recalculation by completing and submitting the form specified by IPERS.

A member receiving a recalculation under this rule after June 30, 2012, will have the member's average covered wage calculated as follows. IPERS will calculate the average high three covered wage as of June 30, 2012. IPERS will next calculate the average high five covered wage at the time of the member's termination from covered employment or, if later, the date the member applies for a recalculation. IPERS will determine the benefit amount based on the calculation that produces the greatest benefit to the member.

ITEM 33. Amend subrule 12.8(3) as follows:

12.8(3) A member who is reemployed in covered employment after retirement may, after again retiring from employment, request a recomputation of benefits. The member's retirement benefit shall be increased if possible by the addition of a second annuity, which is based on years of reemployment service, reemployment covered wages and the benefit formula in place at the time of the recomputation. A maximum of 30 years of service is creditable to an individual retired member. If a member's combined years of service exceed 30, a member's initial annuity may be reduced by a fraction of the years in excess of 30 divided by 30. The second retirement benefit will be treated as a separate annuity by IPERS.

Effective July 1, 1998, a member who is reemployed in covered employment after retirement may, after again terminating employment for at least one full calendar month, elect to receive a refund of the employee and employer contributions made during the period of reemployment in lieu of a second annuity. If a member requests a refund in lieu of a second annuity, the related service credit shall be forfeited.

Effective July 1, 2007, employer contributions described in 495—subrule 6.3(13) shall constitute "remuneration" for purposes of applying the reemployment earnings limit and determining reductions in the member's monthly benefits but shall not be considered covered wages for IPERS benefits calculations.

It is the member's responsibility to apply for the recomputation or lump sum by completing and submitting the form specified by IPERS.

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ITEM 34. Amend subrule 12.8(5) as follows:

12.8(5) Mandatory distribution of active wages. If a retired reemployed member whose annual benefit would be increased by less than \$600 does not request a second annuity or a lump sum payment of reemployment accruals by the end of the fourth quarter after the last quarter in which the member had covered wages, IPERS shall proceed to pay the member the applicable lump sum amount. The member shall have 60 days after the postmark date of the mandatory payment to return the payment and ~~restore the member's account~~ request a benefit increase.

ITEM 35. Adopt the following new subrule 14.3(3):

14.3(3) *Spousal signature.* If the member designates someone other than a spouse as the sole primary beneficiary, the beneficiary designation form must contain a spousal signature, pursuant to Iowa Code 97B.44. If a member's spouse cannot be located, the spousal signature requirement may be waived upon receipt of the notarized form specified by IPERS.

ITEM 36. Amend rule 495—19.1(17A), introductory paragraph, as follows:

495—19.1(17A) Petition for declaratory order. Any person may file a petition with the agency for a declaratory order regarding the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the agency. Such petitions shall be addressed to the CEO or CEO's designee, IPERS, 7401 Register Drive, P.O. Box 9117, Des Moines, Iowa 50306-9117. A petition is deemed filed when it is received by the agency.

ITEM 37. Amend subrule 19.3(3), introductory paragraph, as follows:

19.3(3) A petition for intervention shall be filed with the CEO or CEO's designee at IPERS, 7401 Register Drive, P.O. Box 9117, Des Moines, Iowa 50306-9117. Such a petition is deemed filed when it is received by IPERS.

ITEM 38. Amend rule 495—19.5(17A) as follows:

495—19.5(17A) Inquiries. Inquiries concerning the status of a declaratory order proceeding may be made to the CEO, or CEO's designee, IPERS, 7401 Register Drive, P.O. Box 9117, Des Moines, Iowa 50306-9117.

ITEM 39. Amend subrule 19.6(2) as follows:

19.6(2) *When filing required.* Petitions for declaratory orders, petitions for intervention, briefs, or other papers in a proceeding for a declaratory order shall be filed with the CEO, or CEO's designee, IPERS, 7401 Register Drive, P.O. Box 9117, Des Moines, Iowa 50306-9117. All petitions, briefs, or other papers that are required to be served upon a party shall be filed simultaneously with the agency.

ITEM 40. Amend subrule 19.8(1) as follows:

19.8(1) Within 30 days after receipt of a petition for a declaratory order, the CEO or CEO's designee shall take action on the petition pursuant to Iowa Code section 17A.9(5).

ITEM 41. Amend paragraph **19.9(1)“k”** as follows:

k. The agency will not issue declaratory orders on the following:

- (1) The present value of IPERS retirement monthly benefits;
- (2) Actuarial assumptions used or proposed to be used by the agency;
- (3) The impact of proposed legislation;
- (4) Issues which require the disclosure of confidential information; and
- (5) ~~Items listed in rule 495—26.13(17A,97B)~~ Any matter under appeal or in litigation.

ITEM 42. Amend subrule 20.1(1) as follows:

20.1(1) *Recognition of agents in general.* When a ~~claimant~~ member or beneficiary desires to be represented by an agent before the system, the ~~claimant~~ member or beneficiary shall designate in writing, using a power of attorney form or other acceptable legal form, the name of a representative and the nature of the business the representative is authorized to transact. Such designation on the part of the ~~claimant~~ member or beneficiary shall constitute for IPERS sufficient proof of the acceptability of the individual

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to serve as the claimant's member's or beneficiary's agent. ~~An attorney in good standing may be so designated by the claimant.~~

ITEM 43. Amend subrule 20.1(2) as follows:

20.1(2) ~~Payment to incompetent members or beneficiaries with a recognized agent~~. When it appears that the interest of a ~~claimant or retired member~~ or beneficiary would be served, IPERS may recognize an agent to represent the ~~individual member or beneficiary~~ in the transaction of the affairs with IPERS. Recognition may be obtained through the filing with IPERS of a copy of the guardianship, trusteeship, power of attorney, conservatorship, other similar court order which appoints an agent to act upon behalf of a member or beneficiary, or social security representative payee documents by the individual so designated. Such persons have all the rights and obligations of the member or beneficiary. Notwithstanding the foregoing, none of the foregoing representatives shall have the right to name the representative as the member's or beneficiary's beneficiary unless approved to do so by a court having jurisdiction of the matter, or unless expressly authorized to do so in a power of attorney executed by the member or beneficiary.

ITEM 44. Adopt the following **new** subrule 20.1(3):

20.1(3) *Revocation of power of attorney*. Any person serving as an agent by power of attorney under this rule can have the agency relationship rescinded by the member or beneficiary by notifying IPERS verbally or in writing.

ITEM 45. Adopt the following **new** subrule 20.1(4):

20.1(4) *Revocation of other representative agents*. Any person serving as a representative agent under a guardianship, conservatorship, or social security representative payee may not be revoked unless by court order or notice from the social security administration in writing.

ITEM 46. Amend rule 495—20.2(97B) as follows:

495—20.2(97B) Agreements by agents. An individual serving in the capacity of an agent establishes an agreement with IPERS to transact all business with IPERS in such a manner that the interests of the ~~retired member or claimant~~ beneficiary are best served. Payments made to the agent on behalf of the ~~individual member or beneficiary~~ will be used for the direct benefit of the ~~retired member or claimant~~ beneficiary. Failure to adhere to the agreement will cause discontinuance of the agency relationship and may serve as the basis for legal action by IPERS, ~~or the member, or the beneficiary~~.

ITEM 47. Amend rule 495—31.2(17A) as follows:

495—31.2(17A, ExecOrd80) Advice on possible rules before notice of proposed rule adoption.

31.2(1) IPERS shall designate the benefits advisory committee (BAC), and investment board as applicable, as the stakeholder rule-making group, pursuant to the rules for creation, public notice, procedures, public input, and results as outlined in Executive Order Number 80. The stakeholder group shall review and comment on any proposed rules changes before the rules are considered to be pending, as defined in subrule 31.3(2).

31.2(2) In addition to seeking information by other methods, the agency may, before publication of a Notice of Intended Action under Iowa Code section 17A.4(1) "a," solicit comments from the public by any reasonable means on a subject matter of possible rule making by the agency. Notwithstanding the foregoing, except as otherwise provided by law, the agency may use its own experience, specialized knowledge, and judgment in the adoption of a rule.

ITEM 48. Rescind subrule **31.3(2)**.

ITEM 49. Renumber subrule **31.3(3)** as **31.3(2)**.

ITEM 50. Adopt the following **new** subrule 31.3(3):

31.3(3) *Rule-making Internet site*. The agency will maintain a page on its Internet site, and its rules filings will appear on the state of Iowa's Iowa administrative rules Internet site, pursuant to the requirements of Iowa Code section 17A.6A.

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ITEM 51. Amend subrule 31.4(1) as follows:

31.4(1) Contents.

a. At least 35 days before the adoption of a rule, the agency shall cause Notice of Intended Action to be published in the Iowa Administrative Bulletin. The Notice of Intended Action shall include:

- ~~a.~~ (1) A brief explanation of the purpose of and the reason for the proposed rule;
- (2) A brief explanation of the principal reasons for the agency's failure to provide for a waiver in a rule and the reasons for overruling considerations urged against the rule;
- ~~b.~~ (3) The specific legal authority for the proposed rule;
- ~~c.~~ (4) Except to the extent impracticable, the text of the proposed rule;
- ~~d.~~ (5) Where, when, and how persons may present their views on the proposed rule;
- ~~e.~~ (6) Where, when, and how persons may request an oral proceeding on the proposed rule if the notice does not already provide for one; and
- ~~f.~~ (7) A fiscal impact statement as described under 495—31.7(17A,25B).

Where inclusion of the complete text of a proposed rule in the Notice of Intended Action is impracticable, the agency shall include in the notice a statement fully describing the specific subject matter of the omitted portion of the text of the proposed rule, the specific issues to be addressed by that omitted text of the proposed rule, and the range of possible choices being considered by the agency for the resolution of each of those issues.

b. If requested by an interested person, the agency shall issue a concise statement of the principal reasons for and against the rule adopted, pursuant to Iowa Code section 17A.4(2).

ITEM 52. Amend subrule 31.4(3) as follows:

31.4(3) Copies of notices. ~~Persons desiring to receive copies of future Notices of Intended Action by subscription must file with the agency a written request indicating the name and address to which such notices should be sent. Within seven days after submission of a Notice of Intended Action to the administrative rules coordinator for publication in the Iowa Administrative Bulletin, the agency shall mail or electronically transmit a copy of that notice to subscribers who have filed a written request for either mailing or electronic transmittal with the agency for Notices of Intended Action. The written request shall be accompanied by payment of the subscription price which may cover the full cost of the subscription service, including its administrative overhead and mailing the Notices of Intended Action for a period of one year. The agency shall submit a copy of the notice to the chairpersons and ranking members of the appropriate standing committees of the general assembly as required by Iowa Code section 17A.4(1)“a.”~~

ITEM 53. Amend paragraph **31.5(3)“b”** as follows:

b. *Scheduling and notice.* An oral proceeding on a Notice of Intended Action may be held ~~in one or more locations~~ at IPERS, 7401 Register Drive, Des Moines, Iowa, and shall not be held earlier than 20 days after notice of its location and time is published in the Iowa Administrative Bulletin. That notice shall also identify the applicable Notice of Intended Action by ARC number and citation to the Iowa Administrative Bulletin.

ITEM 54. Amend paragraph **31.5(3)“c”** as follows:

c. *Presiding officer.* The agency, through an employee of the agency, who is familiar with the substance of the rules proposed in the Notice of Intended Action, shall preside at the oral proceeding. The presiding officer shall ~~prepare a memorandum for consideration by the agency summarizing the contents of the presentations made at the oral proceeding unless the agency determines that such a memorandum is unnecessary because the agency will personally listen to or read the entire transcript of record~~ the oral proceeding and archive the recorded record at IPERS.

ITEM 55. Amend paragraph **31.5(3)“d,”** introductory paragraph, as follows:

d. *Conduct of proceeding.* At an oral proceeding on a Notice of Intended Action, persons may make oral statements and make documentary and physical submissions, which may include data, views, comments or arguments concerning the subject matter of the rules proposed in the Notice of Intended Action. Persons wishing to make oral presentations at such a proceeding are encouraged to notify

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the agency at least one business day prior to the proceeding and indicate the general subject of their presentations. At the proceeding, those who participate shall indicate their names and addresses, identify any persons or organizations they may represent, and provide any other information relating to their participation deemed appropriate by the presiding officer. Oral proceedings shall be open to the public and shall be recorded by ~~stenographic or~~ electronic means.

ITEM 56. Amend subrule 31.6(1) as follows:

31.6(1) *Definition of small business.* A “small business” is defined in Iowa Code section ~~17A.4A(7)~~-17A.4A(8)“a.”

ITEM 57. Amend subrule 31.6(8) as follows:

31.6(8) *Contents of concise summary.* The contents of the concise summary shall conform to the requirements of Iowa Code sections ~~17A.4A(4)~~ 17A.4A(2), ~~and 17A.4A(5) and 17A.4A(6).~~

ITEM 58. Amend rule 495—31.17(17A) as follows:

495—31.17(17A) Review by agency of rules.

31.17(1) *Periodic comprehensive reviews.* Beginning July 1, 2012, over each five-year period of time, the agency shall conduct an ongoing and comprehensive review of all of its rules, to identify and eliminate all rules of the agency that are outdated, redundant, or inconsistent or incompatible with the federal tax law requirements for a qualified plan, statute or its own rules or that of other agencies, pursuant to Iowa Code section 17A.7(2).

31.17(2) *Petition for adoption, amendment or repeal of rules.*

a. Any interested person may petition the agency requesting the adoption, amendment, or repeal of a rule. The agency shall prescribe by rule the form for petitions and the procedure for their submission, consideration, and disposition, pursuant to Iowa Code section 17A.7(1).

31.17(1) *b.* Any interested person, association, agency, or political subdivision may submit a written request to the administrative rules coordinator requesting the agency to conduct a formal review of a specified rule. Upon approval of that request by the administrative rules coordinator, the agency shall conduct a formal review of a specified rule to determine whether a new rule should be adopted or the rule should be amended or repealed. The agency may refuse to conduct a review if it has conducted such a review of the specified rule within five years prior to the filing of the written request.

31.17(2) **31.17(3)** *Report responsive to request for review.* In conducting the formal review, the agency shall prepare within a reasonable time a written report summarizing its findings, its supporting reasons, and any proposed course of action. The report must include a concise statement of the agency's findings regarding the rule's effectiveness in achieving its objectives, including a summary of any available supporting data. The report shall also concisely describe significant written criticisms of the rule received during the previous five years, including a summary of any petitions for waiver of the rule received by the agency or granted by the agency. The report shall describe alternative solutions to resolve the criticisms of the rule, the reasons any were rejected, and any changes made in the rule in response to the criticisms as well as the reasons for the changes. A copy of the agency's report shall be sent to the administrative rules review committee and the administrative rules coordinator. The report must also be available for public inspection.

ITEM 59. Amend **495—Chapter 31**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 17A and Executive Order Number 80 of 2012.

ITEM 60. Amend **495—Chapter 33**, implementation sentence, as follows:

These rules are intended to implement Executive Order Number 11 of 1999 and Iowa Code chapters 17A and 97B.

ARC 2904C**PHARMACY BOARD[657]****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 Pharmacy hereby gives Notice of Intended Action to amend Chapter 11, “Drugs in Emergency Medical Service Programs,” Iowa Administrative Code.

These amendments were approved at the November 2, 2016, regular meeting of the Board of Pharmacy.

The proposed amendments are the result of a general review of administrative rules pursuant to Iowa Code section 17A.7(2). These amendments update language to be consistent with current Iowa Code provisions and reorganize the chapter to provide clarity. These amendments require any entity, regardless of location, whose controlled substances are stored or handled at any primary program site of an emergency medical service program that services Iowa residents to obtain and maintain an Iowa Controlled Substances Act registration at the primary program site location.

Requests for waiver or variance of the discretionary provisions of Board rules will be considered pursuant to 657—Chapter 34.

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on February 7, 2017. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by e-mail to terry.witkowski@iowa.gov.

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

These amendments are intended to implement Iowa Code chapter 147A and sections 124.301, 155A.13, and 17A.7(2).

The following amendments are proposed.

ITEM 1. Amend rule 657—11.1(124,147A,155A) as follows:

657—11.1(124,147A,155A) Definitions. For the purpose of this chapter, the following definitions shall apply:

“*Adulterated*” means any drug or device that consists in whole or in part of any filthy, putrid, or decomposed substance.

“*Ambulance service*” means any privately or publicly owned service program that utilizes ambulances, including air transport vehicles, in order to provide patient transportation and emergency medical services.

“*Authorized prescriber*” means any provider who has prescriptive authority in the state of Iowa.

“*Board*” means the board of pharmacy.

“*Bureau*” means the Iowa department of public health, bureau of emergency ~~medical~~ and trauma services (EMS) (BETS).

“*Controlled substance*” means any drug that is identified in Schedules I through V of Iowa Code chapter 124, the Iowa uniform controlled substances Act.

“*CSA registration*” means a registration issued by the board pursuant to Iowa Code chapter 124, the Iowa uniform controlled substances Act.

“*DEA*” means the U.S. Department of Justice, Drug Enforcement Administration.

“*DEA registration*” means a registration issued by the DEA pursuant to 21 CFR Part 1301.

“*Department*” means the Iowa department of public health.

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“*Drug*” means a substance as defined in Iowa Code section 155A.3(13) but does not include nonmedicated intravenous solutions such as saline.

“*Emergency medical care provider*” means an emergency medical care provider as defined in 641—131.1(147A).

“*Emergency medical services*” or “*EMS*” means an integrated medical care delivery system to provide emergency and nonemergency medical care ~~at the scene or during out-of-hospital patient transportation in an ambulance.~~

“*Emergency medical technician*” or “*EMT*” means any emergency medical technician or EMT as defined in 641—131.1(147A).

“*Medical direction*” means direction, advice, or orders provided, in accordance with written parameters and protocols, to emergency medical care personnel by a medical director, supervising physician, or physician designee.

“*Medical director*” means any physician licensed under Iowa Code chapter 148, 150, or 150A who shall be responsible for overall medical direction of the service program and who has completed a medical director workshop, sponsored by the department, within one year of assuming duties.

“*Medical director-based*” means that ownership of the drugs maintained in and used by the service program remains with the medical director.

“*Patient care report*” or “*PCR*” means a computerized or written report that documents the assessment and management of the patient by the emergency medical care provider ~~in the out-of-hospital setting.~~

“*Pharmacy-based*” means that ownership of the drugs maintained in and used by the service program remains with the pharmacy.

“*Physician*” means any individual licensed under Iowa Code chapter 148, 150, or 150A.

“*Physician assistant*” or “*PA*” means any individual licensed under Iowa Code chapter 148C.

~~“*Physician designee*” means any registered nurse licensed under Iowa Code chapter 152, or any physician assistant licensed under Iowa Code chapter 148C and approved by the board of physician assistant examiners. The physician designee acts as an intermediary for a supervising physician, in accordance with written policies and protocols, in directing the care provided by emergency medical care providers.~~

“*Primary program site*” means the physical location from which the service program is operated and at which stock supplies of prescription drugs may be maintained and distributed to a program vehicle and a program substation.

“*Program substation*” means the physical location from which a service program is operated as a branch or extension of a primary program site, at which an emergency kit or supply of prescription drugs is maintained, and at which a stock supply of prescription drugs is not maintained.

“*Protocols*” means written direction and orders, consistent with the department’s standard of care, that are to be followed by an emergency medical care provider in emergency and nonemergency situations. Protocols shall be approved by the service program’s medical director and shall address the care of both adult and pediatric patients.

~~“*Responsible individual*” or “*RI*,” as this term relates to prescription drugs in a medical director-based service, means the medical director for the service. In a pharmacy-based service, “responsible individual” means the pharmacist in charge of the pharmacy means the individual who maintains legal responsibility of the prescription drugs and devices. “Responsible individual” includes the medical director in a medical director-based service program or the pharmacist in charge in a pharmacy-based service program.~~

“*Service*” or “*service program*” means any medical care ambulance service or nontransport service that has received authorization from the department.

“*Service director*” means the individual who is responsible for the operation and administration of a service program.

“*Supervising physician*” means any physician licensed under Iowa Code chapter 148, 150, or 150A who supervises and is responsible for medical direction of emergency medical care personnel when such personnel are providing emergency medical care.

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ITEM 2. Amend rule 657—11.2(124,147A,155A) as follows:

657—11.2(124,147A,155A) Responsibility. Pursuant to rules of the bureau, ~~each~~ Each service program shall appoint a service director at the primary program site and shall have a responsible individual who is responsible for ensuring that the management of all prescription drugs complies with federal and state laws and regulations. In service programs that maintain both a pharmacy-based service program agreement and a medical director-based service program agreement, the responsible individual for each service program agreement shall be responsible for ensuring the management of drugs under that individual's ownership. If more than one pharmacy enters into an agreement with a pharmacy-based service program, the pharmacist in charge at each pharmacy is responsible for the rules and laws pertaining to the specific prescription drugs, including controlled substances, that each pharmacy provides to the service program.

~~11.2(1) Pharmacy-based.~~ In a pharmacy-based service program, the pharmacist in charge shall be responsible for ensuring that the management of all prescription drugs complies with federal and state laws and regulations. The pharmacist in charge shall not serve as the service director.

~~11.2(2) Medical director-based.~~ In a medical director-based service program, the medical director shall be responsible for ensuring that the management of all prescription drugs complies with federal and state laws and regulations.

~~11.2(3) Combination pharmacy-based and medical director-based.~~ If both pharmacy-based and medical director-based programs are in effect, the pharmacist in charge of the pharmacy and the medical director shall be responsible for management of the drugs owned by the pharmacy and by the medical director, respectively.

ITEM 3. Renumber rules **657—11.3(124,147A,155A)** and **657—11.4(124,147A,155A)** as **657—11.4(124,147A,155A)** and **657—11.5(124,147A,155A)**.

ITEM 4. Adopt the following new rule 657—11.3(124,147A,155A):

657—11.3(124,147A,155A) Registration required. In any service program which intends to provide services in or into Iowa that include the administration of controlled substances, the responsible individual shall ensure that each primary program site, regardless of location, is registered with the board pursuant to this rule. The current registration certificate shall be available at the primary program site for inspection and copying by the board, its representative, or any other authorized individual.

11.3(1) Medical director-based program. In a medical director-based service program, CSA and DEA registrations shall be obtained for each primary program site. CSA and DEA registrations shall be obtained prior to procurement of any controlled substances for use in the service program. Separate registrations for program substations shall not be required. In a medical director-based service program, the CSA and DEA registrations shall be issued in the name of the service program, shall secondarily name the medical director, and shall be issued for the address of the service program's primary program site.

11.3(2) Pharmacy-based program. In a pharmacy-based service program, the CSA registration shall be issued in the name of the service program and shall secondarily name the provider pharmacy. The CSA registration shall be issued for the address of the service program's primary program site and shall identify the pharmacist in charge of the provider pharmacy as the individual responsible for the controlled substances at the service program.

11.3(3) Combination pharmacy-based and medical director-based program. In a service program that is a combination of pharmacy-based and medical director-based and both the pharmacy and medical director provide controlled substances, each provider of controlled substances shall maintain a CSA registration with the board as provided by this rule. A medical director-based program shall also maintain a federal DEA registration as provided by this rule.

11.3(4) Change of address of registered primary program site. A registrant may apply to change the address of the registered primary program site by submitting a written request as provided in

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657—subrule 10.11(2). The board and the DEA shall be notified in writing prior to a change of address of a registered primary program site.

11.3(5) *Discontinuation of medical director in a medical director-based service program.* If a medical director intends to terminate a written agreement with a service program pursuant to rule 657—11.5(124,147A,155A), the medical director shall provide written notification to the board at 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309, pursuant to 657—subrule 10.11(6), to cancel the registration, including the effective date of the termination of the agreement. The registration certificate shall be returned to the board no later than ten days following the effective date of the termination of the agreement.

ITEM 5. Amend renumbered rule 657—11.4(124,147A,155A) as follows:

657—11.4(124,147A,155A) Written agreement. A signed, written formal agreement for the service program shall be maintained at the primary program site and be available for inspection and copying by the board, or its representative, or any other authorized individual.

11.4(1) *Pharmacy-based service programs.* An Iowa-licensed pharmacy may enter into an agreement with a service program located in the state. The agreement with the service program shall establish that the service program is operating as an extension of the pharmacy with respect to the prescription drugs the pharmacy provides to the service program. The agreement shall be signed by the pharmacist in charge and the service director at the primary program site. A copy of this agreement shall be maintained at both the pharmacy and the primary program site while the agreement is in effect. Nothing in this rule prohibits more than one pharmacy from entering into an agreement with a service program provided that each pharmacy complies with all rules and regulations for a pharmacy-based service program, including maintenance of all required records specific to each pharmacy's drugs.

11.4(2) *Medical director-based service programs.* ~~A service program shall maintain a formal written agreement with a medical director that is signed by the medical director and the service director. An Iowa-licensed physician may enter into an agreement with a service program located in the state. The agreement shall be signed by the medical director and the service director and be maintained at the primary program site while the agreement is in effect. The medical director of the service program shall maintain a CSA registration and a DEA registration at the primary program site as required by rule 657—11.6(124,147A,155A). The agreement shall include an attestation that the medical director agrees to abide by these rules.~~

ITEM 6. Amend renumbered rule 657—11.5(124,147A,155A) as follows:

657—11.5(124,147A,155A) Termination of services agreement. ~~EMS services~~ A written agreement may be terminated at the discretion of either the EMS service program or the party or parties responsible for providing drugs to the EMS service program. Written notification of such termination shall be provided to the other party at least 30 days prior to termination of ~~services~~ the agreement. ~~Transfer of ownership of controlled substances shall be in compliance with rule 657—10.11(124).~~

11.5(1) *Pharmacy-based service programs.* Immediately upon discontinuation of ~~services~~ a written agreement, all controlled substances shall be jointly inventoried by the pharmacist in charge of the pharmacy that owns the drugs and the service director or their respective designees. A record of this inventory shall be maintained at the pharmacy for two years from the date of the inventory and shall be available for inspection and copying by the board, its representative, or any other authorized individual. All drugs and devices that are the property of the pharmacy shall be immediately returned to the pharmacy.

11.5(2) *Medical director-based service programs.* Immediately upon discontinuation of ~~services~~ a written agreement, all controlled substances shall be jointly inventoried by the medical director and the service director or their respective designees. A record of this inventory shall be maintained by the medical director for two years from the date of the inventory and shall be available for inspection and copying by the board, ~~the board's~~ its representative, or ~~another~~ any other authorized individual. All drugs

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and devices that are the property of the medical director shall be immediately returned to the medical director.

11.5(3) *Transfer of ownership.* If drugs in a service program are to be maintained under the ownership of a new pharmacy or medical director, such transfer of ownership shall be in compliance with 657—Chapter 10, 657—Chapter 17, and federal laws and regulations. Pursuant to rule 657—10.34(124,155A), the transfer of Schedule II controlled substances shall require an executed DEA Form 222.

ITEM 7. Rescind and reserve rule **657—11.6(124,147A,155A)**.

ITEM 8. Amend rule 657—11.8(124,147A,155A) as follows:

657—11.8(124,147A,155A) Identification.

~~**11.8(1)** A log of employees who have access to prescription drugs and to records regarding procurement, storage, and administration of prescription drugs at the service program shall be maintained for two years and be available for inspection and copying by the board, or its representative, or any other authorized individual. This log shall include the employees' each employee's printed names name and signatures signature, printed and signed initials or other unique identification used in service program records, and the employees' levels employee's level of certification. A service program may maintain an electronic record of employee identification, including the employee's name, signature, unique identification used in the service program records, and level of certification. Such log shall be maintained for at least two years from the date of the employee's last date of employment with the service program and shall be available for inspection and copying by the board, its representative, or any other authorized individual.~~

~~**11.8(2)** Policies and procedures shall be developed, implemented, and adhered to that identify at least the following:~~

~~a. Who has access to drugs.~~

~~b. Who has authority to administer drugs.~~

~~c. Who has authority to order, receive, and distribute prescription drugs and devices.~~

ITEM 9. Amend rule 657—11.10(124,147A,155A) as follows:

657—11.10(124,147A,155A) Ownership of prescription drugs. All prescription drugs obtained for use in a service program shall be owned either by a pharmacy or by the medical director of the service program.

11.10(1) *Pharmacy-based service programs.* If the drugs are owned by the a pharmacy or more than one pharmacy pursuant to these rules, the service program shall be considered a pharmacy-based service program and shall comply with these rules as they pertain to a pharmacy-based service program.

11.10(2) *Medical director-based service programs.* If the drugs are owned by the medical director, the service program shall be considered a medical director-based service program and shall comply with these rules as they pertain to a medical director-based service program.

11.10(3) *Combination pharmacy-based and medical director-based service programs.* If the service program has entered into both pharmacy-based and medical director-based service program agreements, both the pharmacy and the medical director shall retain separate ownership of the prescription drugs supplied and shall comply with these rules as applicable. The primary program site shall maintain a list that identifies which prescription drugs are owned and supplied by each responsible individual.

11.10(4) *Transfer of ownership.* Any transfer of ownership of prescription drugs and devices in a service program shall be in compliance with 657—Chapter 10, 657—Chapter 17, and federal laws and regulations.

ITEM 10. Amend rule 657—11.11(124,147A,155A) as follows:

657—11.11(124,147A,155A) Policies and procedures.

~~**11.11(1)** Each service program shall, jointly with the The service director, the medical director, and the responsible individual, shall develop, implement, and adhere to written policies and procedures for~~

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the operation and management of the service program with respect to prescription drugs and devices in accordance with these rules. These policies and procedures shall be available for inspection and copying by the board, the board's its representative, or another any other authorized individual. The policies and procedures shall be periodically reviewed by the responsible individual, the medical director, and the service director and shall identify the frequency of the review. Documentation of the review shall be maintained.

11.11(2) The policies and procedures shall address, at a minimum, the following:

a. Storage of drugs at the primary program site and any program substations, including appropriate temperature and humidity controls and security, temperature monitoring and response when drugs are exposed to extreme temperatures pursuant to rule 657—11.13(124,147A,155A).

b. Storage of drugs at the primary program site and any program substations, including adequate security to prevent diversion and unauthorized access to drugs and records pursuant to rule 657—11.13(124,147A,155A).

b. c. Protocols for administration of drugs pursuant to rule 657—11.14(124,147A,155A).

e. d. Administration of drugs outside the parameters of written protocols pursuant to rule 657—11.15(124,147A,155A).

d. Record retention and format including:

(1) Ownership of drugs.

(2) Ordering of drugs and devices.

(3) Receipt of drugs and devices.

(4) Distribution or administration of drugs and devices.

(5) Inspections of the primary program site, program substations, and drug supplies.

(6) Inventories of controlled substances.

(7) Wastage resulting from the administration of a partial dose or supply of a drug.

(8) Drug or device returns.

e. Service program personnel matters including, but not limited to:

(1) Access to prescription drugs and records, identifying level of access based upon employee certification level and scope of practice.

(2) Authority to administer drugs based upon employee certification level and scope of practice.

(3) Authority to order, receive, and distribute prescription drugs and devices.

(4) Initial training and periodic review of the medication policies and procedures.

(5) Identification of registered nurses not employed by the service program who are authorized by the medical director pursuant to Iowa Code section 147A.12 and pursuant to rules of the board of nursing to provide emergency care under the service program's protocol.

e. f. Process for the return of drugs pursuant to rule 657—11.22(124,147A,155A).

f. g. Out-of-date and adulterated drugs pursuant to rule 657—11.23(124,147A,155A).

g. h. Drug and device recalls pursuant to rule 657—11.24(124,147A,155A).

i. Monthly inspections pursuant to rule 657—11.20(124,147A,155A).

j. Record retention as described in rule 657—11.34(124,147A,155A) and other applicable rules of the board.

ITEM 11. Amend rule 657—11.13(124,147A,155A) as follows:

657—11.13(124,147A,155A) Storage. Prescription drugs at primary program sites and program substations shall be stored in designated secure areas that are clean and free of debris, where temperature and humidity are is appropriately controlled, and in a manner to protect identity and integrity.

11.13(1) Temperature. ~~All drugs~~ Each drug shall be stored at within the proper temperature range required in the manufacturer labeling. The service program shall utilize a method to provide continuous temperature control or monitoring, such as a temperature indicator, which at a minimum identifies when the drugs have been exposed to extreme temperatures. The service program shall regularly, but at least weekly, verify and document verification that the drugs have not been exposed to extreme temperatures. Drugs that are subjected to extreme temperatures shall not be administered to patients and shall be immediately removed from usable stock quarantined and returned to the responsible individual for

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disposition. Extreme temperatures shall be defined as excessive heat greater than 40 degrees Celsius (104 degrees Fahrenheit) and, if the product requires protection from freezing temperatures, excessive cold less than -10 degrees Celsius (13 degrees Fahrenheit). ~~Disposal~~ Disposition of unusable drugs shall be in compliance with rule 657—11.32(124,147A,155A).

11.13(2) Security. The security of prescription drugs, records for such drugs, and patient records is the responsibility of the responsible individual and shall provide for the effective control against theft of, diversion of, or unauthorized access to drugs and records. Policies and procedures for the security of prescription drugs shall provide for the effective control against theft of, diversion of, or unauthorized access to prescription drugs, records for such drugs, and patient records. These policies and procedures shall indicate who has access to prescription drugs. Policies shall identify procedures that will utilize or require the signature of two service employees for each disbursement to ensure accountability for controlled substances.

ITEM 12. Amend rule 657—11.14(124,147A,155A) as follows:

657—11.14(124,147A,155A) Protocols. Every service program shall utilize department protocols as the standard of care. The service program medical director may ~~make changes to the department protocols~~ authorize an alternative protocol provided the ~~changes~~ directives are within the EMS provider's scope of practice ~~and, are within acceptable medical practice, and have been filed with the department.~~ Prescription drugs shall be administered pursuant only to a written protocol or oral order by an authorized prescriber. ~~Records~~ A copy of the current protocols protocol shall be provided to and maintained by the responsible individual, ~~and the service director,~~ the primary program site and each program substation and shall be available for inspection and copying by the board, its representative, or any other authorized individual.

ITEM 13. Amend rule 657—11.15(124,147A,155A) as follows:

657—11.15(124,147A,155A) Administration of drugs beyond the limits of the a written protocol. ~~Drugs, excluding Schedule II controlled substances in a pharmacy-based service, as provided in rule 657—11.16(124,147A,155A), may be administered beyond the limits of the a written protocols protocol~~ provided that medical direction from an authorized prescriber has been obtained prior to administration. The authorization shall be recorded in the patient care report documenting the identity of the authorizing prescriber. If an agent of the authorized prescriber relayed the order, the identity of the prescriber's agent, including the agent's first and last names and title, shall also be recorded. The administration of a Schedule II controlled substance in a pharmacy-based service program shall be documented pursuant to rule 657—11.16(124,147A,155A).

ITEM 14. Amend rule 657—11.16(124,147A,155A) as follows:

657—11.16(124,147A,155A) Administration of Schedule II controlled substances—pharmacy-based service program. In a pharmacy-based service program, Schedule II controlled substances may be administered to patients under the care of a service program, including administration beyond the limits of a protocol when authorized pursuant to rule 657—11.15(124,147A,155A), provided that a signed order is delivered by the authorized prescriber to the pharmacy within seven days of the date administration was authorized. The signed order shall contain all of the prescription information required pursuant to Iowa Code section 155A.27. The patient care report may be accepted as the required signed order if the patient care report includes the required prescription information, including an original signature of the authorizing prescriber.

ITEM 15. Amend rule 657—11.20(124,147A,155A) as follows:

657—11.20(124,147A,155A) Prescription drugs in EMS service programs. Prescription drugs maintained by a service program shall be owned by an Iowa-licensed pharmacy or the service program's medical director.

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11.20(1) Pharmacy-based service programs. The pharmacist in charge, the medical director, and the service director shall jointly develop, consistent with the service program's protocol, a list of drugs to be maintained for administration by the service program. The pharmacy shall maintain ~~an accurate~~ a current list of all prescription drugs including controlled substances that the pharmacy maintains at the primary program site and at any program substation.

a. Replenishment. The responsible individual, the service director, or designee may request that replenishment supplies of drugs be maintained at the primary program site provided that the pharmacy has been supplied with administration records justifying the order. Records of the administration of Schedule III, IV, and V controlled substances and noncontrolled prescription drugs provided to and maintained at the pharmacy shall include, at a minimum: the patient's name; the name, strength, dosage form, and quantity of the drug administered; and the date ~~administered~~ of administration. Records of the administration of Schedule II controlled substances provided to and maintained at the pharmacy shall consist of a written prescription including all of the prescription information required pursuant to Iowa Code section 155A.27 or ~~a copy of the patient care record report~~ if the patient care record report includes the required prescription information, including an original signature of the authorizing prescriber. The pharmacist shall approve verify the accuracy of every drug taken from the pharmacy's dispensing stock prior to the transfer of the drug to be disbursed to the primary program site. Documentation of this verification shall be maintained within the pharmacy records.

b. Replenishment using automated medication distribution system (AMDS). A pharmacy utilizing ~~a decentralized~~ an automated medication distribution system (AMDS) pursuant to ~~657—Chapter 9~~ may authorize replenishment of the service program's drug supplies from the AMDS provided that a pharmacist verifies the drugs stocked in the AMDS component before the drugs are removed from the pharmacy. Service program personnel authorized to remove drugs from the AMDS for restocking the service program's supplies shall be assigned a unique identification and access code for the purpose of accessing the AMDS. Access by authorized service program personnel shall be restricted to specific drug products authorized for use by the service program. A pharmacist shall, within 72 hours, ~~verify~~ review the access of and removal of drugs from the AMDS by service program personnel and shall maintain documentation of that ~~verification~~ review within the pharmacy records.

c. Inspections. The pharmacist in charge shall ensure the completion of a monthly inspection of all prescription drugs maintained by the pharmacy at the primary program site and any program substation. Inspection shall include the removal of outdated or adulterated drugs. All drugs removed from ~~administration service program~~ stock shall be returned to the pharmacy. Records of inspection shall be maintained for two years from the date of the inspection at the pharmacy. The pharmacist in charge may delegate the ~~conduct~~ completion of the monthly inspection to another pharmacist, a pharmacist-intern, a certified pharmacy technician, or ~~the service director~~ another designee of the pharmacist in charge.

11.20(2) Medical director-based service programs. The medical director and the service director shall jointly develop, consistent with the service program's protocol, a list of drugs to be maintained for administration by the service program. The medical director shall maintain ~~an accurate~~ a current list of all prescription drugs including controlled substances that the medical director maintains at the primary program site and at any program substation. ~~EMS personnel shall have authority to handle prescription drugs and devices pursuant to their scope of practice as defined by the bureau.~~

a. Replenishment. All drugs procured for administration in a medical director-based service program shall be obtained from an Iowa-licensed wholesaler, a pharmacy, or ~~an~~ an authorized prescriber.

b. Inspections. The medical director shall ensure the completion of a monthly inspection of all prescription drugs maintained by the medical director at the primary program site and any program substation. Inspection shall include the removal of outdated or adulterated drugs. Records of inspection shall be maintained for two years from the date of the inspection at the primary program site or the program substation. The medical director ~~or service director~~ may designate EMS personnel to conduct delegate the completion of the required inspections to the service director or other designee.

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ITEM 16. Amend rule 657—11.22(124,147A,155A) as follows:

657—11.22(124,147A,155A) Return of drugs. Drugs that have been removed from ~~administration service program~~ stock shall be returned to the responsible individual. In a pharmacy-based service program, drugs returned from the service program to the ~~base~~ pharmacy may be used by the pharmacy for subsequent dispensing or administration provided the drugs are not outdated or adulterated. Records of the return of prescription drugs shall be maintained by the responsible individual for two years from the date of the return.

ITEM 17. Amend rule 657—11.23(124,147A,155A) as follows:

657—11.23(124,147A,155A) Out-of-date drugs or devices. Any drug or device bearing an expiration date shall not be administered beyond the expiration date of the drug or device. Outdated drugs or devices shall be removed from ~~administration service program~~ stock and quarantined until such drugs or devices are properly disposed of or, if the service program is a pharmacy-based service, returned to the ~~base pharmacy~~ responsible individual for disposition. ~~Outdated drugs are the property of the responsible individual and shall be disposed of appropriately. Outdated controlled substances shall be disposed of pursuant to rule 657—11.32(124,147A,155A).~~

ITEM 18. Amend rule 657—11.24(124,147A,155A) as follows:

657—11.24(124,147A,155A) Product recall. ~~All~~ Each service programs program shall have a system procedure for removal from ~~administration service program~~ stock all ~~prescription~~ drugs or devices subject to a product recall. The ~~system~~ procedure shall include action appropriate to the direction or requirements of the recall.

ITEM 19. Amend rule 657—11.26(124,147A,155A) as follows:

657—11.26(124,147A,155A) Controlled substances records.

11.26(1) Records maintained. Every inventory or other record required to be maintained under this chapter, 657—Chapter 10, or Iowa Code chapter 124 shall be maintained at the primary program site or the program substation and by the pharmacy if the service program is pharmacy-based. All required records shall be available for inspection and copying by the board, ~~or~~ its representative, ~~or~~ any other authorized individual for at least two years from the date of such record. Controlled substances records shall be maintained in a readily retrievable manner. Schedule II controlled substances records shall be maintained separately from all other records of the registrant.

11.26(2) Receipt and disbursement records in medical director-based service programs. Any pharmacy or other authorized registrant that provides controlled substances for a medical director-based service program shall provide to the service program a record of the disbursement and maintain records a record of receipt and the disbursement that pursuant to rule 657—10.34(124,155A). The service program shall retain the record on which an authorized individual shall sign and record the actual date of receipt. The record shall include the following:

a. to e. No change.

ITEM 20. Amend rule 657—11.27(124,147A,155A) as follows:

657—11.27(124,147A,155A) Ordering Schedule II controlled substances—medical director-based service programs. Except as otherwise provided by 657—subrule 10.34(7) and under federal law, a DEA Form 222, preprinted with the address of the primary program site, is required to be maintained at the primary program site for the acquisition of each supply of a Schedule II controlled substance. The order form shall be executed only by the medical director named on the order form or by an authorized signer designated pursuant to a properly executed power of attorney. A DEA Form 222 shall be dated and signed as of the date the order is submitted for filling. A medical director or authorized signer shall not pre-sign a DEA Form 222 for subsequent completion. All Schedule II order forms shall be maintained at the primary program site and shall be available for inspection and copying by the board,

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~~or~~ its representative, or any other authorized individual for a period of two years from the date of the record.

ITEM 21. Amend rule 657—11.29(124,147A,155A) as follows:

657—11.29(124,147A,155A) Schedule II controlled substances perpetual inventory. Each service program located in Iowa that administers Schedule II controlled substances shall maintain a perpetual inventory for all Schedule II controlled substances pursuant to the requirements of this rule. All records relating to the perpetual inventory shall be maintained at the primary program site and shall be available for inspection and copying by the board, ~~or~~ its representative, or any other authorized individual for a period of two years from the date of the record.

11.29(1) Record. The perpetual inventory record may be maintained in a ~~manual hard-copy~~ or an electronic record format. Any electronic record shall provide for hard-copy printout of all transactions recorded in the perpetual inventory record for any specified period of time and shall state the current inventory quantities of each drug at the time the record is printed. ~~An electronic A~~ record entry, once recorded, shall not be changed; any adjustments or corrections shall require entry of a separate record as provided in subrule 11.29(3).

11.29(2) Information included. The perpetual inventory record shall identify all receipts and disbursements of Schedule II controlled substances by drug name or by National Drug Code (NDC), including each patient administration, wastage, ~~and return of a drug to the responsible individual, and disposal of a drug.~~ The record of receipt shall also identify the source of the drug, the strength and dosage form, the quantity, the date of receipt, and the name or unique identification of the individual verifying receipt of the drug. The disbursement record shall identify where or to whom the drug is disbursed or administered, the strength and dosage form, the quantity, the date of disbursement ~~or administration~~, and the name or unique identification of the individual responsible for the disbursement. Receipts and disbursements shall be recorded in the perpetual inventory as soon as practicable but no later than 24 hours after the receipt, disbursement, or administration.

11.29(3) Adjustments or corrections to the record. Any adjustments or corrections made to the perpetual inventory shall include the identity of the person making the adjustment or correction and the reason for the adjustment or correction.

11.29(4) Reconciliation. The pharmacist in charge or designee in a pharmacy-based service program, or the medical director or designee in a medical director-based service program, shall be responsible for reconciling the physical perpetual inventory record of all Schedule II controlled substances with the perpetual physical inventory balance on a periodic basis but no less frequently than at least monthly. Any discrepancy shall be reported within 24 hours of the discovery to the medical director and to the pharmacist in charge if the service program is a pharmacy-based program responsible individual for investigation.

ITEM 22. Amend rule 657—11.30(124,147A,155A) as follows:

657—11.30(124,147A,155A) Controlled substances annual inventory. An accurate inventory shall be taken annually of all controlled substances maintained at the primary program site and program substations. Controlled substances in a pharmacy-based service program shall be included in the pharmacy's annual controlled substances inventory. The inventory record shall identify the drug name or National Drug Code (NDC) and the exact quantity under the control of the service program including drugs in replenishment stock and quarantined stock. The inventory record shall contain the date and time the inventory was taken and the printed name and signature of the individual or individuals responsible for the inventory record. Records of the inventory shall be maintained pursuant to rule 657—11.34(124,147A,155A).

ITEM 23. Amend rule 657—11.32(124,147A,155A) as follows:

657—11.32(124,147A,155A) ~~Destruction or disposal~~ Disposition of controlled substances. ~~Disposal or destruction~~ Disposition of controlled substances shall be pursuant to the requirements of this rule,

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~~and~~ rule 657—11.29(124,147A,155A), 657—Chapter 10, and federal regulations. Records shall be maintained at the primary program site and, if the service program is a pharmacy-based ~~service~~, records shall be maintained at the pharmacy.

11.32(1) ~~Outdated, adulterated, or unwanted supply.~~ ~~EMS personnel shall not destroy any controlled~~ Controlled substances shall not be destroyed except as provided in subrule 11.32(2). Any drug that requires ~~disposal or destruction~~ disposition shall be ~~removed from administration stock and~~ quarantined until the drug can be returned to the responsible individual. The responsible individual shall ~~dispose of or destroy~~ ensure the proper disposition of controlled substances according to the following procedures:

a. and b. No change.

11.32(2) *Administration wastage.* Except as otherwise specifically provided by federal or state law or rules of the board, the unused portion of a controlled substance resulting from administration to a patient may be destroyed or otherwise disposed of by the administering ~~EMS service program~~ personnel, the medical director, or a pharmacist. Any wastage of a controlled substance shall be conducted in the presence of a responsible adult witness who is ~~a member of the EMS team~~ an authorized service program employee, a member of the professional or technician pharmacy staff, or a licensed health care professional. A written or electronic record of controlled substance wastage shall be ~~made~~ created and maintained at the primary program site and, if the service program is a pharmacy-based ~~service~~, at the pharmacy, for a minimum of two years following the ~~destruction or other disposal~~ disposition. The record shall include the signatures or other unique identification of the witness and of the individual destroying or otherwise disposing of the wastage of the controlled substance and shall identify the following:

a. to d. No change.

e. ~~The~~ If either individual involved in the wastage is not identified in the service program identification log, the legibly printed first and last names and title of the person wasting the unused portions of the controlled substance and of the qualified witness individual.

ITEM 24. Amend rule 657—11.33(124,147A,155A) as follows:

657—11.33(124,147A,155A) Report of loss or theft of controlled substance. Upon suspicion of any loss or theft of a controlled substance, the service director shall immediately notify the responsible individual. The responsible individual shall ~~notify the DEA pursuant to rule 657—10.16(124) and federal regulations provide notice and reporting as required in rule 657—10.16(124).~~ The responsible individual shall report in writing, on forms provided by the board or as directed by the board, any theft or significant loss of any controlled substance. The report shall be submitted to the board office within two weeks of the discovery of the theft or loss. A copy of the report shall be maintained at the primary program site and, if the program is a pharmacy-based service, at the pharmacy.

ITEM 25. Amend rule 657—11.34(124,147A,155A) as follows:

657—11.34(124,147A,155A) Records. If a service program includes a primary program site and one or more program substations, ~~the records of the service program~~ each record shall identify the ~~primary program site and each program substation~~ specific location to which it applies. Records regarding service program substation activities, including drug supply and administration records, may be maintained at the primary program site but shall clearly identify the program substation to which the records apply. All records regarding prescription drugs and devices in a service program shall be maintained for two years from the date of the activity or record and be available for inspection and copying by the board, ~~or its representative, or any other authorized individual.~~

ARC 2905C**PHARMACY BOARD[657]****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 124.554, the Board of Pharmacy and the Prescription Monitoring Program Advisory Council hereby give Notice of Intended Action to amend Chapter 37, “Iowa Prescription Monitoring Program,” Iowa Administrative Code.

The amendments were approved at the November 2, 2016, regular meeting of the Board of Pharmacy. The amendments were approved by the Prescription Monitoring Program Advisory Council at its meeting held on October 11, 2016.

The proposed amendments are the result of a review of the chapter pursuant to the requirements of Iowa Code subsection 17A.7(2). The proposed amendments also are intended to implement Iowa Code changes passed by the Legislature in 2016 Iowa Acts, chapter 1052 (Senate File 2102).

Proposed amendments include:

- New definitions for “electronic health record system,” “electronic pharmacy information system,” “electronic system,” and “health information exchange” and clarifying amendments to the definitions of “health care professional,” “PMP administrator,” and “practitioner’s agent”;
- Clarifications regarding exemption from reporting dispensed prescriptions to the Prescription Monitoring Program (PMP) and the procedures for requesting exemption;
- Clarification of the required data elements and procedures for submission by a pharmacy of records of dispensed prescriptions or of reports which state that no qualifying prescriptions were dispensed during a reporting period;
- Clarifications regarding the PMP records and information that is deemed confidential;
- An increase in the number of agents that a practitioner may authorize to access the PMP on behalf of the practitioner and the procedures for registration of a practitioner’s agent, removal of alternate procedures relating to a practitioner without Internet access, and reference to and clarification of the procedures for a patient to obtain a copy of the patient’s prescription history;
- Clarifications of the procedures for a regulatory agency or board, a law enforcement agency, and researchers to request information from the Iowa PMP, including provisions regarding charging a fee for the preparation and release of PMP information and reports;
- New provisions relating to the establishment of facility users and the integration of PMP access into electronic health record, health information exchange and e-pharmacy systems, including contract and agreement requirements for such integration; and
- Correction of rule references and the implementation clause.

Requests for waiver or variance of the discretionary provisions of Board rules will be considered pursuant to 657—Chapter 34.

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on February 7, 2017. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by e-mail to terry.witkowski@iowa.gov.

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

These amendments are intended to implement Iowa Code sections 124.550 to 124.558.

The following amendments are proposed.

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ITEM 1. Adopt the following **new** definitions in rule **657—37.2(124)**:

“*Electronic health record system*” or “*EHRS*” means a real-time, patient-centered health record system that makes patient health information and other health care tools and resources readily and securely available to authorized providers in a digital format capable of being shared with other providers across one or more health care organizations or facilities.

“*Electronic pharmacy information system*” or “*e-pharmacy system*” means a real-time electronic patient prescription record system that includes, at a minimum, patient profiles and prescription dispensing information and that may enable shared access to included information by multiple pharmacies, such as a chain of pharmacies using the same e-pharmacy system.

“*Electronic system*” means an electronic health record system, an electronic pharmacy information system, or a health information exchange. “*Electronic systems*” refers to a combination of two or more of these types of systems.

“*Health information exchange*” or “*HIE*” means a system that allows health care professionals to appropriately access and securely share a patient’s vital medical information and records as that electronic information is instantly updated and simultaneously available to each of the health care professionals across organizations, often within a region, community, or health care system.

ITEM 2. Amend the following definitions in rule **657—37.2(124)**:

“*DEA number*” means the registration number issued to an individual or pharmacy by the U.S. Department of Justice, Drug Enforcement Administration (DEA) authorizing the individual or pharmacy to engage in the prescribing, dispensing, distributing, or procuring of a controlled substance.

“*Health care professional*” means a person who, by education, training, certification, or licensure, is qualified to provide and is engaged in providing health care to patients. “*Health care professional*” does not include clerical or administrative staff. “*Health care professional*,” other than a licensed prescriber or pharmacist, may include, but is not limited to, a certified pharmacy technician or a registered technician trainee, a nurse, or a certified medical assistant, or ~~supervised trainee such as a pharmacist-intern or student, a medical student, or a nursing student.~~

“*PMP administrator*” means the board staff person or persons designated to manage and administer the PMP under the direction and oversight of the board and the council.

“*Practitioner’s agent*” means a health care professional who is employed by or under the direct supervision of a ~~health care~~ PMP-registered practitioner and who is authorized by the practitioner to access PMP information as provided in subrule 37.4(1).

ITEM 3. Amend rule 657—37.3(124) as follows:

657—37.3(124) Requirements for the PMP. Each dispenser, unless identified as exempt from reporting and who has applied for and been granted an exemption from reporting to the PMP pursuant to subrule 37.3(1), shall submit to the PMP administrator either a record of each reportable prescription dispensed during a reporting period or a zero report pursuant to subrule 37.3(5), as appropriate. A dispenser located outside the state of Iowa, unless identified as exempt from reporting and who has applied for and been granted an exemption from reporting to the PMP pursuant to subrule 37.3(1), shall submit to the PMP administrator either a record of each reportable prescription dispensed during a reporting period to a patient located in Iowa or a zero report pursuant to subrule 37.3(5), as appropriate.

37.3(1) Exemptions. The dispensing of a controlled substance as described in this subrule shall not be considered a reportable prescription. A dispenser engaged in the distribution of controlled substances solely pursuant to one or more of the practices identified in ~~paragraphs~~ paragraph 37.3(1)“a₁” or 37.3(1)“b₂” shall so notify the PMP administrator and shall be exempt or 37.3(1)“c,” or that is not registered to handle controlled substances as described in paragraph 37.3(1)“d,” may apply for an exemption from reporting to the PMP. A dispenser claiming exemption pursuant to this subrule shall certify to the board, on a form provided by the board, the basis for exemption from reporting to the PMP. The PMP administrator is hereby authorized to approve or deny the pharmacy’s request for exemption from reporting to the PMP.

a. and b. No change.

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c. A nonresident pharmacy that does not distribute controlled substances to patients located in Iowa shall not be required to report to the PMP. A nonresident pharmacy claiming exemption from reporting pursuant to this paragraph shall certify to the board that the nonresident pharmacy does not dispense controlled substances to patients located in Iowa.

d. A licensed pharmacy that does not handle controlled substances and that is not registered to handle controlled substances with the federal DEA shall not be required to report to the PMP. A pharmacy claiming exemption from reporting pursuant to this paragraph shall certify to the board that the pharmacy does not dispense controlled substances.

e. e. A prescriber or other authorized person who administers or dispenses a controlled substance, including samples of a controlled substance, for the purposes of outpatient care shall not be required to report such administration or dispensing. A prescriber shall not be required to submit a form or notification claiming exemption from reporting to the PMP. This exception shall not apply to a pharmacist who administers a controlled substance, as directed by the prescriber, pursuant to a prescription.

d. f. A wholesale distributor of a controlled substance shall not be required to report the wholesale distribution of such a substance. A wholesale distributor shall not be required to submit a form or notification claiming exemption from reporting to the PMP.

37.3(2) Data elements. The information submitted for each prescription shall include, at a minimum, the following items:

- a. Dispenser DEA number.
- b. Date the prescription is filled.
- c. Prescription number.
- d. Indication as to whether the prescription is new or a refill.
- e. NDC number for the drug dispensed.
- f. Quantity of the drug dispensed.
- g. Number of days of drug therapy provided by the drug as dispensed.
- h. Patient ~~name~~ first and last names.
- i. Patient address including street address, city, state, and ZIP code.
- j. Patient date of birth.
- k. Patient gender.
- l. Prescriber DEA number.
- m. Date the prescription was issued by the prescriber.
- n. Method of payment as ~~either third-party payer or patient cash payment.~~

37.3(3) Reporting periods. A record of each reportable prescription dispensed shall be submitted by each dispenser at least weekly. Records may be submitted with greater frequency than required by this subrule. Records of reportable prescriptions dispensed between Sunday and Saturday each week shall be submitted no later than the following Wednesday. However, a pharmacy that is currently submitting prescription dispensing records to another state's PMP on an alternative weekly reporting schedule may request authority to submit records to the Iowa PMP pursuant to that established schedule. The request shall be submitted in writing via e-mail, fax, or regular mail to the PMP administrator. The request shall identify the pharmacy by name, address, and Iowa pharmacy license number and shall define the alternative reporting period and the reason for the requested alternative reporting period. The PMP administrator is hereby authorized to ~~accept~~ approve or deny the pharmacy's alternative weekly reporting schedule.

37.3(4) Transmission methods. Prescription information shall be transmitted using one of the following methods:

a. Data upload to a reporting Web site via a secure Internet connection or by utilizing the secure FTP procedure. The PMP administrator or designee will provide dispensers with initial secure login and password information. Dispensers will be required to register on the reporting Web site prior to initial data upload.

b. Electronic media including CD-ROM, DVD, or diskette, accompanied by a transmittal form identifying the dispenser submitting the electronic media, the number of prescription records included on the media, and the individual submitting the media as directed by the PMP administrator or designee.

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c. If a dispenser does not have an automated record-keeping system capable of producing an electronic report as provided in this rule, the dispenser may submit prescription information on the industry standard universal claim form. The dispenser may complete and submit the claim form on the reporting Web site or, if the dispenser does not have Internet access, the completed paper claim form may be submitted as directed by the PMP administrator or designee.

d. Chain pharmacies and pharmacies under shared ownership may submit combined data transmissions on behalf of all facilities by utilizing the secure FTP procedure. Combined data transmissions shall identify the specific pharmacy that dispensed each individual prescription record included in the combined data transmission.

37.3(5) Zero reports. If a dispenser has not been identified as exempt from reporting to the PMP and the dispenser did not dispense any reportable prescriptions during a reporting period, the dispenser shall submit a zero report via the established reporting Web site or secure FTP procedure. ~~If such a dispenser does not have Internet access, the dispenser shall notify the PMP administrator via mail or facsimile transmission that the dispenser did not dispense any reportable prescriptions during the reporting period.~~ The schedule identified in subrule 37.3(3) shall determine timely submission of zero reports.

ITEM 4. Amend rule 657—37.4(124) as follows:

657—37.4(124) Access to database information. All information contained in the PMP database, including prescription information submitted for inclusion in the PMP database, communications or notifications to PMP users and dispensers via the database, and records of requests for PMP information, shall be privileged and strictly confidential and not subject to public or open records laws. The board, council, and PMP administrator shall maintain procedures to ensure the privacy and confidentiality of patients, prescribers, dispensers, practitioners, practitioners' agents, and patient information collected, recorded, transmitted, and maintained in the PMP database and to ensure that program information is not disclosed to persons except as provided in this rule.

37.4(1) Prescribers and pharmacists. A health care practitioner authorized to prescribe or dispense controlled substances may obtain PMP information regarding the practitioner's patient, or a patient seeking treatment from the practitioner, for the purpose of providing patient health care. A practitioner may authorize no more than ~~three~~ six health care professionals to act as the practitioner's agents for the purpose of requesting PMP information regarding a practitioner's patients. A practitioner's agent shall be licensed, registered, certified, or otherwise credentialed as a health care professional in a manner that permits verification of the health care professional's credentials.

a. Prior to being granted access to PMP information, a practitioner or a practitioner's agent shall submit an individual request for registration and program access. The PMP administrator shall take reasonable steps to verify the identity of a practitioner or practitioner's agent and to verify a practitioner's or practitioner's agent's credentials prior to providing a practitioner or practitioner's agent with a secure login and initial password.

(1) ~~A practitioner or a practitioner's agent with Internet access may~~ shall register via a secure Web site established by the board for that purpose. ~~A practitioner without Internet access shall submit a written registration request on a form provided by the PMP administrator. A practitioner without Internet access shall not authorize a~~

(2) ~~A practitioner's agent to~~ shall register for ~~or to~~ access to PMP information on behalf of the supervising practitioner by completing and submitting a hard-copy registration form, provided by the board, that requires the signatures of both the supervising practitioner and the practitioner's agent. The PMP administrator shall take reasonable steps to verify the identity of a practitioner or practitioner's agent and to verify a practitioner's credentials prior to providing a practitioner or practitioner's agent with a secure login and initial password.

b. Each practitioner or practitioner's agent registered to access PMP information shall securely maintain and use the login and password assigned to the individual practitioner or practitioner's agent. Except in an emergency when the patient would be placed in greater jeopardy by restricting PMP information access to the practitioner or practitioner's agent, a registered practitioner shall not share the practitioner's secure login and password information and shall not delegate PMP information access to

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another health care practitioner or to an unregistered agent. A registered practitioner's agent shall not delegate PMP information access to another individual.

~~b. c.~~ A practitioner or practitioner's agent with ~~Internet access~~ may submit a request for PMP information via a secure Web site established by the board for that purpose. The requested information shall be provided to the requesting practitioner or practitioner's agent in a format established by the board and shall be delivered via the secure Web site.

~~e.~~ A practitioner without Internet access may submit to the PMP administrator a written request for PMP information via mail or facsimile transmission. The written request shall be in a format established by the board and shall be signed by the requesting practitioner. Prior to processing a written request for PMP information, the PMP administrator shall take reasonable steps to verify the request, which may include but not be limited to a telephone call to the practitioner at a telephone number known to be the number for the practitioner's practice.

d. No change.

e. A practitioner or practitioner's agent shall not provide the patient with a copy of a report generated by the PMP. A patient may receive a report of the patient's own prescription history pursuant to subrule 37.4(4).

37.4(2) Regulatory agencies and boards. Professional licensing boards and regulatory agencies that supervise or regulate a health care practitioner professional or that provide payment for health care services shall be able to access information from the PMP database only pursuant to an order, subpoena, or other means of legal compulsion relating to a specific investigation of a specific individual and supported by a determination of probable cause. The board may charge a fee for the preparation and release of PMP information and reports as provided in rule 657—37.5(124).

a. Prior to accepting and processing a request for PMP database information from the director or director's designee of a licensing board or other authorized regulatory agency, the director or director's designee shall complete and submit a hard-copy registration form, provided by the board, that requires the signatures of both the director and the director's designee, as appropriate. The PMP administrator shall take reasonable steps to verify the identity of the director or director's designee prior to providing a director or director's designee with a secure login and initial password.

~~a. b.~~ A director of a licensing board with jurisdiction over a ~~practitioner~~ health care professional, or the director's designee, who seeks access to PMP information for an investigation shall submit to the PMP administrator in a format established by the board a written request via mail, e-mail, facsimile, or personal delivery. The request shall be signed by the director or the director's designee and shall be accompanied by an order, subpoena, or other form of legal compulsion establishing that the request is supported by a determination of probable cause.

~~b. c.~~ A director of a regulatory agency with jurisdiction over a ~~practitioner~~ health care professional or with jurisdiction over a person receiving health care services pursuant to one or more programs provided by the agency, or the director's designee, who seeks access to PMP information for an investigation shall submit to the PMP administrator in a format established by the board a written request via mail, facsimile, e-mail, or personal delivery. The request shall be signed by the director or the director's designee and shall be accompanied by an order, subpoena, or other form of legal compulsion establishing that the request is supported by a determination of probable cause.

d. The requested information shall be provided to the requesting director or director's designee in a format established by the board and shall be delivered via the secure Web site or by an alternate delivery method determined by the PMP administrator to be appropriate.

37.4(3) Law enforcement agencies. Local, state, and federal law enforcement or prosecutorial officials engaged in the administration, investigation, or enforcement of any state or federal law relating to controlled substances shall be able to access information from the PMP database by order, subpoena, or other means of legal compulsion relating to a specific investigation of a specific individual and supported by a determination of probable cause. The board may charge a fee for the preparation and release of PMP information and reports as provided in rule 657—37.5(124).

a. Prior to accepting and processing a request for PMP database information from a law enforcement officer, the officer shall complete and submit a hard-copy registration form, provided by

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the board, that requires the signatures of both the officer and the officer's direct superior. The PMP administrator shall take reasonable steps to verify the identity of the officer and the officer's direct superior prior to providing the officer with a secure login and initial password.

b. A law enforcement officer shall submit to the PMP administrator in a format established by the board a written request via mail, e-mail, facsimile, or personal delivery. The request shall be signed by the requesting officer or the officer's superior. The request shall be accompanied by an order, subpoena, or warrant issued by a court or legal authority that requires a determination of probable cause and shall be processed by the PMP administrator.

c. A report identifying PMP information relating to the specific individual identified by the order, subpoena, or warrant ~~may~~ shall be delivered to the law enforcement officer via ~~mail or alternate secure delivery~~ the secure Web site or by an alternate delivery method determined by the PMP administrator to be appropriate.

37.4(4) Patients. A patient or the patient's agent may request and receive PMP information regarding prescriptions reported to have been dispensed to the patient.

a. A patient may submit a signed, written request for records of the patient's prescriptions dispensed during a specified period of time. The board shall provide the patient with a request ~~shall identify form~~ requiring identification of the patient by name, including any aliases used by the patient, and ~~shall include~~ the patient's date of birth and gender. The request ~~form~~ shall also ~~include~~ require any address where the patient resided during the time period of the request and the patient's current address and daytime telephone number. A patient may personally deliver the completed request to the PMP administrator or ~~authorized staff member~~ designee at the offices of the board located at 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688. The patient will be required to present current government-issued photo identification at the time of delivery of the request. A copy of the patient's identification and request shall be maintained in the records of the PMP.

b. and *c.* No change.

d. A report prepared pursuant to this subrule shall be delivered to the patient or the patient's agent, as appropriate, by personal delivery or via mail or alternate secure delivery.

37.4(5) Court orders and subpoenas. The PMP administrator shall provide PMP information in response to court orders and county attorney or other subpoenas issued by a court upon a determination of probable cause. The board may charge a fee for the preparation and release of PMP information and reports as provided in rule 657—37.5(124).

37.4(6) Statistical data. The PMP administrator, ~~following review and approval by the patients rights committee,~~ or designee may provide summary, statistical, or aggregate data to public or private entities for statistical, public research, public policy, or educational purposes. Prior to the release of any such data, the PMP administrator or designee shall remove any personal identifying information or verify that any personal identifying information that could be used to identify an individual patient, prescriber, dispenser, practitioner, or other person who is ~~the subject of~~ identified in the PMP information or data ~~has been removed from the PMP information or data.~~ The board may charge a fee for the preparation and release of statistical data as provided in rule 657—37.5(124).

37.4(7) PMP administrator access. Other than statistical data as described in subrule 37.4(6) and technical, error, and administrative function reports and information needed by PMP support staff to determine that records are received and maintained in good order or to review or resolve issues of reported or suspected erroneous data as provided in rule 657—37.7(124), any other reports concerning the information received from dispensers shall only be prepared at the direction of the board, the council, or the PMP administrator. The board and the council may compile statistical reports from PMP information for use in determining the advisability of continuing the PMP and for use in preparing required reports to the governor and the legislature. The reports shall not include information that would identify any patient, prescriber, dispenser, practitioner, practitioner's agent, or other person who is ~~the subject of~~ identified in the PMP information or data.

37.4(8) Electronic health and pharmacy information systems. The board may contract with electronic health record systems, health information exchanges, and electronic pharmacy information systems to securely integrate into those electronic systems access to patient prescription histories and

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other PMP information available to authorized practitioners and practitioners' agents. Institutional users may be established to identify the facilities and contracted electronic systems and to facilitate secure access by the prescribing practitioners and pharmacists authorized to access PMP information by and through the electronic systems.

a. EHRS, HIE, and e-pharmacy system integration contracts or agreements shall ensure protection of confidential information contained in and received from the PMP.

b. EHRS, HIE, and e-pharmacy system integration contracts or agreements shall restrict access to PMP information to authorized practitioners and practitioner agents as provided by these rules except that individual user registration with the PMP may not be required if the identity of the specific individual receiving or requesting information from the PMP, including a record of the patient whose record is requested, is logged and maintained in an alternate record and is available to the PMP administrator upon request.

c. PMP and electronic system integration may require a separate contract or agreement with a third-party interface or translation service provider to facilitate integration of the PMP into the electronic system. The contract with the service provider shall provide that translation, transmission, or other data integration services provided under the contract are accomplished via a secure encrypted channel that ensures the confidentiality of all information exchanged between the PMP and the electronic system.

ITEM 5. Amend rule 657—37.5(124) as follows:

657—37.5(124) Fees. The board may charge a fee and recover costs incurred for the provision of PMP information, including statistical data, except that no fees or costs shall be assessed to a dispenser for reporting to the PMP or to a practitioner or practitioner's agent for querying the PMP regarding a practitioner's patient. Any fees or costs assessed by the board shall be considered repayment receipts as defined in Iowa Code section 8.2.

ITEM 6. Amend subrule 37.9(1) as follows:

37.9(1) Confidentiality. A pharmacy, pharmacist, practitioner, or practitioner's agent who knowingly fails to comply with the confidentiality provisions of the law or these rules or who delegates PMP information access to another individual, except as provided in paragraph 37.4(1)“a,” 37.4(1)“b,” is subject to disciplinary action by the appropriate professional licensing board. The PMP administrator or a member of the program staff who knowingly fails to comply with the confidentiality provisions of the law or these rules is subject to disciplinary action by the board. In addition to any disciplinary action or sanctions imposed by a professional licensing board, a pharmacy, pharmacist, practitioner, practitioner's agent, PMP administrator, or member of the PMP program staff who knowingly accesses, uses, or discloses program information in violation of Iowa law or these rules is subject to criminal prosecution as provided in ~~2011 Iowa Code Supplement~~ section 124.558.

ITEM 7. Amend **657—Chapter 37**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections ~~124.551, 124.552, and 124.554 to 124.557~~ and ~~2011 Iowa Code Supplement sections 124.553 and~~ 124.550 to 124.558.

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PUBLIC HEALTH DEPARTMENT[641]

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 105.4, the Plumbing and Mechanical Systems Board of the Department of Public Health hereby gives Notice of Intended Action to amend Chapter

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23, “Plumbing and Mechanical Systems Board—Licensee Practice,” Chapter 27, “Plumbing and Mechanical Systems Board—Administrative and Regulatory Authority,” Chapter 28, “Plumbing and Mechanical Systems Board—Licensure Fees,” Chapter 29, “Plumbing and Mechanical Systems Board—Application, Licensure, and Examination,” and Chapter 30, “Continuing Education for Plumbing and Mechanical Systems Professionals,” Iowa Administrative Code.

Items 1, 2, 10, and 11 of the proposed amendments adopt new definitions or amend existing amendments to clarify requirements.

Items 3, 4, 5, 8, 9, 12, and 26 would prohibit a person from holding both an active apprentice license and an active specialty license at the same time. The purpose of the amendments is to resolve an existing conflict in Board rules which allow persons with a special restricted license to work within the scope of the restricted license without supervision and state law which requires that apprentices may only work under the supervision of another licensee. The amendments specify that if a person currently holds an active specialty license and seeks an active apprentice license, the specialty license must be placed on inactive status. No fee or continuing education would be required to maintain the specialty license on inactive status so long as the person maintains active licensure as an apprentice. If the person later drops out of the apprenticeship program, the person can surrender the apprentice license and reactivate the specialty license by paying the fee for an active license.

Items 6, 14, and 17 update references to the Board’s Web site address, which has changed. Item 7 of the proposed amendments deletes a reference to a subrule that does not exist.

Items 13 and 21 of the amendments implement provisions to create a “one-stop shop” that will allow contractors licensed under Iowa Code chapter 105 to apply for or renew the contractor license issued by the Plumbing and Mechanical Systems Board at the same time as applying for or renewing the contractor registration issued by the Labor Services Division of the Department of Workforce Development. Applicants for a contractor license or for renewal of a contractor license issued by the Board will also be required to include the fee for a three-year contractor registration and other items required for a contractor registration under the Labor Services Division of the Department of Workforce Development. The Board will transmit the portion of the fee received for contractor registration to the Labor Services Division, as well as the other information required for contractor registration. The amount of the fee has not changed or increased; however, the fee collected will be three times the annual fee amount to allow for a three-year registration period. These provisions implement Iowa Code sections 91C.1 and 105.18.

Items 15, 16, 18, 19, 20, and 21 clarify applicant responsibilities, the renewal period, and specific renewal requirements for each type of license. There are no new requirements or fees, except to authorize the board to collect the fee for contractor registration at the time of renewal of the contractor license, as required by Iowa Code chapter 91C to implement the joint contractor license and contractor registration requirements.

Item 22 of the proposed amendments clarifies the requirements for filing a complete application, the late renewal period, and requirements to reinstate a lapsed license. The requirements for late renewal and reinstatement remain the same as they are under existing Board rules.

Item 23 of the amendments specifies the current administrative requirements to reactivate an inactive license, review of applications, and grounds for denial of an application.

Items 24 and 25 rescind subrule 30.2(2) and renumber the following subrules accordingly. The existing subrule 30.3(2) is duplicative to subrule 30.2(3).

Item 27 clarifies that the licensee must maintain the licensee’s own records of all continuing education courses attended.

Item 28 of the proposed amendments would create an exemption from the continuing education requirements for someone who has obtained a specialty, journey person, or master license with less than one year remaining in the continuing education compliance period. The exemption would apply only to the licensee’s first renewal of that license and only to each license that was issued with less than one year remaining in the continuing education compliance period. Item 28 also creates an exemption from the continuing education requirements for a person who possesses an inactive specialty license and active

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apprentice license. Part of apprenticeship training includes classroom hours of education and on-the-job training.

Any interested person may make written suggestions or comments on these proposed amendments on or before February 7, 2017. Written comments should be directed to Jennifer Hart, Plumbing and Mechanical Systems Board, Department of Public Health, 321 E. 12th Street, Des Moines, Iowa 50319-0075; fax (515)281-6114; e-mail jennifer.hart@idph.iowa.gov.

Also, there will be a public hearing on February 7, 2017, at 1 p.m. in Conference Room 518, Lucas State Office Building, 321 E. 12th Street, 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 amendments.

These rules are subject to waiver under the Board's general waiver provisions contained in 641—Chapter 31.

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

These amendments are intended to implement Iowa Code section 105.4.

The following amendments are proposed.

ITEM 1. Adopt the following **new** definition of “Inactive license” in rule **641—23.1(105)**:

“*Inactive license*” means a license that is available for a plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic professional who is not actively engaged in running a business or working in the business in the corresponding discipline at that license level. An inactive license must be renewed prior to its expiration date. An inactive license is not valid for practice until the license is reactivated by the board.

ITEM 2. Amend rule **641—23.1(105)**, definition of “Lapsed license,” as follows:

“*Lapsed license*” means a license that expired prior to June 30, 2017, and was not renewed within 60 days following its expiration date; or a license that expired on or after June 30, 2017, and was not renewed by the following August 31. A lapsed license is no longer valid for practice.

ITEM 3. Adopt the following **new** subrule 23.6(3):

23.6(3) *Dual licensure as an apprentice prohibited.* A licensee may not simultaneously possess both an active apprentice license and an active specialty license.

ITEM 4. Adopt the following **new** subrule 23.7(6):

23.7(6) *Dual licensure as an apprentice prohibited.* A licensee may not simultaneously possess both an active apprentice license and an active specialty license.

ITEM 5. Adopt the following **new** subrule 23.8(3):

23.8(3) *Inactive specialty license.*

a. A person possessing an active specialty license under rule 641—23.7(105) must submit a written request to place the specialty license on inactive status in order to obtain an active apprentice license. The licensee must acknowledge that the licensee is unable to perform any work covered under Iowa Code chapter 105 outside of the apprenticeship program.

b. Notwithstanding 641—subrule 28.1(3), a person possessing both an inactive specialty license and an active apprentice license is not required to pay a renewal fee for the inactive specialty license so long as the person remains actively licensed as an apprentice.

c. Notwithstanding 641—subrule 30.2(2), a person possessing an inactive specialty license and an active apprentice license is not required to obtain any continuing education hours for renewal so long as the person remains actively licensed as an apprentice.

d. A person possessing both an inactive specialty license and an active apprentice license may surrender the apprentice license and reactivate the specialty license upon written request and payment of the fee for an active specialty license in the amount specified in 641—Chapter 28.

ITEM 6. Amend rule 641—27.6(21), introductory paragraph, as follows:

641—27.6(21) Public meetings. Members of the public may be present during board meetings unless the board votes to hold a closed session. Dates and location of board meetings may be obtained through the

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Iowa department of public health's Web site (~~http://www.idph.state.ia.us~~ <http://idph.iowa.gov/PMSB>) or directly from the board office.

ITEM 7. Amend paragraph **28.1(1)“g”** as follows:

g. A special restricted license as defined in 641—subrules 29.2(8), 29.2(9), and 29.2(10), and 29.2(11) is \$50.

ITEM 8. Amend paragraph **28.1(3)“e”** as follows:

e. An inactive license as defined in 641—subrules 29.2(5) and 29.2(6) is \$50. However, no fee is required for an inactive specialty license as defined in 641—subrule 23.8(3) so long as the person possessing the inactive specialty license remains actively licensed as an apprentice.

ITEM 9. Amend paragraph **28.1(3)“g”** as follows:

g. A special restricted license as defined in 641—subrules 29.2(8), 29.2(9), and 29.2(10), and 29.2(11) is \$50. However, no fee is required for an inactive specialty license as defined in 641—subrule 23.8(3) so long as the person possessing the inactive specialty license remains actively licensed as an apprentice.

ITEM 10. Adopt the following **new** definitions of “contractor,” “lapsed license,” “reactivated license” and “reissued license” in rule **641—29.1(105)**:

“*Contractor*” means a person or entity that provides plumbing, mechanical, HVAC-refrigeration, or hydronic systems services on a contractual basis and who is paid a predetermined amount under that contract for rendering those services.

“*Lapsed license*” means a license that expired prior to June 30, 2017, and was not renewed within 60 days following its expiration date or a license that expired on or after June 30, 2017, and was not renewed by the following August 31. A lapsed license is no longer valid for practice.

“*Reactivated license*” means a license that is changed from inactive status to active status pursuant to rule 641—29.8(105).

“*Reissued license*” means a refrigeration or HVAC license that was changed to an HVAC-refrigeration license pursuant to rule 641—29.8(105). “Reissued license” also means an HVAC or refrigeration license and a hydronic license that was changed to a mechanical license pursuant to rule 641—29.8(105).

ITEM 11. Amend rule **641—29.1(105)**, definition of “Inactive license,” as follows:

“*Inactive license*” means a license that is available for a plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic professional who is not actively engaged in running a business or working in the business in the corresponding discipline at that license level. An inactive license must be renewed prior to its expiration date. An inactive license is not valid for practice until the license is reactivated by the board.

ITEM 12. Adopt the following **new** paragraph **29.2(1)“d”**:

d. If the applicant currently holds an active specialty license, place the specialty license on inactive status as specified in 641—subrule 23.8(3).

ITEM 13. Amend paragraph **29.2(4)“a”** as follows:

a. File an application and pay application fees in accordance with rule 641—29.5(105). Effective May 1, 2017, include the fee for a three-year contractor registration as specified in 875—Chapter 150.
(1) to (3) No change.

ITEM 14. Amend paragraph **29.5(1)“b”** as follows:

b. Applications can be completed on-line or on a paper application. Paper applications are available to download at ~~http://www.idph.state.ia.us/eh/plumbing.asp~~ from the board Web site or from the board office by writing to: Plumbing and Mechanical Systems Board, Iowa Department of Public Health, 312 E. 12th Street, 5th Floor, Des Moines, Iowa 50319-0075, or by calling 1-866-280-1521.

ITEM 15. Rescind subrule 29.5(3) and adopt the following **new** subrule in lieu thereof:

29.5(3) Applicant responsibilities. An applicant for an initial license or license renewal bears full responsibility for each of the following:

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a. Paying all fees charged by regulatory authorities, state or national testing or credentialing organizations, and educational institutions providing the information required to complete a license, certification, or renewal application;

b. Providing accurate, up-to-date, and truthful information on the application form including, but not limited to, prior professional experience, education, training, criminal history, and disciplinary history; and

c. Submitting complete application materials. An application for a license or certification or renewal of a license or certification will be considered active for 90 days from the date the application is received. For purposes of establishing timely filing, the postmark on a paper submittal will be used and, for applications submitted online, the date of the electronic time stamp will be used. If the applicant does not submit all materials within this time period or if the applicant does not meet the requirements for the license or certification, the application shall be considered incomplete and shall be destroyed.

ITEM 16. Rescind subrule **29.5(5)**.

ITEM 17. Amend paragraph **29.6(3)“b”** as follows:

b. Examination applications can be completed ~~on-line~~ online or on a paper application. Paper applications are available to download at <http://www.idph.state.ia.us/eh/plumbing.asp> from the board Web site or from the board office by writing to: Plumbing and Mechanical Systems Board, Iowa Department of Public Health, 312 E. 12th Street, 5th Floor, Des Moines, Iowa 50319-0075, or by calling 1-866-280-1521.

ITEM 18. Amend subrule 29.7(1) as follows:

29.7(1) *Renewal period.* The period of licensure to operate as a contractor or work as a master, journeyman or apprentice in the plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic disciplines or work as a certified medical gas system installer or work in the specialty license disciplines developed by the board shall be for a period of three years, except as allowed or required in circumstances described in this subrule.

a. to e. No change.

ITEM 19. Rescind paragraph **29.7(1)“b.”**

ITEM 20. Reletter paragraphs **29.7(1)“c”** to **“e”** as **29.7(1)“b”** to **“d.”**

ITEM 21. Rescind subrule 29.7(3) and adopt the following new subrule in lieu thereof:

29.7(3) *Specific renewal requirements.*

a. *Active and inactive apprentice, specialty, journeyman, and master licenses.* An apprentice, specialty, journeyman, or master licensee seeking renewal shall:

(1) Submit an application for renewal either electronically or on the forms provided by the board office.

(2) Meet the continuing education requirements as set forth in rule 641—30.2(105), unless no continuing education is required as specified in 641—subrule 23.8(3), 30.2(2), or 30.6(1).

(3) Include the appropriate fee as specified in 641—Chapter 28. A penalty shall be assessed by the board for late renewal, as specified in 641—Chapter 28.

b. *Medical gas piping certification holders.* A medical gas piping certification holder seeking renewal shall:

(1) Submit an application for renewal either electronically or on the forms provided by the board office.

(2) Provide evidence that the person has maintained valid certification issued from the National Inspection Testing Certification (NITC) Corporation or an equivalent authority approved by the board.

(3) Include the appropriate fee as specified in 641—Chapter 28.

c. *Contractor licenses.* Beginning with the July 1, 2017, renewal and each renewal thereafter, renewal of the contractor license shall constitute registration as a contractor under Iowa Code chapter 91C. A contractor licensee seeking renewal shall:

(1) Submit an application for renewal on the forms provided by the board office. Licensees may renew their licenses online or via paper application.

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(2) Include evidence of professional liability insurance and a surety bond required by subrule 29.2(4).

(3) As specified in 875—Chapter 150, include proof of workers' compensation insurance coverage, proof of unemployment insurance compliance and, for out-of-state contractors, a bond as described in Iowa Code chapter 91C.

(4) Include the appropriate license fee as specified in 641—Chapter 28. A penalty shall be assessed by the board for late renewal, as specified in 641—Chapter 28.

(5) Include the fee for a three-year contractor registration as specified in 875—Chapter 150.

ITEM 22. Adopt the following **new** subrules 29.7(4) to 29.7(6):

29.7(4) Complete and timely filed application. No renewal application shall be considered timely and sufficient until received by the board office and accompanied by all material required for renewal and all applicable renewal and late fees. Incomplete applications will not be accepted. For purposes of establishing timely filing, the postmark on a paper submittal will be used and, for renewals submitted online, the date of the electronic time stamp will be used.

29.7(5) Late renewal. A licensee shall have a one-month grace period after the expiration date of the license to renew without payment of a late fee.

a. A licensee who seeks to renew more than one month but less than two months after the license expiration date may renew upon payment of the late fee in the amount specified in 641—Chapter 28 in addition to the renewal fee.

b. A license remains valid for practice for up to two months past the expiration date of the license. After two months, the license shall lapse and become invalid for practice until the license is reinstated.

29.7(6) Reinstatement. A person seeking reinstatement of a lapsed license must submit an application for reinstatement electronically or on the forms provided by the board office and include all required documentation and fees.

a. A licensee who allows a license to lapse for more than two months but not more than 365 days may reinstate and renew the license upon payment of the late penalty fee in the amount specified in 641—Chapter 28 in addition to the renewal fee. A specialty, journey person or master licensee must also meet the continuing education requirements as set forth in rule 641—30.2(105), unless no continuing education is required as specified in 641—subrule 23.8(3), 30.2(2), or 30.6(1).

b. A person holding a specialty, journey person or master license who allows the license to lapse for more than one year may reinstate and renew the license by providing evidence of one of the following:

(1) For a journey person or master licensee, retaking and successfully passing the applicable licensing examination; or

(2) Retaking and successfully completing all continuing education requirements as set forth in rule 641—30.2(105) for each renewal period in which the license was not timely renewed.

c. A contractor licensee seeking reinstatement of a license that has been lapsed for more than one year may reinstate and renew the license by submitting evidence of meeting the requirements specified in subrule 29.7(3) and payment of any required fees.

d. A licensee who reinstates and renews a lapsed license shall not be entitled to a prorated renewal fee.

ITEM 23. Adopt the following **new** rules 641—29.10(105), 641—29.11(105) and 641—29.12(105):

641—29.10(105) Reactivation of an inactive license.

29.10(1) An inactive license is not valid for practice but must be renewed in accordance with rule 641—29.7(105). If an inactive license has not been timely renewed and becomes lapsed, the requirements for reinstatement of the license must be met. A person with an inactive license that is not lapsed who is seeking to reactivate the license shall:

a. Submit a written request to the board office for active license status; and

b. Pay the fee for an active license in the amount specified in 641—Chapter 28.

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29.10(2) A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal period following reactivation.

641—29.11(105) Review of applications.

29.11(1) Upon receipt of a completed application, the board executive officer or designee has discretion to:

- a. Authorize the issuance of the license, certification, or examination application.
- b. Refer the application to a committee of the board for review and consideration when the board executive officer determines that matters including, but not limited to, prior criminal history, chemical dependence, competency, physical or psychological illness, professional liability claims or settlements, professional disciplinary history, education or experience, are relevant in determining the applicant's qualifications for a license, certification, or examination.

29.11(2) Following review and consideration of an application referred by the board executive officer, the committee may at its discretion:

- a. Authorize the issuance of the license, certification, or examination application.
- b. Recommend to the board denial of the license, certification, or examination application.
- c. Recommend to the board issuance of the license or certification under certain terms and conditions or with certain restrictions.
- d. Refer the license, certification, or examination application to the board for review and consideration without recommendation.

29.11(3) Following review and consideration of a license, certification, or examination application referred by the committee, the board shall:

- a. Authorize the issuance of the license, certification, or examination application;
- b. Deny the issuance of the license, certification, or examination application; or
- c. Authorize the issuance of the license or certification under certain terms and conditions or with certain restrictions.

29.11(4) The committee or board may require an applicant to appear for an interview before the committee or the full board as part of the application process.

641—29.12(105) Grounds for denial of an application. The board may deny an application for license, certification, or examination for any of the following reasons:

1. Failure to meet the requirements for license, certification, or examination as specified in these rules.
2. Failure to provide accurate and truthful information, or the omission of material information.
3. Pursuant to Iowa Code section 105.22, upon any of the grounds for which licensure may be revoked or suspended.

This rule is intended to implement Iowa Code section 105.22.

ITEM 24. Rescind subrule **30.2(2)**.

ITEM 25. Renumber subrules **30.2(3)** and **30.2(4)** as **30.2(2)** and **30.2(3)**.

ITEM 26. Adopt the following new paragraph **30.2(2)“e”**:

e. An individual possessing one or more inactive special restricted licenses under 641—subrule 23.8(3) shall not be required to complete any continuing education hours for the special restricted license so long as the person remains actively licensed as an apprentice.

ITEM 27. Adopt the following new subrule 30.2(4):

30.2(4) It is the responsibility of each licensee to maintain a record of all continuing education courses attended and retain proof of compliance with the continuing education requirements.

ITEM 28. Adopt the following new paragraphs **30.6(1)“f”** and **“g”**:

f. Obtained a specialty, journeyperson, or master license with less than one year remaining in the continuing education compliance period. This exemption shall apply only to the licensee's first renewal

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of that license and only to each license that was issued with less than one year remaining in the continuing education compliance period.

g. Possesses an inactive specialty license under 641—subrule 23.8(3) and is also actively licensed as an apprentice.

ARC 2900C**PUBLIC HEALTH DEPARTMENT[641]****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 105.4, the Plumbing and Mechanical Systems Board of the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 25, “State Plumbing Code,” Iowa Administrative Code.

The proposed amendments update references in the state plumbing code that were the result of changes between the 2012 edition of the Uniform Plumbing Code (UPC) and the 2015 edition of the Uniform Plumbing Code. No substantive changes are proposed. The amendments merely update references to UPC sections that have moved or been eliminated.

Any interested person may make written suggestions or comments on the proposed amendments on or before February 7, 2017. Written materials should be directed to Jennifer Hart, Plumbing and Mechanical Systems Board, 321 E. 12th Street, Des Moines, Iowa 50319-0075; fax (515)281-6114; e-mail jennifer.hart@idph.iowa.gov.

Also, there will be a public hearing on February 7, 2017, at 1 p.m. in Conference Room 518, Lucas State Office Building, 321 E. 12th Street, 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 amendments.

These rules are subject to waiver under the Board’s general waiver provisions contained in 641—Chapter 31.

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

These amendments are intended to implement Iowa Code section 105.4.

The following amendments are proposed.

ITEM 1. Amend rule 641—25.1(105) as follows:

641—25.1(105) Adoption. ~~Section~~ Sections 101 and 102 and Chapters 2 to 17 of the Uniform Plumbing Code, 2015 Edition, as published by the International Association of Plumbing and Mechanical Officials, 4755 E. Philadelphia Street, Ontario, California 91761-2816, are hereby adopted by reference with amendments as the state plumbing code authorized by Iowa Code section 105.4. Portions of this chapter reproduce excerpts from the 2015 International Plumbing Code; Copyright 2014; Washington, D.C.: International Code Council. Such excerpts are reproduced with permission, all rights reserved. www.ICCSAFE.org

ITEM 2. Rescind and reserve subrule **25.4(1)**.

ITEM 3. Amend paragraph **25.4(2)“a”** as follows:

a. Subsection ~~301.4.4~~ 301.5.1 Permit Application. Delete the subsection.

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ITEM 4. Rescind paragraph **25.4(3)“g.”**

ITEM 5. Reletter paragraphs **25.4(3)“h”** to **“j”** as **25.4(3)“g”** to **“i.”**

ITEM 6. Adopt the following new paragraph **25.4(3)“j”**:

j. Subsection 422.2.1 Family or Assisted-Use Toilet and Bathing Facilities. Modify the subsection by adding the following sentence to the end of the subsection: “Required family or assisted-use fixtures are permitted to be included in the number of required fixtures for either the male or female occupants in assembly and mercantile occupancies.”

ITEM 7. Amend subrule 25.4(7) as follows:

25.4(7) The following amendment shall apply to UPC Chapter 8:

Section ~~804.7~~ 807.3 Domestic Dishwashing Machine. Modify the section by deleting the section and inserting the following language in lieu thereof: “No domestic dishwashing machine shall be directly connected to a drainage system or food waste disposer without the use of an approved dishwasher air gap fitting on the discharge side of the dishwashing machine, or by looping the discharge line of the dishwasher as high as possible near the flood level of the kitchen sink where the waste disposer is connected. Listed air gap fittings shall be installed with the flood level (FL) marking at or above the flood level of the sink or drainboard, whichever is higher.”

ITEM 8. Amend subrules 25.4(11) to 25.4(14) as follows:

25.4(11) The following amendments shall apply to UPC Chapter 13:

a. Sections ~~1311.0~~ 1304.5 through ~~1311.4~~ Plan Review 1304.5.3 Construction Documents. Delete the sections.

b. ~~Section 1326.3 Advance Notice. Delete the section.~~

c. ~~Section 1326.4 Responsibility. Delete the section.~~

d. ~~Section 1326.5 Testing. Delete the section.~~

e. ~~Section 1326.6 Retesting. Modify the section by deleting “the Authority Having Jurisdiction finds that” and “or inspection” from the first sentence.~~

f. ~~*b.* Section 1327.4 1320.3 Report Items. Modify the section by deleting “Authority Having Jurisdiction” and inserting “responsible facility authority” in lieu thereof.~~

25.4(12) The following amendment shall apply to UPC Chapter ~~15~~ 14:

Sections ~~1506.0~~ 1406.0 through ~~1506.4~~ 1406.4 Required Inspection. Delete the sections.

25.4(13) The following amendments shall apply to UPC Chapter ~~16~~ 15:

a. Section ~~1601.3~~ 1501.3 Permit. Delete the section.

b. Section ~~1601.6~~ 1501.6 Operation and Maintenance Manual. Modify the section by deleting “required to have a permit in accordance with Section ~~1601.3~~ 1501.3” from the first sentence.

c. ~~Section 1603.2 Permit. Delete the section.~~

d. ~~*c.* Subsection 1603.11.2.1 1501.11.2.1 Visual System Inspection. Modify the subsection by deleting “by the Authority Having Jurisdiction and other authorities having jurisdiction” from the first sentence.~~

e. ~~*d.* Subsection 1603.11.2.2 1501.11.2.2 Cross-Connection Test. Modify the subsection by deleting “by the applicant in the presence of the Authority Having Jurisdiction and other authorities having jurisdiction” from the first sentence.~~

f. ~~*e.* Subsection 1603.11.2.3 1501.11.2.3 Discovery of Cross-Connection. Modify the subsection by deleting “in the presence of the Authority Having Jurisdiction.”~~

f. Section ~~1503.2~~ Permit. Delete the section.

g. Section ~~1604.2~~ 1504.2 Plumbing Plan Submission. Delete the section.

h. Section ~~1604.5~~ 1504.5 Initial Cross-Connection Test. Modify the section by deleting “by the applicant in the presence of the Authority Having Jurisdiction and other authorities having jurisdiction,” and by deleting the final sentence (“The test shall be ruled successful by the Authority Having Jurisdiction before final approval is granted.”).

i. ~~Subsection 1604.12.2.1 Visual System Inspection. Modify the subsection by deleting “by the Authority Having Jurisdiction and other authorities having jurisdiction.”~~

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~~j. Subsection 1604.12.2.2 Cross-Connection Test. Modify the subsection by deleting “in the presence of the Authority Having Jurisdiction and other authorities having jurisdiction.”~~

~~k. Subsection 1604.12.2.3 Discovery of Cross-Connection. Modify the subsection by deleting “in the presence of the Authority Having Jurisdiction.”~~

25.4(14) The following amendments shall apply to UPC Chapter ~~17~~ 16:

a. Section ~~1702.2~~ 1602.2 Plumbing Plan Submission. Delete the section.

b. Section ~~1702.5~~ 1602.5 Initial Cross-Connection Test. Modify the section by deleting the second and third sentences (“Before the building is occupied or the system is activated, the installer shall perform the initial cross-connection test in the presence of the Authority Having Jurisdiction and other authorities having jurisdiction. The test shall be ruled successful by the Authority Having Jurisdiction before final approval is granted.”).

c. Subsection ~~1702.11.2.1~~ 1602.11.2.1 Visual System Inspection. Modify the subsection by deleting “by the Authority Having Jurisdiction and other authorities having jurisdiction.”

d. Subsection ~~1702.11.2.2~~ 1602.11.2.2 Cross-Connection Test. Modify the subsection by deleting “by the applicant in the presence of the Authority Having Jurisdiction and other authorities having jurisdiction.”

e. Subsection ~~1702.11.2.3~~ 1602.11.2.3 Discovery of Cross-Connection. Modify the subsection by deleting “in the presence of the Authority Having Jurisdiction.”

ARC 2901C**PUBLIC HEALTH DEPARTMENT[641]****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 136C.3, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 41, “Safety Requirements for the Use of Radiation Machines and Certain Uses of Radioactive Materials,” Iowa Administrative Code.

The rules are being amended to allow operators to use handheld X-ray equipment without facilities’ needing to obtain a waiver from the Department. Current rules in Chapter 41 prohibit the use of X-ray equipment that is held by the operator during exposures. Over the past few years, manufacturers have developed X-ray equipment specifically designed to be held by the operator during exposures. Over time, the safety of these devices has been confirmed, and industry interest has increased. The Department has been issuing waivers to facilities to allow for the use of this equipment. These proposed amendments remove restrictive language to allow for the use of handheld devices for intraoral radiography only and place into rule operating requirements specific to the X-ray equipment. The operating requirements are currently required as conditions of the waiver. These rules were drafted with input from the Iowa Dental Association.

Any interested person may make written comments or suggestions on the proposed amendments on or before February 7, 2017. Such written comments should be directed to Angela Leek, Bureau of Radiological Health, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to angela.leek@idph.iowa.gov.

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

These amendments are intended to implement Iowa Code chapter 136C.

The following amendments are proposed.

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ITEM 1. Amend subrule **41.1(2)**, definition of “X-ray equipment,” as follows:

“*X-ray equipment*” means an X-ray system, subsystem, or component thereof. Types of X-ray equipment are as follows:

a. “*Mobile X-ray equipment*” means X-ray equipment mounted on a permanent base with wheels or casters for moving while completely assembled.

b. “*Portable X-ray equipment*” means X-ray equipment designed to be hand-carried but used with a tripod or other stabilization mechanism so the operator is not holding the equipment during exposure.

c. “*Stationary X-ray equipment*” means X-ray equipment which is installed in a fixed location.

d. “*Handheld X-ray equipment*” means X-ray equipment designed by the manufacturer to be handheld by the operator during the exposure. X-ray equipment designed without a backscatter shield is prohibited.

ITEM 2. Amend subparagraph **41.1(3)“a”(9)** as follows:

(9) Procedures and auxiliary equipment designed to minimize patient and personnel exposure commensurate with the needed diagnostic information shall be utilized.

1. The speed of film or screen and film combinations shall be the fastest speed consistent with the diagnostic objective of the examinations. Film cassettes without intensifying screens shall not be used for any routine diagnostic radiological imaging, with the exception of veterinary radiography and standard film packets for ~~intra-oral~~ intraoral use in dental radiography.

2. The radiation exposure to the patient shall be the minimum exposure required to produce images of good diagnostic quality.

3. Portable or mobile X-ray equipment shall be used only for examinations, excluding intraoral dental imaging, where it is impractical to transfer the patient(s) to a stationary X-ray installation. Handheld mobile X-ray equipment may be used for routine intraoral dental imaging in place of a stationary unit. Handheld X-ray equipment shall be used only for intraoral dental radiography.

4. X-ray systems subject to 41.1(6) shall not be utilized in procedures where the source to human patient distance is less than 30 centimeters.

5. If grids are used between the patient and the image receptor to decrease scatter to the film and improve contrast, the grid shall:

- Be positioned properly, i.e., tube side facing the correct direction, and the grid centered to the central ray;
- If the grid is of the focused type, be at the proper focal distance for the SIDs being used.

ITEM 3. Amend subrule 41.1(7), introductory paragraph, as follows:

41.1(7) *Intraoral dental radiographic systems.* In addition to the provisions of 41.1(3) and 41.1(4), the requirements of 41.1(7) apply to X-ray equipment and associated facilities used for dental radiography. Requirements for extraoral dental radiographic systems are covered in 41.1(6). Only systems meeting the requirements of 41.1(7) shall be used. Additional requirements specific to handheld dental X-ray equipment are outlined in 41.1(7)“i.”

ITEM 4. Amend subparagraph **41.1(7)“c”(5)** as follows:

(5) Each X-ray exposure switch shall be located in such a way as to meet the following requirements:

1. Stationary X-ray systems shall be required to have the X-ray exposure switch located in a protected area or have an exposure switch cord of sufficient length to permit the operator to activate the unit while in a protected area, e.g., corridor outside the operatory. The procedures required under 41.1(3)“a”(4) must instruct the operator to remain in the protected area during the entire exposure.

2. Mobile and portable X-ray systems which are:

- Used for greater than one week in the same location, i.e., a room or suite, shall meet the requirements of 41.1(7)“c”(5)“1.”
- Used for greater than one hour and less than one week at the same location, i.e., a room or suite, shall meet the requirements of the above paragraph or be provided with a 6.5 foot (1.98 m) high protective barrier or means to allow the operator to be at least 9 feet (2.7 meters) from the tube housing assembly while making exposure.

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3. ~~Portable or hand-held~~ dental X-ray systems designed with a backscatter shield may be used without the additional protective barrier, but the operator must wear a protective apron. The operator must stand directly behind the unit to allow the shield to function as designed.

ITEM 5. Amend subparagraph **41.1(7)“h”(2)** as follows:

(2) The tube housing and the PID for stationary or mobile systems shall not be ~~hand-held~~ held by the operator during an exposure.

ITEM 6. Amend paragraph **41.1(7)“i”** as follows:

i. ~~Portable or hand-held Handheld dental X-ray systems. Portable or hand-held dental X-ray systems designed with a backscatter shield shall:~~ Only equipment specifically designed by the manufacturer to be held by the operator for intraoral dental X-ray exposures is allowed to be operated pursuant to this subrule.

~~(1) Be used only where it is impractical to use a portable dental system;~~

~~(2) Be used as the manufacturer indicates;~~

~~(3) Not be used with the backscatter shield removed, if applicable; and~~

~~(4) Be exempted from 41.1(4)“g.”~~

(1) Operators shall be specifically trained to operate the unit. Records of training shall be kept at the facility until the operator is no longer an employee or until the equipment is removed from the facility.

(2) Lead aprons shall be provided for operators to wear while operating the unit.

(3) Dosimetry shall be provided for operators who are expected to exceed 10 percent of the annual occupational dose limit as outlined in 641—40.84(136C).

(4) Operators shall operate the unit according to the manufacturer’s instructions.

(5) The image receptor used must be digital, computed radiography (CR), or intraoral film with a speed class designated as “E/F” or a film with a faster speed designation than “F” or “E/F.”

(6) No individual except the equipment operator may be within a radius of at least six feet from the patient during exposures.

(7) The unit shall not be operated unless the backscatter shield is in place as designed by the manufacturer.

(8) The unit shall not be operated in hallways, waiting rooms, or other areas where access for individuals of the general public cannot be controlled.

(9) The unit shall be held without any motion during a patient examination. If the operator has difficulty in holding the unit stationary, the operator shall use a tube stand. The unit shall be operated on a tube stand whenever possible to avoid unnecessary motion and retakes.

(10) When not in use, the unit shall be stored to prevent inadvertent exposures or use by unauthorized individuals.

ARC 2902C

PUBLIC HEALTH DEPARTMENT[641]

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 147A.27, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 136, “Trauma Registry,” Iowa Administrative Code.

The rules in Chapter 136 describe the trauma registry procedures and policies. The proposed amendments and associated reasons for those amendments are as follows:

1. The version of the Iowa Trauma Patient Data Dictionary (“data dictionary”), adopted by reference in this rule, is updated because the data dictionary was completely revised. The data dictionary

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had not been updated since 2005. The data dictionary was modified to comply with national standards and to be a support document for the current registry system and transitioned to use of ICD-10 codes.

2. The incorporation by reference of the Iowa EMS Patient Registry Data Dictionary is removed. This reference is being moved to an EMS-specific administrative rule.

3. Reporting requirements for EMS services are removed. These requirements are being moved to an EMS-specific administrative rule.

4. Hospitals are required to submit data electronically and may no longer provide written submissions. Utilization of electronic means to report data has significantly improved since the rule was last updated. These amendments require electronic reporting of data instead of allowing for written reports. There have been updates to national data recommendations through the National Trauma Data Bank (NTDB). The proposed amendments will assist hospitals that elect to report data to the NTDB.

5. Hospitals are required to submit/enter 80 percent of trauma cases to the registry within 60 days of a patient's discharge and 100 percent of cases within 120 days of a patient's discharge or next scheduled upload. This update is consistent with national reporting standards.

6. The offenses and penalties rule is modified to reference rule 641—134.3(147A). This change reduces duplication within the administrative rules.

The Department coordinated with the Trauma System Advisory Council (TSAC), the TSAC data management subcommittee, the Iowa Hospital Association's Iowa Trauma Coordinators group, and Iowa trauma coordinators and trauma registrars to update the data dictionary. The updates to the data dictionary and associated administrative rule have been occurring over the past year. The TSAC voted to approve the data dictionary and associated administrative rule at the November 1, 2016, meeting.

Any interested person may make written comments or suggestions on the proposed amendments on or before February 7, 2017. Such written comments or suggestions should be directed to Rebecca Curtiss, Bureau Chief of Emergency and Trauma Services, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to Rebecca.Curtiss@idph.iowa.gov.

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

These amendments are intended to implement Iowa Code section 147A.26.

The following amendments are proposed.

ITEM 1. Adopt the following **new** definition of “Cases” in rule **641—136.1(147A)**:

“Cases” means trauma patients that meet the trauma registry inclusion criteria.

ITEM 2. Amend rule **641—136.1(147A)**, definitions of “ICD9,” “Reportable patient data,” “Trauma care facility,” and “Trauma patient,” as follows:

“~~ICD9~~ ICD10” means International Classification of Diseases, ~~9th~~ 10th Revision, Clinical Modification (ICD-10-CM).

“*Reportable patient data*” means data elements and definitions determined by the department and adopted by reference to be reported to the trauma registry ~~or reported to a trauma care facility~~ on trauma patients meeting the inclusion criteria.

“*Trauma care facility*” means a hospital or emergency care facility which provides trauma care and has been verified by the department as having ~~Resource (Level I) Level I, Regional (Level II) Level II, Area (Level III) Level III or Community (Level IV) Level IV~~ care capabilities and has been issued a certificate of verification pursuant to Iowa Code section ~~147A.23, subsection 2, paragraph “e.”~~ 147A.23(2) “c.”

“*Trauma patient*” means a victim of an external cause of injury that results in major or minor tissue damage or destruction caused by intentional or unintentional exposure to thermal, mechanical, electrical or chemical energy, or by the absence of heat or oxygen (~~ICD9 Codes E800.0—E999.9~~).

ITEM 3. Rescind the definition of “Service program” in rule **641—136.1(147A)**.

ITEM 4. Amend rule 641—136.2(147A) as follows:

641—136.2(147A) Trauma registry.

136.2(1) Adoption by reference.

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~~a. “Iowa Trauma Patient Data Dictionary” (July 2005 January 2017) is incorporated by reference for inclusion criteria and reportable patient data to be reported to the trauma registry or reported to a trauma care facility. For any differences which may occur between the adopted reference and this chapter, the administrative rules shall prevail.~~

~~b. “Iowa Trauma Patient Data Dictionary” is available through the Iowa Department of Public Health, Bureau of Emergency Medical and Trauma Services (BETS), Lucas State Office Building, Des Moines, Iowa 50319-0075, or the bureau of EMS BETS Web site (www.idph.state.ia.us/ems <http://idph.iowa.gov/BETS>).~~

~~c. “Iowa EMS Patient Registry Data Dictionary” (August 2007) is incorporated by reference for inclusion criteria and reportable patient data to be reported to the department. For any differences which may occur between the adopted reference and this chapter, the administrative rules shall prevail.~~

~~d. “Iowa EMS Patient Registry Data Dictionary” is available through the Iowa Department of Public Health, Bureau of Emergency Medical Services, Lucas State Office Building, Des Moines, Iowa 50319-0075, or bureau of EMS Web site (www.idph.state.ia.us/ems).~~

136.2(2) A verified trauma care facility shall report data as follows:

~~a. Submit Trauma care facilities shall submit reportable patient data identified in 136.2(1) via electronic transfer or in writing electronically to the department. Data shall be submitted in a format approved by the department.~~

~~b. Submit reportable patient data identified in 136.2(1) to the department for each calendar quarter. Reportable patient data shall be submitted no later than 90 days after the end of the quarter Trauma care facilities that enter required trauma data elements identified in 136.2(1) directly into the state registry shall, at a minimum, enter 80 percent of cases within 60 days of a patient’s discharge. Within 120 days of a patient’s discharge, 100 percent of cases shall be entered into the registry.~~

~~c. Submit reportable patient data identified in 136.2(1) to the receiving trauma care facility upon delivery of the injured patient. Data shall be submitted in a format approved by the department Trauma care facilities that submit required trauma data elements identified in 136.2(1) via upload shall, at a minimum, submit 80 percent of cases discharged within the previous 60 days of the first business day of every even-numbered calendar month. Within 120 days of a patient’s discharge or next scheduled upload, 100 percent of cases shall be entered into the registry.~~

~~**136.2(3)** A service program shall:~~

~~a. Submit reportable patient data identified in 136.2(1) via electronic transfer. Data shall be submitted in a format approved by the department.~~

~~b. Submit reportable patient data identified in 136.2(1) to the department for each calendar quarter. Reportable patient data shall be submitted no later than 90 days after the end of the quarter.~~

~~c. Submit reportable patient data identified in 136.2(1) to the receiving trauma care facility upon delivery of the injured patient. Data shall be submitted in a format approved by the department.~~

~~**136.2(4)** **136.2(3)** Reportable patient data compilations. The department shall prepare compilations for release or dissemination on all reportable patient data entered into the trauma registry during the reporting period. The compilations shall include, but not be limited to, trends and patient care outcomes for local, regional and statewide evaluations. The compilations shall be made available to all providers submitting reportable patient data to the registry.~~

~~**136.2(5)** **136.2(4)** Access and release of reportable patient data and information.~~

~~a. The data collected by and furnished to the department pursuant to this section rule are confidential records of the condition, diagnosis, care, or treatment of patients or former patients, including outpatients, pursuant to Iowa Code section 22.7. The compilations prepared for release or dissemination from the data collected are not confidential under Iowa Code section 22.7, subsection 2 22.7(2). However, information which individually identifies patients shall not be disclosed and state and federal law regarding patient confidentiality shall apply.~~

~~b. The department may approve requests for reportable patient data for special studies and analysis provided:~~

~~(1) The request has been reviewed and approved by the department with respect to the scientific merit and confidentiality safeguards; and~~

PUBLIC HEALTH DEPARTMENT[641](cont'd)

(2) The department has given administrative approval for the proposal.

(3) The confidentiality of patients and trauma care facilities is protected pursuant to Iowa Code ~~section~~ sections 22.7 and 147A.24.

c. The department may require those requesting the data to pay any or all of the reasonable costs associated with furnishing the reportable patient data.

~~136.2(6)~~ 136.2(5) Data collection methods. To the extent possible, activities under this ~~section~~ rule shall be coordinated with other health data collection methods.

~~136.2(7)~~ 136.2(6) Quality assurance.

a. For the purpose of ensuring the completeness and quality of reportable patient data, the department or authorized representative may examine all or part of the patient's medical records as necessary to verify or clarify all reportable patient data submitted by a trauma care facility ~~or a service program.~~

b. Review of a patient's medical record by the department shall be scheduled in advance with the trauma care facility ~~or service program~~ and completed in a timely manner.

c. The director, pursuant to rule, may grant a variance from the requirements of rules adopted under this chapter for any ~~hospital, emergency care facility, or service program~~ trauma care facility provided that the variance is related to undue hardships in complying with this chapter or the rules adopted pursuant to this chapter.

ITEM 5. Amend rule 641—136.3(147A) as follows:

641—136.3(147A) Offenses and penalties. All complaints, offenses and penalties will be addressed pursuant to rule 641—134.3(147A).

~~136.3(1)~~ The department may deny verification as a trauma care facility or deny authorization as a service program or may give a citation and warning, place on probation, suspend, or revoke existing trauma care facility verification or service program authorization if the department finds reason to believe that the facility or service program has not been or will not be operated in compliance with Iowa Code section 147A.26 and these administrative rules. The denial, citation and warning, period of probation, suspension, or revocation shall be effected and may be appealed in accordance with the requirements of Iowa Code section 17A.12.

~~136.3(2)~~ All complaints regarding the operation of a trauma care facility or service program or those purporting to be or operating as the same, shall be reported to the department. The address is: Iowa Department of Public Health, Bureau of Emergency Medical Services, Lucas State Office Building, Des Moines, Iowa 50319-0075.

~~136.3(3)~~ Complaints and the investigative process shall be treated as confidential to the extent they are protected by Iowa Code section 22.7.

~~136.3(4)~~ Complaint investigations may result in the department's issuance of a notice of denial, citation and warning, probation, suspension or revocation.

~~136.3(5)~~ Notice of denial, citation and warning, probation, suspension or revocation shall be effected in accordance with the requirements of Iowa Code section 17A.12. Notice to the alleged violator of denial, citation and warning, probation, suspension, or revocation shall be served by certified mail, return receipt requested, or by personal service.

~~136.3(6)~~ Any request for a hearing concerning the denial, citation and warning, probation, suspension or revocation shall be submitted by the aggrieved party in writing to the department by certified mail, return receipt requested, within 20 days of the receipt of the department's notice to take action. The address is: Iowa Department of Public Health, Bureau of Emergency Medical Services, Lucas State Office Building, Des Moines, Iowa 50319-0075. If the request is made within the 20-day time period, the notice to take action shall be deemed to be suspended pending the hearing. Prior to or at the hearing, the department may rescind the notice upon satisfaction that the reason for the denial, citation and warning, probation, suspension or revocation has been or will be removed. If no request for a hearing is received within the 20-day time period, the department's notice of denial, citation and warning, probation, suspension or revocation shall become the department's final agency action.

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~~136.3(7)~~ Upon receipt of a request for hearing, the request shall be forwarded within five working days to the department of inspections and appeals pursuant to the rules adopted by that agency regarding the transmission of contested cases. The information upon which the adverse action is based and any additional information which may be provided by the aggrieved party shall also be provided to the department of inspections and appeals.

~~136.3(8)~~ The hearing shall be conducted according to the procedural rules of the department of inspections and appeals found in 481—Chapter 10, Iowa Administrative Code.

~~136.3(9)~~ When the administrative law judge makes a proposed decision and order, it shall be served by certified mail, return receipt requested, or delivered by personal service. That proposed decision and order then becomes the department's final agency action without further proceedings ten days after it is received by the aggrieved party unless an appeal to the director is taken.

~~136.3(10)~~ Any appeal to the director for review of the proposed decision and order of the administrative law judge shall be filed in writing and mailed to the director by certified mail, return receipt requested, or delivered by personal service within ten days after the receipt of the administrative law judge's proposed decision and order by the aggrieved party. A copy of the appeal shall also be mailed to the administrative law judge. Any request for an appeal shall state the reason for appeal.

~~136.3(11)~~ Upon receipt of an appeal request, the administrative law judge shall prepare the record of the hearing for submission to the director. The record shall include the following:

- ~~a.~~ All pleadings, motions, and rules.
- ~~b.~~ All evidence received or considered and all other submissions by recording or transcript.
- ~~c.~~ A statement of all matters officially noticed.
- ~~d.~~ All questions and offers of proof, objections and rulings on them.
- ~~e.~~ All proposed findings and exceptions.
- ~~f.~~ The proposed decision and order of the administrative law judge.

~~136.3(12)~~ The decision and order of the director becomes the department's final agency action upon receipt by the aggrieved party and shall be delivered by certified mail, return receipt requested, or personal service.

~~136.3(13)~~ It is not necessary to file an application for a rehearing to exhaust administrative remedies when appealing to the director or the district court as provided in Iowa Code section 17A.19. The aggrieved party to the final agency action of the department who has exhausted all administrative remedies may petition for judicial review of that action pursuant to Iowa Code chapter 17A.

~~136.3(14)~~ Any petition for judicial review of a decision and order shall be filed in the district court within 30 days after the decision and order becomes final. A copy of the notice of appeal shall be sent to the department by certified mail, return receipt requested, or by personal service. The address is: Iowa Department of Public Health, Bureau of Emergency Medical Services, Lucas State Office Building, Des Moines, Iowa 50319-0075.

~~136.3(15)~~ The party who appeals a final agency action to the district court shall pay the cost of the preparation of a transcript of the contested case hearing for the district court.

~~136.3(16)~~ Final decisions of the department relating to disciplinary proceedings may be transmitted to the appropriate professional associations, news media or employer.

ARC 2896C**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 12, “Filing Returns, Payment of Tax, Penalty and Interest,” Chapter 42, “Adjustments to Computed Tax and Tax Credits,” and Chapter 52, “Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits,” and to adopt a new Chapter 250, “Sales and Use Tax Refund for Biodiesel Production,” Iowa Administrative Code.

The proposed amendments are necessary to implement changes to the various renewable fuels tax credits and rebates contained in 2016 Iowa Acts, Senate File 2309. Senate File 2309 extends the expiration dates of the E-15 plus gasoline promotion tax credit, the E-85 gasoline promotion tax credit, the biodiesel blended fuel tax credit, and the sales and use tax refund for biodiesel production. Senate File 2309 also changes the credit amount of the biodiesel blended fuel tax credit. The proposed amendments update rules to implement these changes.

These amendments extend the expiration dates of the programs to December 31, 2024. These amendments also add examples and make nonsubstantive stylistic changes.

Item 1 rescinds rule 701—12.18(423), which implements the sales and use tax refund for biodiesel production up to calendar year 2017. The amendment replaces rule 701—12.18(423) with a cross-reference to new rule 701—250.1(423), which implements the refund for all available years.

Item 2 amends rule 701—42.33(422), which implements the E-85 gasoline promotion tax credit for individual taxpayers.

Item 3 amends rule 701—42.34(422), which implements the biodiesel blended fuel tax credit for individual taxpayers. In addition to the changes above, this amendment changes the credit amount, beginning January 1, 2018, to 3.5 cents per gallon for diesel fuel rated B-5 or higher but less than B-11, and to 5.5 cents per gallon for diesel fuel rated B-11 or higher. This amendment also establishes a blending tolerance when biodiesel blended fuel erroneously contains less than 11 percent by volume of biodiesel.

Item 4 amends rule 701—42.46(422), which implements the E-15 plus gasoline promotion tax credit for individual taxpayers.

Item 5 amends rule 701—52.30(422), which implements the E-85 gasoline promotion tax credit for corporation taxpayers.

Item 6 amends rule 701—52.31(422), which implements the biodiesel blended fuel tax credit for corporation taxpayers. In addition to the changes above, this amendment changes the credit amount, beginning January 1, 2018, to 3.5 cents per gallon for diesel fuel rated B-5 or higher but less than B-11, and to 5.5 cents per gallon for diesel fuel rated B-11 or higher. This amendment also establishes a blending tolerance when biodiesel blended fuel erroneously contains less than 11 percent by volume of biodiesel.

Item 7 amends rule 701—52.43(422), which implements the E-15 plus gasoline promotion tax credit for corporation taxpayers.

Item 8 creates new Chapter 250 and new rule 701—250.1(423). This amendment implements the sales and use tax refund for biodiesel production as amended by 2016 Iowa Acts, Senate File 2309.

The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than February 20, 2017, to Matt Bishop, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des

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Moines, Iowa 50306. Alternatively, requests may be e-mailed to matt.bishop@iowa.gov. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before February 7, 2017. Such written comments should be e-mailed to Matt Bishop at matt.bishop@iowa.gov or mailed to Matt Bishop, Policy and Communications Division, 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 Matt Bishop, Policy and Communications Division, Department of Revenue, at (515)725-1106 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 February 7, 2017.

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).

After analysis and review of this rule making, the Department finds that the proposed amendments are likely to have a positive impact on jobs in the biofuel industry. The proposed amendments implement the extension of the E-15 plus gasoline promotion tax credit, the E-85 gasoline promotion tax credit, the biodiesel blended fuel tax credit, and the sales and use tax refund for biodiesel production. The proposed amendments also implement the change in the credit amount of the biodiesel blended fuel tax credit. These changes will encourage the production and use of biofuels in Iowa, which will have a positive impact on jobs in the biofuel industry.

These amendments are intended to implement Iowa Code sections 422.11O, 422.11P, 422.11Y, 422.33, and 423.4 as amended by 2016 Iowa Acts, Senate File 2309.

The following amendments are proposed.

ITEM 1. Rescind rule 701—12.18(423) and adopt the following **new** rule in lieu thereof:

701—12.18(423) Biodiesel production refund. Information on the sales and use tax refund for biodiesel production is available at rule 701—250.1(423).

ITEM 2. Amend rule 701—42.33(422) as follows:

701—42.33(422) E-85 gasoline promotion tax credit. Effective for tax years beginning on or after January 1, 2006, a retail dealer of gasoline may claim an E-85 gasoline promotion tax credit. “E-85 gasoline” means ethanol blended gasoline formulated with a minimum percentage of between 70 percent and 85 percent of volume of ethanol, if the formulation meets the standards provided in Iowa Code section 214A.2. For purposes of this rule, tank wagon sales are considered retail sales. The credit is calculated on Form IA 135.

42.33(1) Claiming the credit.

a. Amount of the credit. The credit is calculated by multiplying the total number of E-85 gallons sold by the retail dealer during the tax year by the following designated rates:

Calendar years 2006, 2007, and 2008	25 cents
Calendar years 2009 and 2010	20 cents
Calendar year 2011	10 cents
Calendar years 2012 through 2017 2024	16 cents

b. Claiming the credit with other credits. A taxpayer may claim the E-85 gasoline promotion tax credit even if the taxpayer also claims the ethanol blended gasoline tax credit provided in rule 701—42.20(422) for gallons sold prior to January 1, 2009, or the ethanol promotion tax credit provided in rule 701—42.39(422) for gallons sold on or after January 1, 2009, but prior to January 1, 2021, for the same tax year for the same ethanol gallons.

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c. Refundability. Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

d. Transferability. The credit may not be transferred to any other person.

e. Example.

~~EXAMPLE:~~ A taxpayer operated one retail motor fuel site in 2008 and sold 200,000 gallons of gasoline, of which 160,000 gallons was ethanol blended gasoline. Of these 160,000 gallons, 1,000 gallons was E-85 gasoline. Taxpayer may claim the E-85 gasoline promotion tax credit on the 1,000 gallons of E-85 gasoline sold during 2008. Taxpayer is also entitled to claim the ethanol blended gasoline tax credit of two and one-half cents multiplied by 40,000 gallons, since this constitutes the gallons in excess of 60 percent of the total gasoline gallons sold for the 2008 tax year.

~~42.33(1)~~ **42.33(2)** *Fiscal year filers.* For taxpayers whose tax year is not on a calendar-year basis, the taxpayer may compute the tax credit on the gallons of E-85 gasoline sold during the year using the designated rates as shown above. Because the tax credit is repealed on January 1, ~~2018~~ 2025, a taxpayer whose tax year ends prior to December 31, ~~2017~~ 2024, may continue to claim the tax credit in the following tax year for any E-85 gallons sold through December 31, ~~2017~~ 2024. For a retail dealer whose tax year is not on a calendar-year basis and who did not claim the E-85 credit on the previous return, the dealer may claim the credit for the current tax year for the period beginning on January 1 of the previous tax year until the last day of the previous tax year.

See 701—subrule ~~52.30(1)~~ 52.30(2) for examples illustrating how this subrule is applied.

~~42.33(2)~~ **42.33(3)** *Allocation of credit to owners of a business entity or to beneficiaries of an estate or trust.* If a taxpayer claiming the E-85 ethanol promotion tax credit is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

This rule is intended to implement Iowa Code section 422.110 as amended by ~~2011~~ 2016 Iowa Acts, Senate File ~~531~~ 2309.

ITEM 3. Amend rule 701—42.34(422) as follows:

701—42.34(422) Biodiesel blended fuel tax credit. Effective for tax years beginning on or after January 1, 2006, a retail dealer of biodiesel blended fuel may claim a biodiesel blended fuel tax credit. "Biodiesel blended fuel" means a blend of biodiesel with petroleum-based diesel fuel ~~which~~ that meets the standards provided in Iowa Code section 214A.2. ~~The biodiesel blended fuel must be formulated with a minimum percentage of 2 percent by volume of biodiesel, if the formulation meets the standards provided by Iowa Code section 214A.2, to qualify for the tax credit for gallons sold on or after January 1, 2006, but before January 1, 2013. For gallons sold on or after January 1, 2013, but before January 1, 2018, the biodiesel blended fuel must be formulated with a minimum percentage of 5 percent by volume of biodiesel, if the formulation meets the standards provided by Iowa Code section 214A.2, to qualify for the tax credit. In addition, of the total gallons of diesel fuel sold by the retail dealer, 50 percent or more must be biodiesel blended fuel to be eligible for the tax credit for tax years beginning prior to January 1, 2009. In determining the minimum percentage by volume of biodiesel, the department will take into account reasonable variances due to testing and other limitations. For purposes of this rule, tank wagon sales are considered retail sales. The credit is calculated on Form IA 8864.~~

42.34(1) Calculating the credit.

a. Gallonage requirement.

(1) Tax years beginning on or after January 1, 2006, but prior to January 1, 2009. In order for a retail dealer to qualify for the biodiesel blended fuel tax credit for tax years beginning on or after January 1, 2006, but prior to January 1, 2009, of the total gallons of diesel fuel that the retail dealer sells and dispenses during the tax year, 50 percent or more of those gallons must be biodiesel blended fuel formulated with a minimum percentage of 2 percent by volume of biodiesel. The gallonage amounts for all motor fuel sites of a retail dealer are combined when calculating this gallonage requirement.

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(2) Tax years beginning on or after January 1, 2009, but prior to January 1, 2012. For tax years beginning on or after January 1, 2009, but before prior to January 1, 2012, the biodiesel blended fuel tax credit is calculated separately for each retail motor fuel site for which 50 percent or more of the total gallons of diesel fuel sold at the motor fuel site was biodiesel blended fuel formulated with a minimum percentage of 2 percent by volume of biodiesel.

(3) Tax years beginning on or after January 1, 2012. For tax years beginning on or after January 1, 2012, the requirement that 50 percent of all diesel fuel gallons sold be biodiesel gallons to be eligible for the tax credit is eliminated. A retail dealer may qualify for the biodiesel blended fuel tax credit even if the number of gallons of biodiesel blended fuel sold is less than 50 percent of the total gallons of diesel fuel sold.

b. Amount of credit.

(1) Fuel sold on or after January 1, 2006, but prior to January 1, 2012. For biodiesel blended fuel sold on or after January 1, 2006, but prior to January 1, 2012, the tax credit equals three cents multiplied by the qualifying number of biodiesel blended fuel gallons sold by the taxpayer during the tax year for gallons sold through December 31, 2011. Qualifying biodiesel blended fuel must be formulated with a minimum percentage of 2 percent by volume of biodiesel.

(2) For gallons sold during the 2012 calendar year, Fuel sold on or after January 1, 2012, but prior to January 1, 2013. For biodiesel blended fuel sold on or after January 1, 2012, but prior to January 1, 2013, the tax credit equals the sum of two cents multiplied by the qualifying number of biodiesel blended fuel gallons sold by the taxpayer during the tax year that have a minimum percentage of 2 percent by volume of biodiesel but less than 5 percent by volume of biodiesel and plus four and one-half cents multiplied by the qualifying number of biodiesel blended fuel gallons sold by the taxpayer during the tax year that have a minimum percentage of 5 percent by volume of biodiesel. In addition, the gallonage requirements described in paragraph 42.34(1)“a” do not apply to fuel sold on or after January 1, 2012.

(3) For gallons sold during the 2013 to 2017 calendar years, Fuel sold on or after January 1, 2013, but prior to January 1, 2018. For biodiesel blended fuel sold on or after January 1, 2013, but prior to January 1, 2018, the tax credit equals four and one-half cents multiplied by the qualifying number of biodiesel blended fuel gallons sold by the taxpayer during the tax year that have a minimum percentage of 5 percent by volume of biodiesel. In determining the minimum percentage by volume of biodiesel, the department will take into account reasonable variances due to testing and other limitations. For purposes of this rule, tank wagon sales are considered retail sales. The credit is calculated on Form IA 8864. Diesel fuel sold that contains less than 5 percent by volume of biodiesel does not qualify for the biodiesel blended fuel tax credit.

(4) Fuel sold on or after January 1, 2018, but prior to January 1, 2025.

1. Amount of credit. For biodiesel blended fuel sold on or after January 1, 2018, but prior to January 1, 2025, the tax credit equals the sum of three and one-half cents multiplied by the qualifying number of biodiesel blended fuel gallons sold by the taxpayer during the tax year that have a minimum percentage of 5 percent by volume of biodiesel but less than 11 percent by volume of biodiesel plus five and one-half cents multiplied by the qualifying number of biodiesel blended fuel gallons sold by the taxpayer during the tax year that have a minimum percentage of 11 percent by volume of biodiesel. Diesel fuel sold that contains less than 5 percent by volume of biodiesel does not qualify for the biodiesel blended fuel tax credit.

2. Blending errors. Where a blending error occurs and an insufficient amount of biodiesel has inadvertently been blended with petroleum-based diesel fuel so that the mixture fails to contain 11 percent by volume of biodiesel, a 1 percent tolerance applies in determining the credit amount for the blended product as described in 42.34(1)“b”(4)“2”:

• If the amount of the biodiesel erroneously blended with petroleum-based diesel is at least 10 percent of the total blended product by volume, the entire blended product qualifies for the credit amount available for biodiesel blended fuel that has a minimum percentage of 11 percent by volume of biodiesel.

• If the amount of biodiesel blended with petroleum-based diesel is at least 5 percent but less than 10 percent of the total blended product by volume, the entire blended product qualifies for the credit

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amount available for biodiesel blended fuel that has a minimum percentage of 5 percent by volume of biodiesel but less than 11 percent by volume of biodiesel.

- Numbered paragraph 42.34(1)“b”(4)“2” applies only if a retail dealer intends to sell and dispense biodiesel blended fuel that has a minimum percentage of 11 percent by volume of biodiesel. If a retail dealer does not intend to sell and dispense biodiesel blended fuel that has a minimum percentage of 11 percent by volume of biodiesel and the product sold and dispensed contains less than 11 percent biodiesel by volume, no error has occurred and the product does not qualify for the credit amount available for biodiesel blended fuel that has a minimum percentage of 11 percent by volume of biodiesel.

c. Refundability. Any credit in excess of the taxpayer’s tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

d. Transferability. The credit may not be transferred to any other person.

e. Examples.

EXAMPLE 1: A taxpayer operated four retail motor fuel sites during 2008 and sold a combined total at all four sites of 100,000 gallons of diesel fuel, of which 55,000 gallons was biodiesel blended fuel containing a minimum percentage of 2 percent by volume of biodiesel. Because 50 percent or more of the diesel fuel sold was biodiesel blended fuel, the taxpayer may claim the biodiesel blended fuel tax credit totaling \$1,650, which is 55,000 gallons multiplied by three cents.

EXAMPLE 2: A taxpayer operated two retail motor fuel sites during 2008, and each site sold 40,000 gallons of diesel fuel. One site sold 25,000 gallons of biodiesel blended fuel containing a minimum percentage of 2 percent by volume of biodiesel, and the other site sold 10,000 gallons of biodiesel blended fuel containing a minimum percentage of 2 percent by volume of biodiesel. The taxpayer would not be eligible for the biodiesel blended fuel tax credit because only 35,000 gallons of the total 80,000 gallons, or 43.75 percent of the total diesel fuel gallons sold, was biodiesel blended fuel. The 50 percent requirement is based on the aggregate number of diesel fuel gallons sold by the taxpayer, and the fact that one retail motor fuel site met the 50 percent requirement does not allow the taxpayer to claim the biodiesel blended fuel tax credit for the 2008 tax year.

EXAMPLE 3: ~~If the facts in this example had occurred during the 2009 tax year, the~~ Same facts as in example 2, except the fuel sales occurred in 2009. The taxpayer ~~could~~ can claim a biodiesel blended fuel tax credit totaling \$750, which is 25,000 gallons multiplied by three cents, since one of the retail motor fuel sites met the 50 percent biodiesel blended fuel requirement.

EXAMPLE 4: Same facts as in example 2, except the fuel sales occurred in 2016, and all biodiesel blended fuel sold contains a minimum percentage of 5 percent by volume of biodiesel. The taxpayer can claim a biodiesel blended fuel tax credit totaling \$1,575, which is 35,000 gallons multiplied by four and one-half cents, since the 50 percent biodiesel blended fuel requirement has been eliminated.

~~42.34(1)~~ 42.34(2) Fiscal year filers. Taxpayers whose tax year is not on a calendar-year basis and whose tax year ends before December 31, 2006, may compute the tax credit on the gallons of biodiesel blended fuel sold during the period from January 1, 2006, through the end of the tax year, provided that 50 percent of all diesel fuel sold during that period was biodiesel blended fuel. Because the tax credit is repealed on January 1, ~~2018~~ 2025, a taxpayer whose tax year ends prior to December 31, ~~2017~~ 2024, may continue to claim the tax credit in the following tax year for any biodiesel blended fuel sold through December 31, ~~2017~~ 2024.

See 701—subrule ~~52.31(1)~~ 52.31(2) for examples illustrating how this subrule is applied.

~~42.34(2)~~ 42.34(3) Allocation of credit to owners of a business entity or to beneficiaries of an estate or trust. If a taxpayer claiming the biodiesel blended fuel tax credit is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual’s pro rata share of the individual’s earnings of the partnership, limited liability company, S corporation, or estate or trust.

This rule is intended to implement Iowa Code section 422.11P as amended by ~~2014~~ 2016 Iowa Acts, Senate Files ~~531 and 533~~ File 2309.

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ITEM 4. Amend rule 701—42.46(422) as follows:

701—42.46(422) E-15 plus gasoline promotion tax credit. Effective for eligible gallons sold on or after July 1, 2011, a retail dealer of gasoline may claim an E-15 plus gasoline promotion tax credit. “E-15 plus gasoline” means ethanol blended gasoline formulated with a minimum percentage of between 15 percent and 69 percent of volume of ethanol, if the formulation meets the standards provided in Iowa Code section 214A.2. For purposes of this rule, tank wagon sales are considered retail sales. The credit is calculated on Form ~~IA-138~~ IA 138.

42.46(1) Calculating the credit.

a. Amount of credit. The tax credit is calculated by multiplying the total number of E-15 plus gallons sold by the retail dealer during the tax year by the following designated rates:

Gallons sold from July 1, 2011, through December 31, 2013 3 cents

Gallons sold from January 1 through May 31 and from September 16 through December 31 for the ~~2014-2017~~ 2014-2024 calendar years 3 cents

Gallons sold from June 1 through September 15 for the ~~2014-2017~~ 2014-2024 calendar years 10 cents

b. Claiming the credit with other credits. A taxpayer may claim the E-15 plus gasoline promotion tax credit even if the taxpayer also claims the ethanol promotion tax credit provided in rule 701—42.39(422) for gallons sold on or after January 1, 2011, but prior to January 1, 2021, for the same tax year for the same ethanol gallons.

c. Refundability. Any credit in excess of the taxpayer’s tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

d. Transferability. The credit may not be transferred to any other person.

42.46(1) 42.46(2) Fiscal year filers. For taxpayers whose tax year is not on a calendar-year basis, the taxpayer may compute the tax credit on the gallons of E-15 plus gasoline sold during the year using the designated rates as shown above. Because the tax credit is repealed on January 1, ~~2018~~ 2025, a taxpayer whose tax year ends prior to December 31, ~~2017~~ 2024, may continue to claim the tax credit in the following tax year for any E-15 plus gallons sold through December 31, ~~2017~~ 2024. For a retail dealer whose tax year is not on a calendar-year basis and who did not claim the E-15 plus credit on the previous return, the dealer may claim the credit for the current tax year for gallons sold for the period beginning on July 1 of the previous tax year until the last day of the previous tax year. However, for taxpayers whose fiscal year ends ~~before~~ prior to December 31, 2011, the dealer must claim the credit for the current tax year for gallons sold for the period beginning on July 1 of the previous tax year until the last day of the previous tax year.

EXAMPLE 1: A taxpayer who is a retail dealer of gasoline has a fiscal year ending October 31, 2011. The taxpayer sold 2,000 gallons of E-15 plus gasoline for the period from July 1, 2011, through October 31, 2011, and sold 7,000 gallons of E-15 plus gasoline for the period from November 1, 2011, through October 31, 2012. The taxpayer is entitled to a total E-15 plus gasoline promotion tax credit of \$270 for the fiscal year ending October 31, 2012, which consists of a \$60 credit (2,000 gallons multiplied by 3 cents) for the period from July 1, 2011, through October 31, 2011, and a credit of \$210 (7,000 gallons multiplied by 3 cents) for the period from November 1, 2011, through October 31, 2012.

EXAMPLE 2: A taxpayer who is a retail dealer of gasoline has a fiscal year ending April 30, 2012. The taxpayer sold 4,000 gallons of E-15 plus gasoline between July 1, 2011, and April 30, 2012. The taxpayer sold 9,000 gallons of E-15 plus gasoline between May 1, 2012, and April 30, 2013. The taxpayer is entitled to claim an E-15 plus gasoline promotion tax credit of \$120 (4,000 gallons ~~times~~ multiplied by 3 cents) for the fiscal year ending April 30, 2012. In lieu of claiming the credit on the return for the period ending April 30, 2012, the taxpayer can claim the E-15 plus gasoline promotion tax credit on the tax

REVENUE DEPARTMENT[701](cont'd)

return for the period ending April 30, 2013, for all E-15 plus gasoline gallons sold for the period from July 1, 2011, through April 30, 2013.

EXAMPLE 3: A taxpayer who is a retail dealer of gasoline has a fiscal year ending February 28, ~~2018~~ 2025. The taxpayer sold 20,000 total gallons of E-15 plus gasoline for the entire period from March 1, ~~2017~~ 2024, through February 28, ~~2018~~ 2025. ~~of which 16,000 gallons were sold between March 1, 2017, and December 31, 2017. Six thousand of these 16,000 gallons were sold between June 1, 2017, and September 15, 2017.~~ For the period from March 1 through May 31, 2024, the taxpayer sold 4,000 gallons of E-15 plus gasoline, which entitles the taxpayer to a credit of \$120 (4,000 gallons multiplied by 3 cents). For the period from June 1 through September 15, 2024, the taxpayer sold 6,000 gallons of E-15 plus gasoline, which entitles the taxpayer to a credit of \$600 (6,000 gallons multiplied by 10 cents). For the period from September 16 through December 31, 2024, the taxpayer sold 6,000 gallons of E-15 plus gasoline, which entitles the taxpayer to a credit of \$180 (6,000 gallons multiplied by 3 cents). For the period from January 1 through February 28, 2025, the taxpayer sold 4,000 gallons of E-15 plus gasoline, which occurred after expiration of the credit. The taxpayer is entitled to claim ~~an~~ a total E-15 plus gasoline promotion tax credit of \$900 (~~10,000 gallons times 3 cents plus 6,000 gallons times 10 cents~~ \$120 plus \$600 plus \$180) on the taxpayer's Iowa income tax return for the period ending February 28, ~~2018~~ 2025.

42.46(2) 42.46(3) *Allocation of credit to owners of a business entity or to beneficiaries of an estate or trust.* If a taxpayer claiming the E-15 plus gasoline promotion tax credit is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

This rule is intended to implement Iowa Code section 422.11Y as amended by ~~2014~~ 2016 Iowa Acts, Senate File ~~2344~~ 2309.

ITEM 5. Amend rule 701—52.30(422) as follows:

701—52.30(422) E-85 gasoline promotion tax credit. Effective for tax years beginning on or after January 1, 2006, a retail dealer of gasoline may claim an E-85 gasoline promotion tax credit. "E-85 gasoline" means ethanol blended gasoline formulated with a minimum percentage of between 70 percent and 85 percent of volume of ethanol, if the formulation meets the standards provided in Iowa Code section 214A.2. For purposes of this rule, tank wagon sales are considered retail sales. The credit is calculated on Form IA 135.

52.30(1) *Claiming the credit.*

a. Amount of credit. The credit is calculated by multiplying the total number of E-85 gallons sold by the retail dealer during the tax year by the following designated rates:

Calendar years 2006, 2007, and 2008	25 cents
Calendar years 2009 and 2010	20 cents
Calendar year 2011	10 cents
Calendar years 2012 through 2017 2024	16 cents

b. Claiming the credit with other credits. A taxpayer may claim the E-85 gasoline promotion tax credit even if the taxpayer also claims the ethanol blended gasoline tax credit provided in rule 701—52.19(422) for gallons sold prior to January 1, 2009, or the ethanol promotion tax credit provided in rule 701—52.36(422) for gallons sold on or after January 1, 2009, but prior to January 1, 2021, for the same tax year for the same ethanol gallons.

c. Refundability. Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

d. Transferability. The credit may not be transferred to any other person.

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e. Example.

~~EXAMPLE:~~ A taxpayer operated one retail motor fuel site in 2006 and sold 200,000 gallons of gasoline, of which 160,000 gallons was ethanol blended gasoline. Of these 160,000 gallons, 1,000 gallons was E-85 gasoline. Taxpayer may claim the E-85 gasoline promotion tax credit on the 1,000 gallons of E-85 gasoline sold during 2006. Taxpayer is also entitled to claim the ethanol blended gasoline tax credit of two and one-half cents multiplied by 40,000 gallons, since this constitutes the gallons in excess of 60 percent of the total gasoline gallons sold for the 2006 tax year.

~~52.30(1)~~ **52.30(2)** *Fiscal year filers.* For taxpayers whose tax year is not on a calendar-year basis, the taxpayer may compute the tax credit on the gallons of E-85 gasoline sold during the year using the designated rates as shown above. Because the tax credit is repealed on January 1, ~~2018~~ 2025, a taxpayer whose tax year ends prior to December 31, ~~2017~~ 2024, can continue to claim the tax credit in the following tax year for any E-85 gallons sold through December 31, ~~2017~~ 2024. For a retail dealer whose tax year is not on a calendar-year basis and who did not claim the E-85 credit on the previous return, the dealer may claim the credit for the current tax year for the period beginning on January 1 of the previous tax year until the last day of the previous tax year.

EXAMPLE 1: A taxpayer who is a retail dealer of gasoline has a fiscal year ending March 31, 2009. The taxpayer sold 2,000 gallons of E-85 gasoline for the period from April 1, 2008, through December 31, 2008, and sold 500 gallons of E-85 gasoline for the period from January 1, 2009, through March 31, 2009. The taxpayer is entitled to a total E-85 gasoline promotion tax credit of \$600 for the fiscal year ending March 31, 2009, which consists of a \$500 credit (2,000 gallons multiplied by 25 cents) for the period from April 1, 2008, through December 31, 2008, and a credit of \$100 (500 gallons multiplied by 20 cents) for the period from January 1, 2009, through March 31, 2009.

EXAMPLE 2: A taxpayer who is a retail dealer of gasoline has a fiscal year ending April 30, 2006. The taxpayer sold 800 gallons of E-85 gasoline for the period from January 1, 2006, through April 30, 2006. The taxpayer is entitled to claim an E-85 gasoline promotion tax credit of \$200 (800 gallons ~~times~~ multiplied by 25 cents) on the taxpayer's Iowa income tax return for the period ending April 30, 2006. In lieu of claiming the credit on the return for the period ending April 30, 2006, the taxpayer can claim the E-85 gasoline promotion tax credit on the tax return for the period ending April 30, 2007, including all E-85 gallons sold for the period from January 1, 2006, through April 30, 2007.

~~52.30(2)~~ **52.30(3)** *Allocation of credit to owners of a business entity or to beneficiaries of an estate or trust.* If a taxpayer claiming the E-85 gasoline promotion tax credit is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

This rule is intended to implement Iowa Code section 422.33 as amended by ~~2014~~ 2016 Iowa Acts, Senate File ~~534~~ 2309.

ITEM 6. Amend rule 701—52.31(422) as follows:

701—52.31(422) Biodiesel blended fuel tax credit. Effective for tax years beginning on or after January 1, 2006, a retail dealer of biodiesel blended fuel may claim a biodiesel blended fuel tax credit. "Biodiesel blended fuel" means a blend of biodiesel with petroleum-based diesel fuel ~~which that~~ that meets the standards provided in Iowa Code section 214A.2. ~~The biodiesel blended fuel must be formulated with a minimum percentage of 2 percent by volume of biodiesel, if the formulation meets the standards provided by Iowa Code section 214A.2, to qualify for the tax credit for gallons sold on or after January 1, 2006, but before January 1, 2013. For gallons sold on or after January 1, 2013, but before January 1, 2018, the biodiesel blended fuel must be formulated with a minimum percentage of 5 percent by volume of biodiesel, if the formulation meets the standards provided by Iowa Code section 214A.2, to qualify for the tax credit. In addition, of the total gallons of diesel fuel sold by the retail dealer, 50 percent or more must be biodiesel blended fuel to be eligible for the tax credit for tax years beginning prior to January 1, 2009. In determining the minimum percentage by volume of biodiesel, the department will take into~~

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account reasonable variances due to testing and other limitations. For purposes of this rule, tank wagon sales are considered retail sales. The credit is calculated on Form IA 8864.

52.31(1) Calculating the credit.

a. Gallonage requirement.

(1) Tax years beginning on or after January 1, 2006, but prior to January 1, 2009. In order for a retail dealer to qualify for the biodiesel blended fuel tax credit for tax years beginning on or after January 1, 2006, but prior to January 1, 2009, of the total gallons of diesel fuel that the retail dealer sells and dispenses during the tax year, 50 percent or more of those gallons must be biodiesel blended fuel formulated with a minimum percentage of 2 percent by volume of biodiesel. The gallonage amounts for all motor fuel sites of a retail dealer are combined when calculating this gallonage requirement.

(2) Tax years beginning on or after January 1, 2009, but prior to January 1, 2012. For tax years beginning on or after January 1, 2009, but before prior to January 1, 2012, the biodiesel blended fuel tax credit is calculated separately for each retail motor fuel site for which 50 percent or more of the total gallons of diesel fuel sold at the motor fuel site was biodiesel blended fuel formulated with a minimum percentage of 2 percent by volume of biodiesel.

(3) Tax years beginning on or after January 1, 2012. For tax years beginning on or after January 1, 2012, the requirement that 50 percent of all diesel fuel gallons sold be biodiesel gallons to be eligible for the tax credit is eliminated. A retail dealer may qualify for the biodiesel blended fuel tax credit even if the gallons of biodiesel blended fuel sold is less than 50 percent of the total gallons of diesel fuel sold.

b. Amount of credit.

(1) The Fuel sold on or after January 1, 2006, but prior to January 1, 2012. For biodiesel blended fuel sold on or after January 1, 2006, but prior to January 1, 2012, the tax credit equals three cents multiplied by the qualifying number of biodiesel blended fuel gallons sold by the taxpayer during the tax year for gallons sold through December 31, 2011. Qualifying biodiesel blended fuel must be formulated with a minimum percentage of 2 percent by volume of biodiesel.

(2) For gallons sold during the 2012 calendar year, Fuel sold on or after January 1, 2012, but prior to January 1, 2013. For biodiesel blended fuel sold on or after January 1, 2012, but prior to January 1, 2013, the tax credit equals the sum of two cents multiplied by the qualifying number of biodiesel blended fuel gallons sold by the taxpayer during the tax year that have a minimum percentage of 2 percent by volume of biodiesel but less than 5 percent by volume of biodiesel and plus four and one-half cents multiplied by the qualifying number of biodiesel blended fuel gallons sold by the taxpayer during the tax year that have a minimum percentage of 5 percent by volume of biodiesel. In addition, the gallonage requirements described in paragraph 52.31(1)“a” do not apply to fuel sold on or after January 1, 2012.

(3) For gallons sold during the 2013 to 2017 calendar years, Fuel sold on or after January 1, 2013, but prior to January 1, 2018. For biodiesel blended fuel sold on or after January 1, 2013, but prior to January 1, 2018, the tax credit equals four and one-half cents multiplied by the qualifying number of biodiesel blended fuel gallons that have a minimum percentage of 5 percent by volume of biodiesel. ~~In determining the minimum percentage by volume of biodiesel, the department will taken into account reasonable variances due to testing and other limitations. For purposes of this rule, tank wagon sales are considered retail sales. The credit is calculated on Form IA 8864. Diesel fuel sold that contains less than 5 percent by volume of biodiesel does not qualify for the biodiesel blended fuel tax credit.~~

(4) Fuel sold on or after January 1, 2018, but prior to January 1, 2025.

1. Amount of credit. For biodiesel blended fuel sold on or after January 1, 2018, but prior to January 1, 2025, the tax credit equals the sum of three and one-half cents multiplied by the qualifying number of biodiesel blended fuel gallons sold by the taxpayer during the tax year that have a minimum percentage of 5 percent by volume of biodiesel but less than 11 percent by volume of biodiesel plus five and one-half cents multiplied by the qualifying number of biodiesel blended fuel gallons sold by the taxpayer during the tax year that have a minimum percentage of 11 percent by volume of biodiesel.

2. Blending errors. Where a blending error occurs and an insufficient amount of biodiesel has inadvertently been blended with petroleum-based diesel fuel so that the mixture fails to contain 11 percent by volume of biodiesel, a 1 percent tolerance applies in determining the credit amount for the blended product as described in 52.31(1)“b”(4)“2”:

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- If the amount of the biodiesel erroneously blended with petroleum-based diesel is at least 10 percent of the total blended product by volume, the entire blended product qualifies for the credit amount available for biodiesel blended fuel that has a minimum percentage of 11 percent by volume of biodiesel.

- If the amount of biodiesel blended with petroleum-based diesel is at least 5 percent but less than 10 percent of the total blended product by volume, the entire blended product qualifies for the credit amount available for biodiesel blended fuel that has a minimum percentage of 5 percent by volume of biodiesel but less than 11 percent by volume of biodiesel.

- Numbered paragraph 52.31(1)“b”(4)“2” applies only if a retail dealer intends to sell and dispense biodiesel blended fuel that has a minimum percentage of 11 percent by volume of biodiesel. If a retail dealer does not intend to sell and dispense biodiesel blended fuel that has a minimum percentage of 11 percent by volume of biodiesel and the product sold and dispensed contains less than 11 percent biodiesel by volume, no error has occurred and the product does not qualify for the credit amount available for biodiesel blended fuel that has a minimum percentage of 11 percent by volume of biodiesel.

c. Refundability. Any credit in excess of the taxpayer’s tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

d. Transferability. The credit may not be transferred to any other person.

e. Examples.

EXAMPLE 1: A taxpayer operated four retail motor fuel sites during 2006 and sold a combined total at all four sites of 100,000 gallons of diesel fuel, of which 55,000 gallons was biodiesel blended fuel containing a minimum percentage of 2 percent by volume of biodiesel. Because 50 percent or more of the diesel fuel sold was biodiesel blended fuel, the taxpayer may claim the biodiesel blended fuel tax credit totaling \$1,650, which is 55,000 gallons multiplied by three cents.

EXAMPLE 2: A taxpayer operated two retail motor fuel sites during 2006, and each site sold 40,000 gallons of diesel fuel. One site sold 25,000 gallons of biodiesel blended fuel containing a minimum percentage of 2 percent by volume of biodiesel, and the other site sold 10,000 gallons of biodiesel blended fuel containing a minimum percentage of 2 percent by volume of biodiesel. The taxpayer would not be eligible for the biodiesel blended fuel tax credit because only 35,000 gallons of the total 80,000 gallons, or 43.75 percent of the total diesel fuel gallons sold, was biodiesel blended fuel. The 50 percent requirement is based on the aggregate number of diesel fuel gallons sold by the taxpayer, and the fact that one retail motor fuel site met the 50 percent requirement does not allow the taxpayer to claim the biodiesel blended fuel tax credit for the 2006 tax year.

EXAMPLE 3: ~~If the facts in this example had occurred during the 2009 tax year, the~~ Same facts as in example 2, except the fuel sales occurred in 2009. The taxpayer ~~could~~ can claim a biodiesel blended fuel tax credit totaling \$750, which is 25,000 gallons multiplied by three cents, since one of the retail motor fuel sites met the 50 percent biodiesel blended fuel requirement.

EXAMPLE 4: Same facts as in example 2, except the fuel sales occurred in 2016, and all biodiesel blended fuel sold contains a minimum percentage of 5 percent by volume of biodiesel. The taxpayer can claim a biodiesel blended fuel tax credit totaling \$1,575, which is 35,000 gallons multiplied by four and one-half cents, since the 50 percent biodiesel blended fuel requirement has been eliminated.

~~52.31(1)~~ 52.31(2) *Fiscal year filers.* For taxpayers whose tax year is not on a calendar-year basis and whose tax year ends before December 31, 2006, the taxpayer may compute the tax credit on the gallons of biodiesel blended fuel sold during the period from January 1, 2006, through the end of the tax year, provided that 50 percent of all diesel fuel sold during that period was biodiesel blended fuel. Because the tax credit is repealed on January 1, ~~2018~~ 2025, a taxpayer whose tax year ends prior to December 31, ~~2017~~ 2024, may continue to claim the tax credit in the following tax year for any biodiesel blended fuel sold through December 31, ~~2017~~ 2024.

EXAMPLE 1: A taxpayer who operates one retail motor fuel site has a fiscal year ending April 30, 2006. The taxpayer sold 60,000 gallons of diesel fuel for the period from May 1, 2005, through April 30, 2006, of which 28,000 gallons was biodiesel blended fuel. However, for the period from January 1, 2006, through April 30, 2006, the taxpayer sold 20,000 gallons of diesel fuel, of which 12,000 gallons was biodiesel blended fuel. The taxpayer is entitled to claim the biodiesel blended fuel tax credit of \$360

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(12,000 gallons times 3 cents) on the taxpayer's Iowa income tax return for the period ending April 30, 2006, since more than 50 percent of all diesel fuel sold during the period from January 1, 2006, through April 30, 2006, was biodiesel blended fuel.

EXAMPLE 2: A taxpayer who operates one retail motor fuel site has a fiscal year ending June 30, 2006. The taxpayer sold 80,000 gallons of diesel fuel for the period from July 1, 2005, through June 30, 2006, of which 42,000 gallons was biodiesel blended fuel. However, for the period from January 1, 2006, through June 30, 2006, the taxpayer sold 40,000 gallons of diesel fuel, of which 19,000 gallons was biodiesel blended fuel. The taxpayer is not entitled to claim the biodiesel blended fuel tax credit on the taxpayer's Iowa income tax return for the period ending June 30, 2006, since less than 50 percent of all diesel fuel sold during the period from January 1, 2006, through June 30, 2006, was biodiesel blended fuel, even though more than 50 percent of all diesel fuel sold during the period from July 1, 2005, through June 30, 2006, was biodiesel blended fuel.

EXAMPLE 3: A taxpayer who operates one retail motor fuel site has a fiscal year ending February 28, ~~2012~~ 2025. The taxpayer sold 100,000 gallons of diesel fuel for the period from March 1, ~~2011~~ 2024, through February 28, ~~2012~~ 2025, of which 60,000 gallons was biodiesel blended fuel containing a minimum percentage of 5 percent by volume of biodiesel. For the period from March 1, ~~2011~~ 2024, through December 31, ~~2011~~ 2024, the taxpayer sold 85,000 gallons of diesel fuel, of which 50,000 gallons was biodiesel fuel. The taxpayer is entitled to claim the biodiesel blended fuel tax credit of ~~\$1,500~~ \$2,250 (50,000 gallons times ~~3~~ 4.5 cents) on the taxpayer's Iowa income tax return for the period ending February 12, ~~2012~~ 2025, since the credit is computed only on gallons sold through December 31, ~~2011~~ 2024.

~~52.31(2)~~ **52.31(3)** *Allocation of credit to owners of a business entity or to beneficiaries of an estate or trust.* If a taxpayer claiming the biodiesel blended fuel tax credit is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

This rule is intended to implement Iowa Code section 422.33 as amended by ~~2011~~ 2016 Iowa Acts, Senate File ~~531~~ 2309.

ITEM 7. Amend rule 701—52.43(422) as follows:

701—52.43(422) E-15 plus gasoline promotion tax credit. Effective for eligible gallons sold on or after July 1, 2011, a retail dealer of gasoline may claim an E-15 plus gasoline promotion tax credit. "E-15 plus gasoline" means ethanol blended gasoline formulated with a minimum percentage of between 15 percent and 69 percent of volume of ethanol, if the formulation meets the standards provided in Iowa Code section 214A.2. For purposes of this rule, tank wagon sales are considered retail sales. The credit is calculated on Form ~~IA138~~ IA 138.

52.43(1) *Calculating the credit.*

a. Amount of credit. The tax credit is calculated by multiplying the total number of E-15 plus gallons sold by the retail dealer during the tax year by the following designated rates:

Gallons sold from July 1, 2011, through December 31, 2013	3 cents
Gallons sold from January 1 through May 31 and from September 16 through December 31 for the 2014-2017 <u>2014-2024</u> calendar years	3 cents
Gallons sold from June 1 through September 15 for the 2014-2017 <u>2014-2024</u> calendar years	10 cents

b. Claiming the credit with other credits. A taxpayer may claim the E-15 plus gasoline promotion tax credit even if the taxpayer also claims the ethanol promotion tax credit provided in rule 701—52.36(422) for gallons sold on or after January 1, 2011, but prior to January 1, 2021, for the same tax year for the same ethanol gallons.

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c. Refundability. Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

d. Transferability. The credit may not be transferred to any other person.

~~52.43(1)~~ **52.43(2)** *Fiscal year filers.* For taxpayers whose tax year is not on a calendar-year basis, the taxpayer may compute the tax credit on the gallons of E-15 plus gasoline sold during the year using the designated rates as shown above. Because the tax credit is repealed on January 1, ~~2018~~ 2025, a taxpayer whose tax year ends prior to December 31, ~~2017~~ 2024, may continue to claim the tax credit in the following tax year for any E-15 plus gallons sold through December 31, ~~2017~~ 2024. For a retail dealer whose tax year is not on a calendar-year basis and who did not claim the E-15 plus credit on the previous return, the dealer may claim the credit for the current tax year for gallons sold for the period beginning on July 1 of the previous tax year until the last day of the previous tax year. However, for taxpayers whose fiscal year ends ~~before~~ prior to December 31, 2011, the dealer must claim the credit for the current tax year for gallons sold for the period beginning on July 1 of the previous tax year until the last day of the previous tax year.

EXAMPLE 1: A taxpayer who is a retail dealer of gasoline has a fiscal year ending October 31, 2011. The taxpayer sold 2,000 gallons of E-15 plus gasoline for the period from July 1, 2011, through October 31, 2011, and sold 7,000 gallons of E-15 plus gasoline for the period from November 1, 2011, through October 31, 2012. The taxpayer is entitled to a total E-15 plus gasoline promotion tax credit of \$270 for the fiscal year ending October 31, 2012, which consists of a \$60 credit (2,000 gallons multiplied by 3 cents) for the period from July 1, 2011, through October 31, 2011, and a credit of \$210 (7,000 gallons multiplied by 3 cents) for the period from November 1, 2011, through October 31, 2012.

EXAMPLE 2: A taxpayer who is a retail dealer of gasoline has a fiscal year ending April 30, 2012. The taxpayer sold 4,000 gallons of E-15 plus gasoline between July 1, 2011, and April 30, 2012. The taxpayer sold 9,000 gallons of E-15 plus gasoline between May 1, 2012, and April 30, 2013. The taxpayer is entitled to claim an E-15 plus gasoline promotion tax credit of \$120 (4,000 gallons ~~times~~ multiplied by 3 cents) for the fiscal year ending April 30, 2012. In lieu of claiming the credit on the return for the period ending April 30, 2012, the taxpayer can claim the E-15 plus gasoline promotion tax credit on the tax return for the period ending April 30, 2013, for all E-15 plus gasoline gallons sold for the period from July 1, 2011, through April 30, 2013.

EXAMPLE 3: A taxpayer who is a retail dealer of gasoline has a fiscal year ending February 28, ~~2018~~ 2025. The taxpayer sold 20,000 total gallons of E-15 plus gasoline for the entire period from March 1, 2017 2024, through February 28, 2018, 2025. ~~of which 16,000 gallons were sold between March 1, 2017, and December 31, 2017. Six thousand of these 16,000 gallons were sold between June 1, 2017, and September 15, 2017.~~ For the period from March 1 through May 31, 2024, the taxpayer sold 4,000 gallons of E-15 plus gasoline, which entitles the taxpayer to a credit of \$120 (4,000 gallons multiplied by 3 cents). For the period from June 1 through September 15, 2024, the taxpayer sold 6,000 gallons of E-15 plus gasoline, which entitles the taxpayer to a credit of \$600 (6,000 gallons multiplied by 10 cents). For the period from September 16 through December 31, 2024, the taxpayer sold 6,000 gallons of E-15 plus gasoline, which entitles the taxpayer to a credit of \$180 (6,000 gallons multiplied by 3 cents). For the period from January 1 through February 28, 2025, the taxpayer sold 4,000 gallons of E-15 plus gasoline, which occurred after expiration of the credit. The taxpayer is entitled to claim an a total E-15 plus gasoline promotion tax credit of \$900 (10,000 gallons times 3 cents plus 6,000 gallons times 10 cents \$120 plus \$600 plus \$180) on the taxpayer's Iowa income tax return for the period ending February 28, 2018 2025.

~~52.43(2)~~ **52.43(3)** *Allocation of credit to owners of a business entity or to beneficiaries of an estate or trust.* If a taxpayer claiming the E-15 plus gasoline promotion tax credit is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on

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the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

This rule is intended to implement Iowa Code ~~section~~ sections 422.11Y and 422.33 and 2014 Iowa Acts, Senate File 2344 as amended by 2016 Iowa Acts, Senate File 2309.

ITEM 8. Adopt the following new 701—Chapter 250:

CHAPTER 250
SALES AND USE TAX REFUND FOR BIODIESEL PRODUCTION

701—250.1(423) Biodiesel production refund. A refund of sales or use tax is available for certain producers of biodiesel for calendar years 2012 to 2024.

250.1(1) *Qualifications for the refund.* A biodiesel producer must meet the following criteria to be eligible for the refund.

a. The producer must be engaged in the manufacture of biodiesel and have registered with the United States Environmental Protection Agency as a manufacturer in accordance with the requirements of 40 CFR Part 79.4.

b. The biodiesel produced must be for use in biodiesel blended fuel in accordance with Iowa Code section 214A.2.

c. The biodiesel must be produced in Iowa.

250.1(2) *Calculation of the refund.*

a. The refund is calculated by multiplying the total number of gallons produced by the biodiesel producer in this state during each quarter of the calendar year by the following rate:

- (1) For the calendar year 2012, three cents.
- (2) For the calendar year 2013, two and one-half cents.
- (3) For the calendar years 2014 to 2024, two cents.

b. The refund is calculated on the first 25 million gallons of biodiesel produced at each facility during the calendar year. No refund will be allowed on gallons produced in excess of 25 million gallons at a facility during each of the calendar years 2012 to 2024. No refund will be allowed for gallons produced at a facility on or after January 1, 2025.

250.1(3) *Claiming the refund.* To claim the refund, the biodiesel producer must file Form IA 843, Claim for Refund, for each calendar quarter. The filing must include the number of biodiesel gallons produced during the quarter, the calculation of the biodiesel production refund, and the amount of biodiesel production refund claimed. The biodiesel producer must timely file all sales and use tax returns due and timely pay all sales and use taxes owed on its purchases, even when the amount of the biodiesel production refund due exceeds the amount of sales and use taxes owed for the quarter. The department shall reduce the amount of the refund issued by the amount of any sales and use taxes owed by the biodiesel producer.

EXAMPLE: A biodiesel producer produced 5 million gallons during the first quarter of 2018. The producer also owes \$10,000 of Iowa consumers use tax based on purchases made during the first quarter of 2018. The producer must timely file an Iowa consumers use tax return and pay \$10,000 of use tax with the return. The producer may also file Form IA 843, Claim for Refund, to request a refund of \$100,000 (5 million gallons multiplied by 2 cents per gallon) for the first quarter of 2018.

This rule is intended to implement Iowa Code section 423.4 as amended by 2016 Iowa Acts, Senate File 2309.

ARC 2906C**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 and 307A.2, the Iowa Department of Transportation hereby gives Notice of Intended Action to amend Chapter 28, "Iowa Transportation Map," Iowa Administrative Code.

The proposed amendments update the responsible office, identify the Web site and offices where the Iowa Transportation Map is available, make editorial corrections, and state that the paper version and the electronic version of the map may not be altered for distribution in any way.

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 February 7, 2017.

A meeting to hear requested oral presentations is scheduled for Thursday, February 9, 2017, at 10 a.m. at the Administration Building, Second Floor Conference Room, Iowa Department of Transportation, 800 Lincoln Way, Ames, 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 307.12 and 307.14.

The following amendments are proposed.

ITEM 1. Amend rule 761—28.1(307) as follows:

761—28.1(307) Definition.

"~~Iowa transportation map~~ Transportation Map" is the multicolored official map that is produced by the department to provide the motoring public with basic information on the location of cities and the highways connecting them.

ITEM 2. Amend rule 761—28.2(307) as follows:

761—28.2(307) Information. Information regarding the map use, content and production of the Iowa transportation map may be obtained from: the Office of Media and Marketing Services Systems Planning, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)~~239-1922~~ 239-1664.

ITEM 3. Amend rule 761—28.3(307) as follows:

761—28.3(307) Policy. The Iowa ~~transportation map~~ Transportation Map is to be distributed to the public without charge at department offices, at rest areas and on the department's Web site at

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www.iowadot.gov. The map is not to be sold or used for purposes of personal or professional gain. The paper version or the electronic version of the map is not to be altered for distribution in any way, including adding a name or address of an individual, business or organization.

1. This policy applies to but is not limited to candidates running for political office.
2. It is not a violation of this policy for the pictures of the governor and lieutenant governor and a personal message to appear on the map.

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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 and 307A.2, the Iowa Department of Transportation hereby gives Notice of Intended Action to amend Chapter 400, "Vehicle Registration and Certificate of Title," Chapter 401, "Special Registration Plates," Chapter 425, "Motor Vehicle and Travel Trailer Dealers, Manufacturers, Distributors and Wholesalers," Chapter 602, "Classes of Driver's Licenses," and Chapter 604, "License Examination," Iowa Administrative Code.

The Department is proposing to amend Chapters 400, 401, 425, 602 and 604 to comply with 2016 Iowa Acts, House File 2437, which amended Iowa Code chapter 321 to designate certain three-wheeled motor vehicles as autocycles and to align the rules to conform with Department practices. House File 2437 defined an autocycle as a three-wheeled motor vehicle that is originally designed with the following: two front wheels and one rear wheel; a steering wheel rather than handlebars; no more than two permanent seats that do not require the operator or a passenger to straddle or sit astride the vehicle; and foot pedals that control the brakes, acceleration and clutch, where applicable. Although these types of vehicles have been constructed to the federal motor vehicle safety regulations that apply to motorcycles, these vehicles do not fit the traditional legal definition of motorcycle, do not require motorcycle skills to drive because they are constructed to drive like passenger vehicles and do not require the dynamic riding skills that accompany handlebars and saddle-style seats.

The proposed amendments to Chapter 400:

- Exclude an autocycle from the weigh ticket requirement in the same manner as motorcycles, trucks, truck tractors, road tractors and trailer-type vehicles are currently excluded from applying for a certificate of title or original registration for a specially constructed, reconstructed, street rod or replica motor vehicle.
- Require an autocycle to be registered as an autocycle if designed or converted to transport property less than 1,000 pounds and require an autocycle to be registered as a motor truck if the autocycle is designed or converted to transport property more than 1,000 pounds.
- Require a validation sticker to be affixed to the upper left corner of an autocycle license plate.

The proposed amendments to Chapter 401:

- Restrict the number of characters of a personalized autocycle license plate to no fewer than two and no more than six characters.
- Exclude the availability of collegiate plates for an autocycle.

The proposed amendments to Chapter 425 set dimension requirements for the display, reconditioning, and repair facilities of motor vehicle dealers offering an autocycle for sale. The proposed amendments align the size of the impacted areas with the size of those required of a motor vehicle dealer offering a motorcycle or motorized bicycle for sale.

The proposed amendments to Chapter 602:

- Clarify that an autocycle, as defined in Iowa Code section 321.1, is a vehicle that shall be operated with a valid Class C noncommercial driver's license.
- Update an implementation sentence.

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The proposed amendments to Chapter 604:

- Provide that an autocycle shall not be used for a Class C operator's driving test. This is because an autocycle is designed to the safety standards of a motorcycle, which would raise the issue of driver's license examiners' needing to wear safety helmets during operation. Therefore, the Department does not want to expose driver's license examiners to the risk of riding in an autocycle while conducting a driving test. Additionally, due to the fact that an autocycle is not a motorcycle, it shall not be used when a person takes the motorcycle skills test because an autocycle does not require motorcycle skills to operate and a person driving one will not demonstrate motorcycle riding skills or abilities in a skills test environment, either for a two-wheeled or three-wheeled motorcycle.

- Update an implementation sentence.

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 February 7, 2017.

A meeting to hear requested oral presentations is scheduled for Thursday, February 9, 2017, at 2 p.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 chapter 321 as amended by 2016 Iowa Acts, House File 2437.

The following amendments are proposed.

ITEM 1. Amend paragraph **400.16(2)“b”** as follows:

b. The investigator shall contact the applicant and schedule a time and place for an examination of the vehicle and the ownership documents. The owner of the vehicle may drive or tow the vehicle to and from the examination location by completing an affidavit to drive on a form provided by the department. The form shall state that the vehicle is reasonably safe for operation and must be signed by the owner. The applicant, when appearing with the vehicle for the examination, shall submit to the investigator the ownership document for the vehicle, the ownership documents for essential parts, and a weigh ticket indicating the weight of the vehicle. However, a weigh ticket is not required for motorcycles, autocycles, trucks, truck tractors, road tractors or trailer-type vehicles.

ITEM 2. Amend rule 761—400.37(321) as follows:

761—400.37(321) Motorcycle or autocycle primarily designed or converted to transport property. A motorcycle or autocycle primarily designed or converted to transport less than 1000 pounds of property shall be registered as a motorcycle or autocycle. A motorcycle or autocycle primarily designed or converted to transport 1000 pounds of property or more shall be registered as a motor truck.

This rule is intended to implement Iowa Code sections 321.1 and 321.117.

ITEM 3. Amend subrule 400.53(1) as follows:

400.53(1) Placement of validation sticker. The validation sticker shall be affixed to the lower left corner of the rear registration plate. EXCEPTIONS: For motorcycle, autocycle and small trailer plates, the

TRANSPORTATION DEPARTMENT[761](cont'd)

validation sticker shall be affixed to the upper left corner of the plate. For natural resources plates, the sticker may be affixed to the lower right corner of the rear plate.

ITEM 4. Amend subrule 401.6(2), introductory paragraph, as follows:

401.6(2) Characters. The personalized plates shall consist of no ~~less~~ fewer than two nor more than seven characters except that personalized plates for motorcycles, autocycles and small trailers shall consist of no ~~less~~ fewer than two nor more than six characters.

ITEM 5. Amend rule 761—401.7(321) as follows:

761—401.7(321) Collegiate plates.

401.7(1) Application. Application for collegiate plates shall be submitted to the department on a form prescribed by the department. The applicant may request letter-number designated collegiate plates or personalized collegiate plates. Collegiate plates for motorcycles, autocycles and small trailers are not available.

401.7(2) Characters. Personalized collegiate plates shall be issued in accordance with subrule 401.6(2) except that personalized collegiate plates are not available for motorcycles, autocycles and small trailers.

401.7(3) to 401.7(5) No change.

ITEM 6. Amend subparagraph **425.12(3)“b”(1)** as follows:

(1) For display of motorcycles, ~~and~~ motorized bicycles and autocycles, the minimum size of the display facility is 10 feet by 15 feet.

ITEM 7. Amend subparagraph **425.12(4)“e”(1)** as follows:

(1) The minimum size facility for motorcycles, ~~and~~ motorized bicycles and autocycles is an unobstructed rectangular area measuring 10 feet by 15 feet.

ITEM 8. Amend subparagraph **602.11(1)“a”(1)** as follows:

(1) A motor vehicle, including an autocycle as defined in Iowa Code section 321.1, that does not require a commercial driver's license or a Class D driver's license for its operation.

ITEM 9. Amend rule **761—602.11(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.1, 321.177, 321.178, 321.180B, 321.189, and 321.196.

ITEM 10. Amend subrule 604.31(1) as follows:

604.31(1) Driving test requirements. The driving test requirements for noncommercial driver's licenses are as follows:

a. No change.

b. *Class C driver's licenses.* For a Class C driver's license other than an instruction permit or a motorized bicycle license, an operator's driving test in a representative vehicle is required, except that an autocycle as defined in Iowa Code section 321.1 shall not be used for the driving test.

c. No change.

d. *Class M driver's licenses and motorcycle endorsements.* The driving test for a Class M driver's license or motorcycle endorsement consists of two parts: an off-street motorcycle skill test and an on-street driving test.

(1) The off-street motorcycle skill test is required. The on-street motorcycle driving test is also required if the applicant does not have another driver's license that permits unaccompanied driving. Neither motorcycle test is required for the purposes of operating an autocycle.

(2) A motorcycle shall be used for these tests. If a three-wheeled motorcycle is used, the driver's license shall be restricted: “Not valid for 2-wheel vehicle.” An autocycle is not considered a motorcycle or a three-wheeled motorcycle for testing purposes.

e. No change.

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ITEM 11. Amend rule **761—604.31(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.1, 321.174, 321.178, 321.178A, 321.180, 321.180A, 321.180B, 321.186, 321.189, 321.193, 321.196 and 321.198.

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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 321N.2(8), the Iowa Department of Transportation hereby gives Notice of Intended Action to adopt Chapter 540, “Transportation Network Companies,” Iowa Administrative Code.

This rule making implements the Department’s rights and responsibilities afforded to it under Iowa Code chapter 321N in order to regulate transportation network companies and assist in ensuring the safety and security of the public at large.

A transportation network company (TNC) is an entity that uses a digital network to connect TNC riders to TNC drivers who provide prearranged rides. The Department exclusively controls, supervises, and regulates TNCs, TNC drivers, and personal vehicles used by TNC drivers.

A TNC is prohibited from operating in Iowa without a permit issued by the Department. To obtain a permit, a TNC must submit an application to the Department containing specific identification information, a \$5,000 application fee, a signed statement agreeing to comply with the requirements of Iowa Code chapter 321N, and proof of all of the following: the TNC complies with all applicable insurance requirements, the TNC has established a zero tolerance policy for the use of drugs and alcohol, the TNC requires drivers’ vehicles to comply with all applicable motor vehicle equipment requirements, the TNC has adopted and is enforcing nondiscrimination and accessibility policies, and the TNC has established record retention guidelines for records relating to drivers and prearranged rides. If the Department determines that the TNC is in compliance with the provisions of Iowa Code chapter 321N, the Department shall issue a permit to the TNC. If granted, the permit is valid for one year.

The Department may deny issuance of a permit if the Department determines, and evidence demonstrates, that the TNC is not in compliance or is unable to comply with the provisions of Iowa Code chapter 321N. The TNC may amend the application under certain circumstances and must inform the Department of the changed circumstances for which an amendment is required.

The Department may suspend a TNC’s permit for a violation of Iowa Code chapter 321N or these proposed rules until the TNC demonstrates that the TNC is in compliance with the applicable requirements. The Department may revoke a TNC’s permit for continued noncompliance. To determine whether a TNC is in compliance with the applicable requirements, the Department may examine a TNC’s records, including a random sample of the TNC’s records related to drivers and prearranged rides. An examination is required to take place at the Department’s motor vehicle division building unless another location is agreed to by the Department and the TNC, and such examinations may not occur more than twice per year unless additional examinations are necessary to investigate a complaint.

TNCs are required to renew the application if the TNC intends to hold a valid permit after the expiration of an existing permit.

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 rules 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.

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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 February 7, 2017.

A meeting to hear requested oral presentations is scheduled for Thursday, February 9, 2017, at 1 p.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 rules are intended to implement Iowa Code chapter 321N.

The following amendment is proposed.

Adopt the following **new** 761—Chapter 540:

CHAPTER 540 TRANSPORTATION NETWORK COMPANIES

761—540.1(321N) Purpose and applicability. This chapter implements the permitting and regulation requirements of Iowa Code chapter 321N, and applies to transportation network companies and transportation network company drivers.

761—540.2(321N) Definitions. The definitions in Iowa Code section 321N.1 are hereby made part of and fully incorporated in this chapter.

761—540.3(321N) General information.

540.3(1) Information and location. Applications, forms, electronic or otherwise, and information regarding transportation network company permits are available by mail from the Office of Vehicle and Motor Carrier Services, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (515)237-3268; by e-mail at omcs@iowadot.us; by facsimile at (515)237-3225; or on the department's Web site at www.iowadot.gov.

540.3(2) Complaints. Complaints against transportation network companies pertaining to the provisions of Iowa Code chapter 321N and this chapter that are within the regulation and jurisdiction of the department shall be submitted in writing to the office of vehicle and motor carrier services.

761—540.4(321N) Application for transportation network company permit and supporting documents.

540.4(1) Application. An application for a transportation network company permit shall be made to the office of vehicle and motor carrier services on a form designated by the department, electronic or otherwise, and prescribed for that purpose. The form shall require all of the following:

- a. The transportation network company's full legal name and tax identification number.
- b. The address of the transportation network company's principal place of business.
- c. If incorporated or otherwise organized, the transportation network company's state of incorporation or organization.

d. The name, address, telephone number and e-mail address of the person submitting the application on behalf of the transportation network company.

e. A statement confirming the transportation network company's agreement to comply with all applicable requirements of Iowa Code chapter 321N and this chapter, signed by the transportation network company's authorized representative.

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f. The name and address of the transportation network company's agent for service of process in the state of Iowa.

g. The name by which the transportation network company will do business in the state of Iowa, if different from the transportation network company's full legal name.

h. A description of the transportation network company's digital network and the means or manner by which it may be accessed by the transportation network company's drivers and riders. This paragraph is not intended to and shall not be construed as requiring the disclosure of information proprietary to the transportation network company.

i. The name, address, telephone number and e-mail address of the person through whom the department may coordinate examination of the transportation network company's records as required by Iowa Code section 321N.2(5).

540.4(2) Application fee. An application for a transportation network company permit shall be accompanied by the fee required by Iowa Code section 321N.2. The fee shall be made payable to the Iowa Department of Transportation by cash, check, money order, or other means acceptable to, and offered by, the department.

540.4(3) Supporting documents. An application for a transportation network company permit shall be accompanied by the following:

a. Proof of compliance with the financial responsibility requirements of Iowa Code section 321N.4. Proof of compliance shall be submitted by providing a valid certificate of coverage from an insurer governed by Iowa Code chapter 515 or 518, or by a surplus lines insurer governed by Iowa Code chapter 515I. The certificate of coverage shall demonstrate coverage in the amounts and circumstances required by Iowa Code section 321N.4, and shall certify that if insurance maintained by a transportation network company driver under Iowa Code chapter 321N lapses or does not provide coverage in the amounts or types required by Iowa Code section 321N.4, subsection 2 or 3, the insurance certified in the certificate of coverage shall provide coverage in the amounts and types required by Iowa Code section 321N.4, subsection 2 or 3, beginning with the first dollar of the claim, and the insurer providing such coverage shall defend the claim. The certificate of coverage shall also certify that the coverage therein is not dependent on the insurer of a transportation network company driver's personal vehicle first denying a claim, and does not require the insurer of a personal automobile insurance policy to first deny a claim to trigger coverage and defense under the coverage certified.

b. Proof that the transportation network company has established a zero tolerance policy for the use of drugs and alcohol as provided in Iowa Code section 321N.3(5). The transportation network company shall provide a written copy of the applicable policy and an explanation of the manner or means by which the policy is made known to transportation network company drivers and the manner or means by which the policy is enforced.

c. Proof that the transportation network company has adopted and is enforcing nondiscrimination and accessibility policies. As used herein, "nondiscrimination policy" means a policy that prohibits discrimination against transportation network company riders on the basis of race, age, disability, religion, color, sex, or national origin. "Accessibility policy" means a policy that prohibits discrimination against and assures equal opportunity and access to transportation network company riders who are persons with disabilities under the Americans with Disabilities Act of 1990 (ADA) as amended by the ADA Amendments Act of 2008 (P.L. 110-325) codified at 42 U.S.C. 12101 et. seq. The transportation network company shall provide a written copy of the applicable policy and an explanation of the manner or means by which the policy is made known to transportation network company drivers and the manner or means by which the policy is enforced.

d. Proof that the transportation network company has established record retention guidelines that comply with the requirements of Iowa Code section 321N.2(2). The transportation network company shall provide a written copy of the applicable policy and an explanation of the manner or means by which the policy is made known to the designated records retention officer or responsible staff and the manner or means by which the policy is enforced.

e. Proof that the transportation network company has established a means for informing persons seeking approval to serve as transportation network company drivers of their notification obligations

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under Iowa Code section 321N.3(2). The transportation network company shall provide a copy of the disclosure form used by the transportation network company to inform such persons of the notification obligations under Iowa Code section 321N.3(2) and an explanation of the manner or means by which the disclosure form is made known to and signed by such persons.

f. Proof that the transportation network company has established a means for making the automobile insurance disclosures required by Iowa Code section 321N.5 to persons serving as transportation network company drivers. The transportation network company shall provide a copy of the written disclosure used by the transportation network company and an explanation of the manner or means by which the written disclosure is made known to transportation network company drivers.

g. Proof that the transportation network company has established a means for making the driver and vehicle disclosures required by Iowa Code section 321N.7 to transportation network company riders. The transportation network company shall provide an explanation of the manner or means by which the disclosure is made known to transportation network company riders.

h. Proof that the transportation network company has established a means for transmitting an electronic receipt to transportation network company riders as required by Iowa Code section 321N.8. The transportation network company shall include a sample, representative receipt and an explanation of the manner or means by which the receipt is delivered and the time frame within which the receipt is delivered.

i. If incorporated or organized, a copy of the transportation network company's certificate of good standing from the transportation network company's state of incorporation or organization.

j. Other such documents as requested by the department.

761—540.5(321N) Issuance of permit. A transportation network company shall not operate or conduct business in the state of Iowa without a valid permit issued under this chapter. Upon submission of a completed application package as set forth in rule 761—540.4(321N), the department shall process the package and shall inform the transportation network company of the package's status no later than 30 days after the department receives the package. Application package statuses for the purpose of this rule are as follows: "in process," "granted," and "denied." If the department informs a transportation network company that the application is "in process," then the department shall also inform the transportation network company of the reason for the status. If the department determines that the transportation network company is in compliance with the provisions of Iowa Code chapter 321N and this chapter, the department shall issue a permit to the transportation network company. A permit, when issued, shall be valid for one year. The department may deny issuance of the permit if the department determines, and evidence demonstrates, that the transportation network company is not in compliance or is not able to comply with the provisions of Iowa Code chapter 321N or this chapter.

761—540.6(321N) Amendment to transportation network company permit. If during the period the permit is valid any information required and presented in the application under paragraph 540.4(1) "a," "b," "c," "f," "g" or "i" changes, the transportation network company shall notify the office of vehicle and motor carrier services of the change in writing, within 30 days after the change. Notification shall include the permit number and a recitation of the information that has changed and that should be updated in the department's records. Submission of amended information is not a request for a new permit or for permit approval and shall not extend the period the permit is valid. Upon determination that the information submitted is complete and correct, the department shall update its records and issue an amended permit, if the department determines it is necessary.

761—540.7(321N) Suspension. If the department determines that the transportation network company has violated Iowa Code chapter 321N or this chapter and the violation is more than an isolated event and remains uncorrected, the department shall issue to the transportation network company a written notice of the violation. The written notice shall specify the violation and shall advise the transportation network company that failure to remedy the violation and to comply with the applicable requirements within 30 days shall result in the issuance of a written notice of suspension of the permit and the

TRANSPORTATION DEPARTMENT[761](cont'd)

privilege to operate or conduct business as a transportation network company in the state of Iowa. If the transportation network company fails to remedy the violation within 30 days, the department shall issue to the transportation network company a written notice of suspension of the permit and the privilege to operate or conduct business as a transportation network company in the state of Iowa, which shall be effective 30 days after service of the written notice of suspension. Once effective, the suspension shall remain in effect until the transportation network company demonstrates to the department that it is in compliance with the applicable requirements or the permit is revoked or expires, whichever occurs first.

761—540.8(321N) Revocation. If the department determines that the transportation network company is in continued noncompliance with Iowa Code chapter 321N or this chapter, the department shall revoke the transportation network company's permit and the privilege to operate or conduct business as a transportation network company in the state of Iowa. Notice of revocation shall be in writing, shall specify the continued noncompliance, and shall be effective 30 days after service of the written notice of revocation. The period of revocation shall be for at least 90 days, and shall continue thereafter until the following criteria are satisfied: (1) The transportation network company submits a new application, application fee, and supporting documents under rule 761—540.4(321N), and (2) the department determines a new permit should be issued, pursuant to rule 761—540.5(321N). As used in this rule, "continued noncompliance" means a violation of Iowa Code chapter 321N or this chapter for which a notice of suspension has become effective and has remained in effect for a period of at least 180 days.

761—540.9(321N) Appeal.

540.9(1) A transportation network company whose permit has been suspended, revoked, or denied may request an informal settlement or a contested case proceeding as provided in 761—Chapter 13 to contest said action.

540.9(2) The request shall be submitted in writing, to the director of the office of vehicle and motor carrier services, at the address indicated in subrule 540.3(1), and may be submitted electronically by facsimile, e-mail or other means prescribed by the department. To be timely, the request must be submitted within 20 days of service of the notice of suspension, revocation, or denial. Failure to contest denial of a permit application does not preclude the transportation network company from submitting a new application for a permit at any time after the denial.

540.9(3) When the department receives a properly submitted, timely request for an informal settlement or contested case proceeding or an appeal of a presiding officer's proposed decision regarding a suspension or revocation, the department shall stay the suspension or revocation pending resolution of the informal resolution, contested case, or appeal.

761—540.10(321N) Renewal.

540.10(1) A transportation network company that has been issued and holds a valid permit may renew the permit by submitting, at minimum, the following: (1) the application, (2) the application fee and (3) the supporting documents as set forth in rule 761—540.4(321N). The application for renewal must be submitted no more than 60 days before the expiration date of the existing permit and no fewer than 30 days before the expiration date of the existing permit.

540.10(2) Pursuant to Iowa Code section 17A.18(2), when a transportation network company has made a timely and sufficient application for the renewal of a valid permit, the existing permit does not expire until the application has been finally determined by the department, and, in case the application is denied or the terms of the new permit are limited, until the last day for seeking judicial review of the department's order or a later date fixed by order of the department or the reviewing court.

540.10(3) If the application for renewal is submitted fewer than 30 days before the expiration date of the existing permit, then the application shall be considered a new application and Iowa Code section 17A.18(2) shall not apply. If a transportation network company does not file a renewal application pursuant to this rule, then the original application shall expire on the expiration date set forth on the original permit.

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540.10(4) If a transportation network company initiates an appeal, informal settlement, or contested case proceeding pursuant to rule 761—540.9(321N) and the original application expires pursuant to the expiration date of the application, then the transportation network company shall be required to submit a renewal application pursuant to subrule 540.10(1) if the transportation network company intends to hold a valid permit under this chapter once the appeal, informal settlement, or contested case proceeding has been finally determined.

These rules are intended to implement Iowa Code chapter 321N.

TREASURER OF STATE

Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions JoAnn Johnson, Superintendent of Banking Ronald L. Hansen, and Auditor of State Mary Mosiman have established today the following rates of interest for public obligations and special assessments. The usury rate for January is 4.25%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

74A.2 Unpaid Warrants	Maximum 6.0%
74A.4 Special Assessments	Maximum 9.0%

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Financial Institutions as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective January 11, 2017, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	Minimum .05%
32-89 days	Minimum .05%
90-179 days	Minimum .05%
180-364 days	Minimum .05%
One year to 397 days	Minimum .05%
More than 397 days	Minimum .35%

These are minimum rates only. All time deposits are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

ARC 2910C

UTILITIES DIVISION[199]

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 Iowa Code chapter 476 and section 17A.4, the Utilities Board (Board) gives notice that on December 28, 2016, the Board issued an order in Docket No. RMU-2016-0019, In re: Review of Energy Efficiency Planning and Reporting for Non-Rate-Regulated Gas and Electric Utilities Rules 199 IAC Chapter 36, “Order Commencing Rule Making,” proposing to amend the Board’s energy efficiency planning rules in Chapter 36. Chapter 36 regulates energy efficiency planning of non-rate-regulated electric and natural gas utilities.

The Board is undertaking a comprehensive review of its rules and as part of that review is attempting to make the rules more readable, streamline reporting requirements in the rules, ensure the rules are current, and transition away from providing forms within the rules. The intent of these changes is to promote ease of access for those interacting with the Board.

The order approving this Notice of Intended Action can be found on the Board’s Electronic Filing System (EFS) Web site, <http://efs.iowa.gov>, in Docket No. RMU-2016-0019.

Pursuant to Iowa Code sections 17A.4(1)“a” and “b,” any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before February 7, 2017. The statement should be filed electronically through the Board’s EFS. Instructions for making an electronic filing can be found on the EFS Web site at <http://efs.iowa.gov>. Filings shall comply with the format requirements in 199 IAC 2.2(2) and clearly state the author’s name and address and make specific reference to Docket No. RMU-2016-0019. Paper comments may only be filed with approval of the Board.

No oral presentation is scheduled at this time. Pursuant to Iowa Code section 17A.4(1)“b,” an oral presentation may be requested or the Board on its own motion after reviewing the comments may determine an oral presentation should be scheduled. Requests for an oral presentation should be filed by February 7, 2017.

After analysis and review of this rule making, the Board tentatively concludes that the proposed amendments, if adopted, will have a beneficial effect by promoting ease of access for those interacting with the Board. No negative impact on jobs has been found.

The amendments are intended to implement Iowa Code chapter 476 and section 17A.4.

The following amendments are proposed.

ITEM 1. Amend rule 199—36.1(476) as follows:

199—36.1(476) ~~Non-rate-regulated utilities~~ Utilities not required to be rate-regulated. Each ~~non-rate-regulated~~ natural gas and electric utility ~~not required to be rate-regulated~~ shall file energy efficiency plans and reports as provided in this chapter.

ITEM 2. Amend rule 199—36.2(476) as follows:

199—36.2(476) Definitions. The following words and terms, when used in this chapter, shall have the following meanings:

“*Annual*” means during each calendar year.

“*Demand savings*” means the change in the rate of energy usage measured over a period, which period shall be specified.

UTILITIES DIVISION[199](cont'd)

~~“Dollar savings” means the reduction in the dollars spent on natural gas or electricity service by customers and by the utility system as the result of the energy efficiency programs.~~

~~“Energy efficiency programs” means shall include efficiency improvements to a utility infrastructure and system and activities conducted by a utility intended to enable or encourage customers to increase the amount of heat, light, cooling, motive power, or other forms of work performed per unit of energy used. “Energy efficiency programs” also means activities which lessen the amount of heating, cooling, or other forms of work which must be performed, or activities which decrease the cost of providing energy. Examples include, including but are not limited to: energy studies or audits, general information, financial assistance, direct rebates to customers or vendors of energy-efficient products, research projects, direct installation by the utility of energy-efficient equipment, direct or indirect load control, and time-of-use rates, tree planting programs, educational programs, and hot water insulation distribution programs. In the case of a municipal utility, other utilities and departments of the municipal utility shall be considered customers to the same extent that such utilities and departments would be considered customers if served by an electric or natural gas utility that is not a municipal utility.~~

~~“Energy savings” means the amount of energy not used because of an energy efficiency program, measured in kilowatt-hours (kWh) of electricity, thousands of cubic feet (Mcf) of natural gas, or dekatherms (dth) of natural gas.~~

~~“Filing year” means the calendar year during which an energy efficiency plan or report is filed.~~

~~“Peak demand savings” means the change in the rate of energy use at the time of the utility’s highest annual use, measured in kilowatts (kW), thousands of cubic feet per day (Mcf/day) of natural gas, or dekatherms per day (dth/day) of natural gas.~~

~~“Year” means calendar year.~~

ITEM 3. Amend rule 199—36.3(476) as follows:

~~**199—36.3(476) Schedule of filings.** On or before July 1, 1992, each non-rate-regulated utility shall file its initial biennial energy efficiency plan with the board for the period January 1, 1992, through December 31, 1993. Each non-rate-regulated utility not required to be rate-regulated shall offer energy efficiency programs to its customers through an energy efficiency plan; assess the potential energy and capacity savings available through cost-effective energy efficiency measures and programs; determine the utility’s cost-effective energy efficiency goal; and submit to the board a report that includes the utility’s cost-effective energy efficiency goal and, for each measure utilized in meeting the goal, the measure’s description and projected cost and the analysis of cost-effectiveness. Each utility not required to be rate-regulated shall file subsequent a biennial energy efficiency plans plan and report on or before July 1, 1994, and succeeding January 1 of each even-numbered years year.~~

ITEM 4. Amend rule 199—36.4(476) as follows:

~~**199—36.4(476) Joint filing of plans or reports.** A utility may file its plan or report jointly with other non-rate-regulated utilities not required to be rate-regulated or their agents. A joint plan or report shall contain the information required by rules 199—36.5(476) and 199—36.6(476) for each utility participating in the joint plan or report, whether jointly filed or individually filed. This information for each utility shall be separately identified; if a plan is filed jointly for several utilities by person(s) a person acting as an agent for the utilities. Those person(s) That person shall state to the board their the person’s authority to act on behalf of the utilities. The description of a utility’s programs as required in paragraph “a” of subrules 36.5(1) and 36.5(2) 36.5(2) “a” may be provided by reference to an attached document or a section of a joint plan or report.~~

ITEM 5. Amend rule 199—36.5(476) as follows:

~~**199—36.5(476) Energy efficiency plan and report requirements.** Each utility’s energy efficiency plan utility shall include the following provide:~~

~~**36.5(1)** A report on the results of all energy efficiency programs the utility has implemented and completed during each of the two calendar years immediately preceding the filing year. Summary~~

UTILITIES DIVISION[199](cont'd)

~~information for energy efficiency programs implemented in earlier years and completed prior to the filing year may also be included in the original plan which identifies the utility's progress in meeting the energy efficiency goal. For each program implemented during the past two calendar years and completed during each of the two calendar years for which reports are due, the following information shall be provided:~~

- ~~a.~~ A description of the program, including the purpose or goal of the program, and the energy-using facilities, equipment, or customer behavior that the program was designed to change;
- ~~b.~~ a. Annual energy and peak demand savings, annual dollar savings, and, if available, nonpeak demand savings from the program for each year;
- ~~c.~~ b. A description of the method(s) for determining the annual energy savings, and peak demand savings, nonpeak demand savings, and annual dollar savings, whether engineering estimates, surveys, metering, or other methods;
- ~~d.~~ c. Annual number of program participants for each year;
- ~~e.~~ d. Annual ~~and total~~ costs of the program for each year;
- ~~f.~~ e. Date the program was initiated, date the program was terminated, and the reason for termination; and
- ~~g.~~ f. Other relevant information.

36.5(2) ~~A report on the results and projected results of all energy efficiency programs the utility is continuing or commencing in the filing year or the year following. For those programs continuing, the report shall describe the program results from the two calendar years immediately preceding the filing year and projected results for the filing year and the year following. Summary information for energy efficiency programs implemented in earlier years but still underway may also be included in the original plan. For those programs commencing in the filing year or the year following, the report shall describe projected implementation and results of programs for each of the two years, as well as an optional description of program results beyond the two years. Updates or amendments to the utility's energy efficiency plan including the goals and the projected results of all energy efficiency programs the utility plans to implement during a period that shall include, but may extend beyond, the two calendar years for which reports are due. For each program under this subrule, the following information shall be provided:~~

- ~~a.~~ a. For programs commencing during the current report period, a description of the program, including the purpose or goal of the program and the energy-using facilities, equipment, or customer behavior that the program is designed to change;
- ~~b.~~ b. Annual energy and peak demand savings, annual dollar savings, and, if available, nonpeak demand savings from the program;
- ~~c.~~ b. Projected annual energy and peak demand savings, annual dollar savings, and, if available, nonpeak demand savings from the program for each year;
- ~~d.~~ d. A description of the method(s) for determining the annual energy savings, peak demand savings, nonpeak demand savings, and annual dollar savings, whether engineering estimates, surveys, metering, or other methods;
- ~~e.~~ c. A description of the method(s) for projecting the annual energy savings, and peak demand savings, nonpeak demand savings, annual dollar savings, whether engineering estimates, surveys, metering, or other methods;
- ~~f.~~ d. Annual number of program participants and annual estimated Projected number of program participants for each year;
- ~~g.~~ e. Annual and total costs of the program;
- ~~h.~~ e. Estimated annual ~~and total~~ cost of program for each year; and
- ~~i.~~ f. Date the program was initiated and planned termination dates; and
- ~~j.~~ f. Other relevant information.

ITEM 6. Amend rule 199—36.7(476) as follows:

199—36.7(476) New Structure energy conservation standards. A utility providing natural gas or electric service shall not provide such service to any structure completed after April 1, 1984, unless

UTILITIES DIVISION[199](cont'd)

the owner or builder of the structure has certified to the utility that the building conforms to the energy conservation requirements adopted under ~~661—16.801(103A)~~ and ~~661—16.802(103A)~~ 661—Chapter 303. If this compliance is already being certified to a state or local agency, a copy of that certification shall be provided to the utility. If no state or local agency is monitoring compliance with these energy conservation standards, the owner or builder shall certify that the structure complies with the standards by signing a form provided by the utility. No certification will be required for structures that are not heated or cooled by electric service; or are not intended primarily for human occupancy.

ARC 2911C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code section 455B.173(2), the Environmental Protection Commission (Commission) hereby amends Chapter 61, “Water Quality Standards,” Iowa Administrative Code.

The purpose of these amendments is to create additional flexibility for wastewater dischargers by adding the option to use the Biotic Ligand Model (BLM) to determine water quality criteria for copper. The amendments will also add the option to use the Water-Effect Ratio (WER) to adjust the existing water quality criteria for copper.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2757C** on October 12, 2016. Public hearings were held on November 1, November 2, and November 3, 2016. Public comments were received and considered. A responsiveness summary has been prepared and is available at: <http://www.iowadnr.gov/Environmental-Protection/Water-Quality/Water-Quality-Standards>.

In response to public comments, clarifying revisions were made to the Implementation Procedure for Biotic Ligand Model-Based Copper Criteria, and are listed in the responsiveness summary. Those clarifications do not alter the substantive impact of these amendments.

The Commission adopted these amendments on December 20, 2016.

After analysis and review of this rule making, these amendments are expected to have a positive impact on jobs. The amendments are projected to result in a total cost savings ranging between \$113 million and \$215 million for cities, industries, and semipublic entities. This total savings is expected to be achieved by 7 to 10 facilities across the state that may be able to provide full protection of water quality without the need to install copper removal technology by using the copper BLM or WER. These cost savings could lead to further investment in production and job growth.

These amendments are intended to implement Iowa Code section 455B.173(2).

These amendments will become effective February 22, 2017.

The following amendments are adopted.

ITEM 1. Amend subrule **61.3(3)**, TABLE 1, Criteria for Chemical Constituents, parameter for copper, as follows:

Copper	Chronic ⁽ⁿ⁾	20	—	16.9 ⁽ⁱ⁾	16.9 ⁽ⁱ⁾	16.9 ⁽ⁱ⁾	10	—	—
	Acute ⁽ⁿ⁾	30	—	26.9 ⁽ⁱ⁾	26.9 ⁽ⁱ⁾	26.9 ⁽ⁱ⁾	20	—	—
	Human Health + — Fish	—	—	—	—	—	—	—	1000 ^(e)
	Human Health + — F & W	—	—	—	—	—	—	—	1300 ^(f)

ITEM 2. Adopt the following **new** footnote (n) in subrule **61.3(3)**, TABLE 1, Criteria for Chemical Constituents:

- (n) The copper criteria in Table 1 can be adjusted by a Water-Effect Ratio (WER). The WER factor is equal to 1.0 unless an approved WER study has been conducted by a permittee for a specific point source. The WER study shall be conducted in accordance with the “Interim Guidance on Determination and Use of Water-Effect Ratios for Metals (EPA-823-B-94-001), February 22, 1994,” or upon approval by the department, the “Streamlined Water-Effect Ratio Procedure for Discharges of Copper (EPA-822-R-01-005), March 2001,” which are hereby adopted by reference.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

The copper Biotic Ligand Model (BLM) may be used as an alternative to the copper criteria in Table 1. The copper BLM is found in the document "Aquatic Life Ambient Freshwater Quality Criteria - Copper 2007 Revision (EPA-822-R-07-001), February 2007," which is hereby adopted by reference.

ITEM 3. Reserve subrule **61.3(9)**.

ITEM 4. Adopt the following **new** subrule 61.3(10):

61.3(10) *Implementation procedure for biotic ligand model-based copper criteria.* The department hereby incorporates by reference "Implementation Procedure for Biotic Ligand Model-Based Copper Criteria," February 22, 2017. This document may be obtained on the department's Web site.

[Filed 12/22/16, effective 2/22/17]

[Published 1/18/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/18/17.

ARC 2912C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 234.6 and 2016 Iowa Acts, House File 2460, the Department of Human Services amends Chapter 86, "Healthy and Well Kids in Iowa (HAWK-I) Program," Iowa Administrative Code.

These amendments add occupational therapy as a covered service under the HAWK-I program. These amendments clarify additional covered services that are required under Iowa Code chapter 514I and also clarify federal poverty limits that were adjusted to be in compliance with the Affordable Care Act (ACA).

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2784C** on October 26, 2016. The Department received one comment from a respondent during the public comment period. The respondent requested that the occupational therapy benefit for HAWK-I patients outlined in the Iowa Administrative Code be for rehabilitation and habilitation services. This change would ensure that insurance payers administering the HAWK-I program will not exclude developmental and genetic conditions from being covered and also help to ensure that the insurance payers administering the HAWK-I program will not limit occupational therapy to a specific body part.

Department Response: The Department is unable to make the requested change because the law only mandates coverage for occupational therapy and does not specify what types of services are included.

These amendments are identical to those published under Notice of Intended Action.

These amendments were adopted by the HAWK-I Board on December 19, 2016.

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 chapter 514I as amended by 2016 Iowa Acts, House File 2460.

These amendments will become effective March 1, 2017.

The following amendments are adopted.

ITEM 1. Amend subrule 86.8(7) as follows:

86.8(7) *Copayment.* There shall be a \$25 copayment for each emergency room visit if the child's medical condition does not meet the definition of emergency medical condition.

EXCEPTION: A copayment shall not be imposed when family income is less than ~~450~~ 181 percent of the federal poverty level for a family of the same size or when the child is an eligible American Indian or Alaskan Native.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 2. Amend subrule 86.14(1) as follows:

86.14(1) Required medical services. The participating health plan shall cover at a minimum the following medically necessary services:

a. to n. No change.

o. Translation and interpreter services as specified pursuant to the federal Children's Health Insurance Program Reauthorization Act of 2009, Pub. L. No. 111-3.

p. Chiropractic services.

q. Occupational therapy.

ITEM 3. Amend subrule 86.20(3) as follows:

86.20(3) Premiums. Premiums for participation in the supplemental dental-only plan are assessed as follows:

a. No premium is charged to families who meet the provisions of subparagraph 86.8(2) "a"(1) or to families whose countable income is less than ~~152~~ 167 percent of the federal poverty level for a family of the same size using the modified adjusted gross income methodology.

b. If the family's countable income is equal to or exceeds ~~152~~ 167 percent of the federal poverty level but does not exceed 203 percent of the federal poverty level for a family of the same size, the premium is \$5 per child per month with a \$10 monthly maximum per family.

c. to f. No change.

[Filed 12/20/16, effective 3/1/17]

[Published 1/18/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/18/17.

ARC 2913C

IOWA PUBLIC INFORMATION BOARD[497]

Adopted and Filed

Pursuant to the authority of Iowa Code section 23.6, the Iowa Public Information Board hereby amends Chapter 2, "Complaint Investigation and Resolution Procedures," and adopts new Chapter 10, "Injunction Request Procedure," Iowa Administrative Code.

Iowa Code section 23.5(3) permits a person to remove from district court to the Board a proceeding concerning an injunction to prevent inspection of a public record. These amendments implement the procedure for the Board when the proceeding has been removed from district court to the Board.

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin on October 12, 2016, as **ARC 2759C**. The Board received no public comment on the proposed amendments. No changes were made to the amendments as published under Notice of Intended Action.

The amendments do not contain specific waiver provisions, but are subject to requests for waiver under 497—Chapter 9.

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

These amendments are intended to implement Iowa Code section 23.5(3).

These amendments will become effective February 22, 2017.

The following amendments are adopted.

ITEM 1. Amend subrule 2.1(1) as follows:

2.1(1) Form. A complaint shall be written and signed by the person filing the complaint on forms provided by the board or shall be submitted electronically via the board's Web site. The complaint shall allege a violation of Iowa Code chapter 21 or 22; provide specific facts in support of the allegation, including the identification of persons and government entity involved in the alleged violation; and provide the specific relief sought. A complaint involving an injunction under Iowa Code section 23.5(3) shall be filed and conducted in accordance with the provisions set out in 497—Chapter 10.

IOWA PUBLIC INFORMATION BOARD[497](cont'd)

ITEM 2. Adopt the following new 497—Chapter 10:

CHAPTER 10
INJUNCTION REQUEST PROCEDURE

497—10.1(23) Complaint. As provided in Iowa Code section 23.5(3), when a request for an injunction to enjoin the inspection of a public record has been filed in district court under Iowa Code section 22.8, the respondent or the person requesting access to the record may remove the proceeding from district court to the board by filing a complaint within 30 days of the commencement of the judicial proceeding. The complaint shall detail the parties involved, the records sought, and the district court in which the matter was originally filed. A copy of the original court filing seeking an injunction shall be filed with the complaint. A complaint filed under this chapter is not a “complaint” triggering the procedures under 497—Chapter 2.

497—10.2(23) Notice to court. Upon receipt of a complaint under this chapter, the board’s staff shall file notice with the appropriate district court that the complaint has been filed with the board.

497—10.3(23) Staff review. If the court issues an order removing jurisdiction of the matter to the board, the board’s staff shall conduct an initial review of the complaint and may request that the parties provide further information or documents.

497—10.4(23) Hearing. A hearing on the request for the injunction shall be heard before the board. The board may require briefs or the filing of other documents. The board shall work with the parties in establishing guidelines for the time of the hearing, the length of arguments, and any other procedural matters. A hearing under this rule is not a contested case under 497—Chapter 4.

497—10.5(23) Board determinations. The board shall make the following determinations after hearing:

1. Whether the requested records are public records or confidential public records.
2. If the records are public records, whether an injunction should be issued enjoining the inspection of the records under the criteria set out in Iowa Code sections 22.8(1) and 22.8(3).

497—10.6(23) Judicial review. The board’s determinations under rule 497—10.5(23) are deemed final agency action for purposes of seeking judicial review under Iowa Code chapter 17A.

These rules are intended to implement Iowa Code section 23.5(3).

[Filed 12/28/16, effective 2/22/17]

[Published 1/18/17]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 1/18/17.

ARC 2914C

IOWA PUBLIC INFORMATION BOARD[497]

Adopted and Filed

Pursuant to the authority of Iowa Code section 23.6, the Iowa Public Information Board hereby amends Chapter 2, “Complaint Investigation and Resolution Procedures,” Iowa Administrative Code.

The amendments assist the Board in resolving complaints in an informal and expeditious manner by providing that at any point in the complaint process, the Board may order administrative resolution and direct a person to take a specified remedial action. Administrative resolution is not considered discipline and does not require the finding of a violation of law.

The amendments do not contain specific waiver provisions, but are subject to immediate judicial review as stated in the proposed amendments.

IOWA PUBLIC INFORMATION BOARD[497](cont'd)

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin on October 12, 2016, as **ARC 2758C**. The Board received no public comment on the proposed amendments. No changes were made to the amendments as published under Notice of Intended Action.

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

These amendments are intended to implement Iowa Code chapter 23.

These amendments will become effective February 22, 2017.

The following amendments are adopted.

ITEM 1. Adopt the following **new** subrule 2.1(6):

2.1(6) Administrative resolution. To assist with resolving complaints in an informal and expeditious manner, the board may, at any time during the complaint process, order administrative resolution of a matter by directing that a person take specified remedial action. A board order directing remedial action shall constitute final agency action for purposes of judicial review under Iowa Code chapter 17A.

ITEM 2. Amend subrule 2.2(4) as follows:

2.2(4) Board action. Upon receipt and review of the staff investigative report and any recommendations, the board may:

a. and *b.* No change.

c. Make a determination that probable cause exists to believe a violation has occurred, but, as an exercise of administrative discretion, dismiss the matter; ~~or~~

d. Make a determination that probable cause exists to believe a violation has occurred, designate a prosecutor and direct the issuance of a statement of charges to initiate a contested case proceeding; ~~or~~

e. Direct administrative resolution of the matter under subrule 2.1(6) without making a determination as to whether a violation occurred.

[Filed 12/28/16, effective 2/22/17]

[Published 1/18/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/18/17.

ARC 2916C

PUBLIC EMPLOYMENT RELATIONS BOARD[621]

Adopted and Filed

Pursuant to the authority of Iowa Code section 20.6(5), the Public Employment Relations Board hereby amends Chapter 8, "Internal Conduct of Employee Organizations," Chapter 9, "Administrative Remedies," and Chapter 11, "State Employee Appeals of Grievance Decisions and Disciplinary Actions," Iowa Administrative Code.

The amendments proposed herein are a result of the five-year rolling review of administrative rules as outlined in Iowa Code section 17A.7(2). The agency rules administrator, with the assistance of the agency's other administrative law judges, reviewed the agency's chapters to identify outdated or redundant references, inconsistencies with statutes, and methods of enhancing efficiencies. The proposed amendments were then published on the agency's Web site with an opportunity for all constituents to provide feedback. The proposed amendments were also shared with others who may be impacted, such as the Department of Administrative Services (DAS).

Items 1 through 7 address Chapter 8, and although presented as new rules, the revisions to Chapter 8 include the division of existing rules into separate rules, the renumbering of rules, and other nonsubstantive changes to succinctly specify the documents involved, the electronic filing process, and the bonding required of employee organizations. Additionally, new rule 621—8.6(20) in Item 6 reflects provisions of Iowa Code section 20.25 that require the Board's permission to establish a trusteeship. New rule 621—8.7(20) in Item 7 implements provisions of Iowa Code section 20.25(6) and reflects current revocation and noncertification practices for employee organizations that fail to comply with the statute.

PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

Items 8 through 15 address Chapter 9 and include the addition of references to Iowa Code chapter 17A as a chapter being implemented. The items include the renumbering of present rules and other nonsubstantive amendments which incorporate electronic filing and, consistent with Iowa Code chapter 17A, more clearly specify when an agency decision becomes a final decision, the uniform timeline for an appeal or petition for the Board's review, the Board's ability to review and timeline for review of a proposed decision on its own motion, and the Board's procedure on appeal or review. Other amendments reflect the status of amicus curiae, resolve a conflict between the statute and the existing rule by eliminating a party's ability to present additional evidence before the Board on appeal or review, and include the Board's standard of review for modifying or reversing findings of fact or conclusions of law. The new rules presented in Items 13 and 14 reflect provisions of Iowa Code chapter 17A that allow a party to file an application for rehearing and an application for stay of agency action.

Items 16 through 26 address Chapter 11 and recognize the renumbering of Iowa Code chapter 19A as chapter 8A. The items include the renumbering of present rules and other nonsubstantive amendments which incorporate electronic filing, more clearly specify notice of appeal rights to employees, delete the requirement that parties provide unnecessary information or documents required for appeals, and clarify when a decision becomes final agency action. Other amendments in Item 17 resolve a conflict between the statute and the existing rule that allows a failure of the DAS Director to comply with Iowa Code section 8A.415 to work to the employee's disadvantage. The amendments resolve the conflict by providing the employee the option of filing a PERB appeal if the DAS Director has not responded in a timely fashion or of waiting for the Director's untimely response and filing an appeal within the following 30 days. Item 21 rescinds the present rule requiring agencies to make their employees available as witnesses on official duty status, which is not required by statute, and the renumbered rule adopted in its place clarifies the appealing employee's right to a closed hearing and deletes the employee's unilateral option of having a determination made on the pleadings and documents without a hearing. Item 25 rescinds an outdated rule.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2817C** on November 23, 2016. Written and oral comments and requests for a public hearing were accepted through December 13, 2016. No request for a public hearing was received, and no written or oral questions, comments or suggestions were submitted. These amendments are identical to those published under Notice of Intended Action.

These rules do not provide for a waiver of their terms, but are instead subject of the Board's general waiver provisions found at rule 621—1.9(17A,20).

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

These amendments are intended to implement Iowa Code chapters 8A, 17A and 20.

These amendments will become effective February 22, 2017.

The following amendments are adopted.

ITEM 1. Amend rule 621—8.1(20) as follows:

621—8.1(20) Registration report Requirements. Before the agency certifies an employee organization as the exclusive representative of a bargaining unit, the employee organization shall electronically file a registration report, constitution and bylaws, and an annual report. Once certified, the certified employee organization shall thereafter file an annual report as required by rule 621—8.4(20) and a registration report and constitution and bylaws whenever its constitution or bylaws are amended as required by rules 621—8.2(20) and 621—8.3(20).

~~**8.1(1) When filed.** Before an employee organization may be certified as the exclusive representative of a bargaining unit, the employee organization shall have filed a registration report with the board.~~

~~**8.1(2) Form and content.** The registration report shall be in a form prescribed by the board. The registration report shall be accompanied by two copies of the employee organization's constitution and bylaws. A filing by a national or international of its constitution and bylaws shall be accepted in lieu of a filing of such documents by each subordinate organization, provided that such national or international constitution and bylaws conform to the requirements of the Act.~~

PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

ITEM 2. Rescind rule 621—8.2(20) and adopt the following **new** rule in lieu thereof:

621—8.2(20) Registration report.

8.2(1) Time of filing. An employee organization shall file a complete registration report:

a. Before the employee organization may be certified as the exclusive representative of a bargaining unit; and

b. Once the employee organization is certified, whenever changes or amendments are made to its constitution or bylaws; or

c. When the certified employee organization files a petition to amend its certification.

8.2(2) Form and content. The registration report shall be on the form prescribed by the agency.

8.2(3) Method of filing. The registration report shall be electronically filed pursuant to 621—Chapter 16.

ITEM 3. Rescind rule 621—8.3(20) and adopt the following **new** rule in lieu thereof:

621—8.3(20) Constitution and bylaws.

8.3(1) Time of filing. An employee organization shall file its constitution and bylaws:

a. Before the employee organization may be certified as the exclusive representative of a bargaining unit; and

b. Once the employee organization is certified, whenever changes or amendments are made to its constitution or bylaws; or

c. When the certified employee organization files a petition to amend its certification.

8.3(2) Form and content.

a. The constitution or bylaws of every employee organization shall provide that:

(1) Accurate accounts of all income and expenses shall be kept, and an annual financial report and an audit shall be prepared, such accounts shall be open for inspection by any member of the organization, and loans to officers and agents shall be made only on terms and conditions available to all members.

(2) Business or financial interests of its officers and agents, their spouses, minor children, parents or otherwise, that conflict with the fiduciary obligation of such persons to the organization shall be prohibited.

(3) Every official or employee of an employee organization who handles funds or other property of the organization, or trust in which an organization is interested, or a subsidiary organization, shall be bonded in an amount and form determined by the agency.

(4) Periodic elections by secret ballot shall be conducted subject to recognized safeguards concerning the equal rights of all members to nominate, seek office, and vote in such elections; that individual members have the right to participate in the affairs of the organization; and that there are fair and equitable procedures in disciplinary actions.

b. The employee organization's national or international constitution and bylaws shall be accepted in lieu of the employee organization's constitution and bylaws provided that such national or international constitution and bylaws conform to the requirements of Iowa Code section 20.25.

8.3(3) Method of filing. The constitution and bylaws shall be electronically filed pursuant to 621—Chapter 16.

ITEM 4. Rescind rule 621—8.4(20) and adopt the following **new** rule in lieu thereof:

621—8.4(20) Annual report.

8.4(1) Time of filing. An employee organization shall file a complete annual report:

a. Before the employee organization may be certified as the exclusive representative of a bargaining unit in which case the report may be filed concurrently with an election petition; and

b. Once the employee organization is certified, within 90 days following the certified employee organization's fiscal year end; and

c. When the certified employee organization files a petition to amend its certification.

8.4(2) Form and content. The annual report shall be on the form prescribed by the board and shall contain:

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- a. The names, addresses, e-mail addresses, and telephone numbers of the organization, any parent organization or organizations with which it is affiliated, the principal officers and all representatives.
- b. The name, address, e-mail address, and telephone number of its local agent for service of process.
- c. A general description of the public employees the organization represents or seeks to represent.
- d. The amounts of the initiation fee and monthly dues members must pay.
- e. A pledge, in a form prescribed by the board, that the organization will comply with the laws of the state and that it will accept members without regard to age, race, sex, religion, national origin or physical disability, as provided by law.
- f. A financial report and audit.
 - (1) The financial report shall contain, at a minimum, the following information: the cash balance from the previous year; a listing of sources and amounts of income; an identified listing of disbursements; and a closing balance. For the first annual report filed by an employee organization, the financial report shall reflect the last completed fiscal year of the organization or, in the case of a new organization, the last completed quarter or quarters of the current fiscal year. For annual reports filed mid-fiscal year with petitions for amendment of certification, the financial report shall reflect the last completed quarter or quarters of the current fiscal year.
 - (2) The audit shall consist of a statement that the financial report has been reviewed and found to be true and accurate. The audit must be signed by an auditing committee or a person or persons who hold no office in the employee organization and who did not prepare the financial report.
- g. The name(s) of the person(s) required to be bonded pursuant to rule 621—8.5(20), the amount of the bond, and the name of the corporate surety company that issued the bond(s).

8.4(3) Method of filing. The annual report shall be electronically filed pursuant to 621—Chapter 16.

ITEM 5. Rescind rule 621—8.5(20) and adopt the following **new** rule in lieu thereof:

621—8.5(20) Bond required. Every person required by Iowa Code section 20.25(3) “c” to be bonded shall be bonded to provide protection against loss by reason of act of fraud or dishonesty on the part of such person, directly or through connivance with others.

8.5(1) Bond requirements. The bond of each such person shall be fixed at the beginning of the employee organization’s fiscal year and shall be in an amount of not less than 10 percent of the funds handled by such person or that person’s predecessor or predecessors, if any, during the preceding fiscal year, but in no case less than \$2,000 nor more than \$500,000. If the employee organization or the trust in which an employee organization is interested does not have a preceding fiscal year, the amount of the bond shall not be less than \$2,000. Such bonds shall have a corporate surety company as surety thereon.

8.5(2) Prohibitions. Any person who is not covered by such bonds shall not be permitted to receive, handle, disburse or otherwise exercise control of the funds or other property of an employee organization or of a trust in which an employee organization is interested. No such bond shall be placed through an agent or broker or with a surety company in which any employee organization or any officer, agent, shop steward or other representative of an employee organization has any direct or indirect interest.

ITEM 6. Rescind rule 621—8.6(20) and adopt the following **new** rule in lieu thereof:

621—8.6(20) Trusteeships.

8.6(1) Application and establishment. Prior to establishing a trusteeship, an organization shall file an application to establish or administer a trusteeship over a subordinate employee organization certified by the agency. The organization shall attach a copy of its constitution and bylaws to its application.

a. The board will review the organization’s constitution and bylaws and permit the establishment of a trusteeship if the trusteeship procedures are reasonable.

b. Trusteeships shall be established or administered by an organization over a subordinate employee organization only in accordance with the constitution or bylaws of the organization which has assumed trusteeship over the subordinate body and for the purpose of correcting corruption or financial malpractice, assuring the performance of collective bargaining agreements or other duties of

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a bargaining representative, restoring democratic procedures or otherwise carrying out the legitimate objectives of the employee organization.

8.6(2) Reports.

a. Every organization which assumes trusteeship over any subordinate employee organization shall file with the agency within 30 days after the imposition of any such trusteeship, and semiannually thereafter, a report, signed by its president and treasurer or corresponding principal officers, as well as by the designated trustees of such subordinate employee organization, containing the following information:

- (1) The name and address of the subordinate employee organization;
- (2) The date of the establishment of the trusteeship;
- (3) A detailed statement of the reason for the establishment or the continuation of the trusteeship;

and

(4) The nature and extent of participation by the membership of the subordinate employee organization in the selection of delegates to represent such employee organization in regular or special conventions or other policy-determining bodies and in the election of officers of the organization which has assumed trusteeship over the employee organization.

b. The initial report of the establishment of the trusteeship shall include a full and complete account of the financial condition of the subordinate employee organization as of the time trusteeship was assumed over it.

8.6(3) Continuing duty to report. During the continuance of a trusteeship, the organization which has assumed trusteeship over a subordinate employee organization shall file on behalf of the subordinate employee organization all reports required by this chapter. Such reports shall be signed by the president and treasurer or corresponding principal officers of the organization which has assumed such trusteeship and the designated trustees for the subordinate employee organization.

8.6(4) Method of filing. The application and any required reports shall be electronically filed pursuant to 621—Chapter 16.

ITEM 7. Adopt the following new rule 621—8.7(20):

621—8.7(20) Failure to comply with employee organization requirements. The agency shall not certify an employee organization or may revoke the existing certification(s) of an employee organization for failure to file a registration report, its constitution and bylaws, or an annual report or otherwise fail to comply with Iowa Code section 20.25.

8.7(1) Upon completion of a valid election. If an employee organization fails to file a registration report, constitution and bylaws, or annual report or otherwise comply with these rules or Iowa Code section 20.25 within 90 days following the completion of a valid election, the agency will not certify the employee organization and will serve notice of noncertification. The agency may grant extensions of time for good cause.

8.7(2) Failure to file reports once certified. If an employee organization fails to file a registration report, constitution and bylaws, or annual report or otherwise comply with these rules and Iowa Code section 20.25, the agency may revoke the certification of the employee organization. When the organization fails to comply following notice of its noncompliance, the agency will order the employee organization to show cause why its certification should not be revoked and set the matter for hearing.

8.7(3) Complaints by affected parties. A complaint that any employee organization has engaged in or is engaging in any practice which constitutes a violation of Iowa Code section 20.25 may be submitted in writing to the board by any affected person. Upon receipt of a complaint, the agency shall serve a copy upon the employee organization by certified mail, return receipt requested. The board shall conduct a preliminary investigation of the alleged violation. In conducting the investigation, the board may require the production of evidence, including affidavits and documents. If the investigation shows there is no reasonable cause to believe a violation has occurred, the complaint shall be dismissed and the parties notified. If the investigation shows reasonable cause to believe a violation has occurred, the board shall notify the parties. If the parties are unable to agree on an informal settlement after notification of reasonable cause, the board shall schedule the complaint for hearing.

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ITEM 8. Amend rule 621—9.1(20) as follows:

~~621—9.1(17A,20) Final decisions. When a quorum of the members of the board presides at the evidentiary hearing in a contested case proceeding, the decision entered thereon is the final decision of the agency. When the hearing is presided over by other than a quorum of the members of the board, the administrative law judge shall render a proposed decision, which shall become the final decision of the agency unless within 20 days of the filing of such proposed decision:~~

~~9.1(1) A party aggrieved by the proposed decision files an appeal to the board, or~~

~~9.1(2) The board, on its own motion, determines to review the proposed decision.~~

~~9.1(1) By board majority. When a majority of the board presides at the reception of the evidence in a contested case, the decision of the board is a final decision of the agency.~~

~~9.1(2) By presiding officer. When a majority of the board does not preside at the reception of the evidence in a contested case, the presiding officer shall make a proposed decision that becomes the final decision of the agency without further proceedings unless:~~

~~a. There is an appeal to the board or a petition for its review filed within 20 days of the filing of the proposed decision, or~~

~~b. The board, within 20 days of the filing of the proposed decision, determines to review the decision on its own motion.~~

ITEM 9. Amend rule 621—9.2(20) as follows:

~~621—9.2(17A,20) Appeals to board or petitions for the board's review.~~

~~9.2(1) Notice of appeal or petition for review. An appeal to the board from or a petition for review of a proposed decision of an administrative law judge in a contested case proceeding shall be commenced by the filing of a written notice of appeal or petition for review with the agency within 20 days of the filing of the proposed decision by filing a written notice of appeal with the agency in accordance with rule 621—16.4(20). The appealing party shall promptly serve all other parties with a copy of the notice and file proof thereof with the agency in accordance with rule 621—16.10(20).~~

~~9.2(2) Cross-appeals or cross-petitions for review. A cross-appeal or cross-petition for review may be taken in the same manner as an appeal or a petition for review and shall be filed within the 20 days for taking an appeal of the filing of the proposed decision or within 5 days after the initial appeal or petition for review is taken filed, whichever is later.~~

~~9.2(3) Hearing. On appeal the board shall utilize the record as submitted before the administrative law judge but may, upon application of a party, order that additional evidence be taken on appeal if it is shown that the additional evidence is material and that there were good reasons for the party's failure to present it before the administrative law judge. Any person, employee organization or public employer who has a significant interest in the outcome of the appeal may petition the board for intervention in the appeal proceedings. Where intervention is granted by the board, the intervening parties may submit briefs and arguments and participate in the same manner as an original party to the proceeding. The board shall set a time and place of hearing or argument and give notice thereof to the parties. The decision rendered by the board shall be a final decision of the agency.~~

~~9.2(3) Method of filing. All appeals and petitions for review shall be electronically filed pursuant to 621—Chapter 16.~~

ITEM 10. Adopt the following new rule 621—9.3(17A,20):

621—9.3(17A,20) Board's review on its own motion. The board may determine to review the proposed decision within 20 days of the filing of the proposed decision by filing an order for review.

ITEM 11. Adopt the following new rule 621—9.4(17A,20):

621—9.4(17A,20) Petition for amicus curiae status. Any person, employee organization or public employer who has a significant interest in an outcome of an appeal or review pursuant to either rule 621—9.2(17A,20) or 621—9.3(17A,20) may petition the board for amicus curiae status. Where the

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petition is granted by the board, the amicus curiae may submit briefs and arguments and participate in the same manner as an original party to the proceeding.

ITEM 12. Adopt the following new rule 621—9.5(17A,20):

621—9.5(17A,20) Board proceedings on appeal or review. On appeal from or review of a proposed decision, the board has all the power that it would have in initially making the final decision except as it may limit the issues after giving notice to the parties.

9.5(1) Procedure. The parties shall be given an opportunity to file briefs and, with the consent of the board, present oral arguments to the board members who are to render the final decision. If the board consents to the presentation of oral arguments, the board shall file an order setting a time and place.

9.5(2) Standard of review. The board may reverse or modify any finding of fact if a preponderance of the evidence will support a determination to reverse or modify such a finding, or may reverse or modify any conclusion of law that the board finds to be in error.

9.5(3) Final agency action. The decision rendered by the board on appeal or review shall be a final decision of the agency.

ITEM 13. Adopt the following new rule 621—9.6(17A,20):

621—9.6(17A,20) Rehearing.

9.6(1) Application. Any party may file an application for rehearing, stating the specific grounds for rehearing and the relief sought, within 20 days after the date of the issuance of any final decision by the agency in a contested case. An application for rehearing shall be deemed to have been denied unless the board grants the application within 20 days after its filing.

9.6(2) Method of filing. The application shall be electronically filed pursuant to 621—Chapter 16.

ITEM 14. Adopt the following new rule 621—9.7(17A,20):

621—9.7(17A,20) Stays of agency action.

9.7(1) Application. A party may file an application for a stay of agency action. The board may, in its discretion and on such terms as it deems proper, grant or deny the application.

9.7(2) Method of filing. The application shall be electronically filed pursuant to 621—Chapter 16.

ITEM 15. Amend **621—Chapter 9**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter~~ chapters 17A and 20.

ITEM 16. Amend rule 621—11.1(19A,20) as follows:

621—11.1(19A 8A,20) Notice of appeal rights. ~~Whenever~~ When the director of the Iowa department of ~~personnel~~ administrative services (hereinafter referred to as the director) issues a response to an employee ~~on a matter appealable to the public employment relations board (hereinafter referred to as the board)~~ pursuant to Iowa Code section 19A.14 as amended by 1988 Iowa Acts, House File 2399, section 1, in which the director 8A.415 and the response does not grant the relief sought by the employee, the ~~director shall also provide~~ response shall include notice to the affected employee of ~~appeal procedures and time limitations governing the appeal~~ that the employee may appeal the response by filing an appeal with the public employment relations board within 30 days of the date of the director's response.

ITEM 17. Amend rule 621—11.2(19A,20) as follows:

621—11.2(19A 8A,20) Filing of appeal.

~~11.2(1) Appeals shall be filed with the board on the State Employee Grievance and Disciplinary Action Appeal Form.~~

~~11.2(2)~~ **11.2(1) Grievances.** An employee, except an employee covered by a collective bargaining agreement ~~which~~ that provides otherwise, who has filed a grievance and is not satisfied with the director's response, ~~to the employee's grievance~~ may file an appeal with the board ~~if the grievance alleged either a violation of Iowa Code chapter 19A or the rules of the department of personnel agency.~~ Such appeal

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must be filed within 30 calendar days following the date the director's response was issued ~~or should have been issued~~. However, if no response was issued by the director within 30 calendar days following the filing of the third-step grievance with the director, the employee may consider the grievance denied and file an appeal with the agency or may await the director's response and, if not satisfied, file an appeal within 30 days following the date the response is issued.

~~11.2(3)~~ **11.2(2)** Disciplinary appeals. A nonprobationary merit system employee as described in Iowa Code section 8A.412, except an employee covered by a collective bargaining agreement, who is discharged, suspended, demoted, or otherwise ~~reduced~~ receives a reduction in pay, and who appeals the action to the director and is not satisfied with the director's response, may file an appeal with the ~~board~~ agency. Such appeal must be filed within 30 calendar days following the date the director's response was issued ~~or should have been issued~~. However, if no response was issued by the director within 30 calendar days following the filing of the third-step grievance with the director, the employee may consider the grievance denied and file an appeal with the agency or may await the director's response and, if not satisfied, file an appeal within 30 days following the date the response is issued.

11.2(3) Method of filing. Appeals shall be electronically filed pursuant to 621—Chapter 16.

~~11.2(4)~~ The board shall serve copies of the appeal upon the director by ordinary mail.

ITEM 18. Rescind rule 621—11.3(19A,20) and adopt the following **new** rule in lieu thereof:

621—11.3(8A,20) Service of appeal. The agency shall serve a copy of the appeal upon the director by ordinary mail in the manner specified in rules 621—2.15(20) and 621—16.10(20).

ITEM 19. Rescind rule 621—11.4(19A,20) and adopt the following **new** rule in lieu thereof:

621—11.4(8A,20) Content of appeal.

11.4(1) The appeal shall contain the following:

- a. Name, address, telephone number, and e-mail address of the appealing employee;
- b. Name of agency/department by which the appealing employee is/was employed;
- c. A brief statement of the reasons for the appealing employee's dissatisfaction with the director's response;
- d. A statement of the requested remedy;
- e. The name, address, telephone number, and e-mail address of the appealing employee's representative, if any;
- f. Signature of the appealing employee or employee's representative; and
- g. In the case of a disciplinary action appeal filed pursuant to Iowa Code section 8A.415(2), a statement of whether the employee requests a hearing open to the public.

11.4(2) Completion of the State Employee Grievance and Disciplinary Action Appeal Form shall constitute compliance with all the requirements in subrule 11.4(1).

ITEM 20. Rescind rule 621—11.5(19A,20) and adopt the following **new** rule in lieu thereof:

621—11.5(8A,20) Content of director's response to the appeal.

11.5(1) The director shall have 15 days from the date of service of the employee's appeal in which to file a motion or answer with the agency.

11.5(2) The motion or answer shall contain the following:

- a. The names of the appealing employee and the employing agency/department;
- b. The name, address, telephone number, and e-mail address of the employing agency's/department's representative;
- c. A copy of the original grievance and first-, second-, and third-step responses issued; and
- d. Signature of the employing agency's/department's representative.

11.5(3) The director's motion or answer shall be electronically filed pursuant to 621—Chapter 16.

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ITEM 21. Rescind rule 621—11.6(19A,20) and adopt the following **new** rule in lieu thereof:

621—11.6(8A,20) Right to a hearing. An employee appealing a grievance pursuant to Iowa Code section 8A.415(1) has a right to a hearing, which is open to the public. An employee appealing disciplinary action pursuant to Iowa Code section 8A.415(2) has a right to a hearing, which is closed to the public unless the employee requests a hearing open to the public. Hearings will otherwise be conducted in accordance with 621—Chapter 2.

ITEM 22. Amend rule 621—11.7(19A,20) as follows:

621—11.7(19A 8A,20) Finality of decision Final decisions. ~~The administrative law judge's proposed decision shall become final unless a timely petition for review is filed with the board or the board, on its own motion, determines to review the proposed decision.~~

11.7(1) When a majority of the board presides at the reception of the evidence in a grievance or disciplinary action appeal, the decision of the board is the final decision of the agency.

11.7(2) When a majority of the board does not preside at the reception of the evidence in a grievance or disciplinary appeal, the presiding officer shall make a proposed decision that becomes the final decision of the agency without further proceedings unless:

a. There is a petition for the board's review filed within 20 days of the filing of the proposed decision, or

b. The board, within 20 days of the filing of the proposed decision, determines to review the decision on its own motion.

ITEM 23. Rescind rule 621—11.8(19A,20) and adopt the following **new** rule in lieu thereof:

621—11.8(8A,20) Review by board. Proceedings on the board's review of the proposed decision shall be in accordance with 621—Chapter 9.

ITEM 24. Amend rule 621—11.9(19A,20) as follows:

621—11.9(19A 8A,20) Other rules. Any matters not specifically addressed by the rules contained in this chapter shall be governed by the general provisions of the rules of the ~~public employment relations board~~ agency.

ITEM 25. Rescind and reserve rule **621—11.10(19A,20)**.

ITEM 26. Amend **621—Chapter 11**, implementation sentence, as follows:
These rules are intended to implement Iowa Code chapters ~~19A 8A~~ and 20.

[Filed 12/28/16, effective 2/22/17]

[Published 1/18/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/18/17.

ARC 2915C

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3, 421.14 and 421.17, the Department of Revenue hereby amends Chapter 8, "Forms and Communications," Iowa Administrative Code.

The rules in Chapter 8 relate to forms for persons to report tax information to the Department of Revenue. This amendment updates Chapter 8 to conform to modern practices and technology.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2825C** on November 23, 2016. No public comments were received in relation to this rule making. Paragraph 8.4(1)"h" contains a nonsubstantive grammatical change. This amendment is otherwise identical to that published under Notice of Intended Action.

REVENUE DEPARTMENT[701](cont'd)

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 of Revenue adopted this amendment on December 28, 2016.

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

This amendment is intended to implement Iowa Code sections 17A.3(1)“b” and 421.17(15).

This amendment will become effective February 22, 2017.

The following amendment is adopted.

Amend **701—Chapter 8** as follows:

CHAPTER 8
FORMS AND COMMUNICATIONS

[Prior to 12/17/86, Revenue Department[730]]

701—8.1(17A,421) Definitions. For the purposes of ~~these rules~~ this chapter, the following definitions apply, unless the context otherwise requires:

“*Communication*” means any method of transfer of data, information, or money by any conduit or mechanism.

“*Department*” means the Iowa department of revenue.

“*Department form*” means a form that is distributed by the department.

“*Director*” means the director of the department of revenue.

“*Form*” means any overall physical arrangement and general layout of communications, using any method of communication, related to tax or other administration and prescribed by the director or otherwise required by law.

“*IRS*” means the federal Internal Revenue Service.

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

“*Return*” means any form required for tax administration from any person to the department.

“*Substitute form*” means a form that is intended to replace a department form.

This rule is intended to implement Iowa Code ~~paragraph 17A.3(1)“b.”~~ sections 17A.3(1)“b” and 421.14.

701—8.2(17A,421) Official Department forms.

8.2(1) Generally. The department and the director have developed and provide or prescribe ~~many official department forms~~ designed to help persons exercise their rights and discharge their duties under the tax laws and rules, to explain tax laws and rules, to assist in the administration of tax laws and rules, and to assist in general financial administration. Department forms may be available in electronic format, on paper, or in other formats as prescribed by the director. Communications with the department, for which ~~official department forms~~ have been created, shall be carried out using those forms or ~~approved substitutes~~ substitute forms. Each direction of every instruction contained within or accompanying ~~official department forms~~ shall be followed, and each question within or accompanying every form shall be answered as if the instructions and forms were contained in these rules.

8.2(2) Obtaining department forms. ~~Copies of all official Department forms, and instructions and communication formats~~ may be obtained from the Iowa Department of Revenue, Policy and Communications Division, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306; by telephoning (800)367-3388 or (515)281-3114; ~~(for large orders of forms: (800)532-1531); by faxing (515)242-6040~~ or on the department’s Web site at www.iowa.gov/tax https://tax.iowa.gov/.

8.2(1) Nature of official forms. Most, but not all, official forms are on paper. As prescribed by the director, ~~communication means other than paper documents may be used for official forms.~~

8.2(2) Mailing addresses. ~~The following post office box numbers should be used when corresponding with the department. All addresses are completed: Des Moines, Iowa 50306.~~

REVENUE DEPARTMENT[701](cont'd)

Box Number	Addressee
1792	Motor Vehicle Fuel Tax Returns
9187	Individual Income Tax Returns
10330	Central Collections Unit
10411	Withholding Tax Payments Verified Summary of Payments
10412	Sales and Use Tax Returns and Payments
10413	Franchise Tax Returns and Estimated Payments
10455	Insurance Premiums Tax Household Hazardous Materials Environmental Protection Charge
10456	Tax Management Division, Compliance Services Income Tax
10457	Policy and Communications Division
10459	Property Tax Rent Reimbursement Claims
10460	Internal Services Division Process Improvement and Innovation Division
10465	Tax Management Division, Business and Excise Tax
10466	Individual and Corporation Income Tax Estimated Payments
10467	Fiduciary and Inheritance Tax
10468	Corporation Income Tax Returns
10469	Property Tax
10470	Registration Services
10471	Accounts Receivable
10472	Cigarette and Tobacco Tax
10486	Property Assessment Appeal Board
14454	Tax Management Division, Field Audit
14457	Audit Services Section Hearings Section
14461	Research and Analysis Division

REVENUE DEPARTMENT[701](cont'd)

8.2(3) *Filing department forms.* A department form may be filed with the department as directed on the department form or in the corresponding instructions. Filing a department form using any other method requires prior approval from the department. Attempting to file a department form using an unapproved method may, at the discretion of the director, result in the rejection of the form and all information contained therein.

8.2(4) *Removable media and electronic reporting.* Submitting a department form on removable media, such as compact disc, requires prior approval from the department. No prior approval is necessary for electronic reporting when the reporting is in accordance with department policy. Any electronic reporting of a department form requires department approval, unless otherwise authorized. Additional information regarding electronic reporting is available at Processing Services, P.O. Box 10413, Des Moines, Iowa 50306; or by e-mail at IDRSubForms@iowa.gov.

This rule is intended to implement Iowa Code ~~paragraph 17A.3(1)“b.”~~ sections 17A.3(1)“b” and 421.14.

701—8.3(17A,421) Substitution of official Substitute forms.

8.3(1) *Generally.* ~~This rule is to provide guidance for the use of other than official forms, whether they are on paper, are computer-generated, or are~~ A substitute form may be in electronic format, on paper, or created using other media for communication. Approval shall be obtained prior to the use of ~~computer forms, replacement forms, reproduced forms, facsimile forms, or any other forms not provided by the department substitute form, unless otherwise noted in this rule. The director reserves the right to make changes to forms when needed~~ may change any department form without prior notification providing notice to users of forms any substitute form. The director ~~also reserves the right to~~ may require use of official department forms in communications with the department concerning tax administration or other matters.

8.3(1) 8.3(2) *Types of substitute forms.* Many types of forms may, upon approval when necessary, be substituted for official department forms. Descriptions of a partial list follow.

a. Reproduced forms. ~~Reproduction (photocopy reprinting) of Iowa tax forms~~ A reproduced form is a legible photocopy or an exact copy of a department form. A reproduced form may be ~~accomplished~~ used without prior approval of the department ~~provided if the reproduced form meets~~ the following conditions ~~are met~~:

(1) ~~There is no variation from the official copy or format provided by the department, including reduction and enlargement or~~ The reproduced form does not vary from the department form in size or any other format specification.

(2) ~~Reprinting, copying, or~~ No rule prohibits the reproduction of the department form is ~~not~~ prohibited by another rule within this chapter.

(3) ~~Reprinting or reproduction of the~~ The reproduced form does not vary from criteria stated elsewhere in this chapter.

b. Replacement forms. ~~Replacement forms are forms which are~~ A replacement form is produced by imagery or otherwise replicated using the department ~~official~~ form as a model, but it is not an exact copy of a department form. A form that is created in its entirety, including layout, by computer is a replacement form. ~~These forms~~ A replacement form may include ~~facsimiles of department forms that have been modified by the addition of modifications, such as line enlargements, enlargement or copy deletion, or any other modifications.~~ A replacement form must receive department approval prior to use.

c. Computer-generated forms. ~~Computer-generated forms are forms that are created in their entirety, including layout, by the computer. These forms must be a facsimile of the official form that it is meant to replace.~~

d. c. Federal forms. ~~Federal forms~~ A federal form is a form that is distributed by the IRS. A federal form, or their alternates, ~~do not require prior~~ its alternate, may be used without department approval ~~for use provided if~~ the form is approved for federal use and Iowa tax instructions or other administrative instructions authorize or require the use of the federal forms form in lieu of ~~official Iowa forms~~ a department form.

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~~*e. Removable media and electronic reporting.* Any removable media, such as compact discs, or any electronic transmission in other than official form requires prior approval of the department. No prior approval is necessary for submission of compact discs for certain information reporting when they are submitted in accordance with the department policy. To obtain additional information regarding the submitting of magnetic tapes, diskettes or other electronic reporting, please contact the Technology and Information Management Division, P.O. Box 10460, Des Moines, Iowa 50306.~~

~~**8.3(2)**~~ **8.3(3)** *Approval Registration and approval of substitute forms.*

~~*a. Registration.* A developer of a substitute form must register with the department by submitting the Registration for Substitute Forms and Barcode Approval. Each registration is valid for one tax year only. Failure to register with the department may, at the discretion of the director, result in the rejection of the developer's forms and all information contained therein.~~

~~*b. Approval.* Prior approval of substitute forms may be obtained by writing Iowa Department of Revenue, Substitute Forms, 1305 East Walnut Street, Des Moines, Iowa 50319, or Once registered, the developer of a substitute form must request department approval of the form, unless approval is not necessary. The developer may request department approval by submitting a PDF submission via e-mail of the form to IDRSubForms@iowa.gov. PDF submissions via e-mail to the department of approval requests are acceptable in limited circumstances. Normally, approval will be granted for use of substitute forms for one year only. Those forms listed on the substitute forms checklist Iowa Substitute Forms Checklist, which is provided with the Registration for Substitute Forms and Barcode Approval, should be submitted for approval. If doubt exists about the need for approval of a particular substitute form, the form should be submitted for consideration. Attempting to file an unapproved substitute form with the department may, at the discretion of the director, result in the rejection of the form and all information contained therein.~~

~~**8.3(3)** *Failure to obtain required approval.* Forms filed with the department that are not official or approved may be returned at the discretion of the director.~~

~~**8.3(4)** *Forms that may not be reproduced.* Certain forms supplied by the department shall not be duplicated or reproduced because of special processing requirements for the forms. These forms will normally have an optical scan line with special characters or print to ensure that automated processing equipment accurately credits the proper accounts. Exceptions to allow reproduction may occur on a limited basis with the consent of the department. The requestor must demonstrate compatibility with and meet all requirements and standards of the department to ensure proper and accurate processing of the form by the department. The department, at its option, may provide an explanation as to why a form is not acceptable, but is not required to do so. Forms that may not be reproduced, except as provided for above, include department-generated accounts receivable notices.~~

~~**8.3(5)** *General information Quality of substitute forms.* The following general information is applicable to all reproduced, replacement, or computer-generated forms:~~

~~*a. Paper General information.* Paper must be of at least equal quality to stock used by the department for official forms. Carbon-bonded paper is prohibited for all forms. Colored paper should be used for all forms substituting for official paper forms unless paper used is of the identical color of an official paper form. All substitute forms must, to the extent practicable, reflect the same size, color, content, design, and legibility as department forms posted on the department's Web site at <https://tax.iowa.gov/>.~~

~~*b. Ink and imaging material Printed substitute forms.* Black ink or black imaging material should be used in the printing or duplication of all substitute forms on paper. When printed on paper, a substitute form must use only black ink or black imaging material, unless the corresponding department form indicates otherwise. A printed substitute form generally must be printed on 20-pound white paper stock with a brightness rating of at least 92 on the TAPPI scale.~~

~~*c. Size.* Paper forms must be the same size as the official form.~~

~~*d. Legibility.* All forms must have a high standard of legibility.~~

~~*e. c. Distinctive markings and symbols.* Some official forms A department form may contain distinctive symbols. These symbols must be reproduced on other than official any substitute forms.~~

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~~f. — *Labels.* Preprinted labels furnished by the department should be affixed to returns submitted to the department.~~

~~g. — *Accuracy of reproduction.* Forms submitted for approval should be a facsimile of the official form. No variation from the official form will be allowed for forms which are identified as returns.~~

8.3(6) *Filing substitute forms.* A substitute form may be filed with the department as directed on the corresponding department form or instructions or by any other method approved by the department. Attempting to file a substitute form with the department using an unapproved method may, at the discretion of the director, result in the rejection of the form and all information contained therein.

8.3(7) *Removable media and electronic reporting.* Submitting a substitute form on removable media, such as compact disc, requires prior approval from the department. No prior approval is necessary for electronic reporting when the reporting is in accordance with department policy. Any electronic reporting of a substitute form requires department approval, unless otherwise authorized. Additional information regarding electronic reporting is available at Processing Services, P.O. Box 10413, Des Moines, Iowa 50306; or by e-mail at IDRSubForms@iowa.gov.

This rule is intended to implement Iowa Code ~~paragraph 17A.3(1)“b.”~~ sections 17A.3(1)“b” and 421.14.

701—8.4(17A) Description of forms. ~~Forms prescribed by the director can be divided into those required for the administration of various taxes and those required for administrative systems other than tax-related.~~

8.4(1) *Tax forms.* Taxes administered by the department that require forms are ~~listed in the following lettered paragraphs~~ as follows:

a. Corporate income return systems ~~include use~~ include use forms designed by the department as well as forms used in federal tax administration. Approved substitute forms may be used for returns.

b. Corporate income tax field and office audit systems, related field collections systems, and the corporate tax error resolution system ~~have use~~ have use forms designed by the department. Approved substitute forms may be used.

c. Franchise tax returns ~~include use~~ include use forms designed by the department as well as forms used in federal tax administration. Approved substitute forms may be used for returns.

d. Franchise audit and collection systems ~~have use~~ have use forms designed by the department. Approved substitute forms may be used.

e. Corporate and franchise estimated tax systems ~~have use~~ have use forms designed by the department. Approved substitute forms may be used.

f. Individual and fiduciary income returns ~~include use~~ include use forms designed by the department as well as forms used in federal tax administration. Approved substitute forms may be used for returns.

g. Individual and fiduciary income tax field and office audit systems and related field collections systems ~~have use~~ have use forms designed by the department. Approved substitutes may be used.

h. New jobs tax credit system ~~has systems use~~ has systems use forms designed by the department. Approved substitute forms may be used.

i. Individual income tax withholding payment voucher systems ~~have use~~ have use forms designed by the department. Approved substitute forms may be used.

j. IA-W4 system, declaration of estimated tax, and withholding penalty waiver systems ~~have use~~ have use forms designed by the department. Approved substitutes may be used.

k. Sales and use tax returns and payment voucher systems ~~have vouchers and annual returns use~~ have vouchers and annual returns use forms designed by the department. Approved substitute forms may be used in limited situations.

l. Local option sales and services tax and hotel/motel tax systems ~~have use~~ have use forms designed by the department. Approved substitute forms may be used in limited situations.

m. Field and office audit and collections systems for sales and use tax;₂ sales tax refund examination system; systems; industrial machinery, equipment, and computer refund systems;₂ and sales and use tax penalty waiver systems ~~have use~~ have use forms designed by the department. Approved substitute forms may be used.

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- n.* Motor fuel tax ~~returns~~ systems ~~have~~ use forms designed by the department. Approved substitute forms may be used.
- o.* Special fuel tax ~~returns~~ systems ~~have~~ use forms designed by the department. Approved substitute forms may be used.
- p.* Motor fuel tax and special fuel tax error resolution systems and related field and office audit and collection systems ~~have~~ use forms designed by the department. Approved substitute forms may be used.
- q.* Inheritance and qualified use inheritance tax ~~returns~~ systems ~~have~~ use forms designed by the department. Approved substitute forms may be used.
- r.* Inheritance and qualified use inheritance tax field and office audit systems and related field collections systems ~~have~~ use forms designed by the department. Approved substitute forms may be used.
- s.* Cigarette and tobacco tax systems with related office and field audit and field collection systems ~~have~~ use forms designed by the department. Approved substitute forms may be used.
- t.* Property assessor and deputy assessor examination records systems ~~have~~ use forms designed by the department. Approved substitute forms may be used.
- u.* ~~Central~~ Centrally assessed property tax assessments system ~~has~~ systems use forms designed by the department. Approved substitute forms may be used.
- v.* ~~Elderly credit mobile home, Mobile, manufactured, and modular home reduced tax rate systems; Iowa elderly and disabled and senior citizen property tax; credit and rent reimbursement systems; and special assessment credit systems~~ have use forms designed by the department. Approved substitute forms may be used.
- w.* Environmental protection charge systems ~~have~~ use forms designed by the department. Approved substitute forms may be used.
- x.* Excise tax on unlawful dealing in certain substances ~~system has~~ systems use forms designed by the department. Approved substitute forms may be used.
- y.* Taxpayer contact systems ~~have~~ use forms designed by the department. Approved substitute forms may be used.
- z.* Federal and state exchange of information systems ~~have~~ use forms designed by the department as well as others. Approved substitute forms may be used.
- aa.* Accounts receivable notices ~~system has~~ systems use forms designed by the department. ~~No substitute forms may be used~~ Developers may not provide a substitute accounts receivable notice.
- bb.* The department ~~shall provide the taxpayer a statement of~~ provides a taxpayer bill of rights, which sets forth the rights of a taxpayer and obligations of the department during an audit, procedures by which a taxpayer may appeal an adverse decision of the department, and procedures which the department uses to enforce the tax laws. ~~No substitute form may be used~~ Developers may not provide a substitute taxpayer bill of rights.

8.4(2) Other forms. ~~Rescinded IAB 4/14/04, effective 5/19/04. Reserved.~~

This rule is intended to implement Iowa Code ~~paragraph~~ sections 17A.3(1) "b," and ~~sections~~ 421.7 and 422.21.

701—8.5(422) Electronic filing of Iowa income tax returns. ~~Electronic~~ There is no statutory requirement that taxpayers file their Iowa income tax returns electronically. Taxpayers also have the option to file by paper. However, electronic filing allows individuals and businesses that meet department criteria to file their Iowa income tax returns electronically. All When a taxpayer files an electronic return, all information is related to the return should be electronically transmitted. Nothing is No information is to be submitted on paper unless specifically requested by the department. A taxpayer's electronic Iowa return will shall include the same information as if the taxpayer had filed a paper return.

~~There is no statutory requirement that taxpayers file their Iowa income tax returns electronically. Taxpayers also have the option to file by paper.~~

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8.5(1) Definitions. For the purpose of this rule, the following definitions apply, unless the context otherwise requires:

“Acknowledgment” means a report generated by the department and sent electronically to a transmitter via the IRS indicating the department’s acceptance or rejection of an electronic submission.

“Declaration for e-File Return form” means a taxpayer declaration form that authenticates the electronic tax return, authorizes its transmission, and consents to the financial transaction order as designated using the financial institution information provided.

~~*“Department”* means the Iowa department of revenue.~~

~~*“Direct debit”* means an order for electronic withdrawal of funds from a taxpayer’s financial institution account for payment to the Iowa department of revenue.~~

~~*“Direct deposit”* means an order for electronic transfer of a refund into a taxpayer’s financial institution account.~~

“E-file provider” means a firm that is assigned an Electronic Filing Identification Number (EFIN) by the IRS to assume any one or more of the following IRS e-file provider roles: electronic return originator, intermediate service provider, transmitter, software developer, or reporting agent.

“Electronic filing” means a paperless filing of the Iowa income tax return, order for financial transaction, or both by way of the IRS e-file program, also known as federal/state electronic filing (ELF/MeF).

“Electronic return originator (ERO)” means an authorized IRS e-file provider that originates the electronic submission by any one of the following methods: electronically sending an electronic tax return to a Transmitter that will transmit the electronic tax return to the IRS, directly transmitting the electronic tax return to the IRS, or providing the electronic tax return to an Intermediate Service Provider for processing prior to transmission to the IRS.

“Electronic signature” includes data in electronic form, which is logically associated with other data in electronic form and executed or adopted by a person with the intent to sign a document. This type of signature has the same legal standing as a handwritten signature if the requirements in either paragraph 8.5(2) “b” or “c” are met. Electronic signatures appear in many forms and may be created by many different technologies. No specific technology is required.

~~*“Intermediate service provider”* means the firm that assists with processing submission information between the ERO (or the taxpayer in the case of online filing) and a Transmitter.~~

~~*“Online filing”* means the process for taxpayers to self-prepare returns by entering return data directly into commercially available software, software downloaded from an Internet site and prepared off-line, or through an online Internet site.~~

~~*“Origination of an electronic return”* means the action by an ERO of electronically sending the return directly to an Intermediate Service Provider, a Transmitter, or the IRS.~~

~~*“Reporting agent”* means a firm that originates the electronic submission of certain returns for its clients or transmits the returns to the IRS in accordance with the IRS electronic filing procedures, or both.~~

~~*“Self-select PIN signature alternative”* means the taxpayer electronically signs the return with a personal identification number (PIN). The PIN is any five numbers (except all zeros) that taxpayers choose to enter as their electronic signature.~~

~~*“Software developer”* means an approved IRS e-file provider that develops software according to IRS and Iowa specifications for the purposes of formatting electronic returns, transmitting electronic returns directly to the IRS, or both. A software developer may sell its software.~~

~~*“Stockpiling”* means collecting returns from taxpayers or from other e-file providers and waiting more than three calendar days after receiving the information necessary for transmission to transmit the returns to the department.~~

~~*“Transmitter”* means a firm that transmits electronic tax return information directly to the IRS and routes electronic acknowledgments from the IRS (and the states) to the firm originating the electronic return.~~

8.5(2) Completion and documentation of the electronic return.

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a. All monetary amounts on the prepared return must be in whole dollars. The electronic submission must match the prepared return. The taxpayer(s) must declare the authenticity of the electronic return before it is transmitted. ~~The department has adopted the self-select PIN signature alternative as implemented by the IRS. If the ERO elects not to use the taxpayer self-select PIN signature alternative, the Declaration for e-File Return form must be completed and signed by the preparer, ERO, and taxpayer(s). If the ERO makes changes to the electronic return after the Declaration for e-File Return form has been signed by the taxpayer(s), a new Declaration for e-File Return form must be completed and signed by the taxpayer(s) before the return is transmitted.~~

b. Electronic signature via remote transaction. Before a taxpayer electronically signs a Declaration for e-File Return form in which the ERO is not physically present with the taxpayer, the ERO must record the name, social security number, address and date of birth of the taxpayer. The ERO must verify that the name, social security number, address, date of birth and other personal information of the taxpayer on record are consistent with the information provided through record checks with the applicable agency or institution or through credit bureaus or similar databases. This process is not necessary for handwritten signatures on a Declaration for e-File Return form sent to the ERO by hand delivery, U.S. mail, private delivery service, fax, e-mail or an Internet site.

c. Electronic signature via in-person transaction. Before a taxpayer electronically signs a Declaration for e-File Return form in which the ERO is physically present with the taxpayer, the ERO must validate the taxpayer's identity unless there is a multiyear business relationship. A multiyear business relationship is one in which the ERO has originated returns for the taxpayer for a prior tax year and has identified the taxpayer using a valid government picture identification and the method in paragraph 8.5(2) "b." For in-person transactions, identity verification through a record check is optional.

b. d. The ERO must provide the taxpayer with a copy of all information to be filed. The taxpayer and ERO must retain all tax documentation for three years. The Declaration for e-File Return form and accompanying schedules are to be furnished to the department only when specifically requested.

8.5(3) Direct deposit and direct debit.

a. Taxpayers designating direct deposit of the Iowa refund or direct debit of payment remitted to the department on electronically filed returns must provide proof of account ownership to the ERO. The department is not responsible for the misapplication of a direct deposit refund or direct debit payment caused by error, negligence, or wrongdoing on the part of the taxpayer, e-file provider, financial institution, or any agent of the above.

b. Once the return has been transmitted, the financial order may not be altered. The department may, when processing procedures allow, grant a taxpayer's timely request to revoke the financial order. The taxpayer is responsible for revoking the financial order if the specified payment is not exactly as intended. A direct deposit or direct debit order will be disregarded by the department if the electronic submission is rejected for any reason as indicated in the acknowledgment.

c. The department may, when processing procedures require, convert a direct deposit order to a paper check warrant. If a refund is deposited into an incorrect bank account, the department will issue a paper refund check warrant once the funds are returned by the financial institution.

d. Payment withdrawal date.

(1) Funds will be withdrawn from the account specified in the direct debit order no sooner than the date specified by the taxpayer. This date must occur no later than the due date when the due date has not yet elapsed. This date must specify immediate payment when the due date has already elapsed. This date will be superseded by the electronic postmark date when the date occurs prior to the electronic postmark date. The direct debit payment within the electronic submission accepted by the department that is postmarked on or before the payment due date is considered timely, provided that the direct debit payment is honored by the financial institution.

(2) Payment must be timely made to prevent the assessment of all applicable penalty and interest. A direct debit payment within an electronic submission is considered timely made when:

1. The department accepts the electronic submission;
2. The electronic postmark date is prior to the tax due date;
3. The payment withdrawal date is prior to the tax due date; and

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4. The direct debit payment is honored by the specified financial institution.
- (3) When the tax due date has not yet elapsed, the withdrawal date should occur on or before the tax due date. Scheduling a withdrawal date after the tax due date will result in the assessment of all applicable penalty and interest unless the taxpayer otherwise makes payment before the tax due date.
- (4) When the tax due date has already elapsed, the withdrawal date should specify immediate payment to prevent the accrual of additional interest.
- (5) Withdrawal cannot occur prior to the electronic postmark date. When the taxpayer attempts to schedule a withdrawal date that is prior to the electronic postmark date, the electronic postmark date is the withdrawal date.
- (6) If a taxpayer wants to change the withdrawal date specified in a financial order, the taxpayer must revoke the financial order and submit a new financial order. If the department determines that the taxpayer may have erroneously scheduled a withdrawal date, the department may notify the taxpayer of the possible error, but the department is not required to do so.

8.5(4) to 8.5(7) No change.

This rule is intended to implement Iowa Code sections 422.21 and 422.68.

[Filed 12/28/16, effective 2/22/17]

[Published 1/18/17]

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ARC 2917C

UTILITIES DIVISION[199]

Adopted and Filed

Pursuant to Iowa Code sections 17A.4, 476.6A, and 476.58, the Utilities Board (Board) gives notice that on December 28, 2016, the Board issued an order in Docket No. RMU-2016-0003, In re: Review of Electric Interconnection of Distributed Generation Facilities Rules [199 IAC Chapter 45], "Order Adopting Amendments," amending Chapter 45 of the Board's rules.

Chapter 45 is designed to offer standardized requirements, forms, and procedures for smaller facilities and to make the interconnection process more transparent and less complex for larger facilities. The current interconnection rules were adopted in 2010 and incorporated the then-current best practices for interconnection agreements and procedures. The amendments to Chapter 45 incorporate current best practices and incorporate newly adopted Iowa Code section 476.58.

The Board is conducting a comprehensive review of its rules and, as part of that review, is attempting to make the rules more readable, to streamline reporting requirements in the rules, and to transition away from providing forms within the rules. The amendments to Chapter 45 reflect those goals.

The order 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-2016-0003.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2673C** on August 17, 2016. The Board received public comments from interested persons regarding the proposed amendments. The Board has modified several of the amendments proposed in the Notice of Intended Action based on the comments received. The Board's order approving this Adopted and Filed rule making describes the comments received and any amendments the Board adopted based on those comments.

The Board adopted these amendments on December 28, 2016.

After analysis and review of this rule making, no negative impacts on jobs have been found.

These amendments are intended to implement Iowa Code sections 17A.4, 476.6A, and 476.58.

These amendments will become effective February 22, 2017.

The following amendments are adopted.

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ITEM 1. Amend the following definitions in rule ~~199—45.1(476)~~:

“*Certificate of completion*” means the ~~Standard Certificate of Completion in Appendix B (199—45.15(476))~~ form that contains information about the interconnection equipment to be used, its installation, and local inspections.

“*Distributed generation facility*” means a qualifying facility, ~~or an AEP facility, or an energy storage facility.~~

“*Nationally recognized testing laboratory*” or “*NRTL*” means a qualified private organization that meets the requirements of the Occupational Safety and Health Administration’s (OSHA) regulations. See 29 CFR 1910.7 as amended through ~~April 9, 2014~~ February 22, 2017. NRTLs perform independent safety testing and product certification. Each NRTL shall meet the requirements as set forth by OSHA in its NRTL program.

“*Parallel operation*” or “*parallel*” means a distributed generation facility that is connected electrically to the electric distribution system for longer than 100 milliseconds continuously.

“*UL Standard 1741*” means the standard titled “*Inverters, Converters, and Controllers, and Interconnection System Equipment for Use in Independent Power Systems with Distributed Energy Resources*,” January 28, 2010, edition, Underwriters Laboratories Inc., 333 Pfingsten Road, Northbrook, IL 60062-2096.

ITEM 2. Adopt the following new definitions of “Disconnection device” and “Electric meter” in rule ~~199—45.1(476)~~:

“*Disconnection device*” means a lockable visual disconnect or other disconnection device capable of isolating, disconnecting, and de-energizing the residual voltage in a distributed generation facility.

“*Electric meter*” means a device used by an electric utility that measures and registers the integral of an electrical quantity with respect to time.

ITEM 3. Rescind the definitions of “Draw-out type circuit breaker” and “Standard distributed generation interconnection agreement” in rule ~~199—45.1(476)~~.

ITEM 4. Amend rule ~~199—45.2(476)~~ as follows:

~~199—45.2(476)~~ Scope.

~~45.2(1)~~ This chapter applies to utilities, and distributed generation facilities seeking to operate in parallel with utilities, provided the facilities are not subject to the interconnection requirements of an affected system, the Federal Energy Regulatory Commission (FERC), the Midwest Midcontinent Independent Transmission System Operator, Inc. (MISO), the Southwest Power Pool (SPP), the Midwest Reliability Organization (MRO), or the Mid-Continent Area Power Pool (MAPP) SERC Reliability Corporation (SERC).

~~45.2(2)~~ If the nameplate capacity of the facility is greater than 10 MVA, the interconnection customer and the utility shall start with the Level 4 review process and agreements under ~~rules rule 199—45.11(476), 199—45.17(476), 199—45.18(476), 199—45.19(476), and 199—45.20(476)~~, and modify the process and agreements as needed by mutual agreement. In addition, the interconnection customer and the utility shall start with the technical standards under rule ~~199—45.3(476)~~ and modify the standards as needed by mutual agreement. If the interconnection customer and the utility cannot reach mutual agreement, the interconnection customer may seek resolution through the rule ~~199—45.12(476)~~ dispute process.

ITEM 5. Amend subparagraph **~~45.3(1)“a”(1)~~** as follows:

(1) IEEE Recommended Practices and Requirements for Harmonic Control in Electrical Power Systems—IEEE Standard ~~519-1992~~ 2014; and

ITEM 6. Amend paragraph **~~45.3(1)“c”~~** as follows:

c. National Electrical Code, ANSI/NFPA ~~70-2008~~ 2014.

ITEM 7. Amend subrule ~~45.3(2)~~ as follows:

~~45.3(2)~~ *Interconnection facilities.*

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a. The utility may require the A distributed generation facility placed in service after July 1, 2015, is required to have the capability to be isolated from the utility, either by means of a lockable, visible break isolation device accessible by the utility, or by means of a lockable isolation device whose status is indicated and is accessible by the utility. If an isolation device is required by the utility, the installed a disconnection device. The disconnection device shall be installed, owned, and maintained by the owner of the distributed generation facility and located electrically between the distributed generation facility and the point of interconnection. A draw-out type of circuit breaker accessible to the utility with a provision for padlocking at the drawn-out position satisfies the requirement for an isolation device and shall be easily visible and adjacent to an interconnection customer's electric meter at the facility. Disconnection devices are considered easily visible and adjacent: for a home or business, up to ten feet away from the meter and within the line of sight of the meter, at a height of 30 inches to 72 inches above final grade; or for large areas with multiple buildings that require electric service, up to 30 feet away from the meter and within the line of sight of the meter, at a height of 30 inches to 72 inches above final grade. The disconnection device shall be labeled with a permanently attached sign with clearly visible letters that give procedures/directions for disconnecting the distributed generation facility.

(1) If an interconnection customer with distributed generation facilities installed prior to July 1, 2015, adds generation capacity to its existing system that does not require upgrades to the electric meter or electrical service, a disconnection device is not required, unless required by the electric utility's tariff. The customer must notify the electric utility before the generation capacity is added to the existing system.

(2) If an interconnection customer with distributed generation facilities installed prior to July 1, 2015, upgrades or changes its electric service, the new or modified electric service must meet all current utility electric service rule requirements.

b. For all distributed generation installations, the customer shall be required to provide and place a permanent placard no more than ten feet away from the electric meter. The placard must be visible from the electric meter. The placard must clearly identify the presence and location of the disconnection device for the distributed generation facilities on the property. The placard must be made of material that is suitable for the environment and must be designed to last for the duration of the anticipated operating life of the distributed generation facility. If no disconnection device is present, the placard shall state "no disconnection device".

If the distributed generation facility is not installed near the electric meter, an additional placard must be placed at the electric meter to provide specific information regarding the distributed generation facility and the disconnection device.

b. c. The interconnection shall include overcurrent devices on the facility to automatically disconnect the facility at all currents that exceed the full-load current rating of the facility.

e. d. Distributed generation facilities with a design capacity of 100 kVA or less must be equipped with automatic disconnection upon loss of electric utility-supplied voltage.

d. e. Those facilities that produce a terminal voltage prior to the closure of the interconnection shall be provided with synchronism-check devices to prevent closure of the interconnection under conditions other than a reasonable degree of synchronization between the voltages on each side of the interconnection switch.

ITEM 8. Amend subrule 45.3(3) as follows:

45.3(3) Access. If an isolation a disconnection device is required by the utility, both the operator of the distributed generation facility₂ and the utility, and emergency personnel shall have access to the isolation disconnection device at all times. An For distributed generation facilities installed prior to July 1, 2015, an interconnection customer may elect to provide the utility with access to an isolation a disconnection device that is contained in a building or area that may be unoccupied and locked or not otherwise accessible to the utility by installing a lockbox provided by the utility that allows ready access to the isolation disconnection device. The lockbox shall be in a location determined by the utility₂ in consultation with the customer, to be accessible by the utility. The interconnection customer shall permit the utility to affix a placard in a location of the utility's choosing that provides instructions to

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utility operating personnel for accessing the ~~isolation~~ disconnection device. If the utility needs to isolate the distribution generation facility, the utility shall not be held liable for any damages resulting from the actions necessary to isolate the generation facility.

ITEM 9. Amend subrule 45.3(4) as follows:

45.3(4) *Inspections and testing.* The operator of the distributed generation facility shall adopt a program of inspection and testing of the generator and its appurtenances and the interconnection facilities in order to determine necessity for replacement and repair. Such a program shall include all periodic tests and maintenance prescribed by the manufacturer. If the periodic testing of interconnection-related protective functions is not specified by the manufacturer, periodic testing shall occur at least once every five years. All interconnection-related protective functions shall be periodically tested, and a system that depends upon a battery for trip power shall be checked and logged. The operator shall maintain test reports and shall make them available upon request by the electric utility. Representatives of the utility shall have access at all reasonable hours to the interconnection equipment specified in subrule 45.3(2) for inspection and testing with reasonable prior notice to the applicant.

ITEM 10. Adopt the following new subrules 45.3(6) to 45.3(8):

45.3(6) *Notification.* When the distributed generation facility is placed in service, owners of interconnected distributed generation facilities are required to notify local fire departments via U.S. mail of the location of distributed generation facilities and the associated disconnection device(s). The owner is required to provide any information related to the distributed generation facility as reasonably required by that local fire department including but not limited to:

a. A site map showing property address; service point from utility company; distributed generation facility and disconnect location(s); location of rapid shutdown and battery disconnect(s), if applicable; property owner's or owner's representative's emergency contact information; utility company's emergency telephone number; and size of the distributed generation facility.

b. Information to access the disconnection device.

c. A statement from the owner verifying that the distributed generation facility was installed in accordance with the current state-adopted National Electrical Code.

45.3(7) *Disconnections.* If an interconnection customer fails to comply with the foregoing requirements of rule 199—45.3(476), the electric utility may require disconnection of the applicant's distributed generation facility until the facility complies with rule 199—45.3(476). The disconnection process shall be specified in individual electric utility tariffs or in the interconnection agreement. If separate disconnection of only the distributed generation facility is not feasible or safe, the customer's electric service may be disconnected as provided in 199—Chapter 20.

45.3(8) *Reconnections.* If a customer's distributed generation facility or electric service is disconnected due to noncompliance with rule 199—45.3(476), the customer shall be responsible for payment of any costs associated with reconnection once the facility is in compliance with the rules.

ITEM 11. Amend rule 199—45.4(476) as follows:

199—45.4(476) Interconnection requests.

45.4(1) Applicants seeking to interconnect a distributed generation facility shall submit an interconnection request to the utility that owns the electric distribution system to which interconnection is sought. Applicants shall identify in the application if they are representing a group of customers that are located in the same vicinity and whether the application requires a group interconnection study. Applicants shall use the board-approved interconnection request forms approved by the board and agreements that are provided on the board's Web site, <http://iub.iowa.gov>.

45.4(2) Preapplication request. Applicants may request a preapplication report from the utility using the following process:

a. The utility shall designate an employee or office from which information on the application process and on the affected system can be obtained through an informal request from the applicant presenting a proposed project for a specific site, which may include multiple proposed individual interconnections in close proximity and related to one project, such as a residential or commercial

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development proposing rooftop solar on each premises or a multiturbine wind project. The name, telephone number, and e-mail address of such contact employee or office shall be made available on the utility's Web site. Electric system information provided to the applicant should include, to the extent such provision does not violate confidentiality provisions of prior agreements or critical infrastructure requirements, relevant, available system studies, interconnection studies, and other materials useful for gaining an understanding of an interconnection at a particular point on the utility's electric distribution system. The utility shall comply with reasonable requests for such information.

b. In addition to the information described in paragraph 45.4(2) "a," which may be provided in response to an informal request, an applicant may submit a formal written request form along with a nonrefundable fee of \$300 for a preapplication report on a proposed project at a specific site. The utility shall provide the preapplication data described in paragraph 45.4(2) "a" to the applicant within 20 business days of receipt of the completed request form and payment of the \$300 fee. The preapplication report produced by the utility is nonbinding, it does not confer any rights, and the applicant must still successfully apply to interconnect to the utility's system. The written preapplication report request form shall include the following information to clearly and sufficiently identify the location of the proposed point of interconnection:

- (1) Proposed distributed generation facility owner's contact information, including name, address, telephone number, and e-mail address.
- (2) Project location (street address with nearby cross streets and name of town).
- (3) Meter number, pole number, or other equivalent information identifying the proposed point of interconnection, if available.
- (4) Generator type (e.g., solar, wind, combined heat and power).
- (5) Size (alternating current kW).
- (6) Single or three-phase generator configuration.
- (7) Stand-alone generator (whether or not there is an onsite load, not including station service).
- (8) Whether or not new service is requested. If there is existing service, include the customer account number, site minimum and maximum current or proposed electric loads in kW (if available) and specify if the load is expected to change.

c. Using the information provided in the preapplication report request form in paragraph 45.4(2) "b," the utility will identify the substation/area bus, bank or circuit likely to serve the proposed point of interconnection. This selection by the utility does not necessarily indicate, after application of the screens or study or both, that this would be the circuit to which the distributed generation facility ultimately will be connected or that interconnection will occur. The applicant must request additional preapplication reports if information about multiple points of interconnection is requested. Subject to paragraph 45.4(2) "d" and other confidentiality concerns identified by the utility, the preapplication report will include the following information:

- (1) Total capacity (in MW) of substation/area bus, bank or circuit based on normal or operating ratings likely to serve the proposed point of interconnection.
- (2) Existing aggregate generation capacity (in MW) interconnected to a substation/area bus, bank or circuit (i.e., amount of generation online) likely to serve the proposed point of interconnection.
- (3) Aggregate queued generation capacity (in MW) for a substation/area bus, bank or circuit (i.e., amount of generation in the queue) likely to serve the proposed point of interconnection.
- (4) Available capacity (in MW) of substation/area bus or bank and circuit likely to serve the proposed point of interconnection (i.e., total capacity less the sum of existing aggregate generation capacity and aggregate queued generation capacity).
- (5) Substation nominal distribution voltage or transmission nominal voltage or both if applicable.
- (6) Nominal distribution circuit voltage at the proposed point of interconnection.
- (7) Approximate circuit distance between the proposed point of interconnection and the substation.
- (8) Actual or estimated peak load and minimum load data, including daytime minimum load and absolute minimum load, when applicable, for relevant line sections.

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(9) Number and rating of protective devices and number and type (standard, bi-directional) of voltage-regulating devices between the proposed point of interconnection and the substation/area and whether or not the substation has a load tap changer.

(10) Number of phases available at the proposed point of interconnection. If it is a single phase, distance from the three-phase circuit.

(11) Limiting conductor ratings from the proposed point of interconnection to the distribution substation.

(12) Whether the point of interconnection is located on a spot network, grid network, or radial supply.

(13) Based on the proposed point of interconnection, existing or known constraints such as, but not limited to, electrical dependencies at that location, short-circuit interrupting capacity issues, power quality or stability issues on the circuit, capacity constraints, or secondary networks.

d. The preapplication report need only include existing data. A preapplication report request does not obligate the utility to conduct a study or other analysis of the proposed generator in the event that data is not readily available. If the utility cannot complete all or some of the preapplication report due to lack of available data, the utility shall provide the applicant with a preapplication report that includes the data that is available. The provision of information on "available capacity" pursuant to subparagraph 45.4(2) "c"(4) does not imply that an interconnection up to this level may be completed without impacts since there are many variables studied as part of the interconnection review process and data provided in the preapplication report may become outdated at the time of the submission of the complete interconnection request. Notwithstanding any of the provisions of this subrule, the utility shall, in good faith, include data in the preapplication report that represents the best available information at the time of reporting.

~~45.4(2)~~ **45.4(3)** Utilities shall specify the fee by level that the applicant shall remit to process the interconnection request. The fee shall be specified in the interconnection request forms. ~~Utilities may charge a fee by level that applicants must remit in order to process an interconnection request.~~ The utilities shall not charge more than the fees as specified in the Standard Application Forms in Appendix A (199—45.14(476)) and Appendix C (199—45.16(476)): below:

a. Level 1 - \$125 application fee and up to an additional \$125 if the utility performs a witness test as specified in subrule 45.5(10).

b. Level 2 - \$250 application fee plus \$1 per kVA and up to an additional \$125 if the utility performs a witness test as specified in subrule 45.5(10).

c. Level 3 - \$500 application fee plus \$2 per kVA.

d. Level 4 - \$1,000 application fee plus \$2 per kVA.

~~45.4(3)~~ **45.4(4)** Interconnection requests may be submitted electronically, if agreed to by the parties.

ITEM 12. Amend subrule 45.5(6) as follows:

~~45.5(6) When an applicant is not currently a customer of the utility at the proposed site, the~~ The applicant shall provide, upon utility request, proof of the applicant's legal right to control the site, evidenced by the applicant's name on a property tax bill, deed, lease agreement or other legally binding contract site(s). Site control may be demonstrated through:

a. Ownership of, a leasehold interest in, or a right to develop a site for the purpose of constructing, the distributed generation facility;

b. An option to purchase or acquire a leasehold site for such purpose; or

c. Exclusivity or other business relationship between the interconnection customer and the entity having the right to sell, lease, or grant the interconnection customer the right to possess or occupy a site for such purpose.

ITEM 13. Amend subrule 45.5(8) as follows:

45.5(8) Any metering required for a distributed generation interconnection shall be installed, operated, and maintained in accordance with the utility's metering rules ~~filed with the board under 199—subrule 20.2(5), and inspection and testing practices adopted under rule 199—20.6(476) defined in 199—Chapter 20.~~ Any such metering requirements shall be identified in the Standard Level I Interconnection Request Application form and Distributed Generation Interconnection Agreement or

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the Levels 2 to 4 Distributed Generation Interconnection Request Agreement executed between the interconnection customer and the utility.

ITEM 14. Amend subrule 45.6(2) as follows:

45.6(2) Lab-certified interconnection equipment shall not require further design testing or production testing, as specified by IEEE Standard 1547, Sections 5.1 and 5.2, or additional interconnection equipment modification to meet the requirements for expedited review; however, ~~nothing in this subrule shall preclude the need for an interconnection installation evaluation, the applicant shall conduct all commissioning tests, or periodic testing as specified by IEEE Standard 1547, Sections 5.3, 5.4, and 5.5, or for a witness test conducted by a utility.~~ The utility may conduct additional witness tests, but no more frequently than annually.

ITEM 15. Amend paragraph **45.7(1)“b”** as follows:

b. The distributed generation facility has a nameplate capacity rating of ~~10~~ 20 kVA or less; and

ITEM 16. Amend subrule 45.7(2) as follows:

45.7(2) A utility shall use Level 2 procedures for evaluating interconnection requests when:

a. The applicant has filed a Level 2 application; and

b. The nameplate capacity rating is 2 MVA or less for non-inverter-based systems. The Level 2 eligibility for inverter-based systems can be based on the following table.

<u>Line Voltage</u>	<u>Level 2 Eligibility Regardless of Location</u>	<u>Level 2 Eligibility on a Mainline and < 2.5 Electrical Circuit Miles from Substation</u>
< 5 kV	< 500 kVA	< 500 kVA
> 5 kV and < 15 kV	< 2 MVA	< 3 MVA
> 15 kV and < 30 kV	< 3 MVA	< 4 MVA
> 30 kV and < 69 kV	< 4 MVA	< 5 MVA

For purposes of this table, a mainline is the three-phase backbone of a circuit; and

c. The interconnection equipment proposed for the distributed generation facility is lab-certified; and

d. The proposed interconnection is to a radial distribution circuit or a spot network limited to serving one customer; and

e. No construction of facilities by the utility shall be required to accommodate the distributed generation facility, other than minor modifications provided for in subrule 45.9(6).

ITEM 17. Amend subrule 45.8(2) as follows:

45.8(2) The Level 1 interconnection shall use the following procedures:

a. The applicant shall submit an interconnection request using the ~~appropriate Standard Level 1 Interconnection Request Application Form in Appendix A (199—45.14(476))~~ form and Distributed Generation Interconnection Agreement along with the Level 1 application fee.

b. to d. No change.

e. Otherwise, the utility shall approve the interconnection request and provide to the applicant a signed version of the standard “Conditional Agreement to Interconnect Distributed Generation Facility” ~~in Appendix A (199—45.14(476))~~ the Level 1 Interconnection Request Application form and Distributed Generation Interconnection Agreement subject to the following conditions:

(1) The distributed generation facility has been approved by local or municipal electric code officials with jurisdiction over the interconnection;

(2) The ~~Standard Certificate of Completion in Appendix B (199—45.15(476))~~ form has been returned to the utility. Completion of local inspections may be designated on inspection forms used by local inspecting authorities;

(3) The witness test has either been successfully completed or waived by the utility in accordance with Section (2)(c)(ii) of the Terms and Conditions for Interconnection in ~~Appendix A~~

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~~(199—45.14(476))~~ the Level 1 Interconnection Request Application form and Distributed Generation Interconnection Agreement; and

(4) The applicant has signed the standard “Conditional Agreement to Interconnect Distributed Generation Facility”² in ~~Appendix A (199—45.14(476))~~ the Level 1 Interconnection Request Application form and Distributed Generation Interconnection Agreement. When an applicant does not sign the agreement within 30 business days after receipt of the agreement from the utility, the interconnection request is deemed withdrawn unless the applicant requests to have the deadline extended for no more than 15 business days. An initial request for extension shall not be denied by the utility, but subsequent requests may be denied.

f. If a distributed generation facility is not approved under a Level 1 review, and the utility’s reasons for denying Level 1 status are not subject to dispute, the applicant may submit a new interconnection request for consideration under Level 2, Level 3, or Level 4 procedures. The date of the completed Level 1 interconnection request shall be retained and shall be used to determine the review order position for subsequent Level 2 to 4 applications, provided the request is made by the applicant within 15 business days after notification that the Level 1 interconnection request is denied.

ITEM 18. Amend paragraph **45.9(1)“i”** as follows:

i. A distributed generation facility, in aggregate with other generation interconnected to the distribution side of a substation transformer feeding the circuit where the distributed generation facility proposes to interconnect, may not exceed 10 MVA in an area where there are transient stability limitations to generating units located in the general electrical vicinity, as publicly posted by the ~~Mid-Continent Area Power Pool (MAPP), Midwest Reliability Organization (MRO), the SERC Reliability Corporation (SERC), the Midwest~~ Midcontinent Independent Transmission System Operator, Inc. (MISO), or the Midwest Reliability Organization (MRO) or the Southwest Power Pool (SPP).

ITEM 19. Amend paragraph **45.9(2)“a”** as follows:

a. The applicant submits an interconnection request using the ~~appropriate Standard Levels 2 to 4 Interconnection Request Application Form in Appendix C (199—45.16(476))~~ form along with the Level 2 application fee.

ITEM 20. Amend subrule 45.9(3) as follows:

45.9(3) When a utility determines that the interconnection request passes the Level 2 screening criteria, or the utility determines that the distributed generation facility can be interconnected safely and will not cause adverse system impacts, even if ~~it~~ the facility fails one or more of the Level 2 screening criteria, ~~it~~ the utility shall provide the applicant with the ~~Standard Levels 2 to 4~~ Distributed Generation Interconnection Agreement in Appendix D (199—45.17(476)) within three business days of the date the utility makes its determination.

ITEM 21. Amend subrule 45.9(4) as follows:

45.9(4) Within ~~35~~ 30 business days after issuance by the utility of the ~~Standard Levels 2 to 4~~ Distributed Generation Interconnection Agreement, the applicant shall sign and return the agreement to the utility. If the applicant does not sign and return the agreement within ~~35~~ 30 business days, the interconnection request shall be deemed withdrawn unless the applicant requests a 15-business-day extension in writing before the end of the ~~35~~ 30-day period. The initial request for extension may not be denied by the utility. When the utility conducts an additional review under the provisions of subrule 45.9(6), the interconnection of the distributed generation facility shall proceed according to milestones agreed to by the parties in the ~~Standard Levels 2 to 4~~ Distributed Generation Interconnection Agreement.

ITEM 22. Amend subrule 45.9(5) as follows:

45.9(5) The ~~Standard Levels 2 to 4~~ Distributed Generation Interconnection Agreement is not final until:

- a.* All requirements in the agreement are satisfied;
- b.* The distributed generation facility is approved by the electric code officials with jurisdiction over the interconnection;

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c. The applicant provides the ~~Standard Certificate of Completion in Appendix B (199—45.15(476))~~ form to the utility. Completion of local inspections may be designated on inspection forms used by local inspecting authorities; and

d. The witness test has either been successfully completed or waived by the utility in accordance with Article 2.1.1 of the ~~Standard Levels 2 to 4 Distributed Generation Interconnection Agreement.~~

ITEM 23. Amend subrule 45.9(6) as follows:

~~45.9(6) Additional Supplemental review may be appropriate when a distributed generation facility fails to meet one or more of the Level 2 screens. The utility shall offer to perform additional a supplemental review to determine whether there are minor modifications to the distributed generation facility or electric distribution system that would enable the interconnection to be made safely and so that it will not cause without causing adverse system impacts. The utility shall provide the applicant with a nonbinding estimate for the costs of additional review and the costs of minor modifications to the electric distribution system. The utility shall undertake the additional review only after the applicant pays for the additional review. The utility shall undertake the modifications only after the applicant pays for the modifications. To accept the offer of a supplemental review, the applicant shall agree in writing and submit a deposit for the estimated costs of the supplemental review in the amount of the utility's good-faith nonbinding estimate of the costs for such review, both within 15 business days of the offer. If the written agreement and deposit have not been received by the utility within that time frame, the interconnection request shall continue to be evaluated under the applicable study process unless it is withdrawn by the applicant.~~

a. The applicant may specify the order in which the utility will complete the screens described in paragraph 45.9(6)“d.”

b. The applicant shall be responsible for the utility's actual costs for conducting the supplemental review. The applicant must pay any review costs that exceed the deposit within 20 business days of receipt of the invoice or resolution of any dispute. If the deposit exceeds the invoiced costs, the utility will return such excess within 20 business days of the date of the invoice without interest.

c. Within 30 business days following receipt of the deposit for a supplemental review, the utility shall:

(1) Perform a supplemental review using the screens set forth below;

(2) Notify the applicant in writing of the results; and

(3) Include with the notification copies of the analysis and data underlying the utility's determinations based on the screens.

d. Unless the applicant provided instructions on how to respond to the failure of any of the supplemental review screens identified below at the time the applicant accepted the offer of a supplemental review, the utility shall notify the applicant following the failure of any of the screens; or if the utility is unable to perform the screen described in subparagraph 45.9(6)“d”(1) within 2 business days of making such determination, the utility shall obtain the applicant's permission to: (a) continue evaluating the proposed interconnection under this subparagraph; (b) terminate the supplemental review and continue evaluating the small generating facility; or (c) terminate the supplemental review upon withdrawal of the interconnection request by the applicant.

(1) Minimum Load Screen: Where 12 months of line section minimum load data (including onsite load but not station service load served by the proposed small generating facility) are available, can be calculated, can be estimated from existing data, or can be determined from a power flow model, the aggregate generating facility capacity on the line section must be less than 100 percent of the minimum load for all line sections bounded by automatic sectionalizing devices upstream of the proposed small generating facility. If minimum load data is not available, or cannot be calculated, estimated or determined, the utility shall include the reason(s) that it is unable to calculate, estimate or determine minimum load in its supplemental review results notification under paragraph 45.9(6)“c” above.

1. The type of generation used by the proposed small generating facility will be taken into account when calculating, estimating, or determining circuit or line section minimum load relevant for the application of screen. Solar photovoltaic (PV) generation systems with no battery storage use

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daytime minimum load (i.e., 10 a.m. to 4 p.m. for fixed panel systems and 8 a.m. to 6 p.m. for PV systems utilizing tracking systems), while all other types of generation use absolute minimum load.

2. When this screen is being applied to a small generating facility that serves some station service load, only the net injection into the utility's electric system will be considered as part of the aggregate generation.

3. Utility will not consider generating facility capacity known to be already reflected in the minimum load data as part of the aggregate generation for purposes of this screen.

(2) Voltage and Power Quality Screen: In aggregate with existing generation on the line section: (1) the voltage regulation on the line section can be maintained in compliance with relevant requirements under all system conditions; (2) the voltage fluctuation is within acceptable limits as defined by the Institute of Electrical and Electronics Engineers (IEEE) Standard 1453, or utility practice similar to IEEE Standard 1453; and (3) the harmonic levels meet IEEE Standard 519 limits.

(3) Safety and Reliability Screen: The location of the proposed small generating facility and the aggregate generation capacity on the line section do not create impacts to safety or reliability that cannot be adequately addressed without application of the study process. The utility shall give due consideration to the following and other factors in determining potential impacts to safety and reliability in applying this screen.

1. Whether the line section has significant minimum load levels dominated by a small number of customers (e.g., several large commercial customers).

2. Whether the load along the line section is uniform or even.

3. Whether the proposed small generating facility is located in close proximity to the substation (i.e., less than 2.5 electrical circuit miles) and whether the line section from the substation to the point of interconnection is a mainline rated for normal and emergency ampacity.

4. Whether the proposed small generating facility incorporates a time delay function to prevent reconnection of the generator to the system until system voltage and frequency are within normal limits for a prescribed time.

5. Whether operational flexibility is reduced by the proposed small generating facility, such that transfer of the line section(s) of the small generating facility to a neighboring distribution circuit/substation may trigger overloads or voltage issues.

6. Whether the proposed small generating facility employs equipment or systems certified by a recognized standards organization to address technical issues such as, but not limited to, islanding, reverse power flow, or voltage quality.

e. If the proposed interconnection passes the supplemental screens described in subparagraphs 45.9(6) "d"(1), (2), and (3), the interconnection request shall be approved and the utility will provide the applicant with an executable interconnection agreement within the time frames established in paragraphs 45.9(6) "f" and "g." If the proposed interconnection fails any of the supplemental review screens and the applicant does not withdraw its interconnection request, it shall continue to be evaluated under the Level 4 study process consistent with rule 199—45.11(476).

f. If the proposed interconnection passes the supplemental screens described in subparagraphs 45.9(6) "d"(1), (2), and (3) and does not require construction of facilities by the utility on its own system, the interconnection agreement shall be provided within 10 business days after the notification of the supplemental review results.

g. If interconnection facilities or minor modifications to the utility's system are required for the proposed interconnection to pass the supplemental screens described in subparagraphs 45.9(6) "d"(1), (2), and (3) and the applicant agrees to pay for the modifications to the utility's electric system, the interconnection agreement, along with a nonbinding good-faith estimate for the interconnection facilities or minor modifications or both, shall be provided to the applicant within 15 business days after receiving written notification of the supplemental review results.

h. If the proposed interconnection would require more than interconnection facilities or minor modifications to the utility's system to pass the supplemental screens described in subparagraphs 45.9(6) "d"(1), (2), and (3), the utility shall notify the applicant at the same time it notifies the applicant

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with the supplemental review results, that the interconnection request shall be evaluated under the Level 4 study process unless the applicant withdraws its small generating facility.

ITEM 24. Amend paragraph **45.10(1)“a”** as follows:

a. The applicant shall submit an interconnection request using the appropriate Standard Levels 2 to 4 Interconnection Request Application Form in Appendix C (199—45.16(476)) form along with the Level 3 application fee.

ITEM 25. Amend subrule 45.10(2) as follows:

45.10(2) For a distributed generation facility that satisfies the criteria in paragraph 45.10(1)“e” or 45.10(1)“f,” the utility shall approve the interconnection request and provide the applicant with the Standard Levels 2 to 4 Distributed Generation Interconnection Agreement in Appendix D (199—45.17(476)) for the applicant to sign within three business days of the date the utility makes its determination.

ITEM 26. Amend subrule 45.10(3) as follows:

45.10(3) Within ~~35~~ 30 business days after issuance by the utility of the Standard Levels 2 to 4 Distributed Generation Interconnection Agreement, the applicant shall complete, sign, and return the agreement to the utility. If the applicant does not sign the agreement within ~~35~~ 30 business days, the request shall be deemed withdrawn, unless the applicant requests a 15-business-day extension in writing before the end of the ~~35~~ 30-day period. An initial request for extension may not be denied by the utility. After the agreement is signed by the parties, interconnection of the distributed generation facility shall proceed according to any milestones agreed to by the parties in the Standard Levels 2 to 4 Distributed Generation Interconnection Agreement.

ITEM 27. Amend subrule 45.10(4) as follows:

45.10(4) The Standard Levels 2 to 4 Distributed Generation Interconnection Agreement shall not be final until:

- a. All requirements in the agreement are satisfied; and
- b. The distributed generation facility is approved by the electric code officials with jurisdiction over the distributed generation facility; and
- c. The applicant provides the Standard Certificate of Completion in Appendix B (199—45.15(476)) form to the utility; and
- d. The witness test has either been successfully completed or waived by the utility in accordance with Article 2.1.1 of the Standard Levels 2 to 4 Distributed Generation Interconnection Agreement.

ITEM 28. Amend subrule 45.11(1) as follows:

45.11(1) The applicant submits an interconnection request using the appropriate Standard Levels 2 to 4 Interconnection Request Application Form in Appendix C (199—45.16(476)) form along with the Level 4 application fee.

ITEM 29. Amend paragraph **45.11(4)“b”** as follows:

- b. Standard Level 4 study review procedures.
 - (1) No change.
 - (2) Feasibility study. Unless waived or combined with other studies pursuant to paragraph 45.11(4)“a,” an interconnection feasibility study (subrule 45.11(5)) shall be performed.
 1. The utility shall provide the applicant a copy of the Standard Interconnection Feasibility Study Agreement in Appendix E (199—45.18(476)) or a mutually agreed-upon alternative form, plus a description of the study and a nonbinding estimate of the cost to perform the study.
 2. and 3. No change.
 - (3) System impact study. Unless waived or combined with other studies pursuant to paragraph 45.11(4)“a,” an interconnection system impact study (subrule 45.11(6)) shall be performed.
 1. The utility shall provide the applicant a copy of the Standard Interconnection System Impact Study Agreement in Appendix F (199—45.19(476)) or a mutually agreed-upon alternative form, plus an outline of the scope of the study and a nonbinding estimate of the cost to perform the study.
 2. and 3. No change.

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(4) Facilities study. Unless waived or combined with other studies pursuant to paragraph 45.11(4)“a,” an interconnection facilities study (subrule 45.11(7)) shall be performed.

1. The utility shall provide the applicant a copy of the ~~Standard~~ Interconnection Facilities Study Agreement in ~~Appendix G (199—45.20(476))~~ or a mutually agreed-upon alternative form, plus an outline of the scope of the study and a nonbinding estimate of the cost to perform the study.

2. and 3. No change.

ITEM 30. Amend paragraph **45.11(5)“e”** as follows:

e. Either party can require that the ~~Standard~~ Interconnection Feasibility Study Agreement in ~~Appendix E (199—45.18(476))~~ be used. However, if both parties agree, an alternative form can be used.

ITEM 31. Amend subrule 45.11(6) as follows:

45.11(6) Interconnection system impact study. An interconnection system impact study evaluates the impact of the proposed interconnection on both the safety and reliability of the utility’s electric distribution system. The study identifies and details the system impacts that interconnecting the distributed generation facility to the utility’s electric system have if there are no system modifications. It focuses on the potential or actual adverse system impacts identified in the interconnection feasibility study, including those that were identified in the scoping meeting. The study shall consider all other distributed generation facilities that, on the date the interconnection system impact study is commenced, are directly interconnected with the utility’s system, have a pending higher review order position to interconnect to the electric distribution system, or have signed an interconnection agreement. The utility shall coordinate with any affected system owners regarding potential impacts to affected systems in a timely manner and include the results of such studies along with the system impacts study.

a. Unless waived or combined with other studies by agreement of the parties pursuant to paragraph 45.11(4)“a,” an interconnection system impact study shall be performed when either a potential adverse system impact is identified in the interconnection feasibility study, or an interconnection feasibility study has not been performed. Before performing the study, the utility shall provide the applicant an outline of the scope of the study and a nonbinding estimate of the cost to perform the study. The interconnection system impact study shall include any pertinent elements from among the following:

- (1) A load flow study;
- (2) Identification of affected systems and any subsequent affected system study;
- (3) An analysis of equipment interrupting ratings;
- (4) A protection coordination study;
- (5) Voltage drop and flicker studies;
- (6) Protection and set point coordination studies;
- (7) Grounding reviews; and
- (8) Impact on system operation.

b. An interconnection system impact study shall consider any necessary criteria from among the following:

- (1) A short-circuit analysis;
- (2) A stability analysis;
- (3) Alternatives for mitigating adverse system impacts on affected systems;
- (4) Voltage drop and flicker studies;
- (5) Protection and set point coordination studies; ~~and~~
- (6) Grounding reviews; and
- (7) Results from the affected system study.

c. The final interconnection system impact study shall provide the following:

- (1) The underlying assumptions of the study;
- (2) The results of the analyses;
- (3) A list of any potential impediments to providing the requested interconnection service;
- (4) Required distribution upgrades; and
- (5) A nonbinding estimate of cost and time to construct any required distribution upgrades.

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d. Either party can require that the ~~Standard~~ Interconnection System Impact Study Agreement in ~~Appendix F (199—45.19(476))~~ be used. However, if both parties agree, an alternative form can be used.

ITEM 32. Amend paragraph **45.11(7)“d”** as follows:

d. Upon completion of the interconnection facilities study, and after the applicant agrees to pay for the interconnection facilities and distribution upgrades identified in the interconnection facilities study, the utility shall provide the applicant with the ~~Standard~~ Levels 2 to 4 Distributed Generation Interconnection Agreement in ~~Appendix D (199—45.17(476))~~ for the applicant to sign within three business days of the date the utility makes its determination.

ITEM 33. Amend paragraph **45.11(7)“f”** as follows:

f. Either party can require that the ~~Standard~~ Interconnection Facilities Study Agreement in ~~Appendix G (199—45.20(476))~~ be used. However, if both parties agree, an alternative form can be used.

ITEM 34. Amend subrule 45.11(8) as follows:

45.11(8) When a utility determines, as a result of the studies conducted under a Level 4 review, that it is appropriate to interconnect the distributed generation facility, the utility shall provide the applicant with the ~~Standard~~ Levels 2 to 4 Distributed Generation Interconnection Agreement in ~~Appendix D (199—45.17(476))~~. If the interconnection request is denied, the utility shall provide the applicant with a written explanation as to its reasons for denying interconnection. If denied, the interconnection request does not retain its position in the review order.

ITEM 35. Amend subrule 45.11(9) as follows:

45.11(9) Within 30 business days after receipt of the ~~Standard~~ Levels 2 to 4 Distributed Generation Interconnection Agreement, the applicant shall provide all necessary information required of the applicant by the agreement, and the utility shall develop all other information required of the utility by the agreement. After completing the agreement with the additional information, the utility will transmit the completed agreement to the applicant. Within 30 business days after receipt of the completed agreement, the applicant shall sign and return the completed agreement to the utility. If the applicant does not sign and return the agreement within 30 business days after receipt, the interconnection request shall be deemed withdrawn, unless the applicant requests in writing to have the deadline extended by no more than 15 business days, prior to the expiration of the 30-business-day period. The initial request for extension may not be denied by the utility. If the applicant does not sign and return the agreement after the 15-business-day extension, the interconnection request shall be deemed withdrawn. If withdrawn, the interconnection request does not retain its position in the review order. When construction is required, the interconnection of the distributed generation facility shall proceed according to milestones agreed to by the parties in the ~~Standard~~ Levels 2 to 4 Distributed Generation Interconnection Agreement.

ITEM 36. Amend subrule 45.11(10) as follows:

45.11(10) The ~~Standard~~ Levels 2 to 4 Distributed Generation Interconnection Agreement is not final until:

- a.* The requirements of the agreement are satisfied; and
- b.* The distributed generation facility is approved by electric code officials with jurisdiction over the interconnection; and
- c.* The applicant provides the ~~Standard~~ Certificate of Completion in ~~Appendix B (199—45.15(476))~~ form to the utility. Completion of local inspections may be designated on inspection forms used by local inspecting authorities; and
- d.* The witness test has either been successfully completed or waived by the utility in accordance with Article 2.1.1 of the ~~Standard~~ Levels 2 to 4 Distributed Generation Interconnection Agreement in ~~Appendix D (199—45.17(476))~~.

ITEM 37. Amend subrules 45.13(1) and 45.13(2) as follows:

45.13(1) For each completed interconnection request received by the utility, the utility shall maintain records of the following for a minimum of three years:

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- a. The date the interconnection application was received as complete, the total AC nameplate capacity, and the fuel type of the distributed generation facility;
- b. The level of review received (Level 1, Level 2, Level 3, or Level 4) and whether the project failed any initial screens, and if so and readily determinable, which screens; whether the facility received a supplemental review; and whether any impact or facility study was conducted; and
- c. Whether the interconnection was approved, or denied, or withdrawn and the date of that action; and
- d. Whether the facility is operational and, if so, the date the electric utility authorized the facility to begin operation.

~~45.13(2) Beginning May 1, 2011, each~~ Each utility shall file a ~~nonconfidential annual~~ report by May 1 of each year detailing the information required in subrule 45.13(1) for the previous calendar year.

ITEM 38. Rescind rules ~~199—45.14(476)~~ to ~~199—45.20(476)~~.

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