



IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XLVII
January 22, 2025

NUMBER 15
Pages 7975 to 8590

CONTENTS IN THIS ISSUE

Pages 8053 to 8590 include **ARC 8727C** to **ARC 8729C** and **ARC 8732C** to **ARC 8739C** and **ARC 8762C** to **ARC 8769C** and **ARC 8791C** to **ARC 8848C**

AGENDA

Administrative rules review committee 7992

ALL AGENCIES

Agency identification numbers 7990
Citation of administrative rules 7979
Schedule for rulemaking 7980

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]"umbrella"

Filed, Organization and operation, ch 1
ARC 8800C 8306
Filed, Agency procedures and petitions
for rulemaking, ch 2 **ARC 8801C** 8307
Filed, Declaratory orders, ch 3 **ARC 8802C** . . . 8309
Filed, Agency procedure for rule
making, rescind ch 4 **ARC 8803C** 8311
Filed, Public records and fair
information practices, ch 5 **ARC 8804C** . . . 8312
Filed, Waivers from administrative rules,
ch 6 **ARC 8805C** 8315
Filed, Proof of legal presence, ch 7
ARC 8806C 8319
Filed, Debts to state and local
government—noncompliance, ch 8
ARC 8807C 8320
Filed, Background checks and issuance,
ch 9 **ARC 8808C** 8323
Filed, Child support noncompliance, ch
10 **ARC 8809C** 8325

Filed, Complaints, investigations,
contested case hearings, ch 11
ARC 8810C 8328
Filed, Fees, ch 12 **ARC 8811C** 8345
Filed, Teacher licenses and
endorsements, ch 13 **ARC 8812C** 8348
Filed, Special education endorsements,
ch 14 **ARC 8813C** 8367
Filed, Special education support
personnel authorizations, rescind ch
15 **ARC 8814C** 8381
Filed, Statements of professional
recognition (SPR), ch 16 **ARC 8815C** 8382
Filed, Administrator licenses and
endorsements, ch 18 **ARC 8816C** 8384
Filed, Evaluator endorsement and
license, ch 19 **ARC 8817C** 8389
Filed, Renewals and extensions, ch 20
ARC 8818C 8391
Filed, Conditional endorsements, ch 21
ARC 8819C 8394
Filed, Limited authorizations, ch 22
ARC 8820C 8396
Filed, Behind-the-wheel driving
instructor authorization, ch 23
ARC 8821C 8404
Filed, Paraeducator certificates, ch 24
ARC 8822C 8406
Filed, Code of professional conduct and
ethics, ch 25 **ARC 8823C** 8413

Filed, Code of rights and responsibilities, ch 26 ARC 8824C	8418	Filed, Grant applications and awards, ch 171 ARC 8837C	8463
Filed, Issuance of professional service licenses, ch 27 ARC 8825C	8421	Filed, Professional wrestling, ch 172 ARC 8838C	8465
HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]		Filed, Professional boxing, ch 173 ARC 8839C	8466
Regulatory Analysis, Local emergency management, ch 7	7998	Filed, Elimination tournaments, ch 174 ARC 8840C	8472
Regulatory Analysis, Criteria for awards or grants, ch 8	8009	Filed, Amateur boxing, rescind ch 175 ARC 8841C	8475
Regulatory Analysis, Mass notification and emergency messaging system, ch 15	8013	Filed, Professional kickboxing, ch 176 ARC 8842C	8476
INSPECTIONS AND APPEALS DEPARTMENT[481]		Filed, Mixed martial arts, ch 177 ARC 8843C	8478
Regulatory Analysis, Administration, ch 1	8017	LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D]	
Notice, Continuing education for dietitians, 922.2(4) ARC 8799C	8053	Professional Licensing and Regulation Bureau[193] INSURANCE AND FINANCIAL SERVICES DEPARTMENT[181]"umbrella"	
LABOR SERVICES DIVISION[875]		Notice, Description of organization, ch 1 ARC 8764C	8054
WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"		Notice, Examinations and licensing, ch 2 ARC 8765C	8057
Regulatory Analysis, Personal protective equipment in construction—adoption by reference, 26.1	8021	Notice, Continuing education, ch 3 ARC 8766C	8063
Filed, Description of organization and procedures before the division, rescind ch 1 ARC 8826C	8425	Notice, Rules of professional conduct and discipline procedures, ch 4 ARC 8769C	8068
Filed, Administration of Iowa Code chapter 88A; amusement ride inspections, ch 61 ARC 8827C	8426	NURSING BOARD[655]	
Filed, Safety rules for amusement rides, amusement devices, and concession booths, ch 62 ARC 8828C	8432	PUBLIC HEALTH DEPARTMENT[641]"umbrella"	
Filed, Safety rules for bungee jumps, ch 63 ARC 8829C	8436	Notice, Administrative and regulatory authority, ch 1 ARC 8762C	8074
Filed, Elevator safety board petitions for rule making, rescind ch 67 ARC 8830C	8444	Notice, Nursing education programs, ch 2 ARC 8768C	8077
Filed, Declaratory orders by the elevator safety board, rescind ch 68 ARC 8831C	8445	Notice, Licensure to practice—registered nurse/licensed practical nurse, ch 3 ARC 8767C	8091
Filed, Public records and fair information practices of the elevator safety board, rescind ch 70 ARC 8832C	8446	Notice, Complaints, investigations and discipline, ch 4 ARC 8763C	8100
Filed, Construction contractor registration, ch 150 ARC 8833C	8448	Notice, Continuing education, ch 5 ARC 8791C	8107
Filed, Asbestos removal and encapsulation, ch 155 ARC 8834C	8453	Notice, Nursing practice for registered nurses/licensed practice nurses, ch 6 ARC 8792C	8111
Filed, General requirements for athletic commission events, ch 169 ARC 8835C	8457	Notice, Advanced registered nurse practitioners, ch 7 ARC 8793C	8122
Filed, Operations of advisory board, rescind ch 170 ARC 8836C	8462		

Notice, Petitions for rule making; declaratory orders; agency procedure for rule making; examination of public records; disciplinary hearing costs; fair information practices; waiver rules; nonpayment of child support or state debt; military service and veteran reciprocity; Iowa nurse assistance program; contested cases, rescind chs 8 to 11, 13 to 15, 17 to 20 ARC 8795C	8129
Notice, Registered nurse certifying organizations/utilization and cost control review, ch 12 ARC 8794C	8132
PUBLIC HEARINGS	
Summarized list.	7981
REVENUE DEPARTMENT[701]	
Notice, Administration of cigarette, tobacco, vapor products, and alternative nicotine products, adopt ch 230; rescind ch 254 ARC 8733C	8136
Notice, Cigarette tax and regulation of delivery sales of alternative nicotine products or vapor products, adopt ch 231; rescind ch 255 ARC 8734C	8142
Notice, Tobacco tax, adopt ch 232; rescind ch 256 ARC 8735C	8149
Notice, Unfair cigarette sales, adopt ch 233; rescind ch 257 ARC 8736C	8155
Notice, Tobacco master settlement agreement, adopt ch 234; rescind ch 258 ARC 8737C	8160
Notice, Administration of marijuana and controlled substance stamp tax, adopt ch 240; rescind ch 269 ARC 8738C	8164
Notice, Vehicles subject to registration, ch 250 ARC 8727C	8167
Notice, Automobile rental excise tax, ch 251 ARC 8728C	8179
Notice, State-imposed water service excise tax, ch 252 ARC 8732C	8182
Notice, State-imposed and locally imposed hotel and motel taxes, ch 253 ARC 8729C	8186

Notice, Fuel tax administration, motor fuel and undyed special fuel, liquefied petroleum gas—compressed natural gas—liquefied natural gas— hydrogen, electric fuel excise tax, chs 259 to 262 ARC 8739C	8192

SECRETARY OF STATE[721]

Regulatory Analysis, Precinct election officials and other election personnel training requirements, 21.362	8026

TRANSPORTATION DEPARTMENT[761]

Regulatory Analysis, Procedure for rulemaking and petitions for rulemaking, ch 10	8029
Regulatory Analysis, Waiver of rules, ch 11	8033
Regulatory Analysis, Declaratory orders, ch 12	8037
Regulatory Analysis, Transporter plates, ch 424	8041
Regulatory Analysis, Motor vehicle leasing licenses, ch 430	8044
Regulatory Analysis, Vehicle recyclers, ch 431	8047
Regulatory Analysis, General information, ch 600	8051

TREASURER OF STATE[781]

Notice—Public funds interest rates.	8228
Filed, Unclaimed property, amendments to ch 9 ARC 8844C	8484
Filed, Iowa educational savings plan trust—529 savings accounts, 16.2 to 16.13 ARC 8845C	8491

USURY

Notice	8229

UTILITIES COMMISSION[199]

Notice, Cogeneration and small power production, ch 15 ARC 8797C	8229
Notice, Service supplied by gas utilities, ch 19 ARC 8796C	8245
Notice, Electric interconnection of distributed generation facilities, ch 45 ARC 8798C	8283
Filed, Service supplied by water, sanitary sewage, and storm water drainage utilities, ch 21 ARC 8846C	8497

Filed, Energy efficiency and demand
response planning and reporting for
rate-regulated natural gas and electric
utilities, ch 35 **ARC 8847C** 8524

**WORKFORCE DEVELOPMENT
DEPARTMENT[871]**

Filed, Employer's contribution and
charges, ch 23 **ARC 8848C** 8539

PREFACE

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

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

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

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

JACK EWING, Administrative Code Editor

Telephone: 515.281.6048

Email: Jack.Ewing@legis.iowa.gov

Publications Editing Office (Administrative Code)

Telephone: 515.281.3355

Email: AdminCode@legis.iowa.gov

CITATION of Administrative Rules

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

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

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

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

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

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

Schedule for Rulemaking—2025

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

PLEASE NOTE:

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

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

†To allow time for review by the Administrative Rules Coordinator prior to the Notice submission deadline, Notices should generally be submitted in RMS four or more business days in advance of the deadline. The first possible notice submission deadline noted above may not allow sufficient time for this. **Agencies should plan accordingly.**

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

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Benefits, 64.1 to 64.4 IAB 1/8/25 Regulatory Analysis	Google Meet 1.413.728.2894 PIN: 372 678 365#	January 28, 2025 1 to 1:30 p.m.
Procurement of goods and services of general use; purchasing standards for service contracts, amendments to chs 117, 118 IAB 1/8/25 ARC 8776C	Google Meet 1.916.836.2562 PIN: 214 164 057# Google Meet 1.302.440.5656 PIN: 132 977 762#	January 30, 2025 2:30 to 3 p.m. January 30, 2025 3:30 to 4 p.m.

ARCHITECTURAL EXAMINING BOARD[193B]

Continuing education credits—applying excess credits, 3.3(2) IAB 12/25/24 ARC 8552C	6200 Park Avenue, Suite 100 Des Moines, Iowa Microsoft Teams link Meeting ID: 870 0273 5933 Passcode: 814381 Or dial: 312.626.6799	January 28, 2025 3:30 p.m.
	6200 Park Avenue, Suite 100 Des Moines, Iowa Microsoft Teams link Meeting ID: 878 2235 5121 Passcode: 548342 Or dial: 312.626.6799	January 29, 2025 3:30 p.m.

EDUCATION DEPARTMENT[281]

Open enrollment—transportation, deadlines, 17.2(1), 17.6, 17.8; community colleges, 21.1, 21.2, 21.62, 21.63; postsecondary program review, amendments to ch 46; state standards for progression in reading, 62.3(4), 62.4(4), 62.6(1); practitioner preparation, 79.13 to 79.15, 79.24 IAB 1/8/25 ARCs 8757C, 8758C, 8759C, 8760C, 8761C	Room B100 Grimes State Office Building Des Moines, Iowa	January 28, 2025 8 to 9 a.m.

ENVIRONMENTAL PROTECTION COMMISSION[567]

Nonpublic water wells—permits and construction, rescind ch 38, adopt ch 49; properly plugging abandoned wells, ch 39; well contractor certification, ch 82 IAB 1/8/25 ARCs 8599C, 8614C, 8627C	Virtual meeting registration link will be provided prior to the hearing. More information: www.iowadnr.gov/ Environmental-Protection/Land-Quality/ Land-Quality-Rulemaking	February 3, 2025 10 to 11 a.m. February 4, 2025 2 to 3 p.m.
Scope, definitions, forms, public notice and education, consumer confidence reports, reporting, and record maintenance, adopt ch 40, rescind ch 42; water supplies, ch 41; water supplies—design and operation, ch 43 IAB 1/8/25 ARCs 8616C, 8617C, 8631C	Virtual meeting registration link will be provided prior to the hearing. More information: www.iowadnr.gov/ Environmental-Protection/Land-Quality/ Land-Quality-Rulemaking	January 30, 2025 2 to 3 p.m. January 31, 2025 9 to 10 a.m.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Drinking water state revolving fund, ch 44; scope of title—definitions—forms; clean water state revolving fund, adopt ch 90; rescind chs 91, 92, 93 IAB 1/8/25 ARCs 8625C, 8637C	Virtual meeting registration link will be provided prior to the hearing. More information: www.iowadnr.gov/Environmental-Protection/Land-Quality/Land-Quality-Rulemaking	February 5, 2025 9 to 10 a.m. February 6, 2025 10 to 11 a.m.
Water use, withdrawals, and diversions, adopt ch 50, rescind chs 51, 52; protected water sources, ch 53; water use permit restrictions or compensation by permitted users to nonregulated users due to well interference, ch 54; aquifer storage and recovery, ch 55 IAB 1/8/25 ARCs 8618C, 8619C, 8630C, 8652C	Virtual meeting registration link will be provided prior to the hearing. More information: www.iowadnr.gov/Environmental-Protection/Land-Quality/Land-Quality-Rulemaking	February 3, 2025 2 to 3 p.m. February 4, 2025 10 to 11 a.m.
Scope of title, definitions, wastewater construction permits, and operation permits, adopt ch 60; rescind chs 64, 66; effluent and pretreatment standards, ch 62; monitoring, analytical and reporting requirements, ch 63; land application of sewage sludge, ch 67; commercial septic tank cleaners, ch 68; private sewage disposal systems, ch 69 IAB 1/8/25 ARCs 8626C, 8629C, 8632C, 8635C, 8638C, 8650C	Virtual meeting registration link will be provided prior to the hearing. More information: www.iowadnr.gov/Environmental-Protection/Land-Quality/Land-Quality-Rulemaking	January 28, 2025 1 to 2 p.m. January 29, 2025 1 to 2 p.m.
Scope of title—definitions—forms—rules of practice, ch 70; floodplain or floodway development—when approval is required, adopt ch 71; rescind chs 75, 76; criteria for approval, ch 72; approval, construction, use, maintenance, removal, inspections, and safety of dams, ch 73 IAB 1/8/25 ARCs 8633C, 8634C, 8636C, 8639C	Virtual meeting registration link will be provided prior to the hearing. More information: www.iowadnr.gov/Environmental-Protection/Land-Quality/Land-Quality-Rulemaking	January 28, 2025 10 to 11 a.m. January 29, 2025 1 to 2 p.m.
Operator certification: public water supply systems and wastewater treatment systems, ch 81 IAB 1/8/25 ARC 8600C	Virtual meeting registration link will be provided prior to the hearing. More information: www.iowadnr.gov/Environmental-Protection/Land-Quality/Land-Quality-Rulemaking	February 4, 2025 8:30 to 9:30 a.m. February 5, 2025 2 to 3 p.m.
Laboratory certification, ch 83 IAB 1/8/25 ARC 8601C	Virtual meeting registration link will be provided prior to the hearing. More information: www.iowadnr.gov/Environmental-Protection/Land-Quality/Land-Quality-Rulemaking	January 28, 2025 10 to 11 a.m. January 31, 2025 10:30 to 11:30 a.m.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Local emergency management, ch 7 IAB 1/22/25 Regulatory Analysis	Geode Room 7900 Hickman Road, Suite 500 Windsor Heights, Iowa meet.google.com/oqm-wujn-dif	February 11, 2025 9:30 a.m.
Criteria for awards or grants, ch 8; IAB 1/22/25 Regulatory Analyses	Geode Room 7900 Hickman Road, Suite 500 Windsor Heights, Iowa meet.google.com/oqm-wujn-dif	February 11, 2025 8:30 a.m.
Mass notification and emergency messaging system, ch 15 IAB 1/22/25 Regulatory Analysis	Geode Room 7900 Hickman Road, Suite 500 Windsor Heights, Iowa meet.google.com/oqm-wujn-dif	February 11, 2025 9 a.m.

HUMAN SERVICES DEPARTMENT[441]

Facility assessments, ch 36; promoting healthy marriage, ch 48; payment, ch 45; overpayment recovery, ch 46; diversion initiatives, ch 47; nursing facilities, ch 81; ICF/ID, ch 82; early and periodic screening, diagnosis, and treatment, ch 84; family planning program, ch 87 IAB 1/8/25 ARCs 8709C, 8710C, 8711C, 8712C, 8713C, 8714C, 8715C, 8717C, 8718C	Microsoft Teams Meeting ID: 222 847 169 42 Passcode: d7aG7cR9 Microsoft Teams Meeting ID: 243 840 908 594 Passcode: a7Jg78UJ	January 28, 2025 1 to 2 p.m. January 29, 2025 10 to 11 a.m.

INSPECTIONS AND APPEALS DEPARTMENT[481]

Administration, ch 1 IAB 1/22/25 Regulatory Analysis	6200 Park Avenue, Suite 100 Des Moines, Iowa	February 12, 2025 12:30 p.m.

INTERIOR DESIGN EXAMINING BOARD[193G]

Description of organization, ch 1; registration, ch 2; continuing education, ch 3; grounds for discipline, disciplinary investigations, and disciplinary proceedings, ch 5; disciplinary investigations, rescind ch 6; disciplinary proceedings, rescind ch 7 IAB 12/25/24 ARCs 8547C, 8549C, 8550C, 8551C, 8554C, 8555C	6200 Park Avenue, Suite 100 Des Moines, Iowa Via Zoom: us02web.zoom.us/j/84433132848?pwd=jrbJwdGmptTm0gZaKqYSRqqcXbDdlT.1 Meeting ID: 844 3313 2848 Passcode: 461940 Or dial: 1.312.626.6799 6200 Park Avenue, Suite 100 Des Moines, Iowa Via Zoom: us02web.zoom.us/j/81810512251?pwd=y97pOzjCHYLqffosRbjf6ETPwtW8t0.1 Meeting ID: 818 1051 2251 Passcode: 926490 Or dial: 1.312.626.6799	January 28, 2025 4 p.m. January 29, 2025 4 p.m.

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

Contribution rates; proof of date of birth,
4.6, 11.1(1)"a"
IAB 1/8/25

Regulatory Analysis

IPERS Boardroom
7401 Register Drive
Des Moines, Iowa
Via conference call:
teams.microsoft.com/l/meetup-join
Meeting ID: 252 958 841 610
Passcode: nS3qX3XN

January 29, 2025
10:30 to 11:30 a.m.

LABOR SERVICES DIVISION[875]

Personal protective equipment in
construction—adoption by reference,
26.1
IAB 1/22/25

Regulatory Analysis

Lake Conference Room
6200 Park Avenue, Suite 100
Des Moines, Iowa

February 11, 2025
9:30 to 10 a.m.

LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D]

Description of organization, ch 1;
examinations and licensing, ch 2;
continuing education, ch 3; rules of
professional conduct and discipline
procedures, ch 4
IAB 1/22/25 **ARCs 8764C, 8765C,
8766C, 8769C**

6200 Park Avenue
Des Moines, Iowa
Via Zoom:
us02web.zoom.us/j/84519372629?pwd=MCQHjkUE42fpU2BV3ta7brjCE0dJY1.1
6200 Park Avenue
Des Moines, Iowa
Via Zoom:
us02web.zoom.us/j/87479125519?pwd=grl7giYJD1GhCGwPvAGT1E5ej8ul6o.1

February 13, 2025
9 to 9:20 a.m.

February 14, 2025
9 to 9:20 a.m.

NATURAL RESOURCE COMMISSION[571]

Vessel safety and registration, rescind chs
36, 38 to 43, 45, adopt ch 37; special
events and fireworks displays, ch 44;
inspection of permanently moored
vessels, ch 48; motor vehicles in
meandered streams, navigable streams
and trout streams, ch 49; nonpermanent
structures, ch 55; shooting sports grant
program, ch 56
IAB 1/8/25 **ARCs 8596C, 8597C,
8604C, 8610C, 8611C, 8613C**

Via videoconference
A meeting registration link will be
provided prior to the hearing

January 31, 2025
11 a.m.

February 11, 2025
11 a.m.

All-terrain vehicles, off-road motorcycles
and off-road utility vehicles, ch 46;
snowmobiles, ch 47; regulated vehicle,
snowmobile and vessel bonding, ch 50;
state parks, recreation areas, and state
forest camping; keg beer rules, amend
ch 61, rescind ch 63; metal detector use
in state areas, ch 64; Saylorville
multiuse trail, ch 66; recreation trails
on state forests, parks, preserves and
recreation areas, ch 67
IAB 1/8/25 **ARCs 8585C, 8586C,
8587C, 8588C, 8598C, 8603C, 8605C**

6200 Park Avenue, Suite 200
Des Moines, Iowa
Also via videoconference
A meeting registration link will be
provided prior to the hearing

January 29, 2025
12 noon to 1 p.m.

February 6, 2025
4 to 5 p.m.

NATURAL RESOURCE COMMISSION[571](cont'd)

Game management areas, ch 51; wildlife refuges, ch 52; restrictions on removal of plant life, ch 54; migratory game bird hunting, adopt ch 91, rescind chs 92, 97, 102; small game hunting, adopt ch 96, rescind chs 100, 107; wild turkey hunting, adopt ch 98, rescind ch 99; falconry regulations, ch 101; deer population management zones, ch 105; wild furbearer trapping and hunting, adopt ch 108, rescind chs 109, 110; nuisance wildlife control, ch 114 IAB 1/8/25 ARCs 8590C, 8606C, 8607C, 8608C, 8609C, 8612C, 8620C, 8623C, 8624C, 8628C	6200 Park Avenue, Suite 200 Des Moines, Iowa	January 28, 2025 12 noon to 1 p.m. January 29, 2025 12 noon to 1 p.m.
Timber buyers, ch 72; forest and fruit-tree reservations, ch 73 IAB 1/8/25 ARCs 8589C, 8622C	Via videoconference A meeting registration link will be provided prior to the hearing	January 29, 2025 1 to 2 p.m. February 5, 2025 1 to 2 p.m.
Forest land enhancement program (FLEP), rescind ch 74 IAB 1/8/25 ARC 8621C	Via videoconference A meeting registration link will be provided prior to the hearing	January 29, 2025 1 to 2 p.m.

NATURAL RESOURCES DEPARTMENT[561]

Description of organization; submission of information and complaints— investigations, rescind chs 1, 3 IAB 1/8/25 ARC 8642C	6200 Park Avenue, Suite 200 Des Moines, Iowa	January 29, 2025 1 to 2 p.m.
Rules of practice in contested cases, ch 7; groundwater hazard documentation, ch 9; waivers from administrative rules, ch 10 IAB 1/8/25 ARCs 8640C, 8643C, 8648C	Via videoconference A meeting registration link will be provided prior to the hearing	January 30, 2025 12 noon January 31, 2025 12 noon
Contracts for services and public improvements, ch 8 IAB 1/8/25 ARC 8645C	Lake Darling Conference Room 6200 Park Avenue, Suite 200 Des Moines, Iowa Via videoconference A meeting registration link will be provided prior to the hearing	January 29, 2025 9 to 10 a.m. January 30, 2025 9 to 10 a.m.
The Iowa nature store, rescind ch 11; concessions, rescind ch 14 IAB 1/8/25 ARCs 8644C, 8647C	Via videoconference A meeting registration link will be provided prior to the hearing	January 30, 2025 12 noon

NATURAL RESOURCES DEPARTMENT[561](cont'd)

Special nonresident deer and turkey licenses, ch 12 IAB 1/8/25 ARC 8646C	6200 Park Avenue, Suite 200 Des Moines, Iowa	January 28, 2025 12 noon to 1 p.m. January 29, 2025 12 noon to 1 p.m.
State lands volunteer program, ch 13; state park and recreation area fees, ch 16 IAB 1/8/25 ARCs 8615C, 8649C	Via videoconference A meeting registration link will be provided prior to the hearing	January 29, 2025 12 noon to 1 p.m. February 6, 2025 4 to 5 p.m.
Revocation, suspension, and nonrenewal of license for failure to pay state liabilities, ch 15 IAB 1/8/25 ARC 8641C	Via videoconference A meeting registration link will be provided prior to the hearing	January 30, 2025 12 noon January 31, 2025 12 noon
Oil, gas, and metallic minerals, ch 17 IAB 1/8/25 ARC 8651C	Via videoconference A meeting registration link will be provided prior to the hearing	January 30, 2025 1 p.m. January 31, 2025 9 a.m.

NURSING BOARD

Authority, ch 1; nursing education programs, ch 2; licensure to practice—registered nurse/licensed practical nurse, ch 3; complaints, investigations and discipline, ch 4; continuing education, ch 5; nursing practice for registered nurses/licensed practice nurses, ch 6; advanced registered nurse practitioners, ch 7; Red Tape Review, rescind chs 8 to 11, 13 to 15, 17 to 20; registered nurse certifying organizations/utilization and cost control review, ch 12 IAB 1/22/25 ARCs 8762C, 8763C, 8767C, 8768C, 8791C, 8792C, 8793C, 8794C, 8795C	6200 Park Avenue Des Moines, Iowa Information on virtual participation will be available on the Department of Inspections, Appeals, and Licensing website prior to the hearing.	February 11, 2025 8:30 a.m. February 12, 2025 8:30 a.m.

PUBLIC HEALTH DEPARTMENT[641]

Blood lead testing, ch 67; control of lead-based paint hazards, ch 68; EMS—service program authorization, ch 132; EMS—air medical service program authorization, rescind ch 144 IAB 1/8/25 ARCs 8719C, 8720C, 8721C, 8722C	Microsoft Teams Meeting ID: 222 847 169 42 Passcode: d7aG7cR9 Microsoft Teams Meeting ID: 243 840 908 594 Passcode: a7Jg78UJ	January 28, 2025 1 to 2 p.m. January 29, 2025 10 to 11 a.m.

PUBLIC SAFETY DEPARTMENT[661]

State building code—factory-built structures, ch 16 IAB 1/8/25 Regulatory Analysis	6200 Park Avenue Des Moines, Iowa	January 29, 2025 2 to 3 p.m.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

Fire marshal administration, general fire safety requirements, specific occupancies, fire safety for hospitals and health care facilities; smoke alarms/detectors; carbon monoxide alarms, rescind chs 200, 202, 205, 210, 211, adopt ch 201; flammable or combustible liquids, adopt ch 221, rescind ch 224
IAB 1/8/25

Ledges Conference Room
6200 Park Avenue
Des Moines, Iowa

January 28, 2025
10 a.m.

Regulatory Analyses

State building code administration, ch 300; state building code, adopt ch 301, rescind chs 302, 303, 310, 315, 350; state building code—manufactured housing support and anchorage systems, ch 322; temporary emergency use of factory-built structures—commercial use, ch 323
IAB 1/8/25

6200 Park Avenue
Des Moines, Iowa

January 29, 2025
2 to 3 p.m.

Regulatory Analyses

Standards for electrical work; electrical inspection program—organization and administration, definitions, permits and inspections, utility notifications and responsibilities of utilities; civil penalties, rescind chs 504, 550 to 553, 559; adopt ch 550
IAB 12/25/24 **ARC 8582C**

6200 Park Avenue
Des Moines, Iowa

January 28, 2025
11:30 a.m.

January 29, 2025
11:30 a.m.

REVENUE DEPARTMENT[701]

Administration of cigarette, tobacco, vapor products, and alternative nicotine products; cigarette tax and regulation of delivery sales of alternative nicotine products or vapor products, tobacco tax; unfair cigarette sales; tobacco master settlement agreement, marijuana and controlled substance stamp tax, adopt chs 230 to 234, 240; rescind chs 254 to 258, 269
IAB 1/22/25 **ARCs 8733C, 8734C, 8735C, 8736C, 8737C, 8738C**

Via videoconference call
meet.google.com/dfi-ijbx-deo

February 11, 2025
1 to 2 p.m.

Via videoconference call
meet.google.com/mki-dfmd-ybz

February 12, 2025
1 to 2 p.m.

Vehicles subject to registration, ch 250; automobile rental excise tax, ch 251; state-imposed water service excise tax, ch 252; state-imposed and locally imposed hotel and motel taxes, ch 253
IAB 1/22/25 **ARCs 8727C, 8728C, 8729C, 8732C**

Via videoconference call
meet.google.com/iei-hezt-fuc

February 11, 2025
11 a.m. to 12 noon

Via videoconference call
meet.google.com/tbv-dhxq-cjx

February 12, 2025
11 a.m. to 12 noon

REVENUE DEPARTMENT[701](cont'd)

Fuel tax administration, motor fuel and undyed special fuel, liquefied petroleum gas—compressed natural gas—liquefied natural gas—hydrogen, electric fuel excise tax, chs 259 to 262
IAB 1/22/25 **ARC 8739C**

Via videoconference call
meet.google.com/ima-dbfg-ttv

February 12, 2025
2 to 3 p.m.

Via videoconference call
meet.google.com/uco-aouw-qne

February 11, 2025
2 to 3 p.m.

SCHOOL BUDGET REVIEW COMMITTEE[289]

Organization and administrative procedures, ch 1; petitions for rulemaking, ch 2; declaratory rulings, ch 3; agency procedure for rulemaking, ch 4; public records and fair information practices, ch 5; waivers from administrative rules, ch 8;
IAB 1/8/25

Room B100
Grimes State Office Building
Des Moines, Iowa

January 28, 2025
8 to 9 a.m.

Regulatory Analyses**SECRETARY OF STATE[721]**

Precinct election officials and other election personnel training requirements, 21.362
IAB 1/22/25

Via videoconference
meet.google.com/mck-qchk-fdu

February 11, 2025
10 to 11 a.m.

Regulatory Analysis**TRANSPORTATION DEPARTMENT[761]**

Procedure for rulemaking and petitions for rulemaking, ch 10
IAB 1/22/25

[Microsoft Teams link](#)
Or dial: 515.817.6093
Conference ID: 448 593 965

February 13, 2025
10 to 10:30 a.m.

Regulatory Analysis

Waiver of rules, ch 11
IAB 1/22/25

[Microsoft Teams link](#)
Or dial: 515.817.6093
Conference ID: 505 838 066

February 13, 2025
11 to 11:30 a.m.

Regulatory Analysis

Declaratory orders, ch 12
IAB 1/22/25

[Microsoft Teams link](#)
Or dial: 515.817.6093
Conference ID: 163 303 932

February 13, 2025
1:30 to 2 p.m.

Regulatory Analysis

Transporter plates, ch 424
IAB 1/22/25

[Microsoft Teams link](#)
Or dial: 515.817.6093
Conference ID: 612 558 981

February 14, 2025
9 to 9:30 a.m.

Regulatory Analysis

Motor vehicle leasing licenses, ch 430
IAB 1/22/25

[Microsoft Teams link](#)
Or dial: 515.817.6093
Conference ID: 653 706 297

February 14, 2025
10 to 10:30 a.m.

Regulatory Analysis

Vehicle recyclers, ch 431
IAB 1/22/25

[Microsoft Teams link](#)
Or dial: 515.817.6093
Conference ID: 488 896 949

February 14, 2025
1 to 1:30 p.m.

Regulatory Analysis

General information, ch 600
IAB 1/22/25

[Microsoft Teams link](#)
Or dial: 515.817.6093
Conference ID: 845 632 012

February 14, 2025
2 to 2:30 p.m.

Regulatory Analysis

UTILITIES COMMISSION[199]

Cogeneration and small power
production, ch 15
IAB 1/22/25 **ARC 8797C**

Commission Hearing Room
1375 East Court Avenue
Des Moines, Iowa
Also [via Zoom](#)

March 4, 2025
2 to 4 p.m.

Commission Hearing Room
1375 East Court Avenue
Des Moines, Iowa
Also [via Zoom](#)

March 18, 2025
2 to 4 p.m.

Service supplied by gas utilities, ch 19
IAB 1/22/25 **ARC 8796C**

Commission Hearing Room
1375 East Court Avenue
Des Moines, Iowa
Also [via Zoom](#)

February 11, 2025
9 to 11 a.m.

Commission Hearing Room
1375 East Court Avenue
Des Moines, Iowa
Also [via Zoom](#)

February 25, 2025
9 to 11 a.m.

Equipment distribution program, ch 37
IAB 12/11/24 **ARC 8431C**

Commission Hearing Room
1375 East Court Avenue
Des Moines, Iowa
Also [via Zoom](#)

January 23, 2025
2 to 4 p.m.

Electric interconnection of distributed
generation facilities, ch 45
IAB 1/22/25 **ARC 8798C**

Commission Hearing Room
1375 East Court Avenue
Des Moines, Iowa
Also [via Zoom](#)

March 6, 2025
9 to 11 a.m.

Commission Hearing Room
1375 East Court Avenue
Des Moines, Iowa
Also [via Zoom](#)

March 20, 2025
9 to 11 a.m.

The following list will be updated as changes occur.

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

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

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

ADMINISTRATIVE SERVICES DEPARTMENT[11]
AGING, DEPARTMENT ON[17]
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
 Soil Conservation and Water Quality Division[27]
ATTORNEY GENERAL[61]
AUDITOR OF STATE[81]
BEEF CATTLE PRODUCERS ASSOCIATION, IOWA[101]
BLIND, DEPARTMENT FOR THE[111]
CHIEF INFORMATION OFFICER, OFFICE OF THE[129]
OMBUDSMAN[141]
CIVIL RIGHTS COMMISSION[161]
INSURANCE AND FINANCIAL SERVICES DEPARTMENT[181]
 Alcoholic Beverages Division[185]
 Banking Division[187]
 Credit Union Division[189]
 Insurance Division[191]
 Professional Licensing and Regulation Bureau[193]
 Accountancy Examining Board[193A]
 Architectural Examining Board[193B]
 Engineering and Land Surveying Examining Board[193C]
 Landscape Architectural Examining Board[193D]
 Real Estate Commission[193E]
 Real Estate Appraiser Examining Board[193F]
 Interior Design Examining Board[193G]
UTILITIES COMMISSION[199]
CORRECTIONS DEPARTMENT[201]
 Parole Board[205]
CULTURAL AFFAIRS DEPARTMENT[221]
 Historical Division[223]
ECONOMIC DEVELOPMENT AUTHORITY[261]
 City Development Board[263]
IOWA FINANCE AUTHORITY[265]
EDUCATION DEPARTMENT[281]
 Educational Examiners Board[282]
 College Student Aid Commission[283]
 Higher Education Loan Authority[284]
 Libraries and Information Services Division[286]
 Public Broadcasting Division[288]
 School Budget Review Committee[289]
EGG COUNCIL, IOWA[301]
ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
EXECUTIVE COUNCIL[361]
FAIR BOARD[371]
HUMAN RIGHTS DEPARTMENT[421]
HUMAN SERVICES DEPARTMENT[441]
INSPECTIONS AND APPEALS DEPARTMENT[481]
 Employment Appeal Board[486]
 Child Advocacy Board[489]
 Racing and Gaming Commission[491]
 State Public Defender[493]
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

IOWA PUBLIC INFORMATION BOARD[497]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
LOTTERY AUTHORITY, IOWA[531]
MANAGEMENT DEPARTMENT[541]
 Appeal Board, State[543]
 City Finance Committee[545]
 County Finance Committee[547]
NATURAL RESOURCES DEPARTMENT[561]
 Environmental Protection Commission[567]
 Natural Resource Commission[571]
 Preserves, State Advisory Board for[575]
PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]
PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]
PUBLIC DEFENSE DEPARTMENT[601]
HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
 Professional Licensure Division[645]
 Dental Board[650]
 Medicine Board[653]
 Nursing Board[655]
 Pharmacy Board[657]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
 Archaeologist[685]
REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]
VETERINARY MEDICINE BOARD[811]
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
 Labor Services Division[875]
 Workers' Compensation Division[876]
 Workforce Development Board and Workforce Development Center Administration Division[877]

The Administrative Rules Review Committee will hold its regular, statutory meeting on Monday, February 10, 2025, at 10 a.m. in Room 116, State Capitol, Des Moines, Iowa. For more information, contact Jack Ewing at jack.ewing@legis.iowa.gov. The following rules will be reviewed:

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Procurement of goods and services of general use; purchasing standards for service contracts, amendments to chs

117, 118 Notice **ARC 8776C** 1/8/25

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Renewable fuel infrastructure program, adopt ch 13, rescind chs 14 to 16 Filed **ARC 8742C** 1/8/25

Motor fuel and antifreeze tests and standards—adoption by reference of ASTM International specifications,

85.20(1) Filed **ARC 8743C** 1/8/25

Hemp, rescind ch 96 Filed **ARC 8744C** 1/8/25

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]“umbrella”

Organization and operation, ch 1 Filed **ARC 8800C** 1/22/25

Agency procedures and petitions for rulemaking, ch 2 Filed **ARC 8801C** 1/22/25

Declaratory orders, ch 3 Filed **ARC 8802C** 1/22/25

Agency procedure for rule making, rescind ch 4 Filed **ARC 8803C** 1/22/25

Public records and fair information practices, ch 5 Filed **ARC 8804C** 1/22/25

Waivers from administrative rules, ch 6 Filed **ARC 8805C** 1/22/25

Proof of legal presence, ch 7 Filed **ARC 8806C** 1/22/25

Debts to state and local government—noncompliance, ch 8 Filed **ARC 8807C** 1/22/25

Background checks and issuance, ch 9 Filed **ARC 8808C** 1/22/25

Child support noncompliance, ch 10 Filed **ARC 8809C** 1/22/25

Complaints, investigations, contested case hearings, ch 11 Filed **ARC 8810C** 1/22/25

Fees, ch 12 Filed **ARC 8811C** 1/22/25

Teacher licenses and endorsements, ch 13 Filed **ARC 8812C** 1/22/25

Special education endorsements, ch 14 Filed **ARC 8813C** 1/22/25

Special education support personnel authorizations, rescind ch 15 Filed **ARC 8814C** 1/22/25

Statements of professional recognition (SPR), ch 16 Filed **ARC 8815C** 1/22/25

Administrator licenses and endorsements, ch 18 Filed **ARC 8816C** 1/22/25

Evaluator endorsement and license, ch 19 Filed **ARC 8817C** 1/22/25

Renewals and extensions, ch 20 Filed **ARC 8818C** 1/22/25

Conditional endorsements, ch 21 Filed **ARC 8819C** 1/22/25

Limited authorizations, ch 22 Filed **ARC 8820C** 1/22/25

Behind-the-wheel driving instructor authorization, ch 23 Filed **ARC 8821C** 1/22/25

Paraeducator certificates, ch 24 Filed **ARC 8822C** 1/22/25

Code of professional conduct and ethics, ch 25 Filed **ARC 8823C** 1/22/25

Code of rights and responsibilities, ch 26 Filed **ARC 8824C** 1/22/25

Issuance of professional service licenses, ch 27 Filed **ARC 8825C** 1/22/25

EDUCATION DEPARTMENT[281]

Open enrollment—transportation, deadlines, 17.2(1), 17.6, 17.8 Notice **ARC 8761C** 1/8/25

Community colleges, 21.1, 21.2, 21.62, 21.63 Notice **ARC 8760C** 1/8/25

Postsecondary program review, amendments to ch 46 Notice **ARC 8759C** 1/8/25

State standards for progression in reading, 62.3(4), 62.4(4), 62.6(1) Notice **ARC 8758C** 1/8/25

Practitioner preparation, 79.13 to 79.15, 79.24 Notice **ARC 8757C** Notice **ARC 8757C** 1/8/25

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Private water well construction permits; nonpublic water wells—permits and construction, rescind ch 38; adopt ch

49 Notice **ARC 8627C** 1/8/25

Requirements for properly plugging abandoned wells, ch 39 Notice **ARC 8614C** 1/8/25

Scope of division, definitions, forms, public notice and education, consumer confidence reports, reporting, and

record maintenance, adopt ch 40; rescind ch 42 Notice **ARC 8616C** 1/8/25

Water supplies, ch 41 Notice **ARC 8631C** 1/8/25

Water supplies—design and operation, ch 43 Notice **ARC 8617C** 1/8/25

Drinking water state revolving fund, ch 44 Notice **ARC 8625C** 1/8/25

Scope of division—definitions—forms—rules of practice; water use, withdrawals, and diversions; water permit or registration—when required; criteria and conditions for authorizing withdrawal, diversion, and storage of water, adopt ch 50; rescind chs 51, 52 <u>Notice</u> ARC 8618C	1/8/25
Protected water sources, ch 53 <u>Notice</u> ARC 8652C	1/8/25
Water use permit restrictions or compensation by permitted users to nonregulated users due to well interference, ch 54 <u>Notice</u> ARC 8630C	1/8/25
Aquifer storage and recovery, ch 55 <u>Notice</u> ARC 8619C	1/8/25
Scope of title, definitions, wastewater construction permits, and operation permits; wastewater construction and operation permits; pesticide application to water Iowa, adopt ch 60; rescind chs 64, 66 <u>Notice</u> ARC 8629C	1/8/25
Effluent and pretreatment standards: other effluent limitations or prohibitions, ch 62 <u>Notice</u> ARC 8626C	1/8/25
Monitoring, analytical and reporting requirements, ch 63 <u>Notice</u> ARC 8635C	1/8/25
Standards for the land application of sewage sludge, ch 67 <u>Notice</u> ARC 8638C	1/8/25
Commercial septic tank cleaners, ch 68 <u>Notice</u> ARC 8632C	1/8/25
Private sewage disposal systems, ch 69 <u>Notice</u> ARC 8650C	1/8/25
Scope of title—definitions—forms—rules of practice, ch 70 <u>Notice</u> ARC 8639C	1/8/25
Floodplain or floodway development—when approval is required; management of floodplain areas; federal water resource projects, adopt ch 71; rescind chs 75, 76 <u>Notice</u> ARC 8633C	1/8/25
Criteria for approval, ch 72 <u>Notice</u> ARC 8634C	1/8/25
Approval, construction, use, maintenance, removal, inspections, and safety of dams, ch 73 <u>Notice</u> ARC 8636C	1/8/25
Operator certification: public water supply systems and wastewater treatment systems, ch 81 <u>Notice</u> ARC 8600C	1/8/25
Well contractor certification, ch 82 <u>Notice</u> ARC 8599C	1/8/25
Laboratory certification, ch 83 <u>Notice</u> ARC 8601C	1/8/25
Scope of title—definitions—forms; clean water state revolving fund; criteria for rating and ranking projects for the water pollution control state revolving fund; clean water state revolving fund; nonpoint source pollution control set-aside programs, adopt ch 90; rescind chs 91, 92, 93 <u>Notice</u> ARC 8637C	1/8/25

HUMAN SERVICES DEPARTMENT[441]

Facility assessments, ch 36 <u>Notice</u> ARC 8712C	1/8/25
Application for aid, ch 40 <u>Notice</u> ARC 8708C	1/8/25
Granting assistance, ch 41 <u>Notice</u> ARC 8716C	1/8/25
Alternate payees, rescind ch 43 <u>Notice</u> ARC 8707C	1/8/25
Payment, ch 45 <u>Notice</u> ARC 8714C	1/8/25
Overpayment recovery, ch 46 <u>Notice</u> ARC 8715C	1/8/25
Diversion initiatives, ch 47 <u>Notice</u> ARC 8717C	1/8/25
Promoting awareness of the benefits of a healthy marriage, ch 48 <u>Notice</u> ARC 8709C	1/8/25
Nursing facilities, ch 81 <u>Notice</u> ARC 8718C	1/8/25
Intermediate care facilities for persons with an intellectual disability, ch 82 <u>Notice</u> ARC 8713C	1/8/25
Early and periodic screening, diagnosis, and treatment, ch 84 <u>Notice</u> ARC 8710C	1/8/25
Family planning program, ch 87 <u>Notice</u> ARC 8711C	1/8/25
Child care assistance program, 170.2, 170.4 <u>Filed</u> ARC 8741C	1/8/25

INSPECTIONS AND APPEALS DEPARTMENT[481]

Continuing education for dietitians, 922.2(4) <u>Notice</u> ARC 8799C	1/22/25
Continuing education for massage therapists, 823.2(4) <u>Notice</u> ARC 8790C	1/8/25
Continuing education for funeral directors, 902.2(4) <u>Notice</u> ARC 8775C	1/8/25

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”

Description of organization and procedures before the division, rescind ch 1 <u>Filed</u> ARC 8826C	1/22/25
Child labor, ch 32 <u>Filed</u> ARC 8745C	1/8/25
Wage payment collection; wage claims, ch 35 <u>Filed</u> ARC 8746C	1/8/25
Administration of Iowa Code chapter 88A; amusement ride inspections, ch 61 <u>Filed</u> ARC 8827C	1/22/25
Safety rules for amusement rides, amusement devices, and concession booths, ch 62 <u>Filed</u> ARC 8828C	1/22/25
Safety rules for bungee jumps, ch 63 <u>Filed</u> ARC 8829C	1/22/25
Elevator safety board administrative and regulatory authority, ch 65 <u>Filed</u> ARC 8771C	1/8/25
Waivers from administrative rules by the elevator safety board, ch 66 <u>Filed</u> ARC 8770C	1/8/25
Elevator safety board petitions for rule making, rescind ch 67 <u>Filed</u> ARC 8830C	1/22/25
Declaratory orders by the elevator safety board, rescind ch 68 <u>Filed</u> ARC 8831C	1/22/25
Contested cases before the elevator safety board, ch 69 <u>Filed</u> ARC 8772C	1/8/25
Public records and fair information practices of the elevator safety board, rescind ch 70 <u>Filed</u> ARC 8832C	1/22/25
Administration of the conveyance safety program, ch 71 <u>Filed</u> ARC 8773C	1/8/25

Conveyances installed on or after January 1, 1975, ch 72	<u>Filed</u>	ARC 8774C	1/8/25
Conveyances installed prior to January 1, 1975, ch 73	<u>Filed</u>	ARC 8777C	1/8/25
Community right to know hazardous chemicals, ch 130	<u>Filed</u>	ARC 8751C	1/8/25
Public safety/emergency response right to know, ch 140	<u>Filed</u>	ARC 8752C	1/8/25
Construction contractor registration, ch 150	<u>Filed</u>	ARC 8833C	1/22/25
Asbestos removal and encapsulation, ch 155	<u>Filed</u>	ARC 8834C	1/22/25
Employer requirements for non-English speaking employees, ch 160	<u>Filed</u>	ARC 8753C	1/8/25
General requirements for athletic commission events, ch 169	<u>Filed</u>	ARC 8835C	1/22/25
Operations of advisory board, rescind ch 170	<u>Filed</u>	ARC 8836C	1/22/25
Grant applications and awards, ch 171	<u>Filed</u>	ARC 8837C	1/22/25
Professional wrestling, ch 172	<u>Filed</u>	ARC 8838C	1/22/25
Professional boxing, ch 173	<u>Filed</u>	ARC 8839C	1/22/25
Elimination tournaments, ch 174	<u>Filed</u>	ARC 8840C	1/22/25
Amateur boxing, rescind ch 175	<u>Filed</u>	ARC 8841C	1/22/25
Professional kickboxing, ch 176	<u>Filed</u>	ARC 8842C	1/22/25
Mixed martial arts, ch 177	<u>Filed</u>	ARC 8843C	1/22/25
Minimum wage scope and coverage, ch 215	<u>Filed</u>	ARC 8747C	1/8/25
Records to be kept by employers, ch 216	<u>Filed</u>	ARC 8748C	1/8/25
Wages, ch 217	<u>Filed</u>	ARC 8749C	1/8/25
Employees employed in a bona fide executive, administrative, or professional capacity, or in the capacity of outside salesperson (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools), or in the capacity of outside salesperson, rescind ch 218	<u>Filed</u>	ARC 8750C	1/8/25
Domestic service, ch 219	<u>Filed</u>	ARC 8754C	1/8/25
Employees of state and local governments, ch 220	<u>Filed</u>	ARC 8755C	1/8/25

LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D]

Professional Licensing and Regulation Bureau[193]

Description of organization, ch 1	<u>Notice</u>	ARC 8764C	1/22/25
Examinations and licensing, ch 2	<u>Notice</u>	ARC 8765C	1/22/25
Continuing education, ch 3	<u>Notice</u>	ARC 8766C	1/22/25
Rules of professional conduct and discipline procedures, ch 4	<u>Notice</u>	ARC 8769C	1/22/25

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Green valley lake special water activity rules; boating safety equipment; boat registration and numbering; boating passenger capacity; boating speed and distance zoning; boating navigation aids; boating accident reports; motorboat noise; boat motor regulations; vessel safety and registration, rescind chs 36, 38 to 43, 45; adopt ch 37	<u>Notice</u>	ARC 8596C	1/8/25
Special events and fireworks displays, ch 44	<u>Notice</u>	ARC 8597C	1/8/25
All-terrain vehicles, off-road motorcycles and off-road utility vehicles ch 46	<u>Notice</u>	ARC 8598C	1/8/25
Snowmobiles, ch 47	<u>Notice</u>	ARC 8603C	1/8/25
Inspection of permanently moored vessels, ch 48	<u>Notice</u>	ARC 8604C	1/8/25
Operation of motor vehicles in meandered streams, navigable streams and trout streams, ch 49	<u>Notice</u>	ARC 8611C	1/8/25
All-terrain vehicle, off-road motorcycle, off-road utility vehicle, snowmobile and vessel bonding; regulated vehicle, snowmobile and vessel bonding, ch 50	<u>Notice</u>	ARC 8605C	1/8/25
Game management areas, ch 51	<u>Notice</u>	ARC 8606C	1/8/25
Wildlife refuges, ch 52	<u>Notice</u>	ARC 8607C	1/8/25
Restrictions on introduction and removal of plant life; restrictions on removal of plant life, ch 54	<u>Notice</u>	ARC 8608C	1/8/25
Nonpermanent structures, ch 55	<u>Notice</u>	ARC 8610C	1/8/25
Shooting sports grant program, ch 56	<u>Notice</u>	ARC 8613C	1/8/25
State parks, recreation areas, and state forest camping; keg beer rules, amend ch 61; rescind ch 63	<u>Notice</u>	ARC 8585C	1/8/25
Metal detector use in state areas, ch 64	<u>Notice</u>	ARC 8586C	1/8/25
Saylorville multiuse trail, ch 66	<u>Notice</u>	ARC 8587C	1/8/25
Development and management of recreation trails on state forests, parks, preserves and recreation areas, ch 67	<u>Notice</u>	ARC 8588C	1/8/25
Timber buyers, ch 72	<u>Notice</u>	ARC 8589C	1/8/25
Forest and fruit-tree reservations, ch 73	<u>Notice</u>	ARC 8622C	1/8/25
Forest land enhancement program (FLEP), rescind ch 74	<u>Notice</u>	ARC 8621C	1/8/25

Waterfowl and coot hunting seasons; migratory game bird hunting; migratory game birds; common snipe, Virginia rail and sora, woodcock, ruffed grouse, and dove hunting seasons; falconry regulations for hunting game, adopt ch 91; rescind chs 92, 97, 102 <u>Notice</u> ARC 8623C	1/8/25
Pheasant, quail and gray (Hungarian) partridge hunting seasons; small game hunting; crow and pigeon regulations; rabbit and squirrel hunting, adopt ch 96; rescind chs 100, 107 <u>Notice</u> ARC 8620C	1/8/25
Wild turkey hunting, adopt ch 98; rescind ch 99 <u>Notice</u> ARC 8590C	1/8/25
Falconry regulations, ch 101 <u>Notice</u> ARC 8609C	1/8/25
Deer population management zones, ch 105 <u>Notice</u> ARC 8628C	1/8/25
Mink, muskrat, raccoon, badger, opossum, weasel, striped skunk, fox (red and gray), beaver, coyote, river otter, bobcat, gray (timber) wolf and spotted skunk seasons; wild furbearer trapping and hunting; groundhog season; trapping limitations, adopt ch 108; rescind chs 109, 110 <u>Notice</u> ARC 8612C	1/8/25
Nuisance wildlife control, ch 114 <u>Notice</u> ARC 8624C	1/8/25

NATURAL RESOURCES DEPARTMENT[561]

Description of organization; submission of information and complaints—investigations, rescind chs 1, 3 <u>Notice</u> ARC 8642C	1/8/25
Rules of practice in contested cases, ch 7 <u>Notice</u> ARC 8640C	1/8/25
Contracts for services and public improvements, ch 8 <u>Notice</u> ARC 8645C	1/8/25
Groundwater hazard documentation, ch 9 <u>Notice</u> ARC 8648C	1/8/25
Waivers from administrative rules, ch 10 <u>Notice</u> ARC 8643C	1/8/25
The Iowa nature store, rescind ch 11 <u>Notice</u> ARC 8647C	1/8/25
Special nonresident deer and turkey licenses, ch 12 <u>Notice</u> ARC 8646C	1/8/25
State lands volunteer program, ch 13 <u>Notice</u> ARC 8615C	1/8/25
Concessions, rescind ch 14 <u>Notice</u> ARC 8644C	1/8/25
Revocation, suspension, and nonrenewal of license for failure to pay state liabilities, ch 15 <u>Notice</u> ARC 8641C	1/8/25
State park and recreation area fees, ch 16 <u>Notice</u> ARC 8649C	1/8/25
Oil, gas, and metallic minerals, ch 17 <u>Notice</u> ARC 8651C	1/8/25

NURSING BOARD[655]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Administrative and regulatory authority, ch 1 <u>Notice</u> ARC 8762C	1/22/25
Nursing education programs, ch 2 <u>Notice</u> ARC 8768C	1/22/25
Licensure to practice—registered nurse/licensed practical nurse, ch 3 <u>Notice</u> ARC 8767C	1/22/25
Complaints, investigations and discipline, ch 4 <u>Notice</u> ARC 8763C	1/22/25
Continuing education, ch 5 <u>Notice</u> ARC 8791C	1/22/25
Nursing practice for registered nurses/licensed practice nurses, ch 6 <u>Notice</u> ARC 8792C	1/22/25
Advanced registered nurse practitioners, ch 7 <u>Notice</u> ARC 8793C	1/22/25
Petitions for rule making; declaratory orders; agency procedure for rule making; examination of public records; disciplinary hearing costs; fair information practices; waiver rules; nonpayment of child support or state debt; military service and veteran reciprocity; Iowa nurse assistance program; contested cases, rescind chs 8 to 11, 13 to 15, 17 to 20 <u>Notice</u> ARC 8795C	1/22/25
Registered nurse certifying organizations/utilization and cost control review, ch 12 <u>Notice</u> ARC 8794C	1/22/25

PUBLIC HEALTH DEPARTMENT[641]

Blood lead testing, ch 67 <u>Notice</u> ARC 8720C	1/8/25
Control of lead-based paint hazards, ch 68 <u>Notice</u> ARC 8719C	1/8/25
Emergency medical services—service program authorization, ch 132 <u>Notice</u> ARC 8721C	1/8/25
Emergency medical services—air medical service program authorization, rescind ch 144 <u>Notice</u> ARC 8722C	1/8/25
Smokefree air, ch 153 <u>Filed</u> ARC 8756C	1/8/25

REVENUE DEPARTMENT[701]

Administration of cigarette, tobacco, vapor products, and alternative nicotine products, adopt ch 230; rescind ch 254 <u>Notice</u> ARC 8733C	1/22/25
Cigarette tax and regulation of delivery sales of alternative nicotine products or vapor products, adopt ch 231; rescind ch 255 <u>Notice</u> ARC 8734C	1/22/25
Tobacco tax, adopt ch 232; rescind ch 256 <u>Notice</u> ARC 8735C	1/22/25
Unfair cigarette sales, adopt ch 233; rescind ch 257 <u>Notice</u> ARC 8736C	1/22/25
Tobacco master settlement agreement, adopt ch 234; rescind ch 258 <u>Notice</u> ARC 8737C	1/22/25
Administration of marijuana and controlled substance stamp tax, adopt ch 240; rescind ch 269 <u>Notice</u> ARC 8738C ..	1/22/25
Vehicles subject to registration, ch 250 <u>Notice</u> ARC 8727C	1/22/25
Automobile rental excise tax, ch 251 <u>Notice</u> ARC 8728C	1/22/25

State-imposed water service excise tax, ch 252	<u>Notice</u>	ARC 8732C	1/22/25
State-imposed and locally imposed hotel and motel taxes, ch 253	<u>Notice</u>	ARC 8729C	1/22/25
Fuel tax administration, motor fuel and undyed special fuel, liquefied petroleum gas—compressed natural gas— liquefied natural gas—hydrogen, electric fuel excise tax, chs 259 to 262	<u>Notice</u>	ARC 8739C	1/22/25

TRANSPORTATION DEPARTMENT[761]

Public records and fair information practices, ch 4	<u>Filed</u>	ARC 8778C	1/8/25
Contested cases, ch 13	<u>Filed</u>	ARC 8779C	1/8/25
Holiday rest stops, ch 105	<u>Filed</u>	ARC 8780C	1/8/25
Real property acquisition and relocation assistance, ch 111	<u>Filed</u>	ARC 8781C	1/8/25
Primary highway access control, ch 112	<u>Filed</u>	ARC 8782C	1/8/25
Junkyard control, ch 116	<u>Filed</u>	ARC 8783C	1/8/25
Outdoor advertising, ch 117	<u>Filed</u>	ARC 8784C	1/8/25
Logo signing, ch 118	<u>Filed</u>	ARC 8785C	1/8/25
Tourist-oriented directional signing, ch 119	<u>Filed</u>	ARC 8786C	1/8/25
Automated traffic enforcement mobile systems, ch 145	<u>Notice</u>	ARC 8740C	1/8/25
Special mobile equipment, ch 410	<u>Filed</u>	ARC 8787C	1/8/25
Transportation network companies, ch 540	<u>Filed</u>	ARC 8788C	1/8/25

TREASURER OF STATE[781]

Unclaimed property, amendments to ch 9	<u>Filed</u>	ARC 8844C	1/22/25
Iowa educational savings plan trust—529 savings accounts, 16.2 to 16.13	<u>Filed</u>	ARC 8845C	1/22/25

UTILITIES COMMISSION[199]

Service supplied by gas utilities, ch 19	<u>Notice</u>	ARC 8796C	1/22/25
Cogeneration and small power production, ch 15	<u>Notice</u>	ARC 8797C	1/22/25
Electric interconnection of distributed generation facilities, ch 45	<u>Notice</u>	ARC 8798C	1/22/25
Service supplied by water, sanitary sewage, and storm water drainage utilities, ch 21	<u>Filed</u>	ARC 8846C	1/22/25
Energy efficiency and demand response planning and reporting for rate-regulated natural gas and electric utilities, ch 35	<u>Filed</u>	ARC 8847C	1/22/25

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Employer's contribution and charges, ch 23	<u>Filed</u>	ARC 8848C	1/22/25
Claims and benefits, ch 24	<u>Filed</u>	ARC 8789C	1/8/25

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

Senator Mike Klimesh
Vice Chair
Senate District 32

Representative Chad Ingels
Chair
House District 68

Senator Mike Bousset
Senate District 21

Representative Amy Nielsen
House District 85

Senator Dan Dawson
Senate District 10

Representative Rick Olson
House District 39

Senator Sarah Trone Garriot
Senate District 14

Representative Mike Sexton
House District 7

Senator Cindy Winckler
Senate District 49

Representative David Young
House District 28

Jack Ewing
Administrative Code Editor
Capitol
Des Moines, Iowa 50319
Telephone: 515.281.6048
Fax: 515.281.8451
Email: jack.ewing@legis.iowa.gov

Steve Blankenship
Administrative Rules Coordinator
Governor's Ex Officio Representative
Capitol, Room 18
Des Moines, Iowa 50319
Telephone: 515.281.5211

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Regulatory Analysis

Notice of Intended Action to be published: 605—Chapter 7
“Local Emergency Management”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 29C.9

State or federal law(s) implemented by the rulemaking: 2024 Iowa Acts, Senate File 2370

Public Hearing

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

February 11, 2025
9:30 a.m.

Geode Room
7900 Hickman Road, Suite 500
Windsor Heights, Iowa
meet.google.com/oqm-wujn-dif

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department of Homeland Security and Emergency Management no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Blake DeRouchey
7900 Hickman Road, Suite 500
Windsor Heights, Iowa 50324
Phone: 515.323.4232
Email: blake.derouchey@iowa.gov

Purpose and Summary

Pursuant to Executive Order 10, the Department proposes to rescind Chapter 7 and adopt a new chapter in lieu thereof. The chapter describes the structure and guidelines in which local emergency management is administered throughout the state.

The rulemaking eliminates language that is overly restrictive and obsolete and shortens the chapter.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

There is no direct cost associated with the proposed rulemaking.

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

All individuals within the state benefit from a well-run and well-organized emergency management program.

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

• Quantitative description of impact:

The Department passes through \$187,664,000 in federal funding to help fund communities and local emergency management. These funds vary from preparedness activities and local program management to disaster recovery and mitigation funds.

• Qualitative description of impact:

Local emergency management is the backbone to emergency preparedness and response. Countless lives are saved and damage to property prevented by a well-run local emergency management program. These rules lay out the baseline for local emergency management programs so that local jurisdictions are well-prepared, able to respond, and capable of assisting in the recovery from disasters.

3. Costs to the State:

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

There are no costs to the state or the Department associated with this rulemaking. Funding of local programs is outlined throughout the proposed chapter.

- **Anticipated effect on state revenues:**

There are no anticipated effects on state revenues. However, by having these rules in place, the State becomes eligible for federal funding assistance.

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

This rulemaking ensures local communities are prepared and able to respond and recover from disasters. Inaction could lead to death, loss of property, and devastated communities. In some instances, not implementing these rules would lead to federal funding disqualification.

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

The Department seeks to implement these rules in the least intrusive and prescriptive manner as possible, while still maintaining the responsibilities of maintaining a well-run emergency management program throughout the state as outlined in Iowa Code chapter 29C. Funding to implement these local programs is outlined as part of the rulemaking (rule 605—7.7(29C)). Where intrusive or prescriptive methods remain in this proposed rulemaking, the Department is following federal grant and program guidelines to ensure funding qualifications.

6. Alternative methods considered by the agency:

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

None.

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

Not applicable.

Small Business Impact

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

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

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

The rulemaking has little to no impact on small business, other than small business' ability to bid on projects funded through the available grants.

Text of Proposed Rulemaking

ITEM 1. Rescind 605—Chapter 7 and adopt the following **new** chapter in lieu thereof:

CHAPTER 7
LOCAL EMERGENCY MANAGEMENT

605—7.1(29C) Scope and purpose. These rules apply to each local emergency management commission as provided for in Iowa Code section 29C.9. These rules are intended to establish standards for emergency management and to provide local emergency management commissions with the criteria to assess and measure their capability to mitigate against, prepare for, respond to, and recover from emergencies or disasters.

605—7.2(29C) Definitions. For purposes of this chapter, the following definitions will apply:

“*Commission*” means a local emergency management commission or joint emergency management commission.

“*Local emergency management agency*” means a countywide, joint county-municipal agency organized to administer this chapter under the authority of a commission.

605—7.3(29C) Local emergency management commission.

7.3(1) Local emergency management commissions shall be consistent with Iowa Code section 29C.9.

7.3(2) Local commission bylaws. The commission shall develop bylaws to specify, at a minimum, the following information:

- a. The name of the commission.
- b. The list of members.
- c. The date for the commencement of operations.
- d. The commission’s mission.
- e. The commission’s powers and duties.
- f. The manner for financing the commission and its activities and maintaining a budget therefor.
- g. The manner for acquiring, holding and disposing of property.
- h. The manner for electing or appointing officers and the terms of office.
- i. The manner by which members may vote.
- j. The manner for appointing, hiring, disciplining and terminating employees.
- k. The rules for conducting meetings of the commission.
- l. Any other necessary and proper rules or procedures.

The bylaws, as adopted, shall be signed by each member of the commission. The commission shall record the signed bylaws with the county recorder and will forward a copy of the bylaws to the director of the department.

7.3(3) Commission business. Commission business shall be conducted in compliance with Iowa Code chapters 21 and 22.

7.3(4) The commission is tasked with the following minimum duties and responsibilities:

a. *Administration and finance.*

(1) Establish and maintain a local emergency management agency responsible for the local emergency management program. The primary responsibility of this agency is to develop and maintain a comprehensive emergency management capability in cooperation with other governmental agencies, volunteer organizations, and private sector organizations.

(2) Determine the mission of the agency and its program.

(3) Develop and adopt a budget in accordance with the provisions of Iowa Code chapter 24 and section 29C.17 in support of the commission and its programs. The commission shall be the fiscal authority, and the chairperson or vice chairperson shall be the certifying official for the budget.

(4) Appoint an emergency management coordinator who meets the qualifications established in subrule 7.4(3).

(5) Develop and adopt policies defining the rights and liabilities of commission employees, emergency workers and volunteers.

(6) Provide direction for the delivery of the emergency management services of planning, administration, coordination, training, exercising, and support for local governments and their departments.

(7) Coordinate emergency management activities and services among county and city governments and the private sector agencies under the jurisdiction of the commission.

b. Hazard identification, risk assessment, and capability assessment.

(1) The commission should continually identify credible hazards that may affect its jurisdiction, the likelihood of occurrence, and the vulnerability of the jurisdiction to such hazards. Hazards to be considered should include natural, technological, and human-caused.

(2) The commission should conduct an analysis to determine the consequences and impact of identified hazards on the health and safety of the public, the health and safety of responders, property and infrastructure, critical and essential facilities, public services, the environment, the economy of the jurisdiction, and government operations and obligations.

(3) The hazard analysis should include identification of vital personnel, systems, operations, equipment, and facilities at risk.

(4) The commission should identify mitigation and preparedness considerations based upon the hazard analysis.

(5) A comprehensive assessment of the emergency management program elements should be conducted periodically to determine the operational capability and readiness of the jurisdiction to address the identified hazards and risks.

c. Resource management. The commission shall:

(1) Develop a method to effectively identify, acquire, distribute, account for, and utilize resources essential to emergency functions.

(2) Utilize, to the maximum extent practicable, the services, equipment, supplies and facilities of the political subdivisions that are members of the commission.

(3) Identify resource shortfalls and develop the steps and procedures necessary to overcome such shortfalls.

(4) Conduct mutual aid assistance in accordance with Iowa Code sections 29C.11 and 29C.22.

d. Planning.

(1) The commission shall develop a comprehensive emergency plan that is capabilities-based, multihazard and multifunctional in nature. The plan will conform to the Comprehensive Preparedness Guide 101 as established by the Federal Emergency Management Agency published 2021 with any modifications as determined and communicated by the department.

(2) Plans shall contain the following common elements:

1. Identification of the functional roles and responsibilities of internal and external agencies, organizations, departments, and individuals during mitigation, preparedness, response and recovery.

2. Establishment and identification of lines of authority for those agencies, organizations, departments, and individuals.

(3) Plans shall be regularly reviewed and amended as appropriate in accordance with a five-year schedule established by the commission, which shall include, at a minimum, a complete review, and amendment as appropriate, at a minimum of every five years. However, a review, and amendment as appropriate, of the hazardous materials portion and of a minimum of 20 percent of the remaining annexes or portions of the plan shall be conducted on a yearly basis. The complete operations plan will be reviewed entirely, and amended as appropriate, every five years. A copy of the portions of the plan that are reviewed, regardless of amendment, must be certified and submitted annually as determined by the department for approval.

(4) To be certified, the plan must be adopted annually by the members of the commission and attested to by the chairperson and the local emergency management coordinator on a signature document as specified by the department.

(5) The operations plan shall include provisions for damage assessment.

(6) Hazardous materials plans will comply with the minimum requirements of federal law, 42 U.S.C. §11003 as of January 1, 2025.

(7) Counties designated as risk or host counties for a nuclear facility emergency planning zone shall meet the standards and requirements as published by the United States Nuclear Regulatory Commission and the Federal Emergency Management Agency in NUREG-0654, FEMA-REP-1, Rev. 2, December 2019.

(8) Commissions participating in or conducting exercises or experiencing real disaster incidents that require after-action and corrective action reports have 180 days from the date of the publication of the corrective action report to incorporate the corrective actions, as appropriate, into the commission's plans.

(9) Within 60 calendar days from the receipt of the plan, the department will review plans or portions of plans submitted by a commission for approval. The department will notify the local emergency management agency in writing of the approval or nonapproval of the plan. If the plan is not approved, the department shall state the specific standard or standards that are not being met and offer guidance on how the plan may be brought into compliance.

(10) In accordance with Iowa Code sections 29C.6 and 29C.7, state participation in funding financial assistance in a presidentially or non-presidentially declared disaster is contingent upon the commission's having on file a state-approved, comprehensive emergency plan as provided in Iowa Code section 29C.9(8). A comprehensive emergency plan will not be considered approved by the department per Iowa Code section 29C.9(8) unless such plan adheres to and meets the minimum standards as established herein.

e. Direction, control and coordination.

(1) The commission shall execute and enforce the orders or rules made by the governor or under the governor's authority.

(2) The commission shall establish and maintain the capability to effectively direct, control and coordinate emergency and disaster response and recovery efforts.

(3) The commission shall establish a means of interfacing on-scene management with direction and control personnel and facilities.

(4) The commission should actively support use of the Incident Command System (ICS) model by all emergency and disaster response agencies within the jurisdiction.

f. Damage assessment.

(1) The commission shall develop and maintain a damage assessment capability consistent with local, state and federal requirements and shall designate individuals responsible for the function of damage assessment.

(2) Individuals identified by the commission to perform the function of damage assessment shall be trained through a course of instruction that may be delivered and developed by the commission and will be approved by the department.

g. Communications and warning.

(1) The commission should identify a means of disseminating a warning to the public, key officials, emergency response personnel and those other persons within the jurisdiction that may be potentially affected.

(2) The commission should identify the primary and secondary means of communications to support direction, control, and coordination of emergency management activities.

h. Operations and procedures. The commission should encourage public and private agencies, which have defined responsibilities in the comprehensive emergency plan, to develop standard operating procedures, policies, and directives in support of the plan.

i. Training.

(1) The commission shall require the local emergency management coordinator to meet the minimum training requirements as established by the department and identified in subrule 7.4(4).

(2) The commission should, in conjunction with the local emergency management coordinator, arrange for and actively support ongoing emergency management-related training for local public officials, emergency responders, volunteers, and support staff.

(3) Persons responsible for emergency plan development or implementation should receive training specific to, or related to, hazards identified in the local hazard analysis.

(4) The commission should encourage individuals, other than the emergency management coordinator, with emergency management responsibilities as defined in the comprehensive emergency plan, to complete, within two years of appointment, training consistent with their emergency management responsibilities.

(5) The commission should encourage all individuals with emergency management responsibilities to maintain current and adequate training consistent with their responsibilities.

j. Exercises.

(1) The commission shall ensure that exercise activities are conducted annually in accordance with local, state and federal requirements.

(2) Exercise activities should follow a progressive five-year plan that is designed to meet the needs of the jurisdiction.

(3) Local entities assigned to an exercise should actively participate and support the role of the entity in the exercise.

(4) Local entities assigned to an exercise should actively participate in the design, development, implementation, and evaluation of the exercise activity.

k. Public education and information.

(1) The commission should designate the individual or individuals who are responsible for public education and information functions.

(2) The commission should ensure a public information capability, to include:

1. Designated public information personnel trained to meet local requirements.
2. A system of receiving and disseminating emergency public information.
3. A method to develop, coordinate, and authorize the release of information.
4. A plan to communicate with access and functional needs populations.

(3) The commission should actively support the development of capabilities to electronically collect, compile, report, receive, and transmit emergency public information.

7.3(5) Two or more commissions. Two or more commissions may, upon review by the director and with the approval of their respective boards of supervisors, cities, and sheriffs, enter into agreements pursuant to Iowa Code chapter 28E for the joint coordination and administration of emergency management services throughout the multicounty area.

605—7.4(29C) Local emergency management coordinator.

7.4(1) Each commission shall appoint a local emergency management coordinator who serves at the pleasure of the commission. The commission shall delegate to the emergency management coordinator the authority to fulfill the commission's and coordinator's duties as provided in Iowa Code sections 29C.9 and 29C.10, as further described in subrule 7.3(4), and as otherwise assigned and authorized by the commission.

7.4(2) Political activity.

a. A member of a commission shall not be appointed as the local emergency management coordinator.

b. An individual serving in a full-time or part-time governmental position incompatible with the position of coordinator shall not be appointed as the emergency management coordinator.

c. Any employee of an organization for emergency management shall not:

(1) During working hours or when performing official duties or when using public equipment or at any time on public property, take part in any way in soliciting any contribution for any political party or any person seeking political office.

(2) Seek or attempt to use any political endorsement in connection with any appointment to a position created under this rule.

(3) Use any official authority or influence for the purpose of interfering with an election or affecting the results of an election.

7.4(3) Local emergency management coordinator qualifications. Each person appointed after July 1, 1990, as a local emergency management coordinator shall meet the following requirements with regard to education, abilities, experience, knowledge and skills:

a. Demonstrate a knowledge of local, state, and federal laws and regulations pertaining to emergency management.

b. Demonstrate an understanding of communications systems, frequencies, and equipment capabilities.

c. Demonstrate a knowledge of basic accounting principles and practices.

d. Express oneself clearly and concisely, both orally and in writing.

e. Establish and maintain effective working relationships with employees, public officials, and the general public.

f. Prepare accurate reports.

g. Write plans, direct the use of resources, and coordinate emergency operations under extraordinary circumstances.

h. Exercise good judgment in evaluating situations and making decisions.

i. Coordinate with agencies at all levels of government.

j. Have graduated from an accredited four-year college or university and have two years of responsible experience in emergency management, public or business administration, public relations, military preparedness or related work; or have an equivalent combination of experience and education, substituting 30 semester hours of graduate study for each year of the mandated work experience to a maximum of two years; or have an equivalent combination of experience and education, substituting one year of experience in the aforementioned areas for each year of college to a maximum of four years; or be an employee with current continuous experience in the state classified service that includes the equivalent of 18 months of full-time experience as an emergency management operations officer; or be an employee with current continuous experience in the state classified service that includes the equivalent of 36 months of full-time experience as a local emergency management assistant.

7.4(4) Local emergency management coordinator continuing education requirements. Each local emergency management coordinator shall meet the following educational development requirements. The director may extend the time frame for meeting these continuing education requirements upon request from the commission.

a. Within two years of appointment as a local emergency management coordinator, the person must complete a set of study courses prescribed by the director and developed in consultation with the Iowa Emergency Management Association. The listing of courses will be maintained on the department's website.

b. Within two years of appointment as a local emergency management coordinator, the person must complete the professional development series of courses as prescribed by the Federal Emergency Management Agency.

c. Upon completion of the requirements established in paragraphs "a" and "b" of this subrule, a person must complete a minimum of 24 hours of state-approved emergency management training every 12 months as determined and communicated by the department.

d. The local emergency management coordinator must document completion of courses by submitting a copy of the certificate of completion, a letter indicating satisfactory completion, or other appropriate documentation.

e. The department, in consultation with the Iowa Emergency Management Association, may substitute courses when deemed appropriate.

f. An emergency management coordinator who has met the baseline requirements prior to October 1, 2006, will not be required to take any of the study courses prescribed by the director in accordance with paragraph “a” to reestablish the person’s baseline.

605—7.5(29C) Commission personnel.

7.5(1) Personnel for the commission, including the coordinator, operations officers, and emergency management assistants, are to be considered as employees of that commission.

7.5(2) The commission shall determine the personnel policies of the agency to include holidays, rate of pay, sick leave, vacation, and health benefits. The commission may adopt existing county or city policies in lieu of writing the commission’s own policies.

605—7.6(29C) Damage assessment and financial assistance for disaster recovery. Disaster-related expenditures and damages incurred by local governments, private nonprofit entities, individuals, and businesses may be reimbursable and covered under certain state and federal disaster assistance programs. Initial damage reports and preliminary damage assessments shall be provided to the department prior to the governor’s making a determination that the magnitude and impact are sufficient to warrant a request for a presidential disaster declaration or joint preliminary damage assessment.

7.6(1) *Local preliminary damage assessment and impact statement.* The local emergency management coordinator shall be responsible for the coordination and collection of initial damage reports, damage assessment and impact statement information immediately following a disaster that affects the jurisdiction.

7.6(2) *Damage assessment guidance and forms to be provided.* The department will provide guidance regarding the methodologies to be used in collecting damage assessment and impact statement information and shall provide the forms and format by which this information shall be recorded.

7.6(3) *Joint preliminary damage assessment.* Once the governor has determined that a request for a presidential disaster declaration is appropriate, joint preliminary damage assessment teams, consisting of local, state, and federal inspectors, may assess the damages and costs incurred or to be incurred in responding to and recovering from the disaster. All affected city, municipality, or county governments shall be required to provide assistance to the joint preliminary damage assessment teams for conducting damage assessments. The jurisdiction may be required to develop maps to show the damaged areas and to compile lists of names and telephone numbers of individuals, businesses, private nonprofit entities, and governmental agencies sustaining disaster response and recovery costs or damages. This joint preliminary damage assessment may be required before the request for presidential declaration is formally transmitted to the Federal Emergency Management Agency.

7.6(4) *Public assistance and hazard mitigation applicant briefing.* In the event that a presidential disaster declaration is received, affected jurisdictions and eligible private nonprofit entities should be prepared to attend a public assistance and hazard mitigation briefing to acquire the information and documents necessary to make their formal applications for public and hazard mitigation assistance. Failure to comply with the deadlines for making application for public and mitigation assistance as established in 44 CFR Parts 204 and 206 and the Stafford Act (PL 923-288) may jeopardize or eliminate the jurisdiction’s or private nonprofit entity’s ability to receive assistance.

7.6(5) *Forfeiture of assistance funding.* Failure to provide timely and accurate damage assessment and impact statement information may jeopardize or eliminate an applicant’s ability to receive federal and state disaster assistance funds that may otherwise be available.

State participation in funding of disaster financial assistance in a presidentially declared disaster is contingent upon the commission’s having on file a state-approved, comprehensive emergency plan that meets the standards as provided in paragraph 7.3(4) “d.”

605—7.7(29C) Emergency management performance grant (EMPG) program. Emergency management is a joint responsibility of the federal government, the states, and their political subdivisions. “Emergency management” means all those activities and measures designed or undertaken to mitigate against, prepare for, respond to, or recover from the effects of a human-caused, technological, or natural hazard. The purpose of the emergency management performance grant program is to provide the necessary assistance to commissions to ensure that a comprehensive emergency system exists for all hazards.

7.7(1) Eligibility. Commissions may be eligible for funding under the state and emergency management performance grant program by meeting the requirements, conditions, duties and responsibilities for commissions and local emergency management coordinators established in rules 605—7.3(29C) and 605—7.4(29C). In addition, the commission will ensure that the coordinator works an average of 20 hours per week or more toward the emergency management effort. Commissions seeking funding for full-time coordinators as described in subrule 7.7(3) will ensure that the coordinator works an average of 40 hours per week toward the emergency management effort.

7.7(2) Application for funding. Commissions may apply for funding under the emergency management performance grant program by entering into an agreement with the department and by completing the necessary application and forms, as published and distributed yearly to each commission by the department.

7.7(3) Allocation and distribution of funds.

a. The department shall use a formula for the allocation of funds based upon the number of eligible applicants, the part-time or full-time status of the coordinator, 50 percent equal-share base, and 50 percent population base. The total allocation of funds for an applicant may not exceed the lesser of \$39,000 or the amount requested by the applicant.

b. The formula shall be applied in the following manner: The pass-through amount is divided equally between an equal-share base and a population base.

(1) The amount of total equal-share base dollars is divided by the total number of EMPG counties to establish a per-county average. For counties with part-time coordinators, the per-county average is reduced by 50 percent to determine the part-time county allocation. The total baseline dollar amount, minus the cumulative total dollars already allocated to part-time counties, is then divided by the total number of counties with full-time coordinators to determine the full-time county allocation.

(2) The population base amount for each county is determined by adding the populations of all counties together; then each county’s population is divided by that total population to determine a percentage. The total population base dollars are then multiplied by a county’s percentage to determine that county’s share of the population dollars.

c. Funds will be reimbursed to commissions on a state fiscal year, quarterly basis, and such reimbursement will be based on eligible claims made against the commission’s allocation. In no case will the allocation or reimbursement of funds be greater than one-half of the total cost of eligible emergency management-related expenses.

7.7(4) Compliance. The director may withhold or recover emergency management performance grant funds from any commission for its failure or its coordinator’s failure to meet any of the following conditions:

- a.* Appoint a qualified coordinator.
- b.* Comply with continuing education requirements.
- c.* Adopt a comprehensive emergency plan that meets current standards.
- d.* Determine the mission of its agency.
- e.* Show continuing progress in fulfilling the commission’s duties and obligations.
- f.* Conduct commission business according to the guidelines and rules established in this chapter.
- g.* Enter into and file a cooperative agreement with the department by the stipulated filing date.

- h.* Abide by state and federal regulations governing the proper disbursement and accountability for federal funds, equal employment opportunity and merit system standards.
- i.* Accomplish work specified in one or more program areas, as agreed upon in the cooperative agreement, or applicable state or federal rule or statute.
- j.* Provide the prescribed matching financial contribution.
- k.* Expend funds for authorized purposes or in accordance with applicable laws, regulations, terms and conditions.
- l.* Respond to, or cooperate with, state efforts to determine the extent and nature of compliance with the cooperative agreement.

7.7(5) *Serious nonperformance problems.* If a commission cannot demonstrate achievement of agreed-upon work products, the department is empowered to withhold reimbursement or to recover funds from the commission. Corrective action procedures are designed to focus the commission's attention on nonperformance problems and to bring about compliance with the cooperative agreement. Corrective action procedures, which could lead to sanction, may be enacted as soon as the director becomes aware of serious nonperformance or noncompliance. This realization may arise from staff visits or other contacts with the local emergency management agency or commission, from indications in the commission's or coordinator's quarterly report that indicate a significant shortfall from planned accomplishments, or from the commission's or coordinator's failure to report. Financial sanctions are to be applied only after corrective action remedies fail to result in accomplishment of agreed-upon work product.

7.7(6) *Corrective actions.*

a. Informal corrective action. As a first and basic step to correcting nonperformance, a designated member of the department staff will visit, call or write the local emergency management coordinator to determine the reason for nonperformance and seek an agreeable resolution.

b. Formal corrective action. On those occasions when there is considerable discrepancy between agreed-upon and actual performance and response to informal corrective action is not sufficient or agreeable, the department will take the following steps:

(1) Department staff will review the scope of work, as agreed to in the cooperative agreement, to determine the extent of nonperformance. To focus attention on the total nonperformance issue, all instances of nonperformance will be addressed together in a single correspondence to the commission.

(2) The director will prepare a letter to the commission that will contain, at a minimum, the following information:

1. The reasons why the department believes the commission may be in noncompliance, including the specified provisions in question.

2. A description of the efforts made by the department to resolve the matter and the reasons these efforts were unsuccessful.

3. A declaration of the commission's commitment to accomplishing the work agreed upon and specified in the comprehensive cooperative agreement and its importance to the emergency management capability of the local jurisdiction.

4. A description of the exact actions or alternative actions required of the commission to bring the problem to an agreed resolution.

5. A statement that this letter constitutes the final no-penalty effort to achieve a resolution and that financial sanctions provided for in these rules will be undertaken if a satisfactory response is not received by the department within 30 days.

7.7(7) *Financial sanctions.* If the corrective actions heretofore described fail to produce a satisfactory resolution to cases of serious nonperformance, the director may invoke the following financial sanction procedures:

a. Send a Notice of Intention to Withhold Payment to the chairperson of the commission. This notice shall also contain notice of a reasonable time and place for a hearing, should the commission request a hearing before the director.

b. Any request by a commission for a hearing must be made in writing, to the department, within 15 days of receipt of the Notice of Intention to Withhold Payment.

c. Any hearing under the Notice of Intention to Withhold Payment shall be held before the director. However, the director may designate an administrative law judge to take evidence and certify to the director the entire record, including findings and recommended actions.

d. The commission shall be given full opportunity to present its position orally and in writing.

e. If, after a hearing, the director finds sufficient evidence that the commission has violated established rules and regulations or the terms and conditions of the cooperative agreement, the director may withhold such contributions and payments as may be considered advisable, until the failure to expend funds in accordance with said rules, regulations, terms and conditions has been corrected or the director is satisfied that there will no longer be any such failure.

f. If upon the expiration of the 15-day period stated for a hearing, a hearing has not been requested, the director may issue the findings and take appropriate action as described in paragraph 7.7(7)“e.”

g. If the director finds there is serious nonperformance by the commission or its coordinator and issues an order to withhold payments to the commission as described in this rule, the commission shall not receive funds under the emergency management performance grant program for the remainder of the assigned grants performance period in which the order is issued and one additional year or until such time that all issues of nonperformance have been agreeably addressed by the department and the commission.

These rules are intended to implement Iowa Code sections 29C.6 and 29C.8.

Regulatory Analysis

Notice of Intended Action to be published: 605—Chapter 8
“Criteria for Awards or Grants”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A and 29C.9

State or federal law(s) implemented by the rulemaking: 2024 Iowa Acts, Senate File 2370; 2 CFR Part 25; and 2 CFR Part 200

Public Hearing

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

February 11, 2025
8:30 a.m.

Geode Room
7900 Hickman Road, Suite 500
Windsor Heights, Iowa
meet.google.com/oqm-wujn-dif

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department of Homeland Security and Emergency Management no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Blake DeRouchey
7900 Hickman Road, Suite 500
Windsor Heights, Iowa 50324
Phone: 515.323.4232
Email: blake.derouchey@iowa.gov

Purpose and Summary

Pursuant to Executive Order 10, the Department proposes to rescind Chapter 8 and adopt a new chapter in lieu thereof. The chapter describes the procedures by which the Department considers and awards available grant moneys.

The rulemaking eliminates language that is overly restrictive and obsolete and shortens the chapter.

*Analysis of Impact***1. Persons affected by the proposed rulemaking:**

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

There is no cost associated with the proposed rulemaking.

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

Entities who apply for and receive grant awards administered by the Department will benefit.

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

- **Quantitative description of impact:**

Chapter 8 provides a framework for these grants and implements standing federal grant requirements. In the most recent fiscal year, the Department administered approximately \$141,388,000 in grant funding, passing through \$187,664,000 to fund local emergency management and recovery activities.

- **Qualitative description of impact:**

Entities will be able to apply for various federal grants administered by the Department and operate under a consistent set of rules for application for and awarding of the grant funds.

3. **Costs to the State:**

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

There are no costs to the State or the Department associated with this rulemaking.

- **Anticipated effect on state revenues:**

These rules are in place to make sure all state and federal regulations associated with the grants are followed. In the absence of these rules, it is possible that these grants would have to be recouped and the subrecipients would lose the funding.

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

This rulemaking seeks to implement rules by which the Department will administer grant programs. Cost of inaction would include potentially being ineligible to receive and administer grant funds.

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

The Department has sought to provide the minimum burden to applicants, while still following applicable state and federal regulations and providing fair access to grant funding.

6. **Alternative methods considered by the agency:**

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

None.

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

Not applicable.

Small Business Impact

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

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

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

This rulemaking has little to no impact to small business, other than the small business' ability to bid on projects funded through the available grants.

Text of Proposed Rulemaking

ITEM 1. Rescind 605—Chapter 8 and adopt the following new chapter in lieu thereof:

CHAPTER 8
CRITERIA FOR AWARDS OR GRANTS

605—8.1(29C,17A) Purpose. The department of homeland security and emergency management receives and distributes funds to a variety of entities throughout the state for support of emergency management planning, training, and other initiatives. Unless otherwise prohibited by state or federal law, rule or regulation, the director may make such funds subject to competition. Where such funds are designated by the director to be competitive, the department shall ensure equal access, objective evaluation of applications for these funds, and that grant application material contains, at a minimum, specific content.

605—8.2(29C,17A) Definitions.

“Competitive grant” means the competitive grant application process to determine the grant award for a specified project period.

“Department” means the department of homeland security and emergency management.

“Director” means the director of the homeland security and emergency management department.

“Project” means the activity(ies) or program(s) funded by the department.

“Project period” means the period of time for which the department intends to support the project without requiring the recompetition of funds.

“Service delivery area” means the defined geographic area for delivery of project services.

605—8.3(29C,17A) Exceptions. The department considers funds subject to competition except in those cases where:

1. State or federal law, rule or regulation prohibits such competition.
2. The state, federal or private funding source specifies a sole source for the receipt of funds.
3. There is mutual agreement among the department and contract organizations.
4. The director designates such funds to be noncompetitive.

605—8.4(29C,17A) Public notice of available competitive grants. When making funds available through a competitive grant application process, the department will, at least 60 days prior to the application due date, issue a public notice that identifies the availability of funds and states how interested parties may apply.

8.4(1) If the receipt of a grantor’s official notice of award to the department precludes a full 60-day notice, the department will issue the public notice at the earliest publication date.

8.4(2) In the event the publication date would not allow at least 30 days for interested parties to request and submit an application packet, the department will notify current contractors and other interested parties of the availability of funds through press releases and other announcements.

605—8.5(29C,17A) Requirements. Where funds are designated as competitive, the following will be included in all grant application materials made available by the department:

1. Funding source;
2. Project period;
3. Services to be delivered;
4. Service delivery area;
5. Funding purpose;
6. Funding restrictions;
7. Funding formula (if any);
8. Rules regarding match (if any);
9. Reporting requirements;
10. Performance criteria;
11. Description of eligible applicants;
12. Need for letters of support or other materials (if applicable);
13. Application due date;
14. Anticipated date of award;

15. Eligibility guidelines for those receiving the service or product and the source of those guidelines, including fees or sliding fee scales (if applicable);
16. Target population to be served (if applicable); and
17. Appeal process in the event an application is denied.

605—8.6(29C,17A) Review process (competitive applications only). The review process to be followed in determining the amount of funds to be approved for award of a contract will be described in the application material. The review criteria and point allocation for each element will also be described in the grant application material.

8.6(1) The competitive grant application review committee will be determined by the division administrator administering the grant or award, with oversight from the director. The review committee members will apply points according to the established review criteria in conducting the review.

8.6(2) In the event competitive applications for a project receive an equal number of points, a second review will be conducted by the director and the division administrator administering the grant or award.

605—8.7(29C,17A) Opportunity for review and comment. Program advisory committees or related task forces of the program may be provided with an opportunity to review and comment on the criteria and point allocation prior to implementation. Exceptions may occur when the funding source to the department has already included such criteria and point allocation within the award or the time frame allowed is insufficient for such review and comment.

605—8.8(29C,17A) Awards. Once applications have been scored and ranked, the department will award all available funds to eligible applicants based on the ranking of their applications. Should there be more eligible applications than funds available, those remaining eligible applications will be kept on file by the department.

In those cases in which applicants have received an award but actual project costs are less than anticipated or established in the application, remaining funds shall become deobligated funds. The department shall award deobligated funds in accordance with the awarding authority's grant guidance.

These rules are intended to implement Iowa Code chapter 17A and section 29C.13.

Regulatory Analysis

Notice of Intended Action to be published: 605—Chapter 15
“Mass Notification and Emergency Messaging System”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 29C.17A

State or federal law(s) implemented by the rulemaking: Iowa Code sections 22.7, 29C.2 and 29C.17A

Public Hearing

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

February 11, 2025
9 a.m.

Geode Room
7900 Hickman Road, Suite 500
Windsor Heights, Iowa
meet.google.com/oqm-wujn-dif

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department of Homeland Security and Emergency Management no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Blake DeRouchey
7900 Hickman Road, Suite 500
Windsor Heights, Iowa 50324
Phone: 515.323.4232
Email: blake.derouchey@iowa.gov

Purpose and Summary

Pursuant to Executive Order 10, the Department proposes to rescind Chapter 15 and adopt a new chapter in lieu thereof. The chapter describes the procedures by which the Department administers the state’s mass notification and emergency messaging system and provides a framework for local jurisdictions and state agencies to access the system and initiate emergency alerts to residents and employees.

The rulemaking eliminates language that was overly restrictive and shortens the chapter.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

There is no cost associated with the proposed rulemaking.

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

Potentially all individuals within Iowa who may receive an alert or warning during a time of emergency will benefit.

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

• Quantitative description of impact:

This rule implements a program, as directed by Iowa Code section 29C.17A, that currently has 93 counties and 19 state entities as administrators in the system. Without this program, these entities

would be left without a single statewide method of receiving emergency alerts from state and local officials. Without a single statewide system, it is reasonable to expect local jurisdictions and state entities to procure their own systems of mass notification at a substantially higher cost.

- **Qualitative description of impact:**

This program provides the framework for authorized users of the system to initiate alerts and warnings during emergencies to individuals within the user's area of authority. This may include information about the emergency and recommended protective actions.

3. Costs to the State:

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

There are no costs to the State or the Department associated with this rulemaking. However, the Department does receive an annual \$400,000 appropriation to fund the system and administer the program.

- **Anticipated effect on state revenues:**

Other than the aforementioned information, there is no anticipated effect on state revenues associated with this rulemaking.

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

Erroneous messages are subject to fines by the Federal Communications Commission. This rulemaking ensures compliance with federal regulations around emergency alerts and warnings. Additionally, this rulemaking provides a framework for local authorities to potentially provide lifesaving information to individuals within their jurisdiction.

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

The Department has sought to provide the minimum burden to authorities that access the state's alerts and warning system, while still providing guidelines for managing the system uniformly throughout the state and ensuring system administrators are trained.

6. Alternative methods considered by the agency:

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

None.

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

Not applicable.

Small Business Impact

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

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

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

The new rulemaking has no impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 605—Chapter 15 and adopt the following new chapter in lieu thereof:

CHAPTER 15
MASS NOTIFICATION AND EMERGENCY MESSAGING SYSTEM

605—15.1(29C) Purpose. In accordance with Iowa Code section 29C.17A, the department of homeland security and emergency management establishes the policies and procedures for the creation and administration of a statewide mass notification and emergency messaging system.

605—15.2(29C) Definitions. For the purpose of this chapter, the following definitions apply:

“*Commission*” means a local emergency management commission or joint emergency management commission.

“*Department*” means the department of homeland security and emergency management.

“*Director*” means the director of the department of homeland security and emergency management.

“*Mass notification and emergency messaging system*” or “*system*” means a system operated by the department, which disseminates imminent emergency and public safety-related information.

“*State agency*” means a principal central department enumerated in Iowa Code section 7E.5.

605—15.3(29C) Application for access.

15.3(1) A state agency or commission may apply to the department for access to the system for use by state, county and local officials. The application will contain the following:

- a. Name of state agency or commission submitting the application.
- b. Primary point of contact for implementation and administration of the system at the applicant’s level.
- c. Signature of the state agency director or chair of the commission.
- d. Operational plan and procedures created in accordance with rule 605—15.4(29C).

15.3(2) All applications will be reviewed by the director or designated staff to ensure that the application meets all of the guidelines established in this chapter. If the application does not meet all of the guidelines, the state agency or commission will be notified of such shortfalls and possible remedies.

15.3(3) If all of the guidelines have been met and the director chooses to grant access to the system, the state agency or commission will be notified of acceptance.

15.3(4) If the director chooses not to grant the state agency or commission access to the system, the director will provide notice to the state agency or commission and provide information regarding the decision.

15.3(5) After access to the system has been granted, the director may revoke or suspend such access if the director determines that the state agency or commission is not using the system in accordance with Iowa Code sections 22.7, 29C.2 and 29C.17A and this chapter.

605—15.4(29C) Operational plan and procedures.

15.4(1) Each state agency or commission that applies to access the system will develop and maintain an operational plan and procedures. The operational plan and procedures will contain the following:

- a. Introductory paragraphs that provide a summary of, the purpose of, and the authorities for the operational plan and procedures document.
- b. A description of the system and a listing of the types of imminent emergency alerts and public safety-related information that will be communicated to the public via the system.

c. The contact information for the individual who will function as the state agency's or commission's administrator for the system and who will be the primary contact point for the department and system vendor.

d. A listing of those positions or individuals that are authorized to initiate emergency alerts and mass notification messages via the system. These individuals shall complete any federally specified training needed to access any federal messaging systems that are utilized by the statewide system.

e. A listing of those positions or individuals that are authorized to conduct system database maintenance.

f. The detailed process by which emergency alerts or mass notification messages will be developed, reviewed, and authorized for dissemination.

g. A listing by the commission of any memorandums of understanding completed with neighboring counties for the purpose of allowing cross-border emergency alerts or mass notification messaging when an incident will impact the public outside the incident county within 30 minutes and will cause the public to be endangered if action is not taken by the public. Copies of such agreements shall be included within the operational plan and procedures document.

h. A glossary of definitions for message types that can be issued by the system.

15.4(2) The state agency or commission will complete a memorandum of agreement with the Federal Emergency Management Agency (FEMA) Integrated Public Alert and Warning System (IPAWS) program management office for the purpose of accessing IPAWS. A copy of the approved agreement will be included within the operational plan and procedures document.

15.4(3) The state agency or commission will complete a user agreement with the department. The user agreement specifies that, by accessing the system, users may be exposed to information deemed confidential under Iowa Code chapter 22. A copy of the user agreement will be included within the operational plan and procedures document.

15.4(4) The department has developed an operational plan and procedures template to be used by all state agencies and commissions making application to access the system. All operational plans and procedures developed by the state agencies or commissions and submitted for approval should substantially conform to this template.

These rules are intended to implement Iowa Code sections 22.7, 29C.2 and 29C.17A.

INSPECTIONS AND APPEALS DEPARTMENT[481]

Regulatory Analysis

Notice of Intended Action to be published: 481—Chapter 1
“Administration”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 10A.104(5)

State or federal law(s) implemented by the rulemaking: Iowa Code chapters 10A and 68B and section 17A.13 and 2023 Iowa Acts, Senate File 514

Public Hearing

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

February 12
12:30 p.m.

6200 Park Avenue, Suite 100
Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Ashleigh Hackel
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.250.3746
Email: ashleigh.hackel@dia.iowa.gov

Purpose and Summary

This proposed rulemaking repromulgates Chapter 1, “Administration,” updating this chapter to account for structural changes emanating from the government realignment enacted by 2023 Iowa Acts, Senate File 514. The proposed revisions also further the goals and directives of Executive Order 10 (January 10, 2023).

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

There are no costs associated with this proposed rulemaking.

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

All Iowans benefit from updated and accurate rules describing the administrative structure of the Department.

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

• Quantitative description of impact:

There are no costs associated with this proposed rulemaking.

• Qualitative description of impact:

In this rulemaking, the Department is proposing eliminating outdated and unnecessary rules concerning the administration of the Department. The proposed rulemaking reduces confusion regarding current structure, removes statutory redundancies, and updates basic departmental

information and procedures, including revising official contact information and applicable citations for the director's authority to issue administrative subpoenas.

3. Costs to the State:

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

Administrative procedures contained in this chapter are a part of the Department's standard business operations and absorbed in the general cost of administering the work of the Department.

- **Anticipated effect on state revenues:**

There is no anticipated effect on state revenues.

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

There are no costs associated with this rulemaking, and the benefits include maintaining updated and accurate rules describing the administrative structure and functioning of the Department.

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

No less costly or intrusive methods exist.

6. Alternative methods considered by the agency:

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

No alternative methods have been identified.

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

No alternative methods have been identified.

Small Business Impact

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

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.

- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.

- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.

- Establish performance standards to replace design or operational standards in the rulemaking for small business.

- Exempt small business from any or all requirements of the rulemaking.

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

There is no anticipated impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 481—Chapter 1 and adopt the following **new** chapter in lieu thereof:

CHAPTER 1
ADMINISTRATION

481—1.1(10A) Definitions. For purposes of this chapter, the definitions set forth in Iowa Code section 10A.101 are incorporated herein.

481—1.2(10A) Organization.

1.2(1) *Overview of the department.* The department of inspections, appeals, and licensing is established by Iowa Code section 10A.102 and was created for the purpose of coordinating and conducting various audits, appeals, hearings, inspections, investigations, and licensing activities related to the operations of the executive branch of state government and administering the laws relating to employment safety, labor standards, and workers' compensation. The department's mission is to achieve compliance through education, regulation, and due process for a safe and healthy Iowa.

1.2(2) *Director and delegation of director authority.* The director of the department is appointed in accordance with Iowa Code section 10A.102. The director may designate employee(s) to administer the department in the director's absence. The director may also delegate the director's authority to administer the department to other employees as determined necessary for efficient and effective department operations. Delegations of the director's authority will be documented by the department.

1.2(3) *Divisions.* The department is comprised of divisions as described in Iowa Code section 10A.106 and on the department's website. The director may, from time to time, reorganize the department into administrative divisions to most efficiently and effectively carry out the department's responsibilities, as permitted by law. Reorganization may include creating new divisions, eliminating existing divisions, or combining divisions as the director deems necessary. Nothing herein prevents flexibility in interdepartmental operations or forbids divisional allocations of duties in the discretion of the director.

1.2(4) *Attached units.* The state public defender, racing and gaming commission, Iowa office of civil rights, and employment appeal board operate as attached units to the department for administrative support in accordance with Iowa Code chapter 10A and their authorizing statutes.

481—1.3(10A) Information. The general public may obtain information about the department by contacting the department at its offices located at 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321; by telephone at 515.281.3425; or through its website at dial.iowa.gov. The department maintains additional contact information for divisions and programs on its website.

481—1.4(10A,17A) Subpoenas.

1.4(1) *Issuance of subpoenas.* The director, or designee of the director, is authorized to issue subpoenas in accordance with the provisions of Iowa Code sections 10A.104(6), 10A.209, and 17A.13. In connection with audits, appeals, investigations, inspections, hearings, and any other permissible matters conducted by the department, the director, or designee of the director, may, upon written request or the director's own initiative, issue the following:

a. Subpoenas duces tecum for the production and delivery of books, papers, records, and other real evidence; and

b. Subpoenas for the appearance of persons to provide statements, statements under oath, and depositions.

1.4(2) *Contents of subpoenas.* Each subpoena shall contain the following:

a. The name and address of the person to whom the subpoena is directed;

b. The date, time, and location for the appearance of the person;

c. A description of the books, papers, records, or other real evidence requested;

d. The date, time, and location for production, inspections, or copying of the books, papers, records, or other real evidence;

e. The signature and address of the director or designee;

f. The name, address, and telephone number of a department employee who can be contacted for purposes of providing clarification or assistance in compliance with the subpoena;

g. The date of issuance; and

h. A return of service.

1.4(3) *Motions to quash or modify subpoena.* A person who desires to challenge a subpoena directed to that person must, within ten days after service of the subpoena, or before the time specified

for compliance, if such time is less than ten days, file with the director a motion to quash or modify the subpoena. Upon receipt of a timely motion to quash or modify a subpoena, the director or the director's designee may issue a decision or request an administrative law judge to issue a decision. Oral argument may be scheduled and conducted at the discretion of the director, the director's designee, or the administrative law judge. The director, the director's designee, or the administrative law judge may quash or modify the subpoena, deny the motion, or issue other appropriate orders. A person who is aggrieved by a ruling of an administrative law judge and who desires to challenge that ruling must appeal the ruling to the director by serving the director, either in person or by certified mail, a notice of appeal within ten days after service of the decision of the administrative law judge. The decision of the director or the director's designee is final for purposes of judicial review.

1.4(4) *Failure to comply with subpoena.* If the person to whom the subpoena is directed refuses or fails to obey the subpoena, the director, or the director's designee, may cause a petition to be filed in the Iowa district court seeking an order for the person's compliance.

481—1.5(10A,68B) Consent for the sale of goods and services. An official or employee of the department shall not directly or indirectly sell or lease any goods, real estate, or services to individuals, associations, or corporations subject to the regulatory authority of the official's or employee's agency except as provided by Iowa Code section 68B.4 and rule 351—6.11(68B).

These rules are intended to implement Iowa Code chapters 10A, 17A, and 68B.

Regulatory Analysis

Notice of Intended Action to be published: 875—26.1(88)
“Construction Safety and Health Rules”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 88.5
State or federal law(s) implemented by the rulemaking: 29 CFR 1926 as amended by 89 Fed. Reg. 100321 (December 12, 2024)

Public Hearing

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

February 11, 2025
9:30 to 10 a.m.

Lake Conference Room
6200 Park Avenue, Suite 100
Des Moines, Iowa

Public Comment

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

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

Purpose and Summary

This rulemaking proposes an amendment that adopts by reference a mandatory federal rule relating to personal protective equipment in construction. The federal rule requires that all personal protective equipment properly fit.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**
 - **Classes of persons that will bear the costs of the proposed rulemaking:**
There is no cost.
 - **Classes of persons that will benefit from the proposed rulemaking:**
Construction employees will benefit from having effective personal protective equipment.
2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**
 - **Quantitative description of impact:**
There is no quantitative impact.
 - **Qualitative description of impact:**
The Department discerns no qualitative impact.
3. **Costs to the State:**
 - **Implementation and enforcement costs borne by the agency or any other agency:**
There are no increased implementation or enforcement costs.

- **Anticipated effect on state revenues:**

There is no anticipated fiscal impact on state revenues.

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

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

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

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

6. Alternative methods considered by the agency:

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

No alternative methods were seriously considered.

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

Not applicable.

Small Business Impact

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

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

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

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

Text of Proposed Rulemaking

ITEM 1. Amend rule 875—26.1(88) as follows:

875—26.1(88) Adoption by reference. Federal Safety and Health Regulations for Construction beginning at 29 CFR 1926.16 and continuing through 29 CFR, Chapter XVII, Part 1926, are hereby adopted by reference for implementation of Iowa Code chapter 88. These federal rules shall apply and be interpreted to apply to the Iowa Occupational Safety and Health Act, Iowa Code chapter 88, not the Contract Work Hours and Safety Standards Act, and shall apply and be interpreted to apply to enforcement by the Iowa labor commissioner, not the United States Secretary of Labor or the Federal Occupational Safety and Health Administration. The amendments to 29 CFR 1926 are adopted as published at:

38 Fed. Reg. 16856 (June 27, 1973)

38 Fed. Reg. 27594 (October 5, 1973)

38 Fed. Reg. 33397 (December 4, 1973)
39 Fed. Reg. 19470 (June 3, 1974)
39 Fed. Reg. 24361 (July 2, 1974)
40 Fed. Reg. 23072 (May 28, 1975)
41 Fed. Reg. 55703 (December 21, 1976)
42 Fed. Reg. 2956 (January 14, 1977)
42 Fed. Reg. 37668 (July 22, 1977)
43 Fed. Reg. 56894 (December 5, 1978)
45 Fed. Reg. 75626 (November 14, 1980)
51 Fed. Reg. 22733 (June 20, 1986)
51 Fed. Reg. 25318 (July 11, 1986)
52 Fed. Reg. 17753 (May 12, 1987)
52 Fed. Reg. 36381 (September 28, 1987)
52 Fed. Reg. 46291 (December 4, 1987)
53 Fed. Reg. 22643 (June 16, 1988)
53 Fed. Reg. 27346 (July 20, 1988)
53 Fed. Reg. 29139 (August 2, 1988)
53 Fed. Reg. 35627 (September 14, 1988)
53 Fed. Reg. 35953 (September 15, 1988)
53 Fed. Reg. 36009 (September 16, 1988)
53 Fed. Reg. 37080 (September 23, 1988)
54 Fed. Reg. 15405 (April 18, 1989)
54 Fed. Reg. 23850 (June 2, 1989)
54 Fed. Reg. 30705 (July 21, 1989)
54 Fed. Reg. 41088 (October 5, 1989)
54 Fed. Reg. 45894 (October 31, 1989)
54 Fed. Reg. 49279 (November 30, 1989)
54 Fed. Reg. 52024 (December 20, 1989)
54 Fed. Reg. 53055 (December 27, 1989)
55 Fed. Reg. 3732 (February 5, 1990)
55 Fed. Reg. 42328 (October 18, 1990)
55 Fed. Reg. 47687 (November 14, 1990)
55 Fed. Reg. 50687 (December 10, 1990)
56 Fed. Reg. 2585 (January 23, 1991)
56 Fed. Reg. 5061 (February 7, 1991)
56 Fed. Reg. 41794 (August 23, 1991)
56 Fed. Reg. 43700 (September 4, 1991)
57 Fed. Reg. 7878 (March 5, 1992)
57 Fed. Reg. 24330 (June 8, 1992)
57 Fed. Reg. 29119 (June 30, 1992)
57 Fed. Reg. 35681 (August 10, 1992)
57 Fed. Reg. 42452 (September 14, 1992)
58 Fed. Reg. 21778 (April 23, 1993)
58 Fed. Reg. 26627 (May 4, 1993)
58 Fed. Reg. 35077 (June 30, 1993)
58 Fed. Reg. 35310 (June 30, 1993)
58 Fed. Reg. 40468 (July 28, 1993)
59 Fed. Reg. 215 (January 3, 1994)
59 Fed. Reg. 6170 (February 9, 1994)
59 Fed. Reg. 36699 (July 19, 1994)
59 Fed. Reg. 40729 (August 9, 1994)

59 Fed. Reg. 41131 (August 10, 1994)
59 Fed. Reg. 43275 (August 22, 1994)
59 Fed. Reg. 65948 (December 22, 1994)
60 Fed. Reg. 9625 (February 21, 1995)
60 Fed. Reg. 11194 (March 1, 1995)
60 Fed. Reg. 33345 (June 28, 1995)
60 Fed. Reg. 34001 (June 29, 1995)
60 Fed. Reg. 36044 (July 13, 1995)
60 Fed. Reg. 39255 (August 2, 1995)
60 Fed. Reg. 50412 (September 29, 1995)
61 Fed. Reg. 5509 (February 13, 1996)
61 Fed. Reg. 9248 (March 7, 1996)
61 Fed. Reg. 31431 (June 20, 1996)
61 Fed. Reg. 41738 (August 12, 1996)
61 Fed. Reg. 43458 (August 23, 1996)
61 Fed. Reg. 46104 (August 30, 1996)
61 Fed. Reg. 56856 (November 4, 1996)
61 Fed. Reg. 59831 (November 25, 1996)
62 Fed. Reg. 1619 (January 10, 1997)
63 Fed. Reg. 1295 (January 8, 1998)
63 Fed. Reg. 1919 (January 13, 1998)
63 Fed. Reg. 3814 (January 27, 1998)
63 Fed. Reg. 13340 (March 19, 1998)
63 Fed. Reg. 17094 (April 8, 1998)
63 Fed. Reg. 20099 (April 23, 1998)
63 Fed. Reg. 33468 (June 18, 1998)
63 Fed. Reg. 35138 (June 29, 1998)
63 Fed. Reg. 66274 (December 1, 1998)
64 Fed. Reg. 22552 (April 27, 1999)
66 Fed. Reg. 5265 (January 18, 2001)
66 Fed. Reg. 37137 (July 17, 2001)
67 Fed. Reg. 57736 (September 12, 2002)
69 Fed. Reg. 31881 (June 8, 2004)
70 Fed. Reg. 1143 (January 5, 2005)
71 Fed. Reg. 2885 (January 18, 2006)
70 Fed. Reg. 76985 (December 29, 2005)
71 Fed. Reg. 10381 (February 28, 2006)
71 Fed. Reg. 36008 (June 23, 2006)
71 Fed. Reg. 76985 (August 24, 2006)
72 Fed. Reg. 64428 (November 15, 2007)
73 Fed. Reg. 75583 (December 12, 2008)
75 Fed. Reg. 12685 (March 17, 2010)
75 Fed. Reg. 27429 (May 17, 2010)
75 Fed. Reg. 48130 (August 9, 2010)
76 Fed. Reg. 33606 (June 8, 2011)
77 Fed. Reg. 17764 (March 26, 2012)
76 Fed. Reg. 80738 (December 27, 2011)
77 Fed. Reg. 23118 (April 18, 2012)
77 Fed. Reg. 37598 (June 22, 2012)
77 Fed. Reg. 42988 (July 23, 2012)
77 Fed. Reg. 46949 (August 7, 2012)

78 Fed. Reg. 23841 (April 23, 2013)
78 Fed. Reg. 32116 (May 29, 2013)
79 Fed. Reg. 20629 (April 11, 2014)
79 Fed. Reg. 56960 (September 24, 2014)
79 Fed. Reg. 57798 (September 26, 2014)
80 Fed. Reg. 25518 (May 4, 2015)
80 Fed. Reg. 60039 (October 5, 2015)
81 Fed. Reg. 16092 (March 25, 2016)
81 Fed. Reg. 16875 (March 25, 2016)
83 Fed. Reg. 56244 (November 9, 2018)
84 Fed. Reg. 21574 (May 14, 2019)
85 Fed. Reg. 8735 (February 18, 2020)
85 Fed. Reg. 53997 (August 31, 2020)
85 Fed. Reg. 57122 (September 15, 2020)
89 Fed. Reg. 100321 (December 12, 2024)

This rule is intended to implement Iowa Code sections 84A.1, 84A.2, 88.2 and 88.5.

Regulatory Analysis

Notice of Intended Action to be published: 721—Chapter 21
“Election Personnel Training Requirements”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 49.124(1)
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 49

Public Hearing

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

February 11, 2025
10 to 11 a.m.

Via videoconference call:
meet.google.com/bgd-sijt-agq

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Secretary of State (SOS) no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Eric Gookin
Office of the Secretary of the State
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: eric.gookin@sos.iowa.gov

Purpose and Summary

The proposed rulemaking creates a required course of training that county commissioners of elections will provide to their poll workers.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

• **Classes of persons that will bear the costs of the proposed rulemaking:**

Costs are minimal. County commissioners are already required to provide training. The change in law and this rule provide certainty that the training will be equal since it is coming out of the Office of the SOS.

• **Classes of persons that will benefit from the proposed rulemaking:**

Iowa voters and candidates will benefit from greater uniformity in the training requirements.

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

• **Quantitative description of impact:**

Since county commissioners are already required to conduct training sessions, and the topics and materials will come out of SOS appropriations, additional costs will be negligible.

• **Qualitative description of impact:**

Since county commissioners are already required to conduct training sessions, and the topics and materials will come out of SOS appropriations, additional costs will be negligible.

3. Costs to the State:

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

There are no costs to the SOS or any other agency. Personnel are already assigned to this task.

- **Anticipated effect on state revenues:**

There is no effect on state revenues.

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

There is no cost difference between adoption of the proposed rule and inaction.

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

No less costly methods or less intrusive methods exist.

6. Alternative methods considered by the agency:

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

No alternative methods were considered.

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

No alternative methods were considered.

Small Business Impact

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

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

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

The proposed rulemaking does not have a substantial impact on small business.

Text of Proposed Rulemaking

ITEM 1. Adopt the following new rule 721—21.362(49):

721—21.362(49) Precinct election officials and other election personnel training requirements.

21.362(1) The commissioner shall conduct, not later than the day before each election, a training course for all election personnel. The personnel shall include all precinct election officials and any other persons who will be employed in or around the polling places on election day by the commissioner.

21.362(2) The training shall include the following subjects, along with any other subjects the state commissioner deems necessary or provides training materials for:

- a. Rights and limitations of poll watchers.
- b. Posters and other signage required at the polling place.
- c. Voter interaction and de-escalation.
- d. Voter check-in process.
- e. Assisting voters with disabilities and curbside voting.
- f. Election Day registration.
- g. Proper handling of provisional ballots and challenge processes.

h. End of night precinct closing procedures.
This rule is intended to implement Iowa Code chapter 49.

Regulatory Analysis

Notice of Intended Action to be published: 761—Chapter 10
“Procedure for Rulemaking and Petitions for Rulemaking”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A

State or federal law(s) implemented by the rulemaking: Iowa Code chapter 17A and sections 307.12(1)“j,” 307A.2, 312.3 and 321A.3

Public Hearing

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

February 13, 2025
10 to 10:30 a.m.

[Microsoft Teams](#)
Or dial: 515.817.6093
Conference ID: 448 593 965

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Department of Transportation no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Tracy George
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Purpose and Summary

This proposed chapter provides procedures for rulemaking and explains the process for petitions for rulemaking. The intended benefit is to provide clarity and transparency.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

There are no classes of persons who will bear a cost associated with this chapter.

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

All persons who submit a petition for rulemaking benefit from this chapter because the rules provide clarity and transparency.

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

- **Quantitative description of impact:**

Proposed Chapter 10 explains the petition for rulemaking process and is intended to ensure that the process is understood and transparent. Chapter 10 also adopts the procedure for rulemaking that the Department will follow in accordance with Iowa Code chapter 17A.

- **Qualitative description of impact:**

Proposed Chapter 10 explains the process and ensures those who wish to submit a petition are aware of the process.

3. Costs to the State:

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

There are no costs to the State to implement this proposed chapter.

- **Anticipated effect on state revenues:**

There is no anticipated effect on state revenues.

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

The major purpose of this chapter is to explain the process, which benefits those involved.

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

There are no less costly or less intrusive methods for achieving the purpose of this chapter.

6. Alternative methods considered by the agency:

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

The Department did not consider any alternative methods.

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

The Department feels this chapter is necessary and needs to have its own rules concerning the petition for rulemaking process.

Small Business Impact

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

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

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

This proposed chapter has no impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 761—Chapter 10 and adopt the following **new** chapter in lieu thereof:

CHAPTER 10

PROCEDURE FOR RULEMAKING AND PETITIONS FOR RULEMAKING

761—10.1(17A) General.

10.1(1) Definitions.

“Commission” means the state transportation commission.

“Director” means the director of transportation or the director’s designee.

10.1(2) Contact information for rules administrator. The mailing address of the department’s rules administrator is: Rules Administrator, Government and Community Relations, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010. The email address of the rules administrator may be found on the department’s website at iowadot.gov/administrativerules.

761—10.2(17A) Procedure for rulemaking.

10.2(1) *Incorporation by reference.* The department incorporates by this reference all such matters in Iowa Code chapter 17A that relate to procedures for rulemaking.

10.2(2) *Information.*

a. Inquiries about rules and the rulemaking process may be directed to the rules administrator at the address in subrule 10.1(2).

b. Any public comment on a Notice of Intended Action or similar document relating to rules may be directed to the rules administrator or as directed in the Notice of Intended Action or similar document.

761—10.3(17A) Petitions for rulemaking.

10.3(1) The department will accept and consider, from any person or agency, petitions for rulemaking when submitted to the department's rules administrator by mail or email and prepared in conformance with the following:

a. Format:

IOWA DEPARTMENT OF TRANSPORTATION
800 Lincoln Way, Ames, Iowa 50010

PETITION BY (insert petitioner's name)

FOR THE (insert one: adoption,
amendment or repeal)

OF (insert current rule number, if
applicable, and brief description of
subject matter)

}

DOCKET NO. _____

PETITION FOR RULEMAKING

(In separate numbered paragraphs, the petition shall include the following.)

1. The petitioner's name, address and telephone number.
2. The nature of the petitioner's interest in the matter.
3. The text or the essential terms and conditions of a proposed new rule, or the rule number and text of a rule proposed for amendment or a repeal. In addition, proposed amendments are to be illustrated to portray the changes in wording requested: Deletions are to be indicated by strikethroughs, and additions by underscoring.

4. The reasons for seeking the requested action, including any facts, views, data or arguments relevant to the request. Copies of statutes, rules or other supporting documents referenced in the petition are to be submitted as appendices to the petition or made available to the department upon request.

5. If desired, a request to meet informally with the department to discuss the petition.

(Signature of petitioner)

b. A petition for amendment or repeal of a rule is to pertain to a rule currently in effect at the time the petition is received by the department.

c. Petitions should be typewritten, although petitions legibly hand-printed in ink will be accepted.

10.3(2) The date of receipt of a petition is the day it reaches the department's rules administrator. The administrator will within five days of receipt notify the petitioner of the date of receipt and the assigned docket number.

10.3(3) If requested in the petition, the department will schedule an informal meeting with the petitioner to discuss the petition.

10.3(4) The department will notify the petitioner of the director's or commission's determination to grant or deny the petition. If the petition is denied, the notification will include the reasons for denial.

These rules are intended to implement Iowa Code chapter 17A and sections 307.12(1)“j,” 307A.2, 312.3 and 312A.3.

Regulatory Analysis

Notice of Intended Action to be published: 761—Chapter 11
“Waiver of Rules”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A.9A
State or federal law(s) implemented by the rulemaking: Iowa Code section 17A.9A

Public Hearing

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

February 13, 2025
11 to 11:30 a.m.

[Microsoft Teams](#)
Or dial: 515.817.6093
Conference ID: 505 838 066

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Department of Transportation no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Tracy George
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Purpose and Summary

This proposed chapter establishes a general process for granting waivers from the requirements of Department rules in accordance with Iowa Code section 17A.9A.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

• **Classes of persons that will bear the costs of the proposed rulemaking:**

All persons submitting a petition for waiver of a rule are affected by the proposed rules. However, there are no costs associated with submitting a petition.

• **Classes of persons that will benefit from the proposed rulemaking:**

Persons submitting a petition for waiver of a rule benefit from this chapter because the rules provide clarity and transparency.

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

• **Quantitative description of impact:**

Proposed Chapter 11 explains the waiver process and is intended to ensure that the process is understood and transparent.

• **Qualitative description of impact:**

Proposed Chapter 11 explains the waiver process and ensures those who wish to submit a petition are aware of the process.

3. Costs to the State:

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

There are no costs to the State to implement this proposed chapter.

- **Anticipated effect on state revenues:**

There is no anticipated effect on state revenues.

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

The major purpose of this chapter is to explain the process, which benefits those involved.

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

There are no less costly methods or less intrusive methods for achieving the purpose of this chapter.

6. Alternative methods considered by the agency:

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

The Department did not seriously consider any alternative methods.

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

The Department feels this chapter is necessary and needs to have its own rules concerning the waiver process.

Small Business Impact

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

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

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

This proposed chapter has no impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 761—Chapter 11 and adopt the following **new** chapter in lieu thereof:

CHAPTER 11
WAIVER OF RULES

761—11.1(17A) General.

11.1(1) Purpose. The purpose of this chapter is to establish a general process for granting waivers from the requirements of department rules in accordance with Iowa Code section 17A.9A.

11.1(2) Scope. This chapter does not:

- Preclude the granting of waivers using another process if a statute or another department rule so provides. If the rule for which a waiver is sought has a specific waiver process of its own, this chapter is applicable only when it is specifically cited.
- Apply to contested case proceedings.
- Apply to rules that merely define the meaning of a statute or other provision of law if the department does not possess the delegated authority to bind the courts to any extent with its definition.

11.1(3) Definition.

“Director” means the director of transportation or the director’s designee.

761—11.2(17A) Petition for waiver.

11.2(1) Petitioner. Any person with a real and direct interest in the matter may petition the department for a waiver from the requirements of a rule.

11.2(2) Form of petition. A petition for a waiver from the requirements of a rule must be in writing and state clearly at the top of the petition that it is a “petition for waiver of a rule.” The petition shall contain the following information where applicable and known to the petitioner:

a. The name, address and telephone number of the petitioner, and any license, permit or case number applicable to the requested waiver.

b. A description of and citation to the specific rule from which a waiver is requested.

c. The specific waiver requested, including its scope and duration.

d. The relevant facts and reasons the petitioner believes would justify the requested waiver and address each of the following:

(1) Why applying the rule will result in an undue hardship to the petitioner.

(2) Why waiving the rule will not prejudice the substantial legal rights of any other person.

(3) Whether the provisions of the rule are specifically mandated by statute or another law other than the rule.

(4) How substantially equal protection of the public health, safety, and welfare will be afforded by means other than those prescribed by the rule.

e. A history of any prior contacts between the petitioner and the department that are related to the requested waiver.

f. Whether the petitioner is currently a party to a rulemaking, declaratory order, contested case, judicial proceeding, or any other proceeding related to the requested waiver.

g. Information regarding the department’s treatment of similar situations.

h. The name, address and telephone number of any public agency or political subdivision that also regulates the activity in question or that may be affected if the waiver were granted.

i. The name, address and telephone number of any person or entity that may be adversely affected if the waiver were granted.

j. The name, address and telephone number of any person who has knowledge of facts relevant to the requested waiver.

k. Releases authorizing persons with knowledge of relevant facts to furnish that information to the department.

l. The signature of the petitioner and the date signed.

11.2(3) Submission of petition. A petition for waiver from the requirements of a rule shall be submitted to the rules administrator either by mail to Rules Administrator, Government and Community Relations, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; or by email to the rules administrator’s email address listed on the department’s website at iowadot.gov/administrativerules.

761—11.3(17A) Action on petition and decision on waiver.

11.3(1) The director may, in response to a written petition submitted in accordance with rule 761—11.2(17A), grant a waiver from the requirements of a rule. The decision to grant a waiver is made at the sole discretion of the director and is final agency action.

11.3(2) The following is the procedure for responding to a petition for a waiver from the requirements of a rule:

a. The department will acknowledge receipt of a petition within five days of receipt.

b. Before a waiver is granted or denied, the department may request a petitioner to furnish additional information related to the petition.

c. The director will issue a written decision to grant or deny a waiver within 120 days after the department acknowledges receipt of the petition unless the petitioner agrees to a later time. However, if the matter is also the subject of a contested case proceeding, the decision to grant or deny a waiver need not be issued until after the final decision in the contested case is issued.

d. The director's decision to grant or deny a waiver in response to a written petition will be in writing and contain:

- (1) The name of the person to whom the decision pertains.
- (2) A citation to the rule or portion thereof to which the decision pertains and a brief summary of the rule's requirements that are pertinent to the requested waiver.

- (3) The relevant facts and reasons upon which the decision is based. If a waiver is granted, the decision needs to include the findings set out in Iowa Code section 17A.9A(2).

- (4) The scope and duration of a waiver if one is granted.

- (5) Any other conditions placed on a waiver if one is granted.

e. Within seven days after the decision is issued, the department will transmit it to the petitioner.

f. Failure to grant a waiver within the time specified in paragraph 11.3(2)"c" is deemed a denial.

g. A petition for a waiver from the requirements of a rule is independent of a contested case proceeding. Submission of a petition does not delay the time to request a contested case hearing, to appeal a proposed decision in a contested case, or to file a petition for judicial review of a final decision in a contested case.

h. A petition for a waiver from the requirements of a rule is not needed to exhaust administrative remedies before judicial review of a department action under Iowa Code section 17A.19.

761—11.4(17A) Modification or cancellation of waiver. The department may, after notice and opportunity for hearing, modify or cancel a waiver granted pursuant to this chapter if the director finds any of the following:

1. A material fact upon which the waiver is based is not true or has changed.
2. The petitioner withheld or knowingly misrepresented a material fact relevant to the propriety or desirability of the waiver.
3. The petitioner has failed to comply with the conditions set forth in the decision granting the waiver.
4. The alternate means for ensuring that the public health, safety and welfare will be adequately protected after the waiver is granted are insufficient.

761—11.5(17A) Records.

11.5(1) All records relating to waivers granted or denied under this chapter are open records. However, if a record contains personal information that is confidential, only the portion of the record that is nonconfidential will be made available for public inspection.

11.5(2) The department's rules administrator will, at a minimum, retain for five years records relating to waivers granted or denied under this chapter.

These rules are intended to implement Iowa Code section 17A.9A.

Regulatory Analysis

Notice of Intended Action to be published: 761—Chapter 12
“Declaratory Orders”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A.9

State or federal law(s) implemented by the rulemaking: Iowa Code sections 17A.9 and 17A.19

Public Hearing

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

February 13, 2025
1:30 to 2 p.m.

[Microsoft Teams](#)
Or dial: 515.817.6093
Conference ID: 163 303 932

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Department of Transportation no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Tracy George
800 Lincoln Way
Ames, Iowa 50010
Email: Tracy.George@iowadot.us

Purpose and Summary

This proposed chapter explains the process on how a person or agency may file with the Department a petition for a declaratory order and how the Department will respond to that petition.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

All persons or agencies submitting a petition for declaratory order are affected by the proposed rules. However, there are no costs associated with submitting a petition.

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

Persons or agencies submitting a petition for declaratory order benefit from this chapter because the rules provide clarity and transparency.

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

- **Quantitative description of impact:**

Proposed Chapter 12 explains the declaratory order process and is intended to ensure that the process is understood and transparent.

- **Qualitative description of impact:**

Proposed Chapter 12 explains the process and ensures those who wish to submit a petition are aware of the process.

3. Costs to the State:

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

There are no costs to the State to implement this proposed chapter.

- **Anticipated effect on state revenues:**

There is no anticipated effect on state revenues.

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

The major purpose of this chapter is to explain the process, which benefits those involved.

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

There are no less costly methods or less intrusive methods for achieving the purpose of this chapter.

6. Alternative methods considered by the agency:

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

The Department did not consider any alternative methods.

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

The Department feels this chapter is necessary and needs to have its own rules concerning the declaratory order process.

Small Business Impact

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

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.

- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.

- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.

- Establish performance standards to replace design or operational standards in the rulemaking for small business.

- Exempt small business from any or all requirements of the rulemaking.

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

This proposed chapter has no impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 761—Chapter 12 and adopt the following **new** chapter in lieu thereof:

CHAPTER 12
DECLARATORY ORDERS

761—12.1(17A) Definitions.

“Declaratory order” means the department’s interpretation of a statute, rule or order as applied to specified circumstances. A declaratory order is issued in response to a petition for declaratory order.

“Director” means the director of transportation or the director’s designee.

“Petition for declaratory order” means a formal request from a person or agency to the department asking how the department will apply a statute, rule or order based on a specific set of facts contained in the petition. The purpose of the petition is to seek binding advice from the department, not to challenge a decision that the department has already made.

761—12.2(17A) Petition for declaratory order.

12.2(1) Any person or agency may file with the department a petition for declaratory order.

12.2(2) The petition is to be submitted to the rules administrator either by mail to Rules Administrator, Government and Community Relations, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; or by email to the rules administrator's email address listed on the department's website at iowadot.gov/administrativerules.

12.2(3) The petition is to be typewritten or legibly handwritten in ink and substantially conform to the following form:

IOWA DEPARTMENT OF TRANSPORTATION 800 Lincoln Way, Ames, Iowa 50010		
PETITION BY (insert petitioner's name) FOR DECLARATORY ORDER ON (insert number of statute, rule, etc. and brief description of subject matter)	}	DOCKET NO. _____ PETITION FOR DECLARATORY ORDER

(In separate numbered paragraphs, the petition shall include the following.)

1. The petitioner's name, address and telephone number.
2. The exact words, passages, sentences or paragraphs of statutes, rules, etc. that are the subject of the inquiry.
3. A clear, concise and complete statement of all relevant facts for which the order is requested.
4. The uncertainties or conflicting interpretations that arise when the cited statutes, rules, etc. are applied to the facts.
5. (Optional) The interpretation urged based upon the facts set forth.
6. The reasons for the petition and a full disclosure of the petitioner's interest.
7. Whether the petitioner is currently a party to a rulemaking, contested case or judicial proceeding involving the controversy or uncertainty.
8. The names and addresses, when known, of other persons who may be affected by the declaratory order.

12.2(4) The petition is to be dated and signed by the petitioner or, if applicable, petitioner's representative.

12.2(5) If applicable, the petition is also to include the name, address and telephone number of the petitioner's representative and a statement indicating the person to whom communications concerning the petition should be directed.

12.2(6) The date of receipt of the petition is the day it reaches the department's rules administrator. The administrator will within five days of receipt send an acknowledgment of receipt with the assigned docket number to the petitioner or, if applicable, petitioner's representative.

761—12.3(17A) Action on petition.

12.3(1) A declaratory order or an order declining to issue a declaratory order is issued by the director.

12.3(2) The director may issue an order declining to issue a declaratory order on some or all of the questions raised in the petition for any of the following reasons:

- a. The petition does not substantially comply with the required form.
- b. The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the department to issue a declaratory order.
- c. The department does not have jurisdiction over the questions presented in the petition.
- d. The questions presented in the petition are also presented in a current rulemaking, contested case, or other agency or judicial proceeding that may definitively resolve them.
- e. The questions presented in the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.

f. The questions posed or facts presented in the petition are unclear, vague, incomplete, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue a declaratory order.

g. There is no need to issue a declaratory order because the questions raised in the petition have been settled due to a change in circumstances.

h. The petition is not based upon facts calculated to aid in the planning of future conduct but is, instead, based solely upon prior conduct in an effort to establish the effect of that conduct or to challenge a department decision already made.

i. The petition requests a declaratory order that would necessarily determine the legal rights, duties or responsibilities of other persons who have not joined in the petition or filed a similar petition and whose position on the questions presented may fairly be presumed to be adverse to that of the petitioner.

j. The petitioner requests the department to determine whether a statute is unconstitutional on its face.

12.3(3) If the director issues an order declining to issue a declaratory order, the order needs to indicate the specific grounds for declining to issue a declaratory order and constitutes final agency action on the petition.

761—12.4(17A) Effect of a declaratory order. A declaratory order is binding on the department and the petitioner and is applicable only in circumstances where the relevant facts and the law involved are indistinguishable from those on which the order was based. As to all other persons, a declaratory order serves only as precedent and is not binding on the department. The issuance of a declaratory order constitutes final agency action on the petition.

These rules are intended to implement Iowa Code sections 17A.9 and 17A.19.

Regulatory Analysis

Notice of Intended Action to be published: 761—Chapter 424
“Transporter Plates”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 307.12(1)“j”
State or federal law(s) implemented by the rulemaking: Iowa Code sections 307.12(1)“j” and 321.57 through 321.63

Public Hearing

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

February 14, 2025
9 to 9:30 a.m.

[Microsoft Teams](#)
Or dial: 515.817.6093
Conference ID: 612 558 981

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Department of Transportation no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Sara Siedsma
6310 SE Convenience Boulevard
Ankeny, Iowa 50021
Email: sara.siedsma@iowadot.us

Purpose and Summary

The purpose of the proposed chapter is to implement Iowa Code sections 321.57 through 321.63, which address the eligibility to use transporter plates.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

• **Classes of persons that will bear the costs of the proposed rulemaking:**

There are no costs or fees associated with this chapter beyond what is required by the underlying statute. Rather, the purpose of the rules is to establish the eligibility requirements and application process for Iowa businesses that use transporter plates.

• **Classes of persons that will benefit from the proposed rulemaking:**

Entities seeking to obtain transporter plates will benefit from this chapter by knowing the eligibility criteria and application process.

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

• **Quantitative description of impact:**

There are no additional quantitative impacts that were not already anticipated as a result of the underlying statute, which requires the Department to make transporter plates available to qualified applicants. The statutory application fee is \$70.

• **Qualitative description of impact:**

The result of reorganizing, streamlining, and reducing redundancy in the proposed chapter will create a positive impact by producing a more user-friendly version of information the public relies on for understanding how to obtain transporter plates.

3. Costs to the State:

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

There are no additional implementation or enforcement costs in the proposed rules that were not already required as a result of the underlying statutes. The statute requires the Department to make transporter plates available to qualified applicants.

• **Anticipated effect on state revenues:**

There are no anticipated effects on state revenues beyond the underlying statute.

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

The benefit of the proposed chapter is consistency and transparency on the processes and requirements for obtaining transporter plates in Iowa.

The cost of inaction is the inability for qualified vehicle transporters to understand quickly and efficiently what is required to obtain and maintain the ability to use transporter plates in Iowa.

There is no benefit of inaction.

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

There are no less costly or less intrusive methods to achieve the purpose of the proposed rules.

6. Alternative methods considered by the agency:

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

The Department did not consider alternatives for the proposed rules. The Department is required by the Iowa Code to make transporter plates available to qualified applicants.

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

Not applicable.

Small Business Impact

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

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

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

There is no small business impact beyond what was already anticipated under the statute. The proposed rules apply equally to all transporters seeking transporter plates under the Iowa Code.

Text of Proposed Rulemaking

ITEM 1. Rescind 761—Chapter 424 and adopt the following **new** chapter in lieu thereof:

CHAPTER 424
TRANSPORTER PLATES

761—424.1(307,321) Definitions.

“Operating authority” means the authority issued by the department or the Federal Motor Carrier Safety Administration under Iowa Code chapter 325A or 327B that is required for the delivery of a vehicle for compensation.

“Transporter” means a person who is engaged in the business of delivering vehicles owned by the person or delivering vehicles owned by other persons for compensation and who has an established place of business for such purpose in this state. An authorized vehicle recycler under Iowa Code chapter 321H who delivers vehicles in the course of the recycler’s business meets this definition.

“Transporter plate” means a special plate for transporters as authorized by Iowa Code sections 307.12(1)“j” and 321.57 through 321.63.

761—424.2(307,321) Application and requirements for transporter plates.

424.2(1) *Application.* A transporter may obtain transporter plates from the department by submitting an application on Form 417003 to the department with the applicable statutory fees under Iowa Code sections 321.58 through 321.60. Applications are to be submitted by mail to Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278. Form 417003 may be obtained by contacting the motor vehicle division, by phone at 515.237.3156, by email to dealer.programs@iowadot.us or on the department’s website at www.iowadot.gov/mvd/buyingandselling/misc.

424.2(2) *Required information.* Each application shall include the following information:

- a. The transporter’s business name, bona fide address and telephone number.
- b. The legal name, bona fide address and phone number of an owner when the owner of the business is an individual, or the name, bona fide address and phone number of at least two partners or officers if the business is a partnership or corporation.
- c. The federal employer identification number of the business. However, if the business is owned by an individual who is not required to have a federal employer identification number, the application is to include the individual’s social security number, Iowa nonoperator’s identification number or Iowa driver’s license number.
- d. Certification on the application that the applicant possesses all necessary operating authority to conduct business as a transporter in the state.

424.2(3) *Permitted uses of a transporter plate.* The person delivering the vehicle must carry evidence issued by the owner of the vehicle authorizing the delivery. The evidence shall include the origin and destination of the vehicle delivery, the vehicle owner’s name and address and a description of the vehicle being delivered. Subject to these stipulations, a transporter plate may be displayed on a vehicle being operated or moved on the highway for the purpose of delivery to a place designated by the owner of the vehicle.

424.2(4) *Prohibited uses of a transporter plate.* A transporter plate shall not be displayed on a vehicle being delivered or displayed in any manner not specifically permitted under Iowa Code section 321.57 or subrule 424.2(3).

These rules are intended to implement Iowa Code sections 307.12(1)“j,” 321.1 and 321.57 through 321.63.

Regulatory Analysis

Notice of Intended Action to be published: 761—Chapter 430
“Motor Vehicle Leasing License”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 321F.11

State or federal law(s) implemented by the rulemaking: Iowa Code chapter 321F

Public Hearing

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

February 14, 2025
10 to 10:30 a.m.

[Microsoft Teams](#)
Or dial: 515.817.6093
Conference ID: 653 706 297

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Department of Transportation no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Sara Siedsma
6310 SE Convenience Boulevard
Ankeny, Iowa 50021
Email: sara.siedsma@iowadot.us

Purpose and Summary

The purpose of the proposed chapter is to implement Iowa Code chapter 321F, which requires individuals engaged in the business of leasing motor vehicles to obtain a leasing license from the Department. Iowa Code chapter 321F requires the Department to adopt rules administering leasing licenses. The purpose of this chapter is to provide clarity and consistency on the requirements for leasing licenses and encourage compliance with the statutory requirements.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

• **Classes of persons that will bear the costs of the proposed rulemaking:**

There are no additional costs associated with this chapter beyond those attributable to the underlying statute. Persons or entities seeking a motor vehicle leasing license incur costs to apply for the license.

• **Classes of persons that will benefit from the proposed rulemaking:**

Persons or entities seeking a motor vehicle leasing license who will have a clear and consistent process to follow to apply for the license will benefit.

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

• **Quantitative description of impact:**

There is no quantitative impact beyond that which is required by the underlying statute. Under the statute, the Department collects approximately \$15,660 every other year due to the issuance of 522 two-year leasing licenses at the statutory cost of \$30 each.

• **Qualitative description of impact:**

The result of reorganizing, streamlining and reducing redundancy in the proposed chapter will create a positive impact by providing clarity on the process to obtain a motor vehicle leasing license.

3. Costs to the State:

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

There are no additional implementation or enforcement costs in the proposed rules that were not already required as a result of the underlying statutes. The statute requires the Department to adopt rules regarding applications for motor vehicle leasing licenses.

- **Anticipated effect on state revenues:**

There is no revenue impact beyond that which is required by the underlying statute.

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

The benefit of the proposed chapter is consistency and transparency on the process to obtain a motor vehicle leasing license. The cost of the proposed rules is the same as the costs required by the underlying statute.

There is no benefit of inaction because the Department is required by Iowa Code section 321F.11 to adopt this chapter.

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

There are no less costly or less intrusive methods to achieve the purpose of the proposed rules, which is to implement the statutory requirements for motor vehicle leasing licenses.

6. Alternative methods considered by the agency:

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

No alternatives were considered because the Department is required by Iowa Code section 321F.11 to adopt this chapter.

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

Not applicable.

Small Business Impact

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

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.

- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.

- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.

- Establish performance standards to replace design or operational standards in the rulemaking for small business.

- Exempt small business from any or all requirements of the rulemaking.

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

There is no small business impact. The proposed rules apply equally to all individuals, entities or businesses that seek a motor vehicle leasing license, and the underlying statute does not permit an exemption from these requirements for small businesses.

Text of Proposed Rulemaking

ITEM 1. Rescind 761—Chapter 430 and adopt the following **new** chapter in lieu thereof:

CHAPTER 430
MOTOR VEHICLE LEASING LICENSES

761—430.1(321F) General.

430.1(1) Information. Information and forms relating to this chapter may be obtained from the Motor Vehicle Division, Iowa Department of Transportation, by mail at P.O. Box 9278, Des Moines, Iowa 50306-9278; by telephone at 515.237.3156; by email at dealer.programs@iowadot.us; or from the department's website at www.iowadot.gov/mvd/buyingselling.

430.1(2) Definition.

“Engage in the business” means leasing two or more motor vehicles that are subject to registration in a 12-month period if the lessee is a resident of this state and first takes possession of the vehicle in this state, or if the lessor's business address is located in this state. A person is not considered to be engaged in the business if the business address is located outside of this state and the lessee first takes possession of the motor vehicle outside of this state.

761—430.2(321F) Application.

430.2(1) Form and submission. Application for a motor vehicle leasing license shall be made on Form 417034 and submitted to the address provided in subrule 430.1(1).

430.2(2) Required information. Each application is to include the following information:

a. The applicant's business name, bona fide address and telephone number under which the applicant will engage in the business and where an individual, partner or corporate officer can be reached during normal business hours.

b. The legal name, bona fide address and phone number of the owner when the owner of the business is an individual, or the name, bona fide address and phone number of at least two partners or officers if the business is a partnership or corporation.

c. The federal employer identification number of the business, or, if the business is owned by an individual who is not required to have a federal employer identification number, the individual's social security number, Iowa nonoperator's identification number or Iowa driver's license number.

430.2(3) Supplemental statements. The licensee shall notify the department, in writing, within ten days, at the address shown in subrule 430.1(1), of any change in the information required on the original application.

761—430.3(321F) Separate licenses required. A separate license is required for:

430.3(1) Each address under which a single business entity will conduct business under Iowa Code chapter 321F and these rules.

430.3(2) Each address that will be used for titling or registering vehicles subject to registration in Iowa.

These rules are intended to implement Iowa Code chapter 321F.

Regulatory Analysis

Notice of Intended Action to be published: 761—Chapter 431
“Vehicle Recyclers”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 307.12(1)“j” and 321H.4A
State or federal law(s) implemented by the rulemaking: Iowa Code section 307.12(1)“j” and chapter 321H

Public Hearing

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

February 14, 2025
1 to 1:30 p.m.

[Microsoft Teams](#)
Or dial: 515.817.6093
Conference ID: 488 896 949

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Department of Transportation no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Sara Siedsma
6310 SE Convenience Boulevard
Ankeny, Iowa 50021
Email: sara.siedsma@iowadot.us

Purpose and Summary

The purpose of the proposed chapter is to comply with Iowa Code chapter 321H by outlining the application and eligibility requirements to become a licensed vehicle recycler in the state.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

There are no costs or fees associated with this chapter beyond what is required by the underlying statute. Rather, the purpose of the rules is to establish the eligibility requirements and application process for persons seeking a vehicle recycler license.

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

Persons seeking to obtain a vehicle recycler license will benefit from this chapter by knowing the eligibility criteria and application process.

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

• Quantitative description of impact:

There are no additional quantitative impacts that were not already anticipated as a result of the underlying statute, which requires the Department to issue vehicle recycler licenses to qualified applicants.

• Qualitative description of impact:

The result of reorganizing, streamlining and reducing redundancy in the proposed chapter will create a positive impact by producing a more user-friendly version that contains information the public relies on for understanding how to obtain a vehicle recycler license.

3. Costs to the State:

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

There are no additional implementation or enforcement costs in the proposed rules that were not already required as a result of the underlying statutes. The statute requires the Department to issue vehicle recycler licenses to qualified applicants.

• **Anticipated effect on state revenues:**

There are no anticipated effects on state revenues beyond the underlying statute.

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

The benefit of the proposed rules is consistency and transparency concerning the processes and requirements for obtaining a vehicle recycler license in Iowa.

The cost of inaction is the inability for qualified applicants to understand quickly and efficiently what is required to obtain and maintain a vehicle recycler license in Iowa.

There is no benefit of inaction.

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

There are no less costly or less intrusive methods to achieve the purpose of the proposed rules.

6. Alternative methods considered by the agency:

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

The Department did not consider alternatives for the proposed rules. The Department is required by the Iowa Code to issue vehicle recycler licenses to qualified applicants.

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

Not applicable.

Small Business Impact

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

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

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

There is no small business impact beyond what was already anticipated under the statute. The proposed rules apply equally to all persons seeking a vehicle recycler license under the Iowa Code.

Text of Proposed Rulemaking

ITEM 1. Rescind 761—Chapter 431 and adopt the following **new** chapter in lieu thereof:

CHAPTER 431
VEHICLE RECYCLERS

761—431.1(307,321H) Definitions.

“*NMVTIS*” means the National Motor Vehicle Title Information System.

“*Principal place of business*” means a building actually occupied where the public and the department may contact the owner or operator during regular business hours. The principal place of business must be located in this state.

“*Regular business hours*” means to be consistently open to the public on a weekly basis at hours reported to the motor vehicle division. Regular business hours shall include a minimum of 32 posted hours between 7 a.m. and 9 p.m., Monday through Friday.

This rule is intended to implement Iowa Code sections 307.12(1) “j,” 321H.2 and 321H.4.

761—431.2(307,321,321H) Authorized vehicle recycler.

431.2(1) General requirements. Every authorized vehicle recycler shall:

a. Maintain a principal place of business that includes separate and adequate office space for the recycler’s business records and a working telephone service provided specifically for business use, which will allow the public, the department and law enforcement to contact the licensee during business hours.

b. Maintain regular business hours at the principal place of business.

c. Comply with local zoning laws.

d. Comply with the provisions of Iowa Code chapter 306C, relating to the Iowa junkyard control law, when applicable.

e. If subject to the requirements of 28 CFR Section 25.56, effective July 1, 2023, as adopted in Iowa Code section 321H.4A(2) “a,” do all of the following:

(1) Obtain and maintain a registered account with the NMVTIS.

(2) Report, or verify reporting of, inventory to the NMVTIS.

(3) If applicable, verify the seller of a vehicle purchased by the recycler has complied with 28 CFR Section 25.56, effective July 1, 2023, and document such verification on a form prescribed by the department if third-party electronic records are insufficient to verify compliance with 28 CFR Section 25.56, effective July 1, 2023, because the vehicle has been crushed or flattened by mechanical means as stated in Iowa Code section 321H.4A.

(4) Retain records of compliance, including verification forms completed under subparagraph 431.2(1) “e” (3), at the vehicle recycler’s principal place of business for at least three years after the purchase of the vehicle. Records may be stored either in hard copy or electronically.

f. Only represent or advertise the business under the name or style that appears on the recycler’s license.

g. Allow any peace officer to inspect vehicles or component parts of vehicles and the records and documents required to be kept under Iowa Code chapter 321H and this chapter.

431.2(2) Vehicle rebuilder qualifications. For every licensed location, a vehicle rebuilder must have:

a. An unobstructed area inside a building for rebuilding and restoring vehicles. The inside measurement of the unobstructed area must be at least 14 feet by 24 feet.

b. Sufficient storage for all vehicles in the rebuilder’s inventory.

c. Equipment necessary to perform rebuilding and restoring of vehicles in the inventory, such as frame-straightening equipment, a hydraulic jack, alignment and calibration equipment, and tools.

431.2(3) Used vehicle parts dealer qualifications. For every licensed location, a used vehicle parts dealer must have sufficient storage for the vehicle parts in the dealer’s inventory.

431.2(4) Vehicle salvager qualifications. For every licensed location, a vehicle salvager must have:

a. Sufficient storage for vehicles, vehicle parts, and vehicle bodies included in the salvager's inventory.

b. Sufficient equipment necessary to perform dismantling, scrapping or storing of vehicles and vehicle parts in the inventory.

This rule is intended to implement Iowa Code sections 307.12(1)“j,” 321.95, 321H.4 and 321H.4A.

761—431.3(307,321H) Application and requirements for license.

431.3(1) *Application submission.* Application for an authorized vehicle recycler's license shall be made on Form 411117 and submitted to the department with the applicable statutory fee by mail to Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278. Form 411117 may be obtained by contacting the motor vehicle division, by phone at 515.237.3156, by email to dealer.programs@iowadot.us or on the department's website at www.iowadot.gov/mvd/buyingselling/buyingselling/recycler.

431.3(2) *Required information.* Each application shall include all information required by Iowa Code section 321H.4 and the following information:

- a.* The business name, bona fide business address and telephone number.
- b.* The legal name, bona fide address and telephone number of an owner when the owner of the business is an individual, or the name, bona fide address and phone number of at least two partners or officers if the business is a partnership or corporation.
- c.* The federal employer identification number of the business. If the business is owned by an individual who is not required to have a federal employer identification number, the application shall include the individual's social security number, Iowa nonoperator's identification number or Iowa driver's license number.
- d.* The address of any extension of the applicant's place of business.
- e.* Certification the applicant complies with the requirements for the type of business the applicant engages in as specified under Iowa Code section 321H.4(2)“b.”
- f.* A letter from the appropriate city or county zoning official stating that the business, or any extension of the applicant's business, complies with all applicable zoning provisions or is a legal nonconforming use. The letter must include acknowledgment by the zoning official of the type, or types, of business the applicant is engaged in.
- g.* A statement of the previous criminal history of the applicant. If the applicant is a corporation, the statement is required from each officer. If the applicant is a partnership, the statement is required from each partner.
- h.* The unique NMVTIS identification number as proof of compliance with registration requirements.

This rule is intended to implement Iowa Code sections 307.12(1)“j,” 321H.4 and 321H.4A.

761—431.4(17A,307,321H) Denial, suspension or revocation.

431.4(1) *Denial.* The department shall deny an application if the applicant fails to meet the criteria for issuance of a license under this chapter and is authorized to deny the application for any of the reasons stated in Iowa Code section 321H.6.

431.4(2) *Suspension or revocation.* The department may suspend or revoke the recycler's license for failure to comply with the provisions of this chapter or for any of the reasons stated in Iowa Code section 321H.6.

431.4(3) *Appeal.* A person aggrieved by a decision of the department may contest the decision pursuant to 761—Chapter 13 by submitting an appeal request in writing to the director of the motor vehicle division.

This rule is intended to implement Iowa Code chapter 17A and sections 307.12(1)“j” and 321H.6.

Regulatory Analysis

Notice of Intended Action to be published: 761—Chapter 600
“General Information”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 307.12(1)“j” and 321.445
State or federal law(s) implemented by the rulemaking: Iowa Code sections 307.12(1)“j” and 321.445

Public Hearing

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

February 14, 2025
2 to 2:30 p.m.

[Microsoft Teams](#)
Or dial: 515.817.6093
Conference ID: 845 632 012

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Department of Transportation no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Sara Siedsma
6310 SE Convenience Boulevard
Ankeny, Iowa 50021
Email: sara.siedsma@iowadot.us

Purpose and Summary

The Department proposes to permanently rescind Chapter 600, “General Information.” Rules 761—600.1(321) (definitions) and 761—600.2(17A) (information and location) are rescinded because the content is unnecessary or duplicative. The content in rule 761—600.3(321) (seat belt exemptions) will be moved to Chapter 450, “Motor Vehicle Equipment,” but the language will not change.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

• **Classes of persons that will bear the costs of the proposed rulemaking:**

The rescission of this chapter does not impose any costs. Definitions of widely used terms and contact information for the Department already exist in several of the Department’s other applicable administrative rule chapters. The seat belt exemption rule language moving to Chapter 450 is not changing and does not impose any costs beyond underlying statute, which requires the Department to adopt rules providing seat belt exemptions.

• **Classes of persons that will benefit from the proposed rulemaking:**

Deleting unnecessary rules and moving content to a more applicable chapter will benefit the public by streamlining the process of searching for applicable rule content.

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

• **Quantitative description of impact:**

Rescinding this chapter does not cause a quantitative impact.

• **Qualitative description of impact:**

Rescinding this chapter and moving the content of rule 761—600.3(321) to the more applicable Chapter 450 will result in a positive qualitative impact when the public searches for information regarding seat belt exemptions because a more logical place to search for seat belt exemptions would be in a chapter entitled “Motor Vehicle Equipment” rather than “General Information.”

3. Costs to the State:

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

There are no costs to the State due to rescinding this chapter. The Department will continue to make seat belt exemption forms available to the public as it always has.

• **Anticipated effect on state revenues:**

There is no fiscal impact to the State due to rescinding this chapter.

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

There are no costs due to rescinding this chapter. A benefit of rescinding this chapter and moving the content of rule 761—600.3(321) to the more applicable Chapter 450 will occur when the public searches for information regarding seat belt exemptions because a more logical place to search for seat belt exemptions would be in a chapter entitled “Motor Vehicle Equipment” rather than “General Information.”

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

There are no less costly or less intrusive methods to achieve the purpose of rescinding this chapter.

6. Alternative methods considered by the agency:

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

No alternatives were considered.

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

Not applicable.

Small Business Impact

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

• Establish less stringent compliance or reporting requirements in the rulemaking for small business.

• Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.

• Consolidate or simplify the rulemaking’s compliance or reporting requirements for small business.

• Establish performance standards to replace design or operational standards in the rulemaking for small business.

• Exempt small business from any or all requirements of the rulemaking.

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

There is no small business impact due to rescinding this chapter.

Text of Proposed Rulemaking

ITEM 1. Rescind and reserve **761—Chapter 600.**

ARC 8799C

INSPECTIONS AND APPEALS DEPARTMENT[481]**Notice of Intended Action****Proposing rulemaking related to continuing education for dietitians
and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing (DIAL) hereby proposes to amend Chapter 922, “Continuing Education for Dietitians,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 152A and 272C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2024 Iowa Acts, House File 2686.

Purpose and Summary

2024 Iowa Acts, House File 2686, required that the Board of Dietetics adopt rules allowing a licensee to carry over up to 50 percent of excess completed continuing education hours from the previous renewal cycle. This proposed rulemaking would grant dietitians the ability to carry over up to 15 hours of continuing education earned in excess of the 30 hours required by Iowa law every two years.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 19, 2024

The Board received no public comments.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa. Staff salaries to support the work of the boards are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557. Licensing fees go to the fund to cover operations of the regulated professional licensing board.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition DIAL for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Board no later than 4:30 p.m. on February 11, 2025. Comments should be directed to:

Mary Collins
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100

Des Moines, Iowa 50321
Phone: 515.381.7028
Fax: 515.281.7969
Email: mary.collins@dia.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rulemaking may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Amend subrule 922.2(4) as follows:

922.2(4) ~~No hours of continuing education will be carried over into the next biennium except as stated for the second renewal.~~ Licensees who complete continuing education hours in excess of the requirements for renewal may apply up to 50 percent of the required hours to the following renewal period. Licensees may apply a maximum of 15 hours from the previous renewal period. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

ARC 8764C

LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D]

Notice of Intended Action

Proposing rulemaking related to description of organization and providing an opportunity for public comment

The Landscape Architectural Examining Board hereby proposes to rescind Chapter 1, “Description of Organization,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 17A and section 544B.5 and Executive Order 10 (January 10, 2023).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 544B and Executive Order 10.

Purpose and Summary

This proposed rulemaking rescinds and adopts new Chapter 1 in accordance with the goal and directives of Executive Order 10. Iowa Code section 544B.5 provides that rulemaking authority. The rulemaking implements the aforementioned Iowa Code section by establishing relevant information on the practice of landscape architecture, requirements prior to licensure, and requirements after licensure

and ensuring licensees are held to a higher standard to protect the public from harm. This proposed chapter articulates practice standards and provides a scope of practice for the profession. The proposed chapter was approved by the Board on November 20, 2024.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 19, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Board no later than 4:30 p.m. on February 14, 2025. Comments should be directed to:

Ashley Thompson
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.725.9035
Email: ashley.thompson@dia.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2025 9 to 9:20 a.m.	6200 Park Avenue Des Moines, Iowa Zoom: us02web.zoom.us/j/84519372629?pwd=MCQHjkUE42fpU2BV3ta7brjCE0dJY1.1
February 14, 2025 9 to 9:20 a.m.	6200 Park Avenue Des Moines, Iowa Zoom: us02web.zoom.us/j/87479125519?pwd=grl7giYJD1GhCGwPvAGT1E5ej8ul6o.1

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The

Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193D—Chapter 1 and adopt the following **new** chapter in lieu thereof:

CHAPTER 1 DESCRIPTION OF ORGANIZATION

193D—1.1(544B,17A) Definitions. As used in these rules, the following definitions of words and terms shall apply:

“*Board*” means the landscape architectural examining board.

“*CLARB*” means the Council of Landscape Architectural Registration Boards.

“*Evidence*” means any document or record of any kind of drawings, specifications, photographs, diplomas, licensee statements, published data and certified personal statements as may be required as a part of any action on the part of the board. Each item of evidence shall be clearly marked to ensure positive and certain identification. It is the responsibility of the applicant to satisfy the board as to the sufficiency of the record and the evidence.

“*Inactive*” means that a landscape architect is not engaged in Iowa in any practice for which a certificate of licensure is required.

“*Intern landscape architect*” means an individual who is not licensed and has a degree in landscape architecture and is employed under the direct supervision of a professional landscape architect. The initials “I.L.A.” should not be used.

“*LARE*” means the Landscape Architecture Registration Examination.

“*Practice of landscape architecture*” means the performance of professional service or offering to render professional services to clients, including any one or any combination of the professional services defined in Iowa Code section 544B.1(2).

“*Professional landscape architect*” means a person who obtains a license and engages in the practice of landscape architecture under the authority of Iowa Code chapter 544B. For the purposes of these rules, a professional landscape architect may be referred to as a landscape architect and may use the initials “P.L.A.”

“*Years of practical experience*” means, for each year of practical experience the applicant has worked performing landscape architectural services, a minimum of 2,080 hours per year.

193D—1.2(544B,17A) Organization and duties. The board consists of five licensed professional landscape architects and two members who are not licensed professional landscape architects and who represent the general public.

1.2(1) *Qualifications of professional landscape architect board members.* Four of the five professional members will be actively engaged in the practice of landscape architecture or the teaching of landscape architecture in an accredited college or university and shall have been so engaged for five years preceding appointment, the last two of which shall have been in Iowa. One of the five professional members will be actively engaged in the practice of landscape architecture or the teaching of landscape architecture in an accredited college or university and may have been so engaged for fewer than five years preceding.

1.2(2) *Election of chairperson and vice chairperson.* The board elects annually from its members a chairperson and a vice chairperson. A quorum of the board will be four members, and all final motions and actions must receive a vote by a majority of the members of the board.

1.2(3) *Duties of board.* The board enforces the provisions of Iowa Code chapter 544B and makes rules for the examination of applications for licensure. The board keeps records of its proceedings. The board adopts an official seal that is affixed to all certificates of licensure granted. The board makes other rules, not inconsistent with law, as necessary for the proper performance of its duties. The board

maintains a roster showing the name, place of business, residence, and date and number of the certificate of licensure of every professional landscape architect in the state.

1.2(4) Duties of chairperson. The chairperson will, when present, preside at meetings, appoint committees, and perform all duties and powers of the chairperson.

1.2(5) Duties of vice chairperson. The vice chairperson will, in the absence or incapacity of the chairperson, exercise the duties and powers of the chairperson.

193D—1.3(544B,17A) Meetings. Calls for meetings are issued in accordance with Iowa Code section 21.4.

193D—1.4(544B,17A) Order of business. The board executive will prepare an agenda listing all matters to be discussed at meetings. A copy of this agenda will be available to each member of the board.

193D—1.5(17A) Interim waivers. In addition to the provisions of 481—Chapter 6, the following will apply for interim rulings:

1.5(1) The board chairperson, or vice chairperson if the chairperson is not available, may rule on a petition for waiver when it would not be timely to wait for the next regularly scheduled board meeting for a ruling from the board.

1.5(2) The board administrator, upon receipt of a petition that meets all applicable criteria established in 481—Chapter 6, will present the request to the board chairperson or vice chairperson along with all pertinent information regarding established precedent for granting or denying such requests.

1.5(3) The chairperson or vice chairperson will reserve the right to hold an electronic meeting of the board when prior board precedent does not clearly resolve the request, input of the board is deemed required and the practical result of waiting until the next regularly scheduled meeting would be a denial of the request due to timing issues.

1.5(4) A waiver report will be placed on the agenda of the next regularly scheduled board meeting and recorded in the minutes of the meeting.

1.5(5) This rule on interim rulings does not apply if the waiver was filed in a contested case. These rules are intended to implement Iowa Code sections 544B.3, 544B.5, and 544B.15.

ARC 8765C

LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D]

Notice of Intended Action

Proposing rulemaking related to examinations and licensing and providing an opportunity for public comment

The Landscape Architectural Examining Board hereby proposes to rescind Chapter 2, “Examinations and Licensing,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 17A and section 544A.5 and Executive Order 10 (January 10, 2023).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 544B and Executive Order 10.

Purpose and Summary

This proposed rulemaking rescinds and adopts new Chapter 2 in accordance with the goals and directives of Executive Order 10. Iowa Code section 544B.5 provides that rulemaking authority. The rulemaking implements the aforementioned Iowa Code section by establishing relevant information on the practice of landscape architecture, requirements prior to licensure, requirements after licensure and ensuring licensees are held to a higher standard to protect the public from harm. This proposed chapter articulates exam and licensing requirements for the profession. The proposed chapter was approved by the Board on November 20, 2024.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 19, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Board no later than 4:30 p.m. on February 14, 2025. Comments should be directed to:

Ashley Thompson
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.725.9035
Email: ashley.thompson@dia.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2025 9 to 9:20 a.m.	6200 Park Avenue Des Moines, Iowa Zoom: us02web.zoom.us/j/84519372629?pwd=MCQHjkUE42fpU2BV3ta7brjCE0dJY1.1
February 14, 2025 9 to 9:20 a.m.	6200 Park Avenue Des Moines, Iowa Zoom: us02web.zoom.us/j/87479125519?pwd=grl7giYJD1GhCGwPvAGT1E5ej8ul6o.1

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193D—Chapter 2 and adopt the following new chapter in lieu thereof:

CHAPTER 2
EXAMINATIONS AND LICENSING

193D—2.1(544B,17A) Application for licensure by examination.

2.1(1) Candidates will contact CLARB to start the examination licensure process by creating a council record. A candidate's council record will include verified history of the candidate's education, experience, examination and licensure history, and professional references and is used to apply for examination, licensure and certification.

2.1(2) The candidate who successfully completes the LARE will complete an online application for certificate of licensure to the board after meeting one of the requirements listed below and requesting that the candidate's council record be transmitted to the board.

a. Graduation from a course in landscape architecture in a school, college, or university offering an accredited minimum four-year curriculum in landscape architecture, and a minimum of three years of practical experience in landscape architectural work that in the opinion of the board is of satisfactory character, at least one year of which must be under the supervision of a professional landscape architect or a person who becomes a professional landscape architect within one year after July 1, 2002.

b. Graduation from a nonaccredited course of landscape architecture of a minimum of four years in a school, college, or university and a minimum of four years of practical experience in landscape architectural work that in the opinion of the board is of satisfactory character, at least one year of which must be under the supervision of a professional landscape architect.

c. A minimum of ten years of practical experience in landscape architectural work that in the opinion of the board is of satisfactory character to properly prepare the applicant for the examination.

2.1(3) A satisfactorily completed year of study in an accredited course of landscape architecture in an accredited school, college, or university may be accepted in lieu of one year of practical experience.

2.1(4) A master's degree from an accredited school, college, or university may be accepted in lieu of one year of practical experience.

2.1(5) Any four-year college or university degree may be accepted in lieu of two years of practical experience.

193D—2.2(544B,17A) Procedure for processing applications. The board executive will determine when the legal requirements for licensure have been satisfied with regard to issuance of certificates, licenses or registrations, and the board executive will submit to the board any questionable application. An applicant's personal appearance before the board, if required, will be at the time and place designated by the board. Failure to supply additional evidence or information within 30 days from the date of the written request from the board, or failure to appear before the board when an appearance is requested, may be considered cause for disapproval of the application. Unless otherwise provided by law, a request for a rehearing before the board will be filed with the board in accordance with rule 193—7.39(543,272C). A judicial review can be filed in accordance with Iowa Code section 17A.19.

193D—2.3(544B,17A) Registration of applicants. Applicants must meet the requirements of Iowa Code section 544B.9 for registration.

193D—2.4(544B,17A) Written examination. The written examination will consist of the professional landscape architectural licensure examination published by CLARB and may include supplementary questions developed by the board.

193D—2.5(544B,17A) Exemption from written examination. The board may exempt from written examination an applicant who meets one of the following criteria:

2.5(1) The applicant holds a current CLARB certificate;

2.5(2) The applicant holds a license to practice landscape architecture issued upon written examination by another jurisdiction and has submitted a certificate from the jurisdiction of original licensure verifying that the applicant passed the examination in that jurisdiction; or

2.5(3) The applicant:

a. Holds an active license to practice landscape architecture issued by another jurisdiction whose current licensure requirements, including the examination requirements, are substantially equivalent to or exceed those required for licensure as a landscape architect in Iowa, and during the time period in which the applicant was issued an initial license in the other jurisdiction, that jurisdiction did not require a written examination for initial applicants but did require board review and approval of education and experience designed to demonstrate competence to practice;

b. Was grandfathered in under the laws of the other jurisdiction before written examinations for initial licensure were mandated by the other jurisdiction; and

c. Submits a certificate from the jurisdiction of original licensure verifying that the applicant was licensed during the period in which there was no written examination and submits proof of license in good standing.

193D—2.6(544B,17A) Certificate of licensure. When an applicant has qualified for licensure under this chapter and has paid the required license fee, board staff will enroll the applicant's name in the roster of professional landscape architects and issue to the applicant a certificate of licensure.

2.6(1) License number. The certificate will indicate the license number of the landscape architect that must appear on the professional landscape architect's seal and on all works signed by the professional landscape architect.

2.6(2) Certificate. Only one certificate of licensure will be issued to a professional landscape architect. The certificate will be displayed in a conspicuous place at the place of employment.

193D—2.7(17A,272C,544B) Renewal of certificates of licensure. Certificates of licensure expire biennially on June 30. In order to maintain authorization to practice in Iowa, a licensee is required to renew the certificate of licensure prior to July 1 of the year of expiration. A licensee who fails to renew by the expiration date is not authorized to practice landscape architecture in Iowa until the certificate is reinstated as provided in rule 193D—2.8(544B,17A).

2.7(1) It is the policy of the board to email to each licensee a notice of the pending expiration date at the licensee's last-known address approximately one month prior to the date the certificate of licensure is scheduled to expire. Failure to receive this notice does not relieve the licensee of the responsibility to timely renew the certificate and pay the renewal fee. A licensee should contact the board office if the licensee does not receive a renewal notice prior to the date of expiration.

2.7(2) If grounds exist to deny a timely and sufficient application to renew, the board will send notification to the applicant. Grounds may exist to deny an application to renew if, for instance, the licensee failed to satisfy the continuing education as required as a condition for licensure. If the basis for denial is pending disciplinary action or disciplinary investigation that is reasonably expected to culminate in disciplinary action, the board will proceed as provided in 193—Chapter 7. If the basis for denial is not related to a pending or imminent disciplinary action, the applicant may contest the board's decision as provided in 193—subrule 7.40(1).

2.7(3) When a licensee appears to be in violation of mandatory continuing education requirements, and after or in lieu of giving the licensee an opportunity to come into compliance under 193D—subrule 3.3(3), the board may, in lieu of proceeding to a contested case hearing on the denial of a renewal application as provided in rule 193—7.40(546,272C), offer the licensee the opportunity to sign a consent order. While the terms of the consent order will be tailored to the specific circumstances at issue, the consent order will typically impose a penalty between \$50 and \$250, depending on the severity of the violation; establish deadlines for compliance; and require that the licensee complete hours equal to double the deficiency in addition to the required hours; and may impose additional educational requirements on the licensee. Any additional hours completed in compliance with the consent order cannot again be claimed at the next renewal. The board will address subsequent offenses on a case-by-case basis. A licensee is free to accept or reject the offer. If the offer of settlement is accepted, the licensee will be issued a renewed certificate of licensure and will be subject to disciplinary action if the terms of the consent order are not complied with. If the offer of settlement is rejected, the matter will be set for hearing, if timely requested by the licensee pursuant to 193—subrule 7.40(1).

2.7(4) The board may notify licensees whose certificates of licensure have expired. The failure of the board to provide this courtesy notification or the failure of the licensee to receive the notification will not extend the date of expiration.

2.7(5) A licensee who continues to practice landscape architecture in Iowa after licensure has expired will be subject to disciplinary action. Such unauthorized activity may also be grounds to deny a licensee's application for reinstatement.

2.7(6) Licensees will notify the board within 30 days of any change of address or business connection.

2.7(7) Inactive status. This subrule establishes a procedure under which a person issued a certificate of licensure as a landscape architect may apply to the board to register as inactive. Licensure under this subrule is available to a licensee residing within or outside the state of Iowa who is not using the title "landscape architect" while offering services as a landscape architect. A person eligible to register as inactive may, as an alternative to licensure, allow the certificate of licensure to lapse. During any period of inactive status, a person will not engage in the practice of landscape architecture while using the title "landscape architect" or any other title that might imply that the person is offering services as a landscape architect in violation of Iowa Code section 544B.18. The board will continue to maintain a database of persons licensed as inactive, including information that is not routinely maintained after a certificate of licensure has lapsed through the person's failure to renew. A person who registers as inactive will accordingly receive a renewal notice if the notice is sent by the board, board newsletters, and other mass communications from the board.

a. Affirmation. The renewal application will contain a statement in which the applicant affirms that the applicant will not engage in the practice of landscape architecture while using the title "landscape architect" in violation of Iowa Code section 544B.18, without first complying with all rules governing reinstatement to active status. A person on inactive status may reinstate to active status at any time pursuant to rule 193D—2.8(544B,17A).

b. Renewal. A person licensed as inactive may renew the person's certificate of licensure on the biennial schedule described in this rule. This person will be exempt from the continuing education requirements and will be charged a reduced renewal fee as provided in rule 193D—2.10(544B,17A). An inactive certificate of licensure will lapse if not timely renewed.

c. Permitted practices. A person may, while licensed as inactive, perform for a client, business, employer, government body, or other entity those services that may lawfully be provided by a person to whom a certificate of licensure has never been issued. For an "inactive" licensee, such services may be performed as long as the person does not in connection with such services use the title "landscape architect" or any other title restricted for use only by landscape architects pursuant to Iowa Code section 544B.18 (with or without additional designations such as "inactive"). Restricted titles may be used only by active landscape architects who are subject to continuing education requirements to ensure that the use of such titles is consistently associated with the maintenance of competency through continuing education.

d. Prohibited practices. A person who, while licensed as inactive, engages in any of the practices described in Iowa Code section 544B.18 is subject to disciplinary action.

193D—2.8(544B,17A) Reinstatement.

2.8(1) An individual may reinstate a lapsed certificate of licensure to active status as follows:

- a.* Pay the current renewal fee;
- b.* Pay the reinstatement fee of \$100 plus \$25 per month or partial month of expired licensure up to a maximum of \$750. All applicants for reinstatement shall be assessed the \$100 reinstatement fee. The \$25-per-month fee shall not be assessed if the applicant for reinstatement did not, during the period of lapse, engage in any acts or practices for which an active landscape architect license is required in Iowa. Falsely claiming an exemption from the monthly fee is a ground for discipline; in addition, other grounds for discipline may arise from practicing on a lapsed certificate, license or permit to practice;
- c.* Provide a written statement outlining the professional activities that the applicant performed in Iowa during the period of nonlicensure. The statement shall include a list of all projects with which the applicant had involvement and shall explain the service provided by the applicant; and
- d.* Submit documented evidence of completion of continuing education based on the licensee's date of licensure.

(1) A professional landscape architect who holds a license in Iowa for less than 12 months from the date of initial licensure will not be required to report continuing education on the June 30 renewal on which the applicant failed to renew and 12 continuing education hours for each year or portion of a year of expired licensure up to a maximum of 48 continuing education hours; however, the hours reported will not have been earned more than four years prior to the date of the application to reinstate to active status.

(2) A professional landscape architect who holds a license in Iowa for more than 12 months, but less than 24 months from the date of initial licensure, will be required to report 12 contact hours that should have been reported on the June 30 renewal on which the applicant failed to renew and 12 continuing education hours for each year or portion of a year of expired licensure up to a maximum of 48 continuing education hours; however, the hours reported will not have been earned more than four years prior to the date of the application to reinstate to active status.

(3) A professional landscape architect who holds a license in Iowa for 24 months or more from the date of initial licensure will be required to report 24 contact hours that should have been reported on the June 30 renewal on which the applicant failed to renew and 12 continuing education hours for each year or portion of a year of expired licensure up to a maximum of 48 continuing education hours; however, the hours reported shall not have been earned more than four years prior to the date of the application to reinstate to active status.

(4) All continuing education hours must be completed in health, safety, and welfare subjects acquired in structured educational activities and be in compliance with requirements in 193D—Chapter 3. The continuing education hours used for reinstatement may not be used again at the next renewal.

(5) Out-of-state residents may submit a statement from their resident state's licensing board as documented evidence of compliance with their resident state's mandatory continuing education requirements during the period of nonlicensure. The statement will bear the seal of the licensing board. Out-of-state residents whose resident state has no mandatory continuing education will comply with the documented evidence requirements outlined in this subrule.

2.8(2) An individual may reinstate an inactive license to an active license as follows:

- a.* The individual will pay the current active licensure fee. If the individual is reinstating to active status at a date that is less than 12 months from the next biennial renewal date, one-half of the current active licensure fee will be paid.
- b.* The individual will submit documented evidence of completion of 24 contact hours of continuing education in health, safety, and welfare subjects in compliance with requirements in 193D—Chapter 3. The continuing education hours used for reinstatement to active status cannot be used again at the next renewal.

c. Continuing education for subsequent renewals.

(1) At the first biennial renewal date of July 1 that is less than 12 months from the date of the filing of the application to restore the certificate of licensure to active status, the individual will not be required to report continuing education.

(2) At the first biennial renewal date of July 1 that is more than 12 months, but less than 24 months, from the date of the filing of the application to restore the certificate of licensure to active status, the individual will report 12 hours of previously unreported continuing education.

d. Provide a written statement in which the applicant affirms that the applicant has not engaged in any of the practices in Iowa that are listed in Iowa Code section 544B.1(2) during the period of inactive licensure.

2.8(3) The board will review reinstatement applications on a case-by-case basis and may, at its discretion, require that the applicant take the LARE as a prerequisite to reinstatement to active status.

193D—2.9(544B,17A) Responsibility for accuracy of applications. The landscape architect is responsible for verifying the accuracy of the information submitted on applications regardless of how the application is submitted or by whom it is submitted. For instance, if the office manager of a landscape architect's firm submits an application for renewal on behalf of the landscape architect and that information is incorrect, the landscape architect will be held responsible for the information and may be subject to disciplinary action.

193D—2.10(544B,17A) Fee schedule. The appropriate fee shall accompany the application.

Fees for examination subjects shall be paid directly to the testing service selected by CLARB.	
Exemption fee	\$300
(This certificate of licensure is to be effective to the June 30 which is at least 12 months beyond the date of the application.)	
Wall certificate replacement fee	\$25
Certificate of licensure fee	\$15/month
(This certificate of licensure is to be effective the day of board action until June 30.)	
Biennial licensure fee (active)	\$350
Biennial licensure fee (inactive)	\$100
Reinstatement of lapsed licensure to active status	\$100 + renewal fee + \$25 per month or partial month of lapsed licensure; not to exceed \$750
Reinstatement of inactive or retired status to active status	\$350
(If less than 12 months from the next biennial renewal, one-half of the current active licensure fee shall be paid.)	
Prelicense determination fee	\$25

These rules are intended to implement Iowa Code chapters 17A and 544B and Executive Order 10.

ARC 8766C

LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D]

Notice of Intended Action

**Proposing rulemaking related to continuing education
and providing an opportunity for public comment**

The Landscape Architectural Examining Board hereby proposes to rescind Chapter 3, “Continuing Education,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 17A and section 544B.5 and Executive Order 10 (January 10, 2023).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 544B; 2024 Iowa Acts, House File 2686; and Executive Order 10.

Purpose and Summary

This proposed rulemaking rescinds and adopts new Chapter 3 in accordance with the goal and directives of Executive Order 10. Iowa Code section 544B.5 provides that rulemaking authority. The rulemaking implements the aforementioned Iowa Code section by establishing relevant information on the practice of landscape architect, establishing requirements prior to licensure, establishing requirements after licensure, and ensuring licensees are held to a higher standard to protect the public from harm. This proposed chapter articulates continuing education requirements for the profession. The proposed chapter was approved by the Board on November 20, 2024.

This rulemaking will bring the Board into compliance with 2024 Iowa Acts, House File 2686, which amended Iowa Code section 272C.2(2) to allow a licensee to apply continuing education credits obtained in excess of the requirements for a renewal period to the continuing education requirements for the following renewal period in an amount not to exceed 50 percent of the continuing education credits required for a renewal period. The proposed chapter was approved by the Board on November 20, 2024.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 19, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Board no later than 4:30 p.m. on February 14, 2025. Comments should be directed to:

Ashley Thompson
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321

Phone: 515.725.9035

Email: ashley.thompson@dia.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2025
9 to 9:20 a.m.

6200 Park Avenue
Des Moines, Iowa
Zoom: us02web.zoom.us/j/84519372629?pwd=MCQHjkUE42fpU2BV3ta7brjCE0dJY1.1

February 14, 2025
9 to 9:20 a.m.

6200 Park Avenue
Des Moines, Iowa
Zoom: us02web.zoom.us/j/87479125519?pwd=grl7giYJD1GhCGwPvAGT1E5ej8ul6o.1

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193D—Chapter 3 and adopt the following **new** chapter in lieu thereof:

CHAPTER 3 CONTINUING EDUCATION

193D—3.1(544B,17A) Definitions. As used in these rules, the following definitions will apply:

“Distance learning” means any education process based on the geographical separation of student and instructor. “Distance learning” includes computer-generated programs, webinars, and home-study/correspondence programs.

“Health, safety, and welfare subjects” means technical and professional subjects that the board deems appropriate to directly safeguard the public's health, safety, and welfare. Such subjects include design, environmental systems, site design, land use analyses, landscape architecture programming, grading and drainage, storm water management, erosion control, site and soil analyses, accessibility, building codes, review of state registration laws including the rules of professional conduct, evaluation and selection of products and materials, cost analysis, construction methods, contract documentation, construction contract administration, construction administration, construction-phase office procedures, project management, and the like.

“Hours of continuing education” means a contact hour spent in either structured educational activities or individually planned activities intended to increase the professional landscape architect's knowledge and competence in public protection subjects and related practice subjects. “Contact hour” is defined as the typical 50-minute classroom instructional session or its equivalent.

“Structured educational activities” means educational activities in which the teaching methodology consists primarily of systematic presentation of public protection subjects or related practice subjects by qualified individuals or organizations including monographs, courses of study taught in person or by

correspondence, organized lectures, presentations or workshops, and other means through which identifiable technical and professional subjects are presented in a planned manner.

193D—3.2(544B,17A) Continuing education requirements. In order for professional landscape architects to provide competent, professional services to the public, continuing education will consist of learning experiences that enhance, expand and keep current the skills, knowledge, and abilities of practicing professionals. Professional landscape architects may pursue learning experiences in technical, nontechnical, regulatory, ethics and business practice areas, provided that the continuing education directly benefits the health, safety, and welfare of the public.

3.2(1) Hours required. Each registrant will complete during each two-year licensing term a minimum of 24 hours of continuing education approved by the board. Compliance with the continuing education requirements is a prerequisite for license renewal.

3.2(2) Within any biennial renewal period, 24 hours of continuing education must be acquired and will be in health, safety, and welfare subjects acquired in structured educational activities. A licensee may apply up to 12 continuing education hours obtained in excess of the requirement for a renewal period to the continuing education requirements for the following renewal period. Continuing education hours may be acquired in any location.

3.2(3) A professional landscape architect who holds a license in Iowa for less than 12 months from the date of initial licensure will not be required to report continuing education at the first license renewal. A professional landscape architect who holds a license in Iowa for more than 12 months but less than 24 months from the date of initial licensure will be required to report 12 hours of continuing education in health, safety, and welfare subjects earned in the preceding 12 months at the first license renewal.

3.2(4) Sources of continuing education. The following suggested list may be used by all licensees to determine the types of activities that may fulfill the continuing education requirements. All hours of continuing education must also comply with the directive in subrule 3.2(2).

a. Hours of continuing education in attendance at short courses or seminars dealing with landscape architectural subjects and sponsored by colleges, universities or professional organizations.

b. Hours of continuing education in attendance at presentations on landscape architectural subjects that are held in conjunction with conventions or at seminars related to material use and function. Presentations such as those presented by CLARB, American Society of Landscape Architects, Construction Specification Institute, Construction Products Manufacturers Council or similar organizations devoted to landscape architecture education may qualify.

c. Hours of continuing education in attendance at short courses or seminars relating to business practice or new technology and offered by colleges, universities, professional organizations or system suppliers.

d. Hours of continuing education spent presenting or teaching courses or seminars in landscape architecture. Three preparation hours may be claimed for each class hour spent teaching landscape architectural courses or seminars. College or university faculty members may not claim credit for teaching regular curriculum courses.

e. Hours of continuing education spent learning through professional service to the public that draws upon the licensee's professional expertise on boards and commissions, such as serving on planning commissions, building code advisory boards, urban renewal boards, code study commissions or community boards. Hours of continuing education under this paragraph will be limited to six hours earned in any biennial renewal period.

f. Hours of continuing education spent in landscape architectural research that is published or formally presented to the profession or public. Credit may be claimed only following proof of publication or presentation. Hours of continuing education under this paragraph will be limited to 12 hours earned in any biennial renewal period.

g. Hours of continuing education spent in distance learning that concludes with an examination or other verification of course completion.

h. College or university courses dealing with landscape architectural subjects or business practices. Each semester hour equals 15 hours of continuing education. A quarter hour equals ten hours of continuing education.

i. Hours of continuing education spent in educational tours or tours in areas significant to landscape architecture when the tour is sponsored by college, university or professional organizations and verification of participation is provided by the tour sponsor. Self-guided tours do not qualify. Hours of continuing education under this paragraph will be limited to six hours earned in any biennial renewal period.

j. Hours of continuing education spent attending in-house educational programs, including dinner, luncheon, and breakfast meetings.

3.2(5) Financing. It is the responsibility of each licensee to finance the costs for continuing education.

193D—3.3(544B,17A) Compliance.

3.3(1) Each professional landscape architect will file with the board a signed report, under penalty of perjury, on forms provided by the board or by online renewal, setting forth the continuing education activities in which the professional landscape architect has participated. The report will be filed with the renewal application for each two-year renewal period in which the claimed hours of continuing education were completed. The information in the report will include:

- a.* The school, firm or organization conducting the course.
- b.* The location of the course.
- c.* The title of the course and a description of the content.
- d.* Names of the principal instructor(s).
- e.* The dates attended.
- f.* All hours claimed.

g. In instances of service on a professional or community board, or other undocumented hours of continuing education (non-health, safety, and welfare documentation such as learning units or professional development hours), the licensee will provide a narrative description of the materials the licensee reviewed, the nature of the licensee's service, and a description as to how the licensee's claimed hours of continuing education have contributed to the health, safety, and welfare of the public.

This information shall be kept by the licensee for reported hours of continuing education for two years.

3.3(2) A professional landscape architect's continuing education report forms or online renewal may be selected for review by the board for verification of compliance with these requirements. Evidence of compliance will be maintained by the professional landscape architect for two years after the period for which the form was submitted and will include written verification of attendance by someone other than the licensee. Examples of evidence may include but are not limited to a certificate of completion presented by the program sponsor, a letter from an employer verifying attendance at an in-firm training session, or copies of minutes from public service meetings. Canceled checks, slideshow presentations, email confirmation or receipts for payments of fees to attend a program are not evidence of actual attendance and are not acceptable.

3.3(3) Any discrepancy between the number of continuing education hours reported and the number of continuing education hours actually supported by documentation may result in a disciplinary review. If, after the disciplinary review, the board disallows any continuing education hours, or the licensee has failed to complete the required continuing education hours, the landscape architect will have 60 days from board notice to either provide further evidence of having completed the continuing education hours disallowed or remedy the discrepancy by completing the required number of continuing education hours (provided that such continuing education hours will not again be used for the next renewal). Extension of time may be granted on an individual basis and will be requested by the licensee within 30 days of notification by the board. If the licensee fails to comply with the requirements of this subrule, the licensee may be subject to disciplinary action.

193D—3.4(544B,17A) Hearings. In the event of denial, in whole or in part, of any application for approval of credit for continuing education activity, the licensee will have the right, within 20 days after the date of notification of the denial by mail, to request a hearing by the board. The hearing will be held within 60 days after receipt of the request for the hearing. The decision of the board will be final.

193D—3.5(544B,17A) Physical disability, illness, hardship, or extenuating circumstances. The board may, in individual cases involving physical disability, illness (certified by a medical doctor), hardship, or extenuating circumstances, grant waivers of the continuing education requirements for a period of time not to exceed one year. No waiver or extension of time will be granted unless the licensee makes a written request to the board for such action.

193D—3.6(544B,17A) Methods of compliance and exemptions.

3.6(1) A licensee licensed to practice as a professional landscape architect will be deemed to have complied with the continuing education requirements during the continuing education compliance period that the licensee:

- a.* Serves honorably on active duty in the military service; or
- b.* Resides in another state or district having a continuing education requirement for the occupation or profession and meets all the requirements of that state or district for practice therein; or
- c.* Is a government employee working as a professional landscape architect and assigned to duty outside the United States; or
- d.* Is approved by the board for periods of active practice and absence from the state.

3.6(2) If the licensee was not engaged in active practice as a professional landscape architect and will maintain inactive status during the period for which renewal is requested, the board may exempt the licensee from continuing education. No exemption will be granted without a written request from the licensee.

193D—3.7(544B,17A) Grounds for denial of license renewal. Failure of a licensee to complete the continuing education requirements as set forth in this chapter, or failure to file a report of completed continuing education, or failure to submit a written request for waiver or exemption will be grounds for the board to deny renewal of the license.

This chapter is intended to implement Iowa Code chapters 17A and 544B and Executive Order 10.

ARC 8769C

LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D]

Notice of Intended Action

**Proposing rulemaking related to rules of professional conduct and discipline procedures
and providing an opportunity for public comment**

The Landscape Architectural Examining Board hereby proposes to rescind Chapter 4, “Rules of Professional Conduct and Discipline Procedures,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 17A and section 544B.5 and Executive Order 10 (January 10, 2023).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 544B and Executive Order 10.

Purpose and Summary

This proposed rulemaking rescinds and adopts new Chapter 4 in accordance with the goals and directives of Executive Order 10. Iowa Code section 544B.5 provides that rulemaking authority. The rulemaking implements the aforementioned Iowa Code section by establishing relevant information on the practice of landscape architect, requirements prior to licensure, requirements after licensure and ensuring licensees are held to a higher standard to protect the public from harm. This proposed chapter articulates professional conduct and discipline for the profession. The proposed chapter was approved by the Board on November 20, 2024.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 19, 2024

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Board no later than 4:30 p.m. on February 14, 2025. Comments should be directed to:

Ashley Thompson
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.725.9035
Email: ashley.thompson@dia.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2025 9 to 9:20 a.m.	6200 Park Avenue Des Moines, Iowa Zoom: us02web.zoom.us/j/84519372629?pwd=MCQHjkUE42fpU2BV3ta7brjCE0dJY1.1
February 14, 2025 9 to 9:20 a.m.	6200 Park Avenue Des Moines, Iowa Zoom: us02web.zoom.us/j/87479125519?pwd=grl7giYJD1GhCGwPvAGT1E5ej8ul6o.1

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193D—Chapter 4 and adopt the following new chapter in lieu thereof:

CHAPTER 4
RULES OF PROFESSIONAL CONDUCT AND DISCIPLINE PROCEDURES

193D—4.1(544B,17A) Rules of conduct. Failure by a licensee to adhere to the provisions of Iowa Code chapters 272C and 544B and rules implementing either chapter will be grounds for disciplinary action.

4.1(1) Definition. The following definition applies as used in Iowa Code chapter 544B and this chapter unless the context otherwise requires.

“Official copy” means technical submission for purposes of required approval.

4.1(2) Competence.

a. When practicing landscape architecture, a professional landscape architect will act with reasonable care and competence and will apply the technical knowledge and skill that is ordinarily applied by a landscape architect of good standing practicing in the same locality.

b. When designing a project, a professional landscape architect will take into account all applicable state and municipal building laws and regulations. While professional landscape architects may rely on the advice of other professionals (e.g., attorneys, architects, engineers and other qualified persons) as to the intent and meaning of the regulations, once such advice is obtained, a landscape architect will not knowingly design a project in violation of these laws and regulations.

c. A professional landscape architect will undertake to perform professional services only when the professional landscape architect together with those whom the professional landscape architect may engage as consultants are qualified by education, training and experience in the specific technical areas involved.

d. No person will be permitted to practice landscape architecture if, in the board's judgment, upon receipt of medical testimony or evidence, the person's professional competence is substantially impaired by physical or mental disabilities or substance abuse.

4.1(3) Conflict of interest.

a. A professional landscape architect will not accept compensation for services from more than one party on a project unless the circumstances are fully disclosed and agreed to (such disclosures and agreement to be in writing) by all interested parties.

b. If a professional landscape architect has any business association or direct or indirect financial interest that is substantial enough to influence judgment in connection with the professional landscape architect's performance of professional services, the professional landscape architect will fully disclose, in writing, to the client or employer the nature of the business association or financial interest. If the client or employer objects to the association or financial interest, the professional landscape architect shall either terminate such association or interest or offer to give up the commission or employment.

c. A professional landscape architect will not solicit or accept compensation from material or equipment suppliers in return for specifying or endorsing the products.

d. When acting as the interpreter of building contract documents and the judge of contract performance, a professional landscape architect shall render decisions impartially, favoring neither party to the contract.

4.1(4) Full disclosure.

a. A professional landscape architect making public statements on landscape architectural questions will disclose when compensation is being received for making the statements.

b. A professional landscape architect will accurately represent to a prospective or existing client or employer the professional landscape architect's qualifications and the scope of the professional landscape architect's responsibility in connection with work for which the professional landscape architect is claiming credit.

c. If, in the course of work on a project, a professional landscape architect becomes aware of an action taken by the employer or client against the professional landscape architect's advice that violates applicable state or municipal building laws and regulations and that will, in the professional landscape architect's judgment, adversely affect the safety to the public of the finished project, the professional landscape architect shall:

(1) Report the decision to the local building inspector or other public official charged with enforcement of the applicable state or municipal building laws and regulations,

(2) Refuse to consent to the decision, and

(3) In circumstances when the professional landscape architect reasonably believes that other actions will be taken, notwithstanding the landscape architect's objection, terminate the professional landscape architect's services with reference to the project. In the case of a termination in accordance with this clause, the professional landscape architect will have no liability to the professional landscape architect's client or employer on account of such termination.

d. A professional landscape architect will not deliberately make a materially false statement or deliberately fail to disclose a material fact requested in connection with application for licensure or renewal of license.

e. A professional landscape architect will not assist in the application for licensure of a person known by the professional landscape architect to be unqualified with respect to education, training, experience or character.

f. A professional landscape architect possessing knowledge of a violation of these rules by another professional landscape architect will report the knowledge to the board.

4.1(5) Compliance with laws.

a. A professional landscape architect will not, in the conduct of landscape architectural practice, knowingly violate any state or federal criminal law.

b. A professional landscape architect will neither offer nor make any payment to a government official (whether elected or appointed) with the intent of influencing the official's judgment in connection with a prospective or existing project in which the professional landscape architect is interested.

c. A professional landscape architect will comply with the licensure laws and regulations governing the landscape architect's professional practice in any United States jurisdiction.

4.1(6) Professional conduct.

a. Each office maintained for the preparation of drawings, specifications, reports or other professional work will have a professional landscape architect regularly employed in or assigned to that office who has responsible control of such work.

b. A professional landscape architect will not sign or seal drawings, specifications, reports or other professional work for which the landscape architect does not have direct professional knowledge and direct supervisory control, provided, however, that in the case of the portions of professional work prepared by the landscape architect's consultants, licensed under this or another professional licensure law of this jurisdiction, the professional landscape architect may sign or seal that portion of the professional work if the landscape architect has reviewed that portion, has coordinated its preparation and intends to be responsible for its adequacy.

c. A professional landscape architect will neither offer nor make any gifts to any public official with the intent of influencing the official's judgment in connection with a project in which the professional landscape architect is interested. Nothing in this rule shall prohibit a professional landscape architect from providing landscape architect services as a charitable contribution.

g. A professional landscape architect is responsible for the custody and proper use of the seal. Improper use of the seal shall be grounds for disciplinary action.

h. The seal appearing on any technical submission will be prima facie evidence that said technical submission was prepared by or under the responsible control of the individual named on that seal.

4.1(8) Communications. A professional landscape architect will, when requested, respond to communications from the board within 30 days of the mailing of such communication by certified mail. Failure to respond to such communication may be grounds for disciplinary action against the professional landscape architect.

193D—4.2(544B,17A) Receipt of complaints. The board will receive and review all complaints that the board reasonably believes indicate that a licensee may have committed an act that is cause for disciplinary action.

4.2(1) Complaints. Any person may file a complaint with the board charging that a licensee may have committed an act that is in violation of applicable law or rules. The complaint will be written and signed by the complainant and accompanied with substantial evidence indicating when, where, and how the licensee committed the violation. All complaints filed with the board will be privileged and held confidential pursuant to Iowa Code section 272C.6(4) by all board members, peer review committee members and staff. A person filing a complaint will receive immunities in accordance with Iowa Code section 272C.8.

4.2(2) Board-instigated complaints. Upon presentation of evidence by a board member, the board's staff, or other state agency, the board may determine that a complaint should be opened and an investigation begun to determine if a licensee may have committed an act that is in violation of applicable law or rules.

193D—4.3(544B,17A) Peer review committee. At any point during the complaint procedure or the investigatory procedure and prior to determining whether probable cause exists that a violation has occurred, the board may appoint a peer review committee to assist the board in reaching its decision by conducting an investigation(s) of the complaint.

4.3(1) Makeup of the peer review committee. The committee will consist of one or more professional landscape architects who are selected for their knowledge and experience in the particular aspect of landscape architecture involved in the complaint. The following are ineligible for membership:

- a. Members of the board.
- b. Close relatives of the alleged violator(s) or complainant.
- c. Individuals employed by the same firm or governmental unit as the alleged violator or complainant.

4.3(2) Authority. The committee's investigation will be limited to interviewing of complainants, the alleged violator, individuals with knowledge of the alleged violation, and individuals with knowledge of the alleged violator's reputation in the community. The committee may not hire legal counsel, investigators, secretarial help or any other assistants without written authorization from the board.

4.3(3) Compensation. Committee members may receive per diem compensation equal to that received by board members for performing board duties. Committee members may be paid reasonable and necessary expenses that are incurred for travel, meals and lodging while performing committee duties within a budget limitation established by the board.

193D—4.4(544B,272C) Investigation report of complaints.

4.4(1) Board consideration of report to determine further action. Upon completion of the investigation, the investigator(s) will prepare for the board's consideration a report containing the position or defense of the licensee so the board may determine what further action is necessary. The board may:

- a. Order that the matter be further investigated.
- b. Allow the licensee who is the subject of the complaint an opportunity to appear before the designated discipline committee for an informal discussion regarding the circumstances of the alleged violation.

- c. Determine there is no probable cause to believe that a violation has occurred and close the case.
- d. Determine there is probable cause to believe that a violation has occurred.

4.4(2) *Informal discussion.*

a. An informal discussion is intended to provide a licensee an opportunity to share the licensee's account of a complaint in an informal setting before the board determines whether probable cause exists to initiate a disciplinary proceeding. A licensee is not required to attend an informal discussion. Because disciplinary investigations are confidential, the licensee cannot bring other persons to an informal discussion, but licensees may be represented by legal counsel.

b. Unless disqualification is waived by the licensee, board members or staff who personally investigate a disciplinary complaint are disqualified from making decisions or assisting the decision makers at a later formal hearing. Because board members generally rely upon investigators, peer review committees, or expert consultants to conduct investigations, the issue rarely arises. An informal discussion, however, is a form of investigation because it is conducted in a question-and-answer format. In order to preserve the ability of all board members to participate in board decision making and to receive the advice of staff, a licensee who desires to attend an informal discussion must therefore waive the right to seek disqualification of a board member or staff based solely on the board member's or staff's participation in an informal discussion. A licensee would not waive the right to seek disqualification on any other ground. By electing to attend an informal discussion, a licensee accordingly agrees that participating board members or staff are not disqualified from acting as a presiding officer in a later contested case proceeding or from advising the decision maker.

c. Because an informal discussion constitutes a part of the board's investigation of a pending disciplinary case, the facts discussed at the informal discussion may be considered by the board in the event the matter proceeds to a contested case hearing and those facts are independently introduced into evidence.

193D—4.5(544B,272C) Dispensation. The board will make findings of fact and conclusions of law and may take one or more of the following actions:

1. Dismiss the charges.
2. Revoke the professional landscape architect's license.
3. Suspend the professional landscape architect's license as authorized by law.
4. Impose civil penalties, the amount of which will be set at the discretion of the board but will not exceed \$1,000. Civil penalties may be imposed for any of the disciplinary violations of Iowa Code sections 544B.15, 272C.9(2), 272C.9(3), and 272C.10 and these rules or for repeated offenses.
5. Impose a period of probation, either with or without conditions.
6. Require reexamination, using one or more parts of the examination given to professional landscape architectural licensee candidates.
7. Require additional professional education, reeducation, or continuing education.
8. Issue a citation or warning.
9. Issue a consent order.
10. Accept voluntary surrender of license. Voluntary surrender of a license is considered a disciplinary action.

These rules are intended to implement Iowa Code chapters 17A and 544B and Executive Order 10.

ARC 8762C

NURSING BOARD[655]

Notice of Intended Action

**Proposing rulemaking related to administrative and regulatory authority
and providing an opportunity for public comment**

The Board of Nursing hereby proposes to rescind Chapter 1, “Administrative and Regulatory Authority,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 147, 152, 152E and 272C and Executive Order 10.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 152, 152E and 272C.

Purpose and Summary

This proposed rulemaking provides an outline of the administrative authority of the Board. This authority includes organization of the Board, Board meetings, the Board office, and communications from the Board.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 19, 2024

The Department of Inspections, Appeals, and Licensing received no public comments for this chapter.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on February 11, 2025. Comments should be directed to:

Emily DeRonde
Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Email: emily.deronde@dia.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 11, 2025	6200 Park Avenue
8:30 a.m.	Des Moines, Iowa

February 12, 2025
8:30 a.m.

Information on virtual participation will be available
on the Department's website prior to the hearing.
6200 Park Avenue
Des Moines, Iowa
Information on virtual participation will be available
on the Department's website prior to the hearing.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 655—Chapter 1 and adopt the following **new** chapter in lieu thereof:

CHAPTER 1 ADMINISTRATIVE AND REGULATORY AUTHORITY

655—1.1(17A,147,152,152E,272C) Description and organization of the board.

1.1(1) Board composition. The composition of the board is established in Iowa Code section 147.14.

1.1(2) Board leadership and committees. The board annually selects a chairperson and a vice chairperson from its own membership. The election of chairperson and vice chairperson, as well as standing committee assignments, is done during the first regularly scheduled meeting after May 1.

1.1(3) Board authority. The board's authority for regulating nursing education, nursing practice, and continuing education for nurses in the state of Iowa is found in Iowa Code chapters 147, 147A, 152, 152E, and 272C.

655—1.2(17A,152,152E,272C) Responsibilities. The responsibilities of the board include but are not limited to:

1. Licensing qualified applicants for the practice of nursing by examination, endorsement, renewal, and compact privilege pursuant to Iowa Code chapters 147, 152, 152E, and 272C.
2. Conducting investigations and imposing discipline for violations of statutes or rules related to the practice of nursing pursuant to Iowa Code chapters 147, 152, and 272C.
3. Approving nursing education programs pursuant to Iowa Code section 152.5.
4. Collecting, analyzing, and disseminating nursing workforce data pursuant to Iowa Code section 152.4.
5. Overseeing the nursing profession through policymaking and rulemaking.

655—1.3(17A,272) Submission of requests, obtaining information, and board office. Members of the general public may obtain information or submit requests or complaints relative to the licensure of nursing, practice of nursing, nursing education, continuing education, or any other matters relating to the function and authority of this board. Correspondence should be submitted to the executive director at the board office. The board office is located at 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321.

655—1.4(17A,21) Meetings.

1.4(1) *Quorum.* A majority of the members of the board constitutes a quorum.

1.4(2) *Meeting schedule and public notice.* The board will schedule and hold regular meetings. The date, time, and location of each meeting of the board will be made available to the public on the board's website and upon request by contacting the board office.

1.4(3) *Special meetings.* Special meetings of the board may be called by the chairperson or upon request of four board members to the chairperson or the executive director.

1.4(4) *Meeting materials.* Materials received at the board office at least three weeks prior to a scheduled board meeting may be placed on the agenda. Materials from emergency or unusual circumstances may be added to the agenda with the chairperson or executive director's approval.

1.4(5) *Public observation and comment.* The board will provide a means for members of the public to observe and, when appropriate, offer public comment during board meetings unless the board votes to hold a closed session.

a. Anyone who has submitted materials for the agenda or whose presence has been requested by the board will be given the opportunity to address the board.

b. At every regularly scheduled board meeting, time will be designated for public comment. During the time on the agenda for public comment, anyone may speak for up to two minutes per person. Requests to speak at a later time for two minutes per person when a particular topic comes before the board should be made at the time for public comment and will be granted at the discretion of the chairperson. No more than ten minutes will be allotted to public comment at any one time unless the chairperson indicates otherwise.

c. An individual who has not asked to address the board during the time for public comment may be recognized by the chairperson upon request. Acknowledgment and an opportunity to speak will be at the discretion of the chairperson.

655—1.5(147,152,272C) Communications. The board may issue or disseminate communications as a means to provide information to licensees and the general public related to the mission and responsibilities of the board. Board communications may include but are not limited to publishing updates on its website, issuing a newsletter, and other written, audio, or video methods of communication.

655—1.6(17A,272C) Adoption of uniform and model rules. The board hereby adopts by reference the following:

1.6(1) Uniform Rules on Agency Procedure, 481—Chapters 2 through 6.

1.6(2) Military service, veteran reciprocity, and spouses of active-duty service members, 481—Chapter 7.

1.6(3) Licensing and child support noncompliance, student loan repayment noncompliance, and nonpayment of state debt, 481—Chapter 8.

1.6(4) Model rules for use of criminal convictions in eligibility determinations and initial licensing decisions, 481—Chapter 502.

1.6(5) Model rules for licensee review committee, 481—Chapter 505.

1.6(6) Model rules for contested cases before licensing boards, 481—Chapter 506.

These rules are intended to implement Iowa Code chapters 17A, 147, 152, 152E, and 272C.

ARC 8768C

NURSING BOARD[655]

Notice of Intended Action

**Proposing rulemaking related to nursing education programs
and providing an opportunity for public comment**

The Board of Nursing hereby proposes to rescind Chapter 2, “Nursing Education Programs,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 17A.4, 147.36, 147.76, 152.5 and 272C.3 and chapter 152E and Executive Order 10.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 152, 152E, and 272C.

Purpose and Summary

This proposed rulemaking is intended to provide requirements and processes for Board approval of nursing education programs in the state of Iowa. Because the field of nursing does not have a nationally recognized curriculum or education, the Board approves all nursing programs existing in Iowa or providing services to individuals in Iowa. The approval process ensures the state does not have programs that are fraudulent or lack the proper education and training required to prepare the public to practice nursing safely.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 19, 2024

The Department of Inspections, Appeals, and Licensing received no public comments for this chapter.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Board no later than 4:30 p.m. on February 11, 2025. Comments should be directed to:

Emily DeRonde
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Phone: 515.381.7013
Email: emily.deronde@dia.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 11, 2025
8:30 a.m.
6200 Park Avenue
Des Moines, Iowa
Information on virtual participation will be available
on the Department's website prior to the hearing.

February 12, 2025
8:30 a.m.
6200 Park Avenue
Des Moines, Iowa
Information on virtual participation will be available
on the Department's website prior to the hearing.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 655—Chapter 2 and adopt the following **new** chapter in lieu thereof:

CHAPTER 2
NURSING EDUCATION PROGRAMS

655—2.1(152) Definitions.

“Approval” means recognition status given to nursing education programs based on the programs' compliance with the criteria specified in this chapter. Approval may be granted or continued for any time period determined by the board for up to six years.

“Clinical facilities” means locations where students directly care for patients/clients under the supervision of a qualified faculty member.

“Clinical instruction” means hands-on learning situations in which students directly care for patients/clients within a relevant setting, under the supervision of a qualified faculty member.

“Content” means the subject matter in a given area of study.

“Controlling institution” means the institution that has authority over and administrative accountability for the program(s).

“Curriculum” means content, lab/simulation, observation and clinical experiences developed, implemented and evaluated by faculty to facilitate achievement of program outcomes and to meet the learning needs of students.

“Debriefing” means an activity that follows a simulation experience and that is led by a faculty member, encourages a participant's reflective thinking, and provides feedback regarding the participant's performance.

“Faculty” means the teaching staff in a nursing education program. This definition includes anyone who provides didactic, simulation, laboratory, or clinical instruction in nursing when assigned by the program to provide this instruction for courses included in the nursing curriculum. The definition applies regardless of the amount of time spent teaching, the level of payment, the type of contract, the temporary nature of the position, or the location of the learner.

“Head of program” means the dean, chairperson, director, or coordinator of the nursing education program(s) who is responsible for the administration of the program(s).

“Improvement status” means the status on which a program is placed after three consecutive years of NCLEX® results below 95 percent of the national NCLEX® passing percentage.

“Interim approval” means approval granted to a new nursing program, at which time students may be admitted into the program.

“Lab/simulation” means activities that mimic the reality of a clinical environment and that are designed to demonstrate procedures, decision-making and critical thinking through interactive experiences.

“Learning experiences” means experiences that shall include content and clinical instruction and that may include components of lab/simulation, practicum, and observation.

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

“National NCLEX® passing percentage” means the percentage of first-time testers who achieve a passing score on the NCLEX® examination for licensed practical nurse or registered nurse licensure, calculated on a calendar year basis.

“NCLEX®” means the National Council Licensure Examination, the examination currently used for initial licensure as a registered nurse or licensed practical nurse.

“NCLEX® passing percentage” means the percentage of first-time testers who achieve a passing score on the NCLEX® examination for licensed practical nurse or registered nurse licensure within six months of graduation from a nursing program, calculated on a calendar year basis.

“Observation” means learning experiences in a relevant setting that meet program outcomes but do not require on-site faculty supervision and where the student does not directly care for patients/clients.

“Out-of-state program” means an approved nursing program within United States jurisdiction that provides clinical experiences in Iowa.

“Practicum” means a course of study designed especially for the preparation of nurses that involves the supervised practical application of previously studied theory.

“Preceptor” means a licensed individual who meets Iowa board of nursing qualifications as specified in this chapter, is on staff at the facility where the experience occurs, is selected by the nursing program in collaboration with the clinical facility, and is responsible for the on-site direction of the student over a period of time.

“Preceptorship” means an experience between a preceptor and a nursing student over a period of time that is congruent with program outcomes.

“Program” means a course of study by any method of instruction or delivery that leads to a nursing diploma, degree or certificate. Multiple-site programs offered by one controlling institution shall be considered one program if the philosophy and curriculum of all the sites are the same.

“Qualified nursing faculty” means individuals who meet board faculty qualifications as specified in this chapter and the qualifications of the parent institution.

655—2.2(152) Programs eligible for board approval. Programs eligible for board approval shall include all of the following:

1. At least a one-academic-year course of study or its equivalent in theory and practice that leads to a diploma in practical nursing and to eligibility to apply for practical nurse licensure by examination as described in 655—Chapter 3.
2. At least a two-academic-year course of study or its equivalent in theory and practice that leads to a degree in nursing and to eligibility to apply for registered nurse licensure by examination as described in 655—Chapter 3.
3. A course of study for registered nurses that leads to a baccalaureate degree with a major in nursing.
4. A course of study for registered nurses that leads to a master’s degree with a major in nursing.

5. A course of study for registered nurses who hold a master's degree in nursing that leads to a certificate in advanced practice nursing and eligibility for licensure as an advanced registered nurse practitioner as described in 655—Chapter 7.

6. A post-master's course of study that leads to a doctoral degree with a major in nursing.

7. A course of study that leads to a doctorate in nursing practice.

655—2.3(152) Application for interim approval of a nursing program.

2.3(1) Before establishing a nursing program, a controlling institution shall submit a program application to the board, including:

a. Name and address of the controlling institution.

b. A written statement explaining how the college or university meets the definition of “located in Iowa.”

c. Accreditation status of the controlling institution.

d. A written statement of intent to establish a nursing program, including the academic and licensure levels of the program and the primary method of instruction.

e. The establishment of an advisory committee composed of representatives of the community and nurses. Minutes of advisory committee meetings shall be kept on file.

f. Completion of a needs assessment that includes:

(1) Documentation of the present and future need for the program in the state, including the need for entry-level nurses.

(2) Potential effect on existing nursing programs.

(3) Availability of qualified head of the program and faculty.

(4) Source and description of clinical resources for the program.

(5) Evidence of potential students and anticipated enrollment.

(6) Documentation of adequate academic facilities and staff to support the nursing program.

(7) Evidence of financial resources adequate for the planning, implementation and continuation of the nursing program.

(8) Tentative time schedule for planning and implementing the nursing program and the intended date for entry of the first class into the program.

2.3(2) The proposed program shall submit the following prior to enrolling students:

a. Evidence of employment of the head of the program, including the individual's qualifications, at least six months prior to the beginning of the first nursing course.

b. Program philosophy, objectives and outcomes that reflect the proposed level of education.

c. Organizational chart of the educational institution documenting the relationship of the nursing program within the institution.

d. Curriculum plan that meets the criteria in rule 655—2.10(152).

e. Letter of intent from clinical facilities securing clinical opportunities and documentation of the facility type, size, number of beds, and type of patients.

f. Evidence of faculty employed by the controlling institution prior to the beginning of teaching assignments. Faculty members who teach nursing shall meet the qualifications outlined in subrule 2.11(2).

g. Proposed five-year budget for the nursing education program.

2.3(3) The board may conduct a site visit to the controlling institution and clinical facilities to validate information submitted in the program proposal prior to determining interim approval status.

2.3(4) Interim approval may be granted to the program based on the program proposal and a site visit.

a. The controlling institution shall publish the interim approval status of the program.

b. The program shall submit an annual report by June 30th of each year until full approval as described in rule 655—2.4(152) is granted by the board. The report shall include the following:

(1) Updated information in all areas identified in the initial proposal.

(2) Current number of admissions and enrollments.

(3) Current number of qualified faculty.

(4) New course offerings, including descriptions, credit hours, outcomes/objectives, placement of course and curriculum submitted six months prior to the offering of courses.

(5) Changes requiring board notification and approval as outlined in subrule 2.17(3).

c. Interim approval continues until the board conducts a review of program materials, completes a site visit, and grants approval to the program following graduation of the first class and submission of results of the national examination for licensure or advanced practice certification, if applicable.

d. The board may at any time seek additional program information from the controlling institution and head of the program.

2.3(5) The board may deny interim approval based on the program proposal and a site visit.

a. In order to be reconsidered, the controlling institution shall resubmit a program proposal within six months from the time of program application.

b. One year from the initial application, the controlling institution may resubmit a program application to the board in order to be reconsidered.

655—2.4(152) Approval and reapproval of in-state nursing programs.

2.4(1) The full approval for nursing programs located in Iowa requires the following:

a. Completion of a board survey visit by board representative(s).

b. Submission of the program's systematic evaluation plan.

c. Employment of qualified faculty and head of program.

d. Annual reports.

e. Documentation supporting compliance of nursing program criteria.

2.4(2) The board provides the program with the schedule and the criteria for approval or reapproval.

2.4(3) The program provides to the board the nursing education program report and supporting documentation addressing all aspects of the program outlined in rules 655—2.8(152) through 655—2.18(152).

2.4(4) A focused site visit may happen due to any of the following:

a. Complaints from students, faculty and clinical agencies.

b. Frequent turnover of faculty and the head of the program.

c. Decreasing trends in outcomes including NCLEX® pass rates.

d. Evidence that the program does not meet the criteria for approval.

2.4(5) The board will provide a report addressing recommendations from the site visit and nursing education program report to the head of the program. The head of the program will have an opportunity to respond in writing to the recommendations.

2.4(6) The nursing education program report and the program response is submitted to the board for review.

2.4(7) The board determines the approval status of the program.

a. Full approval may be granted or continued, within any time frame determined by the board, up to six years.

b. Conditional approval may be granted as determined by the board.

655—2.5(152) Conditional approval.

2.5(1) Conditional approval may be granted if the board determines that the program does not meet the criteria for approval at any time during the progression of the program.

2.5(2) The board:

a. Will notify the president of the academic institution and head of the nursing program, in writing, of the program's conditional approval status. The nursing program will be given a reasonable period of time to submit an action plan to correct the identified program deficiencies.

b. May request progress reports and conduct a site visit at any time during the conditional approval.

2.5(3) The program shall notify all students and prospective students of the program's conditional approval status.

2.5(4) Prior to the expiration of a program's conditional approval, representatives of the program and controlling institution shall submit a systemic evaluation plan detailing how outcomes are met. The board determines whether to grant the program full approval, extend conditional approval, or initiate proceedings to deny or withdraw approval.

655—2.6(152) Denial or withdrawal of approval.

2.6(1) A program denied approval or given less than full approval may appeal that decision. An appeal initiates a contested case hearing governed by 481—Chapter 506.

2.6(2) If, after a contested case proceeding, the board denies or withdraws approval of a program, the program shall immediately notify all enrolled students of the denial or withdrawal of approval. Such notification must include the date of denial or withdrawal of approval and a statement that students must graduate from an approved program to be eligible for licensure. The program shall assist all enrolled students with transferring to an approved program.

655—2.7(152) Closure of an approved program.

2.7(1) Prior to program closure, the controlling institution shall submit a written plan to the board. The plan shall include:

- a. Reasons for closure and the date of closure, including when the last student graduates.
- b. Provisions to continually meet the criteria for board approval and maintenance of nursing education standards during the transition to closure.
- c. Arrangements for enrolled students to complete a board-approved program.

2.7(2) Prior to closure, the controlling institution shall notify the board regarding the location and maintenance of student and graduate transcripts and records.

655—2.8(152) Organization and administration of the program.

2.8(1) The program shall meet the following criteria:

a. *Authorization.* Authorization for conducting a program is granted in accordance with Iowa Code chapter 261B.

b. *Authority and administrative responsibility.* The authority and administrative responsibility of the program is vested in the head of the program, who is responsible to the controlling institution.

c. *Organizational chart.* The organizational chart(s) indicates the lines of authority and communication within the program and with the central administration, other units within the controlling institution, cooperating agencies, and advisory committees.

d. *Finances.*

(1) The controlling institution shall allocate adequate funds to carry out the purposes of the program.

(2) The head of the program and nursing faculty shall have input for the budgeted needs of the program.

e. *Ethical practices.* Ethical practices and standards shall be consistent with those of the controlling institution and made available to students and prospective students.

f. *Contractual agreements.* Written contractual agreements shall exist between the program and the clinical facilities. The agreements shall include:

- (1) Identification of responsibilities of both parties related to patient or client services.
- (2) Provision for faculty control, selection and guidance of student learning experiences.
- (3) Provision for termination of the agreement.
- (4) Provision for annual review.
- (5) Provision that the facility is in good standing with its regulatory agency.

g. *Accrediting and approving agencies.*

(1) The controlling institution or program shall be accredited by the Higher Learning Commission.

(2) When the program is located at a community college, the controlling institution shall be approved by the Iowa department of education.

(3) When the program is offered under the auspices of the United States armed forces, it shall be accredited by the U.S. Department of the Army.

h. Philosophy/mission and program outcomes. The faculty shall develop a philosophy or mission statement and program outcomes that shall be:

- (1) Consistent with the philosophy or mission of the controlling institution.
- (2) Reflective of faculty beliefs about nursing, education and professional standards.
- (3) A guide in the development, implementation and evaluation of the program.
- (4) Available to students and prospective students.

i. Program evaluation. A written plan shall:

- (1) Outline the evaluation process for all aspects of the program.
- (2) Identify the methodology, tools, responsible parties and time frame.
- (3) Provide evidence of implementation reflecting achievement of program outcomes.

2.8(2) Requirements for head of program:

- a.* Current licensure as a registered nurse in Iowa.
- b.* Two years of experience in clinical nursing.
- c.* Two years of teaching experience in a nursing education program.
- d.* Academic qualifications:

(1) If employed on or before July 1, 1992, the individual is considered adequately prepared as long as that person remains in that position.

(2) If employed after July 1, 1992, the individual must have a master's or doctoral degree with a major in nursing at either level at the time of hire.

(3) If a program offers a baccalaureate or higher degree in nursing, the head of the program must have a doctoral degree at the time of hire.

- e.* Submission of qualifications to the board within one month of appointment.

655—2.9(152) Resources of the controlling institution. The controlling institution is responsible for the provision of resources adequate to meet program needs and outcomes.

2.9(1) *Human resources.* Human resources shall include the following:

- a.* Head of program.
- b.* Faculty.
- c.* Support staff.

2.9(2) *Physical resources.* Physical resources may include the following:

- a.* Classrooms, conference rooms, laboratories, simulation laboratories, offices, and equipment.
- b.* Student facilities.

2.9(3) *Learning resources.* Learning resources include:

- a.* Library.
- b.* Print media.
- c.* Computer-mediated resources.
- d.* Laboratory/simulation laboratory equipment.

2.9(4) *Financial resources.* Adequate financial resources will be maintained to support and carry out the mission of the controlling institution.

655—2.10(152) Curriculum.

2.10(1) The curriculum of a program:

- a.* Reflects current standards of nursing practice and education.
- b.* Is consistent with laws governing the practice of nursing.
- c.* Ensures sufficient preparation for the safe and effective practice of nursing.
- d.* Includes planned learning experiences and strategies that demonstrate integration of knowledge and attainment of the program outcomes.

e. Reflects the roles for which the student is being prepared.

f. Is evaluated on a regular basis by the faculty and reflects achievement of student outcomes as demonstrated in the program evaluation plan.

- g.* When offered within a college or university:

(1) Is comparable in quality and requirements to other degree programs within the college or university.

(2) Is planned in accordance with the college or university calendar.

(3) Assigns credit hours for learning experiences that are consistent with the college or university pattern.

(4) Provides a teaching/learning environment (classroom, clinical, laboratory, or simulation) that supports achievement of expected outcomes.

2.10(2) Standardized examinations may be used to supplement a program's curriculum but shall not prevent a student's academic progression or graduation.

a. The program is responsible for informing the students of the standardized examinations at the beginning of the program.

b. The program will have a process and procedure for remediation of students who do not pass the standardized examinations.

2.10(3) Prelicensure programs.

a. The curriculum of a program leading to eligibility for initial licensure as a licensed practical nurse or registered nurse includes:

(1) Content consistent with the practice of nursing as defined in Iowa Code section 152.1.

(2) Content in medical, surgical, gerontological, mental health, and nursing of childbearing families and children that reflects current nursing practice and that encompasses health needs throughout the life span.

(3) Opportunities to participate in the nursing process and to develop competencies in direct patient care, problem-solving methodologies, clinical judgment, communication, and the use of current equipment and technology.

(4) Content in nursing history and trends, including scope of practice, professional, legal, and ethical aspects.

(5) Supporting content from the natural and social sciences.

b. In addition to the requirements identified in paragraph 2.10(3)“*a*,” the curriculum of a program leading to a diploma in practical nursing and to eligibility to apply for practical nurse licensure by examination requires:

(1) Curriculum to be consistent with the scope of practice of a licensed practical nurse outlined in rules 655—6.3(152) and 655—6.6(152).

(2) Focus on supportive or restorative care provided under the supervision of a registered nurse or physician/provider pursuant to Iowa Code section 152.1(4).

(3) Learning experiences in medical, surgical and gerontological nursing.

(4) Content in nursing of childbearing families and children and mental health that is supported by one or more of the following: clinical instruction, lab/simulation, or observation experiences adequate to meet program outcomes.

c. In addition to the requirements identified in paragraph 2.10(3)“*a*,” the curriculum of a program leading to a degree in nursing and to eligibility to apply for registered nurse licensure by examination requires:

(1) Curriculum consistent with the scope of practice of a registered nurse outlined in rules 655—6.2(152) and 655—6.7(152).

(2) Focus on attaining, maintaining and regaining health and safety for individuals and groups by utilizing the principles of leadership, management, nursing informatics, and client education.

(3) Learning experiences in medical, surgical, mental health and gerontological nursing.

(4) Content in nursing of childbearing families and children that is supported by one or more of the following: clinical instruction, lab/simulation, or observation experiences adequate to meet program outcomes.

(5) When the program leads to a baccalaureate, master's or doctoral degree:

1. Content in nursing research.

2. Learning experiences in community health nursing.

2.10(4) Postlicensure programs for registered nurses who do not hold a baccalaureate degree in nursing.

a. The curriculum of a program that leads to a baccalaureate degree in nursing shall include learning experiences in nursing that will enable the student to achieve competencies comparable to outcomes of the prelicensure baccalaureate education, including content in nursing research and learning experiences in community health nursing.

b. The curriculum of a program that leads to a master's degree in nursing shall include content and learning experiences in nursing that will enable the student to achieve competencies comparable to outcomes of the prelicensure baccalaureate education and master's education, including content in nursing research and learning experiences in community health nursing.

2.10(5) Master's, post-master's, and doctoral programs for registered nurses who hold a baccalaureate degree in nursing.

a. The curriculum of a program leading to a master's or doctoral degree in nursing shall include in-depth study of:

- (1) Nursing science, which includes content, practicum experiences and research.
- (2) Advanced role areas in nursing.

b. The curriculum of a program leading to a master's degree or post-master's certificate in a nursing population focus, eligibility to apply for certification in the population focus by a national professional nursing organization approved by the board, and licensure as an advanced registered nurse practitioner shall:

(1) Be consistent with the scope of practice of the advanced registered nurse practitioner described in 655—Chapter 7.

(2) Include advanced learning experiences in a specialty area of nursing.

2.10(6) Nursing courses with a clinical or practicum component or both. The nursing program shall notify students and prospective students in writing that nursing courses with a clinical or practicum component may not be taken by a person:

- a.* Who has been denied licensure by the board.
- b.* Whose license is currently suspended, surrendered or revoked in any United States jurisdiction.
- c.* Whose license is currently suspended, surrendered or revoked in another country due to disciplinary action.

2.10(7) Nursing programs with a simulation component shall:

a. Ensure that the simulation component does not exceed 50 percent of total clinical hours in a course.

b. Demonstrate that the simulation activities are linked to program outcomes.

c. Demonstrate that simulation activities are based on evidence-based practices.

d. Have written policies and procedures regarding the method of debriefing each simulated activity and a plan for orienting faculty to simulation.

e. Have short-term and long-term plans for integration and maintenance of simulation in the curriculum.

f. Have faculty educated in the use of simulation and who demonstrate ongoing expertise and competence.

g. Evaluate simulation activities based on faculty and student feedback.

655—2.11(152) Faculty.

2.11(1) *Program requirements.* The program shall provide:

- a.* A sufficient number of faculty who satisfy the requirements in subrule 2.11(2).
- b.* Written personnel policies and position descriptions.
- c.* A faculty development program that furthers the competence of individual faculty members and the faculty as a whole.
- d.* A written teaching-load policy.
- e.* A nursing faculty organization that operates according to written bylaws and that meets on a regular basis.

f. In a prelicensure program, a ratio of one faculty member to a maximum of eight students for hands-on learning situations in which students directly care for clients in a relevant setting.

2.11(2) *Faculty member requirements.* A faculty member who teaches nursing shall meet the following requirements:

- a.* Current licensure as a registered nurse in Iowa prior to teaching.
- b.* Two years of experience in clinical nursing.
- c.* Academic qualifications:

(1) If employed on or before July 1, 1992, the individual is considered adequately prepared as long as that faculty member remains in that position.

(2) A faculty member who was hired to teach in a prelicensure registered nurse program shall have at least a baccalaureate degree with a major in nursing or an applicable field at the time of hire. This person shall make annual progress toward the attainment of a master's or doctoral degree with a major in nursing or an applicable field. At least one degree shall be in nursing.

1. Applicable fields include but are not limited to education, anthropology, gerontology, counseling, psychology, sociology, health education, health administration, and public health. A person who wishes to fulfill this requirement with education in an applicable field not listed may petition the board for a determination of applicability.

2. The date of hire is the first day of employment with compensation at a particular nursing education program.

3. "Annual progress" means a minimum of one course per year taken as part of an organized plan of study. A written plan of study shall be kept in the employee's file.

(3) A faculty member who was hired to teach after July 1, 1992, in a practical nursing program or at the first level of an associate degree nursing program with a ladder concept shall have a baccalaureate or higher degree in nursing or an applicable field at the time of hire.

(4) A registered nurse hired to teach in a master's program shall hold a master's or doctoral degree with a major in nursing at the time of hire. A registered nurse teaching in a population focus shall hold a master's degree with a major in nursing, advanced level certification by a national professional nursing organization approved by the board in the population focus area in which the individual teaches, and current licensure as an advanced registered nurse practitioner according to the laws of the state(s) in which the individual teaches. Faculty preparation at the doctoral or terminal degree level should be consistent with the mission of the program.

(5) A faculty member hired only to teach in the clinical setting shall be exempt from subparagraphs (1) and (2) if the faculty member is closely supervised to ensure proper integration of didactic content into the clinical setting. If hired after July 1, 1992, a faculty member hired to teach only in the clinical setting shall have a baccalaureate degree in nursing or an applicable field or shall make annual progress toward the attainment of such a degree.

655—2.12(152) Program responsibilities.

2.12(1) *Information about the program and controlling institution.* The program will provide the following information to prospective and current students:

- a.* Philosophy/mission and outcomes of the program.
- b.* General description of the program.
- c.* Curriculum plan.
- d.* Course descriptions.
- e.* Resources.
- f.* Faculty.
- g.* Tuition, fees and refund policies.
- h.* Ethical practices, including recruitment and advertising.
- i.* Official dates.
- j.* The program's NCLEX® passing percentage for the prior calendar year, as published by the board of nursing.

2.12(2) *Changes to program.* A nursing program may not make a change to a program during a student's academic plan of study unless the change confers the benefit to the student.

2.12(3) *Program records.* The following records shall be dated and maintained according to the policies of the controlling institution:

- a. Course syllabi.
- b. Minutes.
- c. Faculty personnel records.
- d. Catalogs and program bulletins.
- e. Curriculum revisions and reports to the board.
- f. Graduate nursing file, excluding the final transcript and summative performance statements.

2.12(4) *Student and graduate records.*

a. Policies shall specify methods for permanent maintenance and protection of records against loss, destruction and unauthorized use.

b. The final record shall include the official transcript that includes:

- (1) Legal name of student.
- (2) Dates of admission, completion of the program and graduation.
- (3) Courses that were accepted for transfer.
- (4) Evidence of authenticity.
- (5) Degree granted.

1. The final official transcript shall be maintained permanently.

2. The summative performance statement will relate the performance of the student at the time of graduation to the program outcomes and be maintained for three years.

655—2.13(152) Student criminal history checks.

2.13(1) The program shall initiate criminal history and child and dependent adult abuse record checks of students and prospective students to ensure a student's ability to complete the clinical education component of the program in accordance with Iowa Code sections 152.5A and 135C.33.

2.13(2) The program shall:

a. Notify all students and prospective students of the nursing program's policy and procedure concerning criminal history and child and dependent adult abuse record checks.

b. Conduct record checks in accordance with Iowa Code sections 152.5A and 135C.33 on all students:

- (1) Applying for the nursing program.
- (2) Returning to the clinical education component of the nursing program. Time frames between record checks may be determined by the program.
- (3) Anytime during the student's enrollment in the nursing program pursuant to the program's policy and procedure.

c. Abide by the results of the evaluation performed by the department of health and human services when determining a student's ability to complete the clinical education component of a nursing program.

655—2.14(152) Clinical facilities.

2.14(1) The clinical facilities shall provide learning experiences that meet curriculum objectives and outcomes.

2.14(2) The program provides information to the board about clinical facilities used for learning experiences, including:

- a. The clinical facility's accredited/approved status and evidence of good standing by their regulatory body.
- b. Evidence that student experiences are coordinated with programs that use the same facility.

655—2.15(152) Undergraduate and non-ARNP graduate program preceptorship.

2.15(1) The nursing program, in collaboration with a clinical facility, selects preceptors to provide supportive learning experiences to meet program outcomes.

- a.* The nursing education program and student will work together to find an appropriate preceptor.
- b.* An appropriate preceptor is a licensee who has equivalent licensure as the student or practices in the same role for which the student is preparing.

2.15(2) The qualifications of a preceptor will be appropriate to support the philosophy, mission, and outcomes of the program.

- a.* The preceptor shall be employed by or maintain a current written agreement with the clinical facility in which a preceptorship experience occurs.
- b.* The preceptor shall be currently licensed as a registered nurse, licensed practical nurse, or advanced registered nurse practitioner according to the laws of the state in which the preceptor practices.
- c.* The preceptor functions according to written policies for selection, evaluation and reappointment developed by the program. Written qualifications, developed by the program, shall address educational preparation, experience, and clinical competence.
- d.* The program is responsible for informing the preceptor of the responsibilities of the preceptor, faculty and students.
- e.* The program retains ultimate responsibility for student learning and evaluation.

2.15(3) The program shall inform the board about the preceptorship learning experience process.

- a.* Written preceptorship agreements are reviewed annually by the program.
- b.* The board may conduct a site visit to settings in which preceptorship experiences occur.
- c.* The rationale for the ratio of students to preceptors shall be documented by the program.

2.15(4) An individual who is not a registered nurse or a licensed practical nurse may serve as a preceptor when appropriate to the philosophy, mission, and outcomes of the program.

655—2.16(152) ARNP program preceptorship.

2.16(1) A preceptor is selected by the nursing program in collaboration with a clinical facility to provide supportive learning experiences consistent with program outcomes.

- a.* The nursing education program and student will find an appropriate preceptor.
- b.* The student shall have the majority of student preceptorship learning experiences happen with a preceptor who is an ARNP or physician with the same role and population focus for which the student is preparing.
- c.* Written preceptorship agreements shall be reviewed annually by the program.
- d.* The board may conduct a site visit to preceptorship sites.
- e.* The rationale for the ratio of students to preceptors shall be documented by the program.

2.16(2) The preceptor shall:

- a.* Have qualifications appropriate to support the philosophy, mission, and outcomes of the program.
- b.* Be employed by or maintain a current written agreement with the clinical facility in which a preceptorship experience occurs.
- c.* Be currently licensed as an advanced registered nurse practitioner or physician according to the laws of the state in which the preceptor practices.
- d.* Function according to written policies for selection, evaluation and reappointment developed by the program addressing educational preparation, experience, and clinical competence.

655—2.17(152) Results of graduates who take the licensure examination for the first time. The program shall notify the board when the program's NCLEX® passing percentage is lower than 80 percent for one calendar year.

2.17(1) A program whose NCLEX® passing percentage is lower 80 percent shall submit an institutional plan and appear before the board as directed.

2.17(2) After submission of the institutional plan, for each consecutive calendar year that a program's NCLEX® passing percentage is lower than 80 percent, the program shall submit an institutional plan evaluation and appear before the board as directed.

2.17(3) Programs with a NCLEX® passing percentage that falls below 80 percent for three consecutive calendar years will be placed on improvement status after the third year.

2.17(4) A program on improvement status shall:

- a. Notify all current and prospective students of the program's improvement status.
- b. Submit quarterly reports and present the reports to the board as directed.

2.17(5) Board staff may conduct a site visit to the program at any time while the program is on improvement status.

2.17(6) Programs that remain on improvement status for two consecutive calendar years shall submit a revised institutional plan and appear before the board as directed. The board will:

- a. Review the revised institutional plan and formulate an action plan for the program on improvement status.
- b. Individualize the action plan for each program.

2.17(7) A program will be removed from improvement status when the program's NCLEX® passing percentage is above 80 percent for one calendar year.

655—2.18(152) Reports to the board.

2.18(1) Annual reports. The head of the program shall submit an annual report to the board.

2.18(2) Reports. The program shall notify the board of the following:

- a. Change of controlling institution, including official name of the program(s) and controlling institution, organizational chart of the controlling institution, and names of administrative officials.
- b. Changes in administrative personnel in the program or controlling institution.
- c. Opening of a new site or campus.

2.18(3) Changes requiring board notification and approval. The program shall submit one copy of a proposed change for board approval at least four weeks prior to the next scheduled board meeting when the outcome will:

- a. Lengthen or shorten the plan of study.
- b. Add or delete academic credit in a course required for graduation.
- c. Delete a course required for graduation.
- d. Add a new course. A program shall submit the following to be implemented within six months of an offering of a course:
 - (1) Course description.
 - (2) Outcomes/objectives.
 - (3) Placement of course.
 - (4) Curriculum plan.
- e. Alter graduation requirements.
- f. Reduce the human, physical or learning resources provided by the controlling institution to meet program needs as described in rule 655—2.9(152).
- g. Substantively alter the philosophy/mission of the program.
- h. Revise the predominant method of instruction or delivery, including transition from on-site to self-study or distance learning.
- i. Entail delivery of a cooperative program of study with an institution that does not provide a degree in nursing.
- j. Increase the number of student admissions by 20 percent or more.

2.18(4) If a program makes changes as part of a plan to improve the program's NCLEX® passing percentage, pursuant to rule 655—2.17(152), such changes must also be separately submitted to the board for approval pursuant to this rule.

These rules are intended to implement Iowa Code section 152.5 and chapter 152E.

ARC 8767C**NURSING BOARD[655]****Notice of Intended Action****Proposing rulemaking related to licensure to practice
and providing an opportunity for public comment**

The Board of Nursing hereby proposes to rescind Chapter 3, “Licensure to Practice—Registered Nurse/Licensed Practical Nurse,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 147, 152, 152E and 272C and Executive Order 10.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 152, 152E, and 272C.

Purpose and Summary

The purpose of this proposed rulemaking is to set minimum standards for entry into the various nursing professions. Iowa residents, licensees and employers benefit from this rulemaking because it articulates the processes by which individuals apply for licensure as a Registered Nurse, Licensed Practical Nurse and Advanced Registered Nurse Practitioner. This includes the processes for initial licensure, renewal and reinstatement. These requirements protect public safety by ensuring the professionals have minimum competency.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 19, 2024

The Department of Inspections, Appeals, and Licensing received the following comments from Debbie Broadfield (from Capitol Edge Consulting, LLC) and Joy Ingwerson on behalf of the Occupational English Test (OET) in regard to foreign-educated applicants and the English proficiency testing:

1. The commenters noted that the Test of English as a Foreign Language (TOEFL) paper-based test (PBT) and computer-based test (CBT) have been discontinued and replaced by the TOEFL Internet-based test (iBT).
2. The commenters proposed to the Board that the OET for nursing (which is approved by the Health Resources and Services Administration (HRSA), Commission on Graduates of Foreign Nursing Schools (CGFNS), and other credentialing organizations, along with many other state boards of nursing) be added to the list of approved English proficiency tests.
3. The commenters noted that the OET maps reliably to the International English Language Testing System (IELTS) (both are co-owned by Cambridge University in the United Kingdom) and a benchmarking report is available to allow the Board to map equivalent scores. The IELTS scores of 6.5 for reading, writing, and listening correspond to a score of 300 on the OET, and the IELTS score of 7.0 for speaking corresponds to a score of 350 on the OET.

The Board notes that the specific English proficiency test has already been removed from the proposed rules to allow applicants flexibility on testing. The requirements as proposed in this rulemaking

would leave the testing options open to CGFNS and VisaScreen. Therefore, the Board does not find it necessary to make any changes to the rules as currently proposed.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on February 11, 2025. Comments should be directed to:

Emily DeRonde
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Phone: 515.381.7013
Email: emily.deronde@dia.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 11, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa Information on virtual participation will be available on the Department's website prior to the hearing.
February 12, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa Information on virtual participation will be available on the Department's website prior to the hearing.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 655—Chapter 3 and adopt the following **new** chapter in lieu thereof:

CHAPTER 3
LICENSURE TO PRACTICE—REGISTERED NURSE/LICENSED PRACTICAL NURSE

655—3.1(17A,147,152,152E,272C) Definitions.

“Approved nursing program” means a nursing education program whose status has been recognized by the board or by a similar board in another jurisdiction that prepares individuals for licensure as a licensed practical nurse, registered nurse, or advanced registered nurse practitioner; or grants a baccalaureate, master’s or doctorate degree with a major in nursing.

“CGFNS” means the Commission on Graduates of Foreign Nursing Schools.

“Inactive license” means a registered nurse or licensed practical nurse license that has been placed on inactive status because it was not renewed by the fifteenth day of the month following the expiration date or means that the board has received notification that a licensee has declared another compact state as the primary state of residency.

“Late license” means a registered nurse or licensed practical nurse license that has not been renewed by the expiration date. The time between the expiration date and the fifteenth day of the month following the expiration date is considered a grace period.

“Licensee” means a person who has been issued a license to practice as a registered nurse, licensed practical nurse or advanced registered nurse practitioner under the laws of this state.

“Multistate license” means a license to practice as a registered nurse or licensed practical nurse issued to a qualified person under Iowa Code chapter 152E that authorizes the holder to practice in all party states under a multistate licensure privilege.

“Multistate licensure privilege” means a legal authorization associated with a multistate license permitting the practice of nursing as either a registered nurse or a licensed practical nurse in a party state.

“NCSBN” means the National Council of State Boards of Nursing.

“Nurse licensure compact” means the agreement between party states, as set forth in Iowa Code chapter 152E, to allow mutual recognition of a nursing license.

“Overpayment” means payment in excess of the required fee. An overpayment less than \$10 received by the board shall not be refunded.

“Party state” means any state that has adopted the nurse licensure compact.

655—3.2(17A,147,152,152E,272C) Fees for licensure. The following fees apply for licensure of registered nurses (RN), licensed practical nurses (LPN), and advanced registered nurse practitioners (ARNP):

3.2(1) Application for an initial license based on the registered nurse examination, \$93 (plus the fee for evaluation of the fingerprint cards and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI)).

3.2(2) Application for an original license based on the practical nurse examination, \$93 (plus the fee for evaluation of the fingerprint cards and the criminal history background checks by the Iowa DCI and the FBI).

3.2(3) Application for RN/LPN license by endorsement, \$119 (plus the fee for evaluation of the fingerprint cards and the criminal history background checks by the Iowa DCI and the FBI).

3.2(4) Application for an initial license, renewal, or both of an ARNP, \$81 for any period of licensure up to three years.

3.2(5) Certified statement that an RN/LPN is licensed in this state or registered as an ARNP, \$25.

3.2(6) Reactivation of a license to practice as an RN/LPN, \$175 for a license lasting more than 24 months up to 36 months (plus the fee for evaluation of the fingerprint cards and the criminal history background checks by the Iowa DCI and the FBI).

3.2(7) Reactivation of a license to practice as an ARNP, \$81 for any licensing period up to three years.

3.2(8) Renewal of a license to practice as an RN/LPN, \$99 for a three-year period.

3.2(9) Late renewal of an RN/LPN license, \$50 (plus the renewal fee as specified in subrule 3.2(8)).

3.2(10) Check returned for any reason, \$15. If licensure/registration has been issued by the board office based on a check for the payment of fees and the check is later returned by the bank, the board will request payment by certified check or money order.

3.2(11) Certified copy of an original document, \$20.

3.2(12) Processing of the fingerprint cards and the Iowa DCI and FBI criminal history background checks, \$50.

3.2(13) Petition for eligibility determination, \$25.

655—3.3(17A,147,152,272C) Mandatory licensure.

3.3(1) A person in the practice of nursing in the state of Iowa as defined in Iowa Code section 152.1, outside of caring for one's family, must have a current Iowa license, whether or not the person's employer is in Iowa and whether or not the person receives compensation. Any nurse participating in the care of a patient situated in Iowa, whether that care is provided through telephonic, electronic or in-person means, and regardless of the location of the nurse, must obtain Iowa licensure unless specifically exempted.

3.3(2) Current Iowa licensure is not mandatory when:

a. A nurse holds an active multistate license issued by a party state, pursuant to Iowa Code chapter 152E. A nurse who practices nursing in Iowa pursuant to a multistate licensure privilege is subject to the jurisdiction of the board, the courts, and the laws of Iowa.

b. A nurse holds an active license in another state and is providing services to patients in Iowa only during interstate transit.

c. A nurse holds an active license in another state and is providing emergency services in an area in which the governor of Iowa has declared a state of emergency.

3.3(3) A licensed practical nurse enrolled in an approved program for registered nurses shall hold an active licensed practical nurse license in all jurisdictions in which the licensed practical nurse provides patient care. A registered nurse who is enrolled in an approved program for advanced registered nurse practitioners shall hold an active registered nurse license in all jurisdictions in which the registered nurse provides patient care.

655—3.4(17A,147,152,272C) Licensure qualifications for registered nurse and licensed practical nurse. Applicants for registered nurse and licensed practical nurse licenses shall meet the following requirements:

3.4(1) Graduation from an approved nursing program.

3.4(2) Successful passage of the National Council Licensure Examination (NCLEX®) or the State Board Test Pool Examination, the national examination used prior to 1982. The passing standard is that established by the testing authority at the time the test was administered.

3.4(3) If applicable, board approval of an applicant with a criminal history, pursuant to rule 655—3.11(272C), or a record of prior disciplinary action, regardless of jurisdiction.

655—3.5(17A,147,152,272C) Licensure by examination.

3.5(1) *Board application.* A graduate of an approved nursing program seeking initial licensure as a registered nurse or licensed practical nurse shall submit the following:

a. A completed application for licensure by examination.

b. Payment of the application fee.

c. Two completed fingerprint cards and a signed waiver form to facilitate a national criminal history background check.

d. If the applicant has a criminal history, copies of all documents required by rule 655—3.11(272C).

e. An official transcript denoting the date of graduation and diploma or degree conferred, sent directly to the board from the nursing program.

3.5(2) *Test registration.* The applicant completes NCLEX® registration, including payment of applicable fees through the national test service agency.

3.5(3) *Americans with Disabilities Act accommodations.* An applicant with a disability may submit a request to the board for testing accommodations. The request must include:

- a. The nature of the disability and the specific testing accommodations being requested.
- b. Documentation from the applicant's health care provider describing the disability and the recommended accommodations.
- c. Documentation from the applicant's nursing education program if testing accommodations were provided to the applicant during school.

The board's recommendation regarding approval of accommodation requests will be communicated to the national test service agency.

3.5(4) *Authorization to test.* An applicant will not receive an authorization to test until all of the requirements in subrules 3.5(1) and 3.5(2) are met.

- a. An applicant will self-schedule the examination with an approved testing center and must test within 91 days of receiving the authorization to test. An applicant who does not test within 91 days of receiving the authorization to test is required to submit a new completed application for licensure by examination and fee to the board.
- b. An applicant who does not appear for a testing appointment or does not complete the examination must follow the requirements for reexamination.

3.5(5) *Reexamination.* An applicant who fails the examination and reapplies within 12 months of submitting a prior application to the board is required to complete the requirements in paragraphs 3.5(1) "a" and "b" and subrule 3.5(2). An applicant who fails the examination and reapplies after 12 months of submitting a prior application to the board shall be required to complete all requirements in subrules 3.5(1) and 3.5(2).

3.5(6) *Licensure.* Upon satisfactory review of the documentation required by subrule 3.4(1) and proof of successful passage of the examination, the applicant will be issued a license to practice as a registered nurse or licensed practical nurse.

3.5(7) *Failure to complete the licensure process.* Once an application is initiated, the applicant has 12 months to complete the licensure process. The board reserves the right to destroy any applications and supporting documents after 12 months if the applicant has not completed the licensure process. Applicants who fail to complete the licensure process within 12 months are required to start the application process anew.

655—3.6(17A,147,152,272C) Licensure by endorsement.

3.6(1) *Board application.* A graduate of an approved nursing program seeking licensure as a registered nurse or licensed practical nurse in Iowa who has been licensed in another state shall submit the following:

- a. A completed application for licensure by endorsement.
- b. Payment of the application fee.
- c. Two completed fingerprint cards and a signed waiver form to facilitate a national criminal history background check.
- d. If the applicant has a criminal history, copies of all documents required by rule 655—3.12(272C).
- e. Copies of relevant disciplinary documents if the applicant has had disciplinary action taken by another state.
- f. Verification of the license from the original state of licensure, which may be done through www.nursys.com or by using the verification form depending on the requirements of the original state of licensure.
- g. Proof of active licensure in any jurisdiction within the previous five years from the date of application or proof of completion of a nurse refresher course in accordance with rule 655—3.11(152) within the 12 months prior to the date of application.

h. An official transcript denoting the date of graduation and diploma or degree conferred, sent directly to the board from the nursing program. An applicant may be excused from this requirement if the nursing program is closed and records are no longer available.

3.6(2) *Temporary license.* An applicant who has submitted all documentation described in paragraphs 3.5(1) “a” through “g” may request a temporary registered nurse or licensed practical nurse license, which authorizes the practice of nursing in Iowa for a maximum of 30 days, pending receipt of official transcripts from the nursing program. A temporarily licensed licensee will automatically be issued a permanent license upon receipt of satisfactory transcripts from the nursing program.

3.6(3) *Licensure.* Upon satisfactory review of the documentation described in subrule 3.5(1), the applicant will be issued a license to practice as a registered nurse or licensed practical nurse.

3.6(4) *Failure to complete the licensure process.* Once an application is initiated, the applicant has 12 months to complete the licensure process. The board reserves the right to destroy any applications and supporting documents after 12 months if the applicant has not completed the licensure process. Applicants who fail to complete the licensure process within 12 months are required to start the application process anew.

3.6(5) *Changing primary state of residence for multistate license.* A nurse who holds a multistate license issued by a party state and who changes the nurse’s primary state of residence to Iowa must apply for licensure in Iowa pursuant to this rule. Upon issuance of a multistate license by the board, the nurse’s prior multistate license will be deactivated.

655—3.7(17A,147,152,272C) Applicants educated in a foreign country or in a U.S. territory that is not a member of NCSBN.

3.7(1) Applicant for licensure. An applicant seeking licensure in Iowa who was educated in a foreign country or in a U.S. territory that is not a member of NCSBN shall apply for licensure by examination pursuant to rule 655—3.5(17A,147,152,272C) or licensure by endorsement pursuant to rule 655—3.6(17A,147,152,272C), as applicable, but instead of submitting an official transcript, shall submit one of the following documents issued by CGFNS:

- a.* Credentials Evaluation Service (CES) Professional Report®.
- b.* VisaScreen® certificate or certificate verification letter verifying that a VisaScreen® certificate was issued.
- c.* CGFNS Certification Program® certificate or certificate verification letter verifying that a CGFNS Certification Program® certificate was issued.

3.7(2) An applicant shall be exempt from taking an English language proficiency test when all of the following requirements are met:

- a.* The nursing education was completed in a college, university, or professional school located in Australia, Barbados, Canada (except Quebec), Ireland, Jamaica, New Zealand, South Africa, Trinidad and Tobago, or the United Kingdom.
- b.* The language of instruction in the nursing program was English.
- c.* The language of the textbooks in the nursing program was English.

3.7(3) Social security number. To be eligible for a multistate license, an applicant must have a social security number. An applicant who does not have a social security number shall submit documentation of lawful presence and will only be eligible for a single state license.

655—3.8(17A,147,152,272C) License renewal and reactivation.

3.8(1) *Name and address changes.* Licensees must notify the board of any name or address change within 30 days of the change. Licensure documents are mailed to the licensee at the address on file in the board office. There is no fee for a change of name or address in board records.

3.8(2) *Initial licenses.* The board shall issue licenses by endorsement and examination for a 24- to 36-month period. When the license is renewed, it will be placed on a three-year renewal cycle. License expiration is on the fifteenth day of the licensee’s birth month.

3.8(3) *Renewal.* The licensee may renew the license beginning 60 days prior to license expiration. The licensee will:

a. Attest that Iowa is the primary state of residence or that the primary state of residence is a noncompact state. The board may request evidence of residency.

b. Submit the renewal application and the renewal fee.

c. Meet the continuing education requirement as set forth in 655—Chapter 5, prior to license renewal.

d. Complete the required mandatory reporter training.

(1) The course(s) shall be the curriculum provided by the department of health and human services.

(2) A licensee who regularly examines, attends, counsels or treats children in Iowa must indicate on the renewal application completion of training in child abuse identification and reporting as required by Iowa Code section 232.69(3)“b” in the previous three years or condition(s) for rule suspension as identified in subparagraph 3.8(3)“d”(5).

(3) A licensee who regularly examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of training in dependent adult abuse identification and reporting as required by Iowa Code section 235B.16(5)“b” in the previous three years or condition(s) for rule suspension as identified in subparagraph 3.8(3)“d”(5).

(4) The licensee shall maintain written documentation for three years after mandatory training as identified in subparagraphs 3.8(3)“b”(2) and (3), including program date(s), content, duration, and proof of participation.

(5) The requirement for mandatory training for identifying and reporting child and dependent adult abuse will be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

1. Is engaged in active duty in the military service of this state or the United States.

2. Holds a current exemption based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 655—Chapter 5.

(6) The board may select licensees for audit of compliance with the requirements in subparagraphs 3.8(3)“b”(1) through (5).

3.8(4) Late renewal. The license is late when the license has not been renewed by the expiration date. The licensee will be assessed a late fee as specified in rule 655—3.2(17A,147,152,152E,272C). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee before the fifteenth day of the month following the expiration date.

3.8(5) Inactive status. The license becomes inactive when the license has not been renewed by the fifteenth day of the month following the expiration date.

a. If the inactive license is not reactivated, it remains inactive.

b. If the licensee resides in Iowa or a noncompact state, the licensee shall not practice nursing in Iowa until the license is reactivated to active status. If the licensee is identified as engaging in the practice of nursing with an inactive license, disciplinary proceedings may be initiated.

c. The licensee is not required to obtain continuing education credit or pay fees while the license is inactive.

3.8(6) Changing primary state of residence for multistate license. A licensee who holds a multistate license issued by this board and who changes the licensee’s primary state of residency to another party state must apply for licensure in the new party state. Once the board has been notified by the new party state that a new license has been issued, the Iowa multistate license will become inactive.

3.8(7) Reactivation.

a. To reactivate an inactive license, the licensee shall comply with the following:

(1) The licensee shall submit:

1. A completed reactivation application.

2. Payment of the applicable fees.

3. A completed continuing education report form and supporting continuing education certificates.

4. Two completed fingerprint cards and a signed waiver form to facilitate a national criminal history background check.

(2) The licensee shall have obtained 36 contact hours of continuing education, as specified in 655—Chapter 5, within the 36 months prior to reactivation.

(3) If a licensee has not held an active license in any jurisdiction within the previous five years, the licensee must complete a nurse refresher course in accordance with rule 655—3.11(152) within 12 months of applying for reactivation.

b. Upon receipt of all necessary materials, the licensee will be issued a license for a 24- to 36-month period. At the time of the next renewal, the license will be placed on a three-year renewal cycle. License expiration is on the fifteenth day of the licensee's birth month.

c. An applicant who fails to complete the reactivation of licensure process within 12 months from the date of initial application must reapply. All fees are nonrefundable.

655—3.9(17A,147,152,272C) Verification. Upon written request from the licensee or another jurisdiction and payment of the verification fee as specified in rule 655—3.2(17A,147,152,152E,272C), the board will provide a certified statement to another jurisdiction or entity that the license of a registered nurse, licensed practical nurse or advanced registered nurse practitioner is active, inactive or encumbered/disciplined in Iowa.

655—3.10(17A,272C) License denial.

3.10(1) Prior to the denial of licensure to an applicant, the board issues a preliminary notice of denial that cites the factual and legal basis for denying the application, notifies the applicant of the appeal process and specifies the date upon which the denial will become final if not appealed.

3.10(2) An applicant who has been issued a preliminary notice of denial may appeal the notice and request a hearing on the issues related to the preliminary notice of denial by serving a request for hearing upon the executive director within 30 days following the date the preliminary notice of denial was mailed. The request for hearing shall specify the factual or legal errors in the preliminary notice of denial and provide any additional written information or documents in support of the licensure.

3.10(3) All hearings held pursuant to this rule shall be held in accordance with the process outlined in 655—Chapter 20.

3.10(4) If an applicant does not appeal a preliminary notice of denial, the preliminary notice of denial automatically becomes final.

655—3.11(152) Nurse refresher course.

3.11(1) A nurse refresher course shall meet the following requirements:

a. A minimum of 80 hours of theory, with content in basic nursing skills, pharmacology, physical assessment, intravenous (IV) therapy (registered nurse only), and legal and ethical considerations in health care; and

b. A minimum of 80 hours of hands-on supervised clinical learning experiences.

3.11(2) To participate in the clinical component of a nurse refresher course in Iowa, a licensee must have an active license to practice nursing in Iowa or a limited authorization issued by the board. A licensee shall request the limited authorization from the board prior to beginning the clinical component of a nurse refresher course.

3.11(3) To receive a certificate of completion from the nurse refresher course, a licensee must complete all requirements of the nurse refresher course to the satisfaction of the course provider. The course provider shall submit proof of the licensee's completion of the nurse refresher course directly to the board.

655—3.12(272C) Use of criminal convictions in eligibility determinations and initial licensing decisions.

3.12(1) Definitions.

"Complete criminal record" includes the complaint and judgment of conviction for each offense of which the applicant has been convicted, regardless of whether the offense is classified as a felony or a misdemeanor and regardless of the jurisdiction in which the offense occurred.

“*Conviction*” means a finding, plea, or verdict of guilt made or returned in a criminal proceeding, even if the adjudication of guilt is deferred, withheld, or not entered. “Conviction” includes Alford pleas and pleas of nolo contendere.

“*Disqualifying offense*” means a conviction directly related to the duties and responsibilities of the profession. A conviction is directly related to the duties and responsibilities of the profession if either (1) the actions taken in furtherance of an offense are actions customarily performed within the scope of practice of a licensed profession, or (2) the circumstances under which an offense was committed are circumstances customary to a licensed profession.

“*License*” means a license issued by the board.

3.12(2) License application. Unless an applicant for licensure petitions the board for an eligibility determination pursuant to subrule 3.11(3), the applicant’s convictions will be reviewed when the board receives a completed license application.

a. An applicant must disclose all convictions on a license application. Failure to disclose all convictions is grounds for license denial or disciplinary action following license issuance.

b. In order for the license application to be considered complete, an applicant with one or more convictions shall submit the complete criminal record for each conviction and a personal statement regarding whether each conviction directly relates to the duties and responsibilities of the profession.

c. An applicant must submit as part of the license application all evidence of rehabilitation that the applicant wishes to be considered by the board.

d. The board may deny a license if the applicant has a disqualifying offense, unless the applicant demonstrates by clear and convincing evidence that the applicant is rehabilitated pursuant to Iowa Code section 272C.15.

e. An applicant with one or more disqualifying offenses who has been found rehabilitated must still satisfy all other requirements for licensure.

f. Any application fees paid will not be refunded if the license is denied.

3.12(3) Eligibility determination.

a. An individual who has not yet submitted a completed license application may petition the board for a determination of whether one or more of the individual’s convictions are disqualifying offenses that would render the individual ineligible for licensure. An individual with a conviction is not required to petition the board for an eligibility determination prior to applying for licensure.

b. To petition the board for an eligibility determination of whether one or more of the petitioner’s convictions are disqualifying offenses, a petitioner shall submit all of the following:

- (1) A completed eligibility determination form;
- (2) The complete criminal record for each of the petitioner’s convictions;
- (3) A personal statement regarding whether each conviction directly relates to the duties and responsibilities of the profession and why the board should deem the petitioner rehabilitated;
- (4) All evidence of rehabilitation that the petitioner wishes to be considered by the board; and
- (5) Payment of a nonrefundable fee of \$25.

3.12(4) Appeal. A petitioner deemed ineligible or an applicant denied a license because of a disqualifying offense may appeal the decision in the manner and time frame set forth in the board’s written decision. A timely appeal will initiate a nondisciplinary contested case proceeding. The board’s rules governing contested case proceedings will apply unless otherwise specified in this rule. If the petitioner or applicant fails to timely appeal, the board’s written decision will become a final order.

a. An administrative law judge will serve as the presiding officer of the nondisciplinary contested case proceeding unless the board elects to serve as the presiding officer. When an administrative law judge serves as the presiding officer, the decision rendered shall be a proposed decision.

b. The contested case hearing shall be closed to the public, and the board’s review of a proposed decision shall occur in closed session.

c. The office of the attorney general shall represent the board’s initial ineligibility determination or license denial and shall have the burden of proof to establish that the petitioner’s or applicant’s convictions include at least one disqualifying offense. Upon the satisfaction of this burden by a

preponderance of the evidence by the office of the attorney general, the burden of proof shall shift to the petitioner or applicant to establish rehabilitation by clear and convincing evidence.

d. A petitioner or applicant must appeal an ineligibility determination or license denial in order to exhaust administrative remedies. A petitioner or applicant may only seek judicial review of an ineligibility determination or license denial after the issuance of a final order following a contested case proceeding. Judicial review of the final order following a contested case proceeding shall be in accordance with Iowa Code chapter 17A.

3.12(5) Future petitions or applications. If a final order determines a petitioner is ineligible, the petitioner may not submit a subsequent petition for eligibility determination or a license application prior to the date specified in the final order. If a final order denies a license application, the applicant may not submit a subsequent license application or a petition for eligibility determination prior to the date specified in the final order.

These rules are intended to implement Iowa Code chapters 17A, 147, 152, 152E, and 272C.

ARC 8763C

NURSING BOARD[655]

Notice of Intended Action

Proposing rulemaking related to complaints, investigations and discipline and providing an opportunity for public comment

The Board of Nursing hereby proposes to rescind Chapter 4, "Discipline," and to adopt a new Chapter 4, "Complaints, Investigations and Discipline," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 17A.4, 147.76, and 272C.3 and Executive Order 10.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 152, and 272C.

Purpose and Summary

This proposed rulemaking provides protection to the public by defining the procedures and process for initiating complaints against licensees under the Board, investigations, and grounds for discipline. This rulemaking is important to both the public and the licensee because it creates a shared understanding of what is and is not appropriate for licensed individuals in the state of Iowa. When professional standards are not met, the licensee may be subject to investigation and discipline.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 19, 2024

The Department of Inspections, Appeals, and Licensing received no public comments for this chapter.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on February 11, 2025. Comments should be directed to:

Emily DeRonde
Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Phone: 515.381.7013
Email: emily.deronde@dia.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 11, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa Information on virtual participation will be available on the Department's website prior to the hearing.
February 12, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa Information on virtual participation will be available on the Department's website prior to the hearing.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 655—Chapter 4 and adopt the following **new** chapter in lieu thereof:

CHAPTER 4
COMPLAINTS, INVESTIGATIONS AND DISCIPLINE

655—4.1(17A,147,152,272C) Complaints and investigations.

4.1(1) Form and content of complaint. The complaint will be submitted on the form deemed acceptable by the board and contain the following information:

a. The full name, address and telephone number of the complainant, except in instances in which the identity of the complainant is unknown.

- b. The full name, address and telephone number, if known, of the licensee.
- c. A clear and accurate statement of the facts of the allegation against the licensee.

4.1(2) *Place and time of filing complaint.* A written complaint may be delivered in person, by mail or electronically to the board office. The office address is Iowa Board of Nursing, 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321.

4.1(3) *Processing complaints.* Board staff will open a complaint file upon receiving a complaint or other appropriate information or upon its own motion.

a. If the board does not have legal jurisdiction over a matter or the complaint does not allege a violation of board rule, staff may close the complaint file administratively without investigation or review by the board. All other complaints will be sent to case review.

b. A complaint file will be labeled as such and is not a public record. A complaint file is part of the licensee's history and may be shared with another licensing authority upon request.

c. When an investigation is requested on a file, the complaint file is relabeled as an investigative file. An investigative file is not public record. The investigative file becomes a part of the licensee's history and may be shared with another licensing authority, upon request.

4.1(4) *Case review.*

a. Case review is completed by the executive director, licensing division general counsel, and chief investigator.

b. The case review team will review each complaint the board has received and take one of the following actions:

(1) Request an investigation.

(2) Contact the complainant to obtain additional information and return to case review for further consideration.

(3) Recommend closure of the complaint file.

(4) Recommend the complaint file be flagged for further discussion by the board.

(5) Close the complaint file administratively.

4.1(5) *Board review.*

a. The board will take the recommendations of the case review and take one of the following actions:

(1) Close the complaint file without investigation. The board will notify the complainant and the licensee of the decision by letter.

(2) Close the investigative file that has been partially or fully investigated, with or without issuing an informal letter. The board will notify the complainant and the licensee of the decision by letter.

(3) Request further investigation.

b. The board may reconsider and reopen a closed complaint or investigative file at a later date.

4.1(6) *Investigation.* The executive director or a board investigator may conduct an investigation into the allegations of a complaint.

a. *Investigative report.* Upon completion of an investigation, the investigator will prepare a report for the board's consideration. The report will set forth the information obtained in the course of the investigation and the response, if any, of the licensee.

b. *Investigative subpoenas.* The executive director or designee may, upon the written request of a board investigator or upon the executive director's own initiative, subpoena books, papers, records, and other real evidence necessary for a board investigation.

(1) Request for subpoena. A written request for a subpoena shall contain the following:

1. The name and address of the person to whom the subpoena will be directed;

2. A specific description of the books, papers, records or other real evidence requested;

3. An explanation of why the evidence sought to be subpoenaed is necessary for the board to determine whether it should institute a contested case proceeding; and

4. In the case of a subpoena request for mental health records, confirmation that the conditions described in subparagraph 4.2(3) "b"(3) have been satisfied.

(2) Contents of subpoena. Each subpoena shall contain the following:

1. The name and address of the person to whom the subpoena is directed;

2. A description of the books, papers, records or other real evidence requested;
3. The date, time and location for production or inspection and copying;
4. The time within which a motion to quash or modify the subpoena must be filed;
5. The signature, address and telephone number of the executive director or designee;
6. The date of issuance; and
7. A return of service attached to the subpoena.

(3) Subpoena for mental health records. A subpoena for mental health records shall meet the requirements of subparagraph 4.1(6) “b”(2). The board will document the following prior to the issuance of a subpoena for mental health records:

1. The nature of the complaint reasonably justifies the issuance of a subpoena;
2. That adequate safeguards have been established to prevent unauthorized disclosure;
3. That an express statutory mandate, articulated public policy, or other recognizable public interest favors access; and
4. That an attempt was made to notify the patient and to secure an authorization from the patient for release of the records at issue.

(4) Motion to quash or modify subpoena.

1. Any person who is aggrieved or adversely affected by compliance with the subpoena and who desires to challenge the subpoena must, within 14 days after service of the subpoena, or before the time specified for compliance if such time is less than 14 days, file with the board a motion to quash or modify the subpoena. The motion shall describe the legal reasons why the subpoena should be quashed or modified and may be accompanied by legal briefs or factual affidavits.

2. Hearing on motion. Upon receipt of a timely motion to quash or modify a subpoena, the board may request an administrative law judge to hold a hearing and issue a decision, or the board may conduct a hearing and issue a decision. Oral argument may be scheduled at the discretion of the administrative law judge or the board. The administrative law judge or the board may quash or modify the subpoena, deny the motion, or issue an appropriate protective order.

3. Appeal of decision on motion. A person who is aggrieved by a ruling of an administrative law judge and who desires to challenge that ruling must appeal the ruling to the board by serving on the board’s executive director, either in person or by certified mail, a notice of appeal within ten days after service of the decision of the administrative law judge.

4. Final agency action. If the person contesting the subpoena is not the person under investigation, the board’s decision is final for purposes of judicial review. If the person contesting the subpoena is the person under investigation, the board’s decision is not final for purposes of judicial review until either the person is notified that the investigation has been concluded with no formal action or there is a final decision in the contested case.

655—4.2(17A,147,152,272C) Board action. When reviewing complaints and investigative material, the board will:

4.2(1) Close the case without further action. The board will notify the complainant and the licensee of the decision by letter. The board may reconsider and reopen a closed complaint or investigative file at a later date.

4.2(2) Close the case and issue an informal letter of warning or education. A letter of warning or education is an informal communication between the board and the licensee and is not formal disciplinary action or a public document. Letters of warning or education are not open for inspection under Iowa Code chapter 22. The board will maintain a copy of confidential letters of warning and education in the licensee’s confidential investigative file. Confidential letters of warning and education may be used as evidence against a licensee in future contested case hearings before the board.

4.2(3) Request further investigation, including a peer review.

4.2(4) Determine the existence of probable cause and issue a notice of hearing and statement of charges or approve a combined statement of charges and settlement agreement.

4.2(5) The board or the licensee may request that the licensee appear before the board to discuss a pending investigation. The board has discretion on whether to grant a licensee’s request for an

appearance. By electing to participate in the appearance, the licensee waives any objection to a board member's both participating in the appearance and later participating as a decision maker in a contested case proceeding on the grounds that:

- a. Board members have personally investigated the case, and
- b. Board members have combined investigative and adjudicative functions.

If the executive director or licensing division general counsel participates in the appearance, the licensee further waives any objection to having the executive director or licensing division general counsel assist the board in the contested case proceeding.

4.2(6) All investigative information obtained by the board or its employees or agents, including peer reviewers acting under the authority of the board, in the investigative process is privileged and confidential. Board investigative information is not subject to discovery, subpoena, or other means of legal compulsion for its release to any person other than the licensee and the board or its employees and agents and is not admissible in evidence in any judicial or administrative proceeding other than the proceeding involving licensee discipline. However, the statement of charges, settlement agreement, or decision of the board in a contested case disciplinary proceeding is an open record.

655—4.3(17A,147,152,272C) Peer review committee. Any case may be referred to peer review for evaluation of the professional services rendered by the licensee.

4.3(1) Contract and case referral. The board will enter into a contract with peer reviewers to provide peer review services. The board or board staff determine which peer reviewer(s) will review a case and what investigative information is referred to a peer reviewer.

4.3(2) Written report. Peer reviewers shall review the information provided and provide a written report to the board.

- a. The written report shall contain a statement of facts, an opinion of the peer reviewer whether the licensee conformed to minimum standards of acceptable and prevailing practice of nursing and the rationale supporting the opinion.
- b. The written report shall be signed by the peer reviewers concurring in the report.
- c. If the peer reviewers find that they are unable to review the case, the investigative information shall be returned to the board.

4.3(3) Confidentiality. Peer reviewers shall observe the confidentiality requirements imposed by Iowa Code section 272C.6(4).

655—4.4(17A,147,152,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in Iowa Code section 272C.3 when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in Iowa Code section 147.55:

4.4(1) Fraud in procuring a license. Fraud in procuring a license includes but is not limited to an intentional perversion of the truth in making application for a license to practice in this state, which includes the following:

- a. False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state.
- b. Falsification of the application, credentials, or records submitted to the board for licensure or license renewal.
- c. Fraud, misrepresentation, or deceit in taking the licensing examination or in obtaining a license.
- d. Impersonating any applicant in any examination for licensure.

4.4(2) Professional incompetence. Professional incompetence includes but is not limited to:

- a. A lack of knowledge, skill, or ability to discharge professional obligations within the scope of nursing practice.
- b. Deviation from the standards of learning, education, or skill ordinarily possessed and applied by other licensees in the state of Iowa acting in the same or similar circumstances.
- c. Willful or repeated departure from or failure to conform to the minimum standards of acceptable and prevailing practice of nursing in the state of Iowa.

- d.* Willful or repeated failure to practice nursing with reasonable skill and safety.
- e.* Willful or repeated failure to practice within the scope of current licensure or level of preparation.
- f.* Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.
- g.* Being adjudged mentally incompetent by a court of competent jurisdiction.
- h.* Failure to meet the standards as defined in 655—Chapter 6.
- i.* Failure to meet the standards as defined in 655—Chapter 7.
- j.* Failure to comply with the requirements of Iowa Code chapter 139A.

4.4(3) Behavior that constitutes knowingly making misleading, deceptive, untrue, or fraudulent representations in the practice of a profession, including but not limited to:

- a.* Oral or written misrepresentation relating to degrees, credentials, licensure status, records, and applications.
- b.* Falsifying records related to nursing practice or knowingly permitting the use of falsified information in those records.

4.4(4) Behavior that constitutes unethical conduct or practice harmful or detrimental to the public, including but not limited to:

- a.* Performing nursing services beyond the authorized scope of practice for which the individual is licensed or prepared.
- b.* Allowing another person to use one's nursing license for any purpose.
- c.* Failing to comply with any rule promulgated by the board related to minimum standards of nursing.
- d.* Improper delegation of nursing services, functions, or responsibilities.
- e.* Committing an act or omission that may adversely affect the physical or psychosocial welfare of the patient or client.
- f.* Committing an act that causes physical, emotional, or financial injury to the patient or client.
- g.* Failing to report to, or leaving, a nursing assignment without properly notifying appropriate supervisory personnel and ensuring the safety and welfare of the patient or client.
- h.* Violating the confidentiality or privacy rights of the patient or client.
- i.* Discriminating against a patient or client because of age, sex, race, ethnicity, national origin, creed, illness, disability, sexual orientation, or economic or social status.
- j.* Failing to assess, accurately document, evaluate, or report the status of a patient or client.
- k.* Misappropriating or attempting to misappropriate medications, property, supplies, or equipment of the patient, client, or agency.
- l.* Fraudulently or inappropriately using or permitting the use of prescriptions, obtaining or attempting to obtain prescription medications under false pretenses, or assisting others to obtain or attempt to obtain prescription medication under false pretenses.
- m.* Practicing nursing while under the influence of alcohol, marijuana, or illicit drugs or while impaired by the use of pharmacological agents or medications, even if legitimately prescribed.
- n.* Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.
- o.* Habitual intoxication or addiction to the use of drugs, including:
 - (1) The inability of a licensee to practice with reasonable skill and safety by reason of excessive use of alcohol on a continuing basis.
 - (2) The excessive use of drugs that may impair a licensee's ability to practice with reasonable skill or safety.
- p.* Engaging in behavior that is contradictory to professional decorum.
- q.* Failing to report suspected wrongful acts or omissions committed by a licensee of the board.
- r.* Failing to comply with an order of the board.
- s.* For an advanced registered nurse practitioner, prescribing, dispensing, administering, or distributing drugs:
 - (1) In an unsafe manner.

(2) Without accurately documenting it or without assessing, evaluating, or instructing the patient or client.

(3) To individuals who are not patients or who are outside of the licensee's specialty area.

t. Engaging in repeated verbal or physical conduct that interferes with another health care worker's performance or creates an intimidating, hostile, or offensive work environment.

u. Failing to properly safeguard or secure medications.

v. Failing to properly document or perform medication wastage.

4.4(5) For purposes of this subrule, "patient" is defined to include the patient and the patient's family or caretakers who are present with the patient while the patient is under the care of the licensee. Behavior that constitutes unethical conduct or practice harmful or detrimental to the public includes but is not limited to professional boundaries violations of:

a. Sexual contact with a patient, regardless of patient consent.

b. Making lewd, suggestive, demeaning, or otherwise sexual comments, regardless of patient consent.

c. Participating in, initiating, or attempting to initiate a sexual, emotional, social, or business relationship with a patient, regardless of patient consent.

d. Soliciting, borrowing, or misappropriating money or property from a patient, regardless of patient consent.

e. Repeatedly divulging personal information to a patient for nontherapeutic purposes, regardless of patient consent.

f. Engaging in a sexual, emotional, social, or business relationship with a former patient when there is a risk of exploitation or harm to the patient, regardless of patient consent.

4.4(6) Being convicted of an offense that directly relates to the duties and responsibilities of the profession. A conviction includes a guilty plea, including Alford and nolo contendere pleas, or a finding or verdict of guilt, even if the adjudication of guilt is deferred, withheld, or not entered. A copy of the guilty plea or order of conviction constitutes conclusive evidence of conviction. An offense directly relates to the duties and responsibilities of the profession if the actions taken in furtherance of the offense are actions customarily performed within the scope of practice of the profession or the circumstances under which the offense was committed are circumstances customary to the profession.

4.4(7) Fraud in representation as to skill or ability.

4.4(8) Use of untruthful or improbable statements in advertisements.

4.4(9) Willful or repeated violations of provisions of Iowa Code chapter 147, 152, or 272C.

4.4(10) Other acts or offenses as specified by board rule, including:

a. Failing to provide written notification of a change of address to the board within 30 days of the event.

b. Failing to notify the board within 30 days from the date of the final decision in a disciplinary action taken by the licensing authority of another state, territory, or country.

c. Failing to notify the board of a criminal conviction within 30 days of the action, regardless of whether the judgment of conviction or sentence was deferred, and regardless of the jurisdiction where it occurred.

d. Failing to submit an additional completed fingerprint packet as required and applicable fee, when a previous fingerprint submission has been determined to be unacceptable, within 30 days of a request made by board staff.

e. Failing to respond to the board during a board audit or submit verification of compliance with continuing education requirements, with training in child or dependent adult abuse identification and reporting, or exceptions within the time period provided.

f. Failing to respond to the board during a board audit or submit verification of compliance with the requirements for the supervision of fluoroscopy set forth in 655—subrule 7.4(5) or exceptions within the time period provided.

g. Failing to respond to or comply with a board investigation or subpoena.

h. Engaging in behavior that is threatening or harassing to the board, board staff, or agents of the board.

i. Violating an initial agreement or contract with the Iowa professional health program.

4.4(11) Engaging in the practice of nursing in Iowa prior to licensure or not pursuant to the nurse licensure compact or engaging in practice of nursing in Iowa on an inactive license.

4.4(12) In accordance with Iowa Code section 152.10(2):

a. Continuing to practice while knowingly having an infectious or contagious disease that could be harmful to a patient's welfare without taking precautions to meet the current standard of care.

b. Having a license to practice nursing as a registered nurse, licensed practical/vocational nurse, or advanced registered nurse practitioner revoked or suspended, or having other disciplinary action taken, by a licensing authority of another state, territory, or country.

c. Having a license to practice nursing as a registered nurse, licensed practical/vocational nurse, or advanced registered nurse practitioner revoked or suspended, or having other disciplinary action taken, by a licensing authority in another state that has adopted the nurse licensure compact contained in Iowa Code section 152E.1 or the advanced practice registered nurse compact contained in Iowa Code section 152E.3 and that has communicated information relating to such action pursuant to the coordinated licensure information system established by the compact. If the action taken by the licensing authority occurs in a jurisdiction that does not afford the procedural protections of Iowa Code chapter 17A, the licensee may object to the communicated information and shall be afforded the procedural protections of Iowa Code chapter 17A.

d. Knowingly aiding, assisting, procuring, advising, or allowing a person to unlawfully practice nursing.

e. Being adjudicated mentally incompetent by a court of competent jurisdiction. Such adjudication shall automatically suspend a license for the duration of the license unless the board orders otherwise.

f. Being unable to practice nursing with reasonable skill and safety by reason of illness or as a result of a mental or physical condition.

655—4.5(17A,147,152,272C) Voluntary surrender. A voluntary surrender of licensure may be submitted to the board as resolution of a contested case or in lieu of continued compliance with a disciplinary decision of the board. A voluntary surrender, when accepted by the board, has the same force and effect as an order of revocation. A voluntary surrender of a license during the pendency of a complaint or investigation shall be considered discipline and shall have the same force and effect as an order of revocation.

655—4.6(272C) Disciplinary hearing—fees and costs.

4.6(1) Fees and costs assessed by the board pursuant to Iowa Code section 272C.6(6)“a” will be calculated by the board's executive director and be entered as part of the board's final disciplinary order. The board's final disciplinary order will specify the time period in which the fees and costs shall be paid by the licensee.

4.6(2) Failure of the licensee to pay the fees and costs assessed herein in the time specified in the board's final disciplinary order may constitute a violation of a lawful order of the board.

These rules are intended to implement Iowa Code chapters 17A, 147, 152, and 272C.

ARC 8791C

NURSING BOARD[655]

Notice of Intended Action

Proposing rulemaking related to continuing education and providing an opportunity for public comment

The Board of Nursing hereby proposes to rescind Chapter 5, “Continuing Education,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 272C.2 and 272C.3 and Executive Order 10.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 272C.

Purpose and Summary

This proposed rulemaking sets forth continuing education requirements for Licensed Practical Nurses (LPNs), Registered Nurses (RNs), and Advanced Registered Nurse Practitioners (ARNPs). The rulemaking includes definitions related to continuing education, the required number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet in order to comply with the rulemaking, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to ensure that licensees maintain up-to-date practice standards and, as a result, provide high-quality services to Iowans.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 19, 2024

The Department of Inspections, Appeals, and Licensing received no public comments for this chapter.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on February 11, 2025. Comments should be directed to:

Emily DeRonde
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Phone: 515.381.7013
Email: emily.deronde@dia.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 11, 2025	6200 Park Avenue
8:30 a.m.	Des Moines, Iowa

February 12, 2025
8:30 a.m.

Information on virtual participation will be available
on the Department's website prior to the hearing.
6200 Park Avenue
Des Moines, Iowa
Information on virtual participation will be available
on the Department's website prior to the hearing.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 655—Chapter 5 and adopt the following **new** chapter in lieu thereof:

CHAPTER 5
CONTINUING EDUCATION

655—5.1(272C) Definitions. The board adopts by reference the definitions in Iowa Code section 272C.1 as well as the following:

“*Academic offering*” means an extension course, independent study, or other course that is offered for academic credit or audit by an accredited institution of higher education.

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“*Certification*” means evidence of advanced credentials earned by a licensee who has met all eligibility criteria.

“*Continuing education credit*” means contact hours or continuing education units (CEUs) to show evidence of course attendance.

“*Extended course*” means an organized program of study offered in a series of sessions.

“*Informal offering*” means a workshop, seminar, webinar or online course, institute, conference, lecture, extended course, provider-designed self-study, or learner-designed self-study that is offered for credit in contact hours or continuing education units.

“*Learner-designed self-study*” means lecture development, research, preparation of articles for publication, development of patient care programs or patient education programs, or projects directed at resolving administrative problems in which the learner takes the initiative and the responsibility for assessing, planning, implementing, and evaluating an educational activity under the guidance of an Iowa approved provider.

“*Practicum*” means a course-related, planned and supervised clinical experience that includes clinical objectives and assignment to practice in a laboratory setting or with patients/clients/families for attainment of the objectives.

“*Provider-designed self-study*” means a program that the provider designs for the nurse to complete at the nurse's own pace (e.g., home study, programmed instruction).

655—5.2(272C) Continuing education—licensees.

5.2(1) Requirements. License renewal requires the verifiable completion of 36 contact hours or 3.6 CEUs of credit or an exemption within the renewal period.

5.2(2) *Accumulating hours or credit.*

a. Units of measurement used for continuing education courses is as follows:

(1) One contact hour = 60 minutes of didactic instruction, work on learner-designed self-study, and clinical or laboratory practicum in an informal offering.

(2) One CEU = 10 contact hours.

(3) One academic semester hour = 15 contact hours.

(4) One academic quarter hour = 10 contact hours.

b. Up to 18 contact hours or 1.8 CEUs of credit may be carried over to a future license period if the licensee has exceeded the minimum required hours for the reporting period.

c. Approved make-up credit may only be used once.

5.2(3) *Appropriate subject matter.* Appropriate subject matter for continuing education includes:

a. Nursing practice related to health care of patients/clients/families in any setting.

b. Professional growth and development related to nursing practice roles with a health care focus.

c. Sciences upon which nursing practice, nursing education, or nursing research is based.

d. Social, economic, ethical and legal aspects of health care.

e. Management of or administration of health care, health care personnel, or health care facilities.

f. Education of patients or patients' significant others, students, or personnel in the health care field.

g. Academic offerings that meet the qualifications of appropriate subject matter, meet the requirements of a nursing education program that extends beyond the education completed for the original nursing license, or both. The licensee shall retain a transcript exhibiting a passing grade for each academic offering.

h. Current national certification or recertification related to the practice of nursing. The national certification or recertification is recognized as 36 contact hours of continuing education.

i. Completion of a board-approved nurse refresher course. Hours of participation will be recognized as contact hours of continuing education.

j. Participation as a preceptor for a nursing student or employee transitioning into a new clinical practice area, for a minimum of 60 hours as a part of an organized preceptorship program. A licensee shall maintain documentation issued by the institution supervising the student or employee demonstrating the objectives of the preceptorship and the hours completed. A preceptorship shall be recognized as 6 contact hours of continuing education.

k. Completion of a nurse residency program. A residency program is recognized as 36 contact hours of continuing education.

l. Academic offerings provided by the following entities:

(1) Community colleges.

(2) Public and private colleges and universities.

(3) Governmental academies.

5.2(4) *Documentation.* Licensees are required to keep continuing education documentation for a period of four years, including proof of attendance, licensee's name, course date, course title, awarded hours and provider approval information.

5.2(5) *Exemptions to continuing education.* A licensee may be exempt from continuing education requirements if the licensee provides proof upon request of the following:

a. Honorable active duty in the United States military during the license period.

b. Possesses a current license to practice in another state that has mandatory continuing education requirements, so long as the license is active and the licensee resides in a state other than Iowa at the time of renewal or reactivation.

c. Worked outside the United States during the renewal period as a registered nurse or licensed practical nurse for the government or foreign service or in missionary work.

d. Had a physical or mental disability or illness during the relevant time period and applied for an extension of time to complete continuing education requirements or for a medical exemption from the continuing education requirements. An application is available upon request and requires the signature of a health care provider who can attest to the existence of a disability or illness during the license period.

The application form shall be submitted prior to license expiration. A licensee shall not claim an extension of time or exemption from continuing education requirements on a license renewal application pursuant to this rule unless and until the licensee has received approval.

5.2(6) *Failure to meet requirement or qualify for an exemption.* A licensee who fails to meet continuing education requirements or qualify for an exemption prior to license expiration cannot renew the license until completion of the continuing education requirements or qualification for an exemption during the late renewal period.

5.2(7) *Audit of licensees.* The board may select licensees for audit following a period of licensure.

a. The licensee must submit verification of compliance with continuing education requirements or of exemptions for the period of licensure being audited.

b. The licensee must submit proof of completion of the mandatory reporter training course(s) provided by the department of health and human services in the previous three years as specified in 655—subrule 3.7(3).

c. Verification must be submitted within 30 days after the date of the audit notification. An extension of time may be granted on an individual basis.

d. If submitted materials are incomplete or unsatisfactory, the licensee will be notified. The licensee will be given the opportunity to submit credit to cover the deficit found through the audit. The make-up credit shall not be reused for the current renewal period.

e. The board will notify the licensee of satisfactory completion of the audit.

f. Failure to complete the audit satisfactorily or falsification of information may result in disciplinary action.

g. Failure to notify the board of a current mailing address will not absolve the licensee of the audit requirement.

These rules are intended to implement Iowa Code sections 272C.2 and 272C.3.

ARC 8792C

NURSING BOARD[655]

Notice of Intended Action

Proposing rulemaking related to nursing practice and providing an opportunity for public comment

The Board of Nursing hereby proposes to rescind Chapter 6, “Nursing Practice for Registered Nurses/Licensed Practical Nurses,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 152 and Executive Order 10.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 152.

Purpose and Summary

This proposed rulemaking provides Iowans, licensees, and employers with the standards of practice for Registered Nurses and Licensed Practical Nurses. This rulemaking provides definitions relevant to the practice of nursing and standards of nursing. The rulemaking protects the public by defining the scope of practice for Registered Nurses and Licensed Practical Nurses based on national standards of care and evidence-based practices.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 19, 2024

The Department of Inspections, Appeals, and Licensing received no public comments for this chapter.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on February 11, 2025. Comments should be directed to:

Emily DeRonde
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Phone: 515.381.7013
Email: emily.deronde@dia.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 11, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa Information on virtual participation will be available on the Department's website prior to the hearing.
February 12, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa Information on virtual participation will be available on the Department's website prior to the hearing.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The

Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 655—Chapter 6 and adopt the following **new** chapter in lieu thereof:

CHAPTER 6

NURSING PRACTICE FOR REGISTERED NURSES/LICENSED PRACTICAL NURSES

655—6.1(152) Definitions.

“Advanced registered nurse practitioner” or *“ARNP”* means a person who is currently licensed as a registered nurse under Iowa Code chapter 152 or 152E and who is licensed by the board as an advanced registered nurse practitioner.

“Asynchronous store-and-forward transmission” means the collection of a patient's relevant health information and the subsequent transmission of the data from an originating site to a health care provider at a distant site without the presence of the patient.

“Board” as used in this chapter means the Iowa board of nursing.

“Competence” means having sufficient knowledge, judgment, and skill to perform a specific function.

“Expanded intravenous therapy certification course” means the Iowa board of nursing course required for licensed practical nurses to perform procedures related to the expanded scope of practice of intravenous therapy.

“Initial assessment” means the systematic collection of data to determine the patient's health status and plan of care, and to identify any actual or potential health problems, which is performed upon the patient's first arrival or admission to a unit or facility, or upon any significant changes in the patient's status.

“Licensee” means an individual licensed by the board as a registered nurse or licensed practical nurse.

“Midline catheter” means a long peripheral catheter in which the distal end resides in the mid to upper arm, but the tip terminates no further than the axilla.

“Nursing diagnosis” means a judgment made by a registered nurse, following a nursing assessment of an individual or group about actual or potential responses to health problems, which forms the basis for determining effective nursing interventions.

“Nursing facility” means an institution as defined in Iowa Code chapter 135C. This term does not include acute care settings.

“Nursing process” means ongoing assessment, nursing diagnosis, planning, intervention, and evaluation.

“Peripheral intravenous catheter” means a catheter three inches or less in length.

“Peripherally inserted central catheter” means a soft flexible central venous catheter inserted into an extremity and advanced until the tip is positioned in the vena cava.

“Proximate area” means sufficiently close in time and space, within the same building, to provide timely in-person assistance.

“Supervision” means directly or indirectly observing a function or activity and taking reasonable steps to ensure the nursing care being provided is adequate and delivered appropriately.

“Telehealth” means the practice of nursing using electronic audiovisual communications and information technologies or other means, including interactive audio with asynchronous store-and-forward transmission, between a licensee in one location and a patient in another location with or without an intervening health care provider. Telehealth includes asynchronous store-and-forward technologies, remote monitoring, and real-time interactive services, including teleradiology and telepathology. Telehealth, for the purposes of this rule, does not include the provision of nursing services only through an audio-only telephone, email messages, facsimile transmissions, or U.S. mail or other parcel service, or any combination thereof.

“Unlicensed assistive personnel” is an individual who is trained to function in an assistive role to the registered nurse and licensed practical nurse in the provision of nursing care activities as delegated by the registered nurse or licensed practical nurse.

655—6.2(152) Standards of nursing practice for registered nurses.

6.2(1) A registered nurse recognizes and understands the legal boundaries for practicing nursing within the scope of nursing practice. The scope of practice of the registered nurse is determined by the nurse’s education, experience, and competency and the rules governing nursing. The scope of practice of the registered nurse does not include those practices requiring the knowledge and education of an advanced registered nurse practitioner.

6.2(2) The registered nurse demonstrates professionalism and accountability by:

- a. Demonstrating honesty and integrity in nursing practice.
- b. Basing nursing decisions on nursing knowledge, judgment, skills, the needs of patients, and evidence-based practices.
- c. Maintaining competence through ongoing learning, application of knowledge, and applying evidence-based practices.
- d. Reporting instances of unsafe nursing practices by self or others to the appropriate supervisor.
- e. Being accountable for judgments, individual nursing actions, competence, decisions, and behavior in the practice of nursing.
- f. Assuming responsibility for the nurse’s own decisions and actions.
- g. Wearing identification that clearly identifies the nurse as a registered nurse when providing direct patient care unless wearing identification creates a safety or health risk for either the nurse or the patient.

6.2(3) The registered nurse utilizes the nursing process by:

- a. Conducting a thorough nursing assessment based on the patient’s needs and the practice setting.
- b. Applying nursing knowledge based on the biological, psychological, and sociocultural aspects of the patient’s condition.
- c. Detecting inaccurate or missing patient information.
- d. Receiving a physician’s, ARNP’s, or other health care provider’s orders and seeking clarification of orders when needed.
- e. Formulating independent nursing decisions and nursing diagnoses by using critical thinking, objective findings, and clinical judgment.
- f. Planning nursing care and nursing interventions by establishing measurable and achievable outcomes, consistent with the patient’s overall health care plan.
- g. Obtaining education and ensuring competence when encountering new equipment, technology, medication, procedures or any other unfamiliar care situations.
- h. Implementing treatment and therapy as identified by the patient’s overall health care plan.
- i. Monitoring patients and attending to patients’ health care needs.
- j. Identifying changes in the patient’s health status, as indicated by pertinent signs and symptoms, and comprehending the clinical implications of those changes.
- k. Evaluating continuously the patient’s response to nursing care and other therapies, including:
 - (1) Patient’s response to interventions.
 - (2) Need for alternative interventions.
 - (3) Need to communicate and consult with other health team members.
 - (4) Need to revise the plan of care.
- l. Documenting nursing care accurately, thoroughly, and in a timely manner.
- m. Communicating and consulting with other health team members regarding the following:
 - (1) Patient concerns and special needs.
 - (2) Patient status and progress.
 - (3) Patient response or lack of response to interventions.
 - (4) Significant changes in patient condition.

(5) Interventions that are not implemented, based on the registered nurse's professional judgment, and providing:

1. A timely notification to the physician, ARNP, or other health care provider who prescribed the intervention that the order was not executed and reason(s) for not executing the order;
2. Documentation in the medical record that the physician, ARNP, or other health care provider was notified and reason(s) for not implementing the order; and
3. If appropriate, a timely notification to other persons who, based on the patient's circumstances, should be notified of any orders that were not implemented.
 - n.* Revising plan of care as needed.
 - o.* Providing a safe environment for the patient.
 - p.* Providing comprehensive health care education to the patient and others, according to nursing standards and evidence-based practices.

6.2(4) The registered nurse acts as an advocate for the patient(s) by:

- a.* Respecting the patient's rights, confidentiality, concerns, decisions, and dignity.
- b.* Identifying patient needs.
- c.* Attending to patient concerns or requests.
- d.* Promoting a safe environment for the patient, others, and self.
- e.* Maintaining appropriate professional boundaries.

6.2(5) The registered nurse applies the delegation process when delegating to another registered nurse or licensed practical nurse by:

- a.* Delegating only those nursing tasks that fall within the delegatee's scope of practice, education, experience, and competence.
- b.* Matching the patient's needs and circumstances with the delegatee's qualifications, resources, and appropriate supervision.
- c.* Communicating directions and expectations for completion of the delegated activity and receiving confirmation of understanding of the communication from the delegatee.
- d.* Supervising the delegatee by monitoring performance, progress and outcomes and ensuring appropriate documentation is complete.
- e.* Evaluating patient outcomes as a result of the delegation process.
- f.* Intervening when problems are identified, revising plan of care when needed, and reassessing the appropriateness of the delegation.
- g.* Retaining accountability for properly implementing the delegation process.
- h.* Promoting a safe and therapeutic environment by:
 - (1) Providing appropriate monitoring and surveillance of the care environment.
 - (2) Identifying unsafe care situations.
 - (3) Correcting problems or referring problems to appropriate management level when needed.

6.2(6) The registered nurse shall not delegate the following intravenous therapy procedures to a licensed practical nurse:

- a.* Initiation and discontinuation of a midline catheter or a peripherally inserted central catheter (PICC).
- b.* Administration of medication by bolus or IV push except maintenance doses of analgesics via a patient-controlled analgesia pump set at a lock-out interval.
- c.* Administration of blood and blood products, vasodilators, vasopressors, oxytoxics, chemotherapy, colloid therapy, total parenteral nutrition, anticoagulants, antiarrhythmics, thrombolytics, and solutions with a total osmolarity of 600 or greater.
- d.* Provision of intravenous therapy to a patient under the age of 12 or any patient weighing less than 80 pounds, with the exception of those activities authorized in the limited scope of practice found in subrule 6.3(5).
- e.* Provision of intravenous therapy in any other setting except a licensed hospital, a nursing facility and a certified end-stage renal dialysis unit, with the exception of those activities authorized in the limited scope of practice found in subrule 6.3(5).

6.2(7) The registered nurse applies the delegation process when delegating to an unlicensed assistive personnel (UAP) by:

- a.* Ensuring the UAP has the appropriate education and training and has demonstrated competency to perform the delegated task.
- b.* Ensuring the task does not require assessment, interpretation, and independent nursing judgment or nursing decision during the performance or completion of the task.
- c.* Ensuring the task does not exceed the scope of practice of a licensed practical nurse.
- d.* Ensuring the task is consistent with the UAP's scope of employment and can be safely performed according to clear and specific directions.
- e.* Verifying that, in the professional judgment of the delegating nurse, the task poses minimal risk to the patient.
- f.* Communicating directions and expectations for completion of the delegated activity and receiving confirmation of understanding of the communication from the UAP.
- g.* Supervising the UAP and evaluating the patient outcomes of the delegated task.

6.2(8) Subrule 6.2(7) does not apply to delegations to certified emergency medical care personnel who are employed by or assigned to a hospital or other entity in which health care is ordinarily provided, so long as:

- a.* The nurse has observed the patient;
- b.* The delegated task is a nonlifesaving procedure; and
- c.* The task is within the delegatee's job description.

6.2(9) Additional acts that may be performed by, and specific nursing practices for, registered nurses:

- a.* A registered nurse is permitted to practice as a diagnostic radiographer while under the supervision of a licensed practitioner provided that appropriate training standards for use of radiation-emitting equipment are met as outlined in 641—Chapter 42.
- b.* A registered nurse may staff an authorized ambulance, rescue, or first response service provided the registered nurse can document equivalency through education and additional skills training essential in the delivery of out-of-hospital emergency care. The equivalency is accepted when documentation has been reviewed and approved at the local level by the medical director of the ambulance, rescue, or first response service and the Iowa department of public health bureau of emergency and trauma services in accordance with the form adopted by the Iowa department of public health. An exception to this subrule is the registered nurse who accompanies and is responsible for a transfer patient.
- c.* A registered nurse, while circulating in the operating room, shall provide supervision only to persons in the same operating room.

This rule is intended to implement Iowa Code section 147A.12 and chapters 136C and 152.

655—6.3(152) Standards of nursing practice for licensed practical nurses.

6.3(1) The licensed practical nurse recognizes and understands the legal boundaries for practicing nursing within the scope of nursing practice. The scope of practice of the licensed practical nurse is determined by the nurse's education, experience, and competency and the rules governing nursing.

6.3(2) The licensed practical nurse demonstrates professionalism and accountability by:

- a.* Demonstrating honesty and integrity in nursing practice.
- b.* Basing nursing decisions on nursing knowledge and skills, the needs of patients, and licensed practical nursing standards.
- c.* Maintaining competence through ongoing learning and application of knowledge in practical nursing practice.
- d.* Reporting instances of unsafe nursing practices by self or others to the appropriate supervisor.
- e.* Being accountable for judgments, individual nursing actions, competence, decisions, and behavior in the course of practical nursing practice.
- f.* Assuming responsibility for the nurse's own decisions and actions.

g. Wearing identification that clearly identifies the nurse as a licensed practical nurse when providing direct patient care unless wearing identification creates a safety or health risk for either the nurse or the patient.

6.3(3) The licensed practical nurse, practicing under the supervision of a registered nurse, advanced registered nurse practitioner (ARNP), or licensed physician, consistent with the accepted and prevailing practices and practice setting, may participate in the nursing process by:

a. Participating in nursing care, health maintenance, patient teaching, evaluation and collaborative planning and rehabilitation to the extent of the licensed practical nurse's education, experience, and competency.

b. Participating in both the initial and ongoing nursing assessment of the patient's health status. The registered nurse is responsible for the plan of care, including verifying and interpreting the initial assessment data obtained by the licensed practical nurse.

c. Assisting the supervising registered nurse, ARNP, or physician in planning for patient care by identifying patient needs and goals.

d. Demonstrating attentiveness and providing patient surveillance and monitoring.

e. Seeking clarification of orders when needed.

f. Obtaining education and ensuring competence when encountering new equipment, technology, medication, procedures or any other unfamiliar care situations.

g. Implementing treatment and therapy as identified by the patient's overall health care plan.

h. Documenting nursing care accurately, thoroughly, and in a timely manner.

i. Evaluating continuously the patient's response to nursing care and other therapies, including:

(1) Patient's response to interventions.

(2) Need for alternative interventions.

(3) Need to communicate and consult with other health team members.

(4) Need to revise the plan of care.

j. Collaborating and communicating relevant and timely patient information with patients and other health team members to ensure quality and continuity of care, including:

(1) Patient concerns and special needs.

(2) Patient status and progress.

(3) Patient response or lack of response to interventions.

(4) Significant changes in patient condition.

(5) Interventions that are not implemented, based on the licensed practical nurse's professional judgment, and providing:

1. A timely notification to the physician, ARNP, registered nurse, or other health care provider who prescribed the intervention that the order was not executed and reason(s) for not executing the order;

2. Documentation in the medical record that the physician, ARNP, registered nurse, or other health care provider was notified and reason(s) for not implementing the order; and

3. If appropriate, a timely notification to other persons who, based on the patient's circumstances, should be notified of any orders that were not implemented.

k. Providing a safe environment for the patient.

l. Participating in the health care education of the patient and others, according to nursing standards and evidence-based practices.

6.3(4) A licensed practical nurse shall not perform any activity requiring the knowledge and education of a registered nurse, including but not limited to:

a. Initiating a procedure or therapy that requires the knowledge and education level of a registered nurse.

b. Performing an assessment of a procedure or therapy that requires the knowledge and education level of a registered nurse.

c. Initiating or administering blood components.

d. Initiating or administering medications requiring the knowledge and education level of a registered nurse.

6.3(5) A licensed practical nurse, under the supervision of a registered nurse, may engage in the limited scope of practice of intravenous therapy. The licensed practical nurse shall be educated and have documentation of competency in the limited scope of practice of intravenous therapy. Limited scope of practice of intravenous therapy may include:

- a.* Addition of intravenous solutions without adding medications to established peripheral intravenous sites.
- b.* Monitoring and regulating the rate of nonmedicated intravenous solutions to established peripheral intravenous sites.
- c.* Administration of maintenance doses of analgesics via the patient-controlled analgesia pump set at a lock-out interval to established peripheral intravenous sites.
- d.* Discontinuation of peripheral intravenous therapy.
- e.* Administration of a prefilled heparin or saline syringe flush, prepackaged by the manufacturer or premixed and labeled by a registered pharmacist or registered nurse, to an established peripheral lock, in a licensed hospital, a nursing facility or a certified end-stage renal dialysis unit.

6.3(6) In a certified end-stage renal dialysis unit, nursing tasks that may be delegated by a registered nurse to a licensed practical nurse, for the sole purpose of hemodialysis treatment, include:

- a.* Initiation and discontinuation of the hemodialysis treatment utilizing any of the following established vascular accesses: central line catheter, arteriovenous fistula, and graft.
- b.* Administration, during hemodialysis treatment, of local anesthetic prior to cannulation of the vascular access site.
- c.* Administration of prescribed dosages of heparin solution or saline solution utilized in the initiation and discontinuation of hemodialysis.
- d.* Administration, during hemodialysis treatment via the extracorporeal circuit, of the routine intravenous medications erythropoietin, Vitamin D analog, intravenous antibiotic solutions prepackaged by the manufacturer or premixed and labeled by a registered pharmacist or registered nurse, and iron, excluding any iron preparation that requires a test dose. The registered nurse shall administer the first dose of erythropoietin, Vitamin D analog, antibiotics, and iron.

6.3(7) The licensed practical nurse acts as an advocate for the patient by:

- a.* Always practicing under the supervision of a registered nurse, ARNP, or physician.
- b.* Respecting the patient's rights, confidentiality, concerns, decisions, and dignity.
- c.* Identifying patient needs.
- d.* Attending to patient concerns or requests.
- e.* Promoting a safe environment for the patient, others, and self.
- f.* Maintaining appropriate professional boundaries.

6.3(8) The licensed practical nurse applies the delegation process when delegating to another licensed practical nurse by:

- a.* Delegating only those nursing tasks that fall within the scope of practice of a licensed practical nurse.
- b.* Delegating only those nursing tasks that fall within the delegatee's scope of practice, education, experience, and competence.
- c.* Matching the patient's needs and circumstances with the delegatee's qualifications, resources, and appropriate supervision.
- d.* Communicating directions and expectations for completion of the delegated activity and receiving confirmation of the communication from the delegatee.
- e.* Supervising the delegatee by monitoring performance, progress and outcomes and ensuring appropriate documentation is complete.
- f.* Evaluating patient outcomes as a result of the delegation process.
- g.* Intervening when problems are identified, revising plan of care when needed, and reassessing the appropriateness of the delegation.
- h.* Retaining accountability for properly implementing the delegation process.
- i.* Promoting a safe and therapeutic environment by:
 - (1) Providing appropriate monitoring and surveillance of the care environment;

- (2) Identifying unsafe care situations; and
- (3) Correcting problems or referring problems to appropriate management level when needed.

6.3(9) The licensed practical nurse applies the delegation process when delegating to an unlicensed assistive personnel (UAP) by:

- a.* Delegating only those nursing tasks that fall within the scope of practice of a licensed practical nurse.
- b.* Ensuring the UAP has the appropriate education and training and has demonstrated competency to perform the delegated task.
- c.* Ensuring the task does not require assessment, interpretation, and independent nursing judgment or nursing decision during the performance or completion of the task.
- d.* Ensuring the task is consistent with the UAP's scope of employment and can be safely performed according to clear and specific directions.
- e.* Verifying that, in the professional judgment of the delegating nurse, the task poses minimal risk to the patient.
- f.* Communicating directions and expectations for completion of the delegated activity and receiving confirmation of the communication from the UAP.
- g.* Supervising the UAP and evaluating the patient outcomes of the delegated task.

6.3(10) The licensed practical nurse may provide nursing care in an acute care setting so long as a registered nurse, ARNP, or physician is present in the proximate area.

6.3(11) The licensed practical nurse may provide nursing care in a non-acute care setting. However, a registered nurse, ARNP, or physician must be present in the proximate area if the licensed practical nurse provides nursing care in the following non-acute care settings and the licensed practical nurse is responsible for requesting nurse consultation as needed:

- a.* Community health settings, except:
 - (1) The licensed practical nurse is permitted to provide supportive and restorative care in the home setting under the supervision of a registered nurse or a physician.
 - (2) The licensed practical nurse is permitted to provide supportive and restorative care in a camp setting under the supervision of a registered nurse or a physician.
- b.* Schools, except:
 - (1) The licensed practical nurse is permitted to provide supportive and restorative care to a specific student in the school setting in accordance with the student's health plan when under the supervision of, and as delegated by, the registered nurse employed by the school district.
 - (2) The licensed practical nurse is permitted to provide supportive and restorative care in a Head Start program under the supervision of a registered nurse or a physician if the licensed practical nurse was in this position prior to July 1, 1985.
- c.* Occupational health settings.
- d.* Correctional facilities, except:
 - (1) The licensed practical nurse is permitted to provide supportive and restorative care in a county jail facility or municipal holding facility operating pursuant to Iowa Code chapter 356. The supportive and restorative care provided by the licensed practical nurse in such facilities shall be performed under the supervision of a registered nurse. The registered nurse shall be available 24 hours per day by teleconferencing equipment.
 - (2) Reserved.
- e.* Community mental health settings.
- f.* Health care clinics, except:
 - (1) The licensed practical nurse is permitted to conduct height, weight and hemoglobin screening and record responses to health questions asked in a standardized questionnaire under the supervision of a registered nurse in a Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) clinic. A registered nurse employed by or under a contract with the WIC agency will assess the competency of the licensed practical nurse to perform these functions and must be available for consultation. The licensed practical nurse is responsible for requesting registered nurse consultation as needed.

(2) The licensed practical nurse is permitted to provide care, including but not limited to dispensing medications such as methadone, buprenorphine, and naltrexone, in opioid treatment program facilities and opioid treatment medication units. A registered nurse employed by or under a contract with the opioid treatment program or opioid treatment medication unit will assess the competency of the licensed practical nurse to dispense medications and must be available for consultation at all times. The licensed practical nurse is responsible for requesting registered nurse consultation as needed.

6.3(12) A licensed practical nurse may be permitted to supervise other licensed practical nurses or unlicensed assistive personnel, pursuant to Iowa Code section 152.1(5)“b,” in the following practice settings, in accordance with the following:

a. A licensed practical nurse working under the supervision of a registered nurse may be permitted to supervise in an intermediate care facility for persons with an intellectual disability or in a residential health care setting.

b. A licensed practical nurse working under the supervision of a registered nurse who is in the proximate area may direct the activities of other licensed practical nurses and unlicensed assistive personnel in an acute care setting in giving care to individuals assigned to the licensed practical nurse.

c. A licensed practical nurse working under the supervision of a registered nurse may supervise in a nursing facility if the licensed practical nurse completes the National Healthcare Institute’s Supervisory Course for Iowa’s Licensed Practical Nurses within 90 days of employment in a supervisory role. Documentation of the completion of the course shall be maintained by the licensed practical nurse. A licensed practical nurse is entitled to supervise without completing the course if the licensed practical nurse was performing in a supervisory role on or before October 6, 1982. A licensed practical nurse who is currently enrolled as a full-time student in a registered nurse program and is scheduled to graduate within one year is not required to complete the course. If the licensed practical nurse does not obtain a registered nurse license within one year, the licensed practical nurse must take the course to continue supervisory duties.

6.3(13) A licensed practical nurse is permitted to practice as a diagnostic radiographer while under the supervision of a licensed practitioner provided that appropriate training standards for use of radiation-emitting equipment are met as outlined in 641—Chapter 42.

6.3(14) A licensed practical nurse is permitted to perform, in addition to the functions set forth in subrule 6.3(5), procedures related to the expanded scope of practice of intravenous therapy upon completion of the board-approved expanded intravenous therapy certification course and in accordance with the following:

a. To be eligible to enroll in the course, the licensed practical nurse shall:

(1) Hold a current unrestricted Iowa license or an unrestricted license in another state recognized for licensure in this state pursuant to the nurse licensure compact contained in Iowa Code chapter 152E.

(2) Have documentation of 1,040 hours of practice as a licensed practical nurse.

(3) Be practicing in a licensed hospital, a nursing facility or a certified end-stage renal dialysis unit whose policies allow the licensed practical nurse to perform procedures related to the expanded scope of practice of intravenous therapy.

b. The course must be offered by an approved Iowa board of nursing provider of nursing continuing education. Documentation of course completion shall be maintained by the licensed practical nurse and employer.

c. The board-approved course shall incorporate the responsibilities of the licensed practical nurse when providing intravenous therapy via a peripheral intravenous catheter, a midline catheter and a peripherally inserted central catheter (PICC) to children, adults and elderly adults.

d. Upon completion of the course, when providing intravenous therapy, the licensed practical nurse shall be under the supervision of a registered nurse. Procedures that may be performed if delegated by the registered nurse are as follows:

(1) Initiation of a peripheral intravenous catheter for continuous or intermittent therapy using a catheter not to exceed three inches in length.

(2) Administration, via a peripheral intravenous catheter, midline catheter, and a PICC line, of premixed electrolyte solutions or premixed vitamin solutions. The first dose shall be administered by the

registered nurse. The solutions must be prepackaged by the manufacturer or premixed and labeled by a registered pharmacist or registered nurse.

(3) Administration, via a peripheral intravenous catheter, midline catheter, and a PICC line, of solutions containing potassium chloride that do not exceed 40 meq per liter and that do not exceed a dose of 10 meq per hour. The first dose shall be administered by the registered nurse. The solutions must be prepackaged by the manufacturer or premixed and labeled by a registered pharmacist or registered nurse.

(4) Administration, via a peripheral intravenous catheter, midline catheter, and a PICC line, of intravenous antibiotic solutions prepackaged by the manufacturer or premixed and labeled by a registered pharmacist or registered nurse. The first dose shall be administered by the registered nurse.

(5) Maintenance of the patency of a peripheral intravenous catheter, midline catheter, and a PICC line with a prefilled heparin or saline syringe flush, prepackaged by the manufacturer or premixed by a registered pharmacist or registered nurse.

(6) Changing the dressing of a midline catheter and a PICC line per sterile technique.

e. Intravenous therapy procedures that will not be delegated by the registered nurse to the licensed practical nurse are as follows:

(1) Initiation and discontinuation of a midline catheter or a PICC.

(2) Administration of medication by bolus or IV push except maintenance doses of analgesics via a patient-controlled analgesia pump set at a lock-out interval.

(3) Administration of blood and blood products, vasodilators, vasopressors, oxytoxics, chemotherapy, colloid therapy, total parenteral nutrition, anticoagulants, antiarrhythmics, thrombolytics, and solutions with a total osmolarity of 600 or greater.

(4) Provision of intravenous therapy to a patient under the age of 12 or any patient weighing less than 80 pounds, with the exception of those activities authorized in the limited scope of practice found in subrule 6.3(5).

(5) Provision of intravenous therapy in any other setting except a licensed hospital, a nursing facility and a certified end-stage renal dialysis unit, with the exception of those activities authorized in the limited scope of practice found in subrule 6.3(5).

655—6.4(152) Telehealth.

6.4(1) *Telehealth permitted.* A licensee may, in accordance with all applicable laws and rules, provide health care services to a patient through telehealth.

6.4(2) *License required.* A registered nurse or licensed practical nurse who provides services through telehealth to a patient physically located in Iowa must hold an active license issued by the board or have an active privilege to practice in Iowa pursuant to the nurse licensure compact.

6.4(3) *Standard of care.* A licensee who provides services through telehealth is held to the same standard of care as is applicable to in-person settings. A licensee shall not perform any service via telehealth unless the same standard of care can be achieved as if the service was performed in person.

6.4(4) *Scope of practice.* A licensee who provides services through telehealth shall ensure the services provided are consistent with the licensee's scope of practice, education, training, and experience.

6.4(5) *Technology.* A licensee providing services through telehealth shall utilize technology that is secure and compliant with the Health Insurance Portability and Accountability Act of 1996, PL 104-191, August 21, 1996, 110 Stat. 1936, and any amendments as of October 30, 2024. The technology must be of sufficient quality, size, resolution, and clarity such that the licensee can safely and effectively provide the telehealth services and abide by the applicable standard of care.

6.4(6) *Records.* A licensee who provides services through telehealth shall maintain a record of the care provided to the patient. Such records shall comply with all applicable laws, rules, and standards of care for recordkeeping, confidentiality, and disclosure of a patient's medical record.

These rules are intended to implement Iowa Code chapter 152.

ARC 8793C**NURSING BOARD[655]****Notice of Intended Action****Proposing rulemaking related to advanced registered nurse practitioners
and providing an opportunity for public comment**

The Board of Nursing hereby proposes to rescind Chapter 7, “Advanced Registered Nurse Practitioners,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 124, 147, 152 and 272C and Executive Order 10.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 17A.3, 124.551A, 124.552, 147.2, 147.10, 147.11, 147.72, 147.74, 147.76, 147.80, 147.107, 152.1, 152.6, 152.7 and 272C.2.

Purpose and Summary

This proposed rulemaking describes the requirements to obtain an Advanced Registered Nurse Practitioner (ARNP) license and the scope of practice of an ARNP. The rulemaking is intended to ensure public safety by requiring all ARNPs in Iowa to meet and comply with all national standards.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 19, 2024

The Department of Inspections, Appeals, and Licensing received the following comments:

- The following comments were received from James Carney and Clara Wulfsen, attorneys for Iowa Association of Nurse Anesthetists (IANA):
 - “IANA’s members are certified registered nurse anesthetists (CRNAs) which are one of the types of ARNPs licensed in Iowa.”
 - Regarding the supervision of fluoroscopy in subrule 7.4(5):
 - ◇ “Currently, under the rules provided in the regulator review, to supervise fluoroscopy an ARNPs must complete an initial educational course including content in radiation physics, radiobiology, radiological safety and radiation management applicable to the use of fluoroscopy, and maintenance of documentation verifying successful completion. Additionally, they must complete an annual radiological safety course.”
 - ◇ “The licensees that can supervise fluoroscopy are addressed in [641—Chapter 41] which states that supervision can be provided by a licensed practitioner, a radiologists assistant, or an ARNP. A licensed professional is defined in Iowa Code section 136C.1 as a ‘person licensed or otherwise authorized by law to practice medicine, osteopathic medicine, podiatry, chiropractic, dentistry, dental hygiene, or veterinary medicine.’ Interestingly, [641—subrule 42.3(1)] exempts physicians, physician assistants, chiropractors, dentists, dental hygienists, and podiatrists from the requirement to obtain a permit to operate radiation machines and auxiliary personnel when performing radiography and fluoroscopy in Iowa. In reviewing the continuing education requirements for physicians, physician assistants, chiropractors, dentists, dental hygienists and podiatrists, there does not appear to be a specific requirement for radiation safety training. IANA is asking the board to reconsider the annual radiation requirement for ARNPs to supervise fluoroscopy. IANA fully supports the requirement of completing

the initial educational course on radiation physics, radiobiology, radiological safety and radiation management applicable to the use of fluoroscopy and maintenance of documentation verifying successful completion.”

- Comments were also received from Mindy Gingery (past president of IANA and licensed CRNA), Rich Davidson (licensed CRNA and president of IANA), and Beth Westerman (president-elect of IANA) supporting the request to remove the annual training requirement for supervision of fluoroscopy.

- Comments were received from Scott Chastek, a licensed CRNA and business owner in northeast Iowa. Many of his employees have to go through the annual training for fluoroscopy, which is an additional cost to employers. Mr. Chastek noted that there is little change in the training from the initial radiation training and what individuals receive in an annual training; therefore, there is nothing beneficial to the public or patients in requiring annual training for ARNPs.

In an effort to remove unnecessary restrictions and provide more access, the Board has made one change from the Regulatory Analysis by removing the annual requirement for radiation safety training for ARNPs.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on February 11, 2025. Comments should be directed to:

Emily DeRonde
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Phone: 515.381.7013
Email: emily.deronde@dia.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 11, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa Information on virtual participation will be available on the Department’s website prior to the hearing.
February 12, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa Information on virtual participation will be available on the Department’s website prior to the hearing.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 655—Chapter 7 and adopt the following **new** chapter in lieu thereof:

CHAPTER 7
ADVANCED REGISTERED NURSE PRACTITIONERS

655—7.1(17A,124,147,152) Definitions.

“Advanced registered nurse practitioner” or *“ARNP”* means a person who is currently licensed as a registered nurse under Iowa Code chapter 152 or 152E who is licensed by the board as an advanced registered nurse practitioner.

“Asynchronous store-and-forward transmission” means the collection of a patient's relevant health information and the subsequent transmission of the data from an originating site to a health care provider at a distant site without the presence of the patient.

“Board” as used in this chapter means the Iowa board of nursing.

“Collaboration” is the process whereby an ARNP and physician jointly manage the care of a client.

“Controlled substance” means a drug in Schedules II through V of subchapter II of Iowa Code chapter 124.

“Cross-coverage” means a licensee who engages in a remote evaluation of a patient, without in-person contact, at the request of another licensed health care provider who has established a proper practitioner-patient relationship with the patient.

“Dispense” means to provide a prescription drug to a patient for self-use outside of the ARNP's practice location. “Dispense” does not include administration.

“Licensee” means an individual licensed by the board as an advanced registered nurse practitioner.

“National professional certification organization” means the American Academy of Nurse Practitioners, the American Association of Critical Care Nurses, the American Midwifery Certification Board, the American Nurses Credentialing Center, the National Board of Certification and Recertification for Nurse Anesthetists, the National Certification Corporation, and the Pediatric Nursing Certification Board.

“On call” means a licensee is available, where necessary, to attend to the urgent and follow-up needs of a patient for whom the licensee has temporarily assumed responsibility, as designated by the patient's primary care licensee or other health care provider of record.

“Opioid” means a drug that produces an agonist effect on opioid receptors and is indicated or used for the treatment of pain.

“Prescription monitoring program database” or *“PMP database”* means a centralized database of reportable controlled substance prescriptions dispensed to patients and includes data access logs, security tracking information, and records of each individual who requests prescription monitoring program (PMP) information as operated by the board of pharmacy.

“Telehealth” means the practice of nursing using electronic audiovisual communications and information technologies or other means, including interactive audio with asynchronous store-and-forward transmission, between a licensee in one location and a patient in another location with or without an intervening health care provider. Telehealth includes asynchronous store-and-forward technologies, remote monitoring, and real-time interactive services, including teleradiology and

telepathology. Telehealth, for the purposes of this rule, does not include the provision of nursing services only through an audio-only telephone, email messages, facsimile transmissions, or U.S. mail or other parcel service, or any combination thereof.

655—7.2(152) Requirements for licensure as an ARNP.

7.2(1) *Qualifications.* An applicant for an ARNP license shall:

a. Hold an active unrestricted license as a registered nurse in accordance with 655—Chapter 3.
b. Graduate from an accredited graduate or postgraduate advanced practice educational program in one of the following roles, except as provided by subrule 7.2(2):

- (1) Certified nurse-midwife.
- (2) Certified registered nurse anesthetist.
- (3) Certified nurse practitioner.
- (4) Clinical nurse specialist.

c. Hold current certification issued by a national professional certification organization as a certified nurse-midwife or certified registered nurse anesthetist, or as a certified nurse practitioner or clinical nurse specialist in at least one of the following population foci:

- (1) Women's health/gender-related.
- (2) Family (individual across the lifespan).
- (3) Psychiatric mental health.
- (4) Adult/gerontology.
- (5) Pediatrics.
- (6) Neonatal.

7.2(2) *Exception.* An applicant who has completed a formal advanced practice educational program but has not graduated from an accredited graduate or postgraduate advanced practice educational program may be licensed as an ARNP provided that the applicant possesses a current certification from a national professional certification organization as described in paragraph 7.2(1) "c." This exception is intended to allow for the grandfathering of ARNPs who completed educational programs before the board required graduation from an accredited graduate or postgraduate advanced practice educational program.

655—7.3(17A,147,152) Application process.

7.3(1) An applicant shall submit to the board:

- a.* An ARNP application for each population focus.
b. A dated copy of the applicant's current advanced level certification issued by the appropriate national professional certification organization.
c. If the applicant is not licensed as a registered nurse in Iowa, verification of an active registered nurse license in another state recognized for licensure in this state pursuant to the nurse licensure compact contained in Iowa Code chapter 152E.
d. A nonrefundable license fee of \$81.

7.3(2) The applicant shall request that official transcripts be sent directly to the board from the educational program verifying the coursework, date of completion of the program, and the degree conferred.

7.3(3) The executive director of the board or the executive director's designee has the authority to determine if all requirements have been met for licensure of the applicant as an ARNP. If all requirements have been met:

- a.* The applicant will be issued a license and a certificate to practice as an ARNP that clearly denotes the applicant's name, title, and population focus, and the expiration date of the license.
b. The expiration date of the ARNP license will be the same as the expiration date of the applicant's license to practice as a registered nurse.

7.3(4) *Licensure completion.* An applicant shall complete the ARNP licensure process within 12 months from the start of the application. The board reserves the right to destroy incomplete application materials after 12 months.

7.3(5) Renewal of licensure. An ARNP license may be renewed beginning 60 days prior to the license expiration date and ending 30 days after the expiration date. To renew, a licensee shall submit the information required by subrule 7.3(1). The expiration date assigned to a renewed ARNP license is the same as the expiration date of the licensee's license to practice as a registered nurse.

7.3(6) Inactive status. Failure to renew an ARNP license within 30 days after its expiration results in an inactive ARNP license.

a. Continuing to work as an ARNP with an inactive ARNP license may result in disciplinary action.

b. To reactivate the license, the licensee must reactivate the underlying license to practice as a registered nurse, if required, and complete the license renewal process for the ARNP license.

7.3(7) License denial. Rule 655—3.9(17A,272C) governs the denial of an application for an ARNP license.

655—7.4(17A,147,152) Advanced nursing practice.

7.4(1) An ARNP shall practice within the ARNP's respective population foci and practice in accordance with the applicable standard of care as described in guidelines published by national professional associations or other reputable sources.

7.4(2) An ARNP must maintain current certification with a national professional certification organization at all times while the ARNP license is active.

7.4(3) An ARNP licensed by the board may prescribe, administer, or dispense prescription drugs or devices, including controlled substances, within the ARNP's role and population foci and consistent with applicable state and federal laws.

7.4(4) An ARNP has the authority to practice to the full extent of the ARNP's license, education, and experience in the ARNP's respective population foci. An ARNP may:

- a.* Assess health status;
- b.* Obtain a relevant health and medical history;
- c.* Perform physical examinations;
- d.* Order preventive and diagnostic procedures;
- e.* Formulate a differential diagnosis;
- f.* Develop a treatment plan;
- g.* Develop a patient education plan;
- h.* Receive third-party reimbursement;
- i.* Maintain hospital privileges; and
- j.* Promote health maintenance.

7.4(5) Supervision of fluoroscopy. An ARNP is permitted to provide direct supervision in the use of fluoroscopic X-ray equipment, as defined in rule 641—38.2(136C).

a. The ARNP shall provide direct supervision of fluoroscopy pursuant to the following provisions:

(1) Completion of an educational course including content in radiation physics, radiobiology, radiological safety and radiation management applicable to the use of fluoroscopy, and maintenance of documentation verifying successful completion.

(2) Collaboration, as needed, as defined in rule 655—7.1(17A,124,147,152).

(3) Compliance with facility policies and procedures.

b. The ARNP shall maintain documentation of the initial educational course.

c. The initial education requirements are subject to audit by the board pursuant to 655—subrule 5.2(10).

7.4(6) Only a person currently licensed as an advanced registered nurse practitioner may use that title and the letters "ARNP" after the person's name.

655—7.5(17A,147,152) Standards of practice for treating patients. An ARNP shall follow the standards of practice for the ARNP's respective population foci. Prior to treating a patient, an ARNP shall:

7.5(1) Establish a patient-provider relationship.

7.5(2) Perform and document the following, or have access to the patient's health records where all of the following have been documented by other providers in the care team:

- a. Chief complaint;
- b. Pertinent health history;
- c. A focused assessment;
- d. Diagnosis; and
- e. Plan of treatment.

655—7.6(17A,124,147,152,272C) Standards of practice for controlled substances. An ARNP who prescribes or administers a controlled substance shall:

7.6(1) Review health history including but not limited to a personal and family substance abuse risk assessment, or the documented rationale for not performing the assessment.

7.6(2) Ensure the health record includes documentation of the presence of one or more recognized indications for the use of a controlled substance.

7.6(3) Utilize a treatment agreement if continuously prescribing one or more controlled substances.

7.6(4) Provide ongoing education of the risks of using a controlled substance, and information regarding addiction, physical dependence, substance abuse, and tolerance, or document the rationale for not providing the education.

7.6(5) Maintain an active Drug Enforcement Administration (DEA) registration and an active controlled substances Act (CSA) registration to dispense, prescribe, or administer controlled substances, when required by the DEA and the board of pharmacy.

7.6(6) Not prescribe a controlled substance to the ARNP's self or to a family member unless the prescribing occurs in a clinical setting when an emergency situation arises and when there is no other qualified practitioner available to the patient.

7.6(7) The board may discipline an ARNP for prescribing opioids in dosage amounts that exceed what would be prescribed by a reasonably prudent ARNP in a similar practice.

7.6(8) An ARNP who has prescribed opioids to a patient during the renewal cycle is required to complete a minimum of two contact hours of continuing education regarding the U.S. Centers for Disease Control and Prevention guideline for prescribing opioids for chronic pain, including recommendations on limitations on dosages and the length of prescriptions, risk factors for abuse, and nonopioid and nonpharmacologic therapy options, as a condition of license renewal every three years. These hours may count towards the 36 contact hours required for license renewal. The ARNP shall maintain documentation of these hours, which may be subject to audit.

655—7.7(124) Use of the prescription monitoring program.

7.7(1) Prior to the prescribing or dispensing of an opioid by an ARNP, the ARNP or the ARNP's authorized delegate shall query the PMP database and the ARNP shall review the patient's information contained in the PMP database.

7.7(2) This rule does not apply to an ARNP when treating a patient who is receiving inpatient hospice care or long-term residential facility care.

7.7(3) This rule does not apply to an ARNP who issues a medication order for an opioid to be administered to a patient at a hospital or clinic.

7.7(4) An ARNP is responsible for understanding the board of pharmacy's rules governing use of the prescription monitoring program in 657—Chapter 37.

655—7.8(152) Prescribing epinephrine auto-injectors, bronchodilator canisters, bronchodilator canisters and spacers, or opioid antagonists in the name of a facility or school.

7.8(1) An ARNP may issue a prescription for one or more epinephrine auto-injectors in the name of a facility as defined in Iowa Code section 135.185(1), a school district, or an accredited nonpublic school.

7.8(2) An ARNP may issue a prescription for one or more bronchodilator canisters or bronchodilator canisters and spacers in the name of a school district or an accredited nonpublic school.

7.8(3) An ARNP may issue a prescription for one or more opioid antagonists in the name of a school district.

7.8(4) An ARNP who prescribes epinephrine auto-injectors, bronchodilator canisters, bronchodilator canisters and spacers, or opioid antagonists in the name of an authorized facility as defined in Iowa Code section 135.185(1), a school district, or an accredited nonpublic school, to be maintained for use pursuant to Iowa Code sections 135.185, 135.190, 280.16, and 280.16A, provided the ARNP has acted reasonably and in good faith, is not be liable for any injury arising from the provision, administration, or assistance in the administration of an epinephrine auto-injector, bronchodilator canister, bronchodilator canister and spacer, or opioid antagonist.

655—7.9(152) Standards of practice for telehealth.

7.9(1) *Telehealth permitted.* A licensee may, in accordance with all applicable laws and rules, provide health care services to a patient through telehealth.

7.9(2) *License required.* An advanced registered nurse practitioner who provides services through telehealth to a patient physically located in Iowa must be licensed by the board. A licensee who provides services through telehealth to a patient physically located in another state shall be subject to the laws and jurisdiction of the state where the patient is physically located.

7.9(3) *Standard of care.*

a. A licensee who provides services through telehealth is held to the same standard of care as is applicable to in-person settings. A licensee shall not perform any service via telehealth unless the same standard of care can be achieved as if the service was performed in person.

b. Prior to initiating contact with a patient for the purpose of providing services to the patient using telehealth, a licensee shall:

- (1) Review the patient's history and all relevant medical records; and
- (2) Determine as to each unique patient encounter whether the licensee will be able to provide the same standard of care using telehealth as would be provided if the services were provided in person.

7.9(4) *Scope of practice.* A licensee who provides services through telehealth must practice within the licensee's respective population foci and ensure the services provided are consistent with the licensee's scope of practice, education, training, and experience.

7.9(5) *Practitioner-patient relationship.*

a. Prior to providing services through telehealth, the licensee shall first establish a practitioner-patient relationship. A practitioner-patient relationship is established when:

- (1) The person with a health-related matter seeks assistance from the licensee;
- (2) The licensee agrees to provide services; and
- (3) The person agrees to be treated, or the person's legal guardian or legal representative agrees to the person's being treated, by the licensee regardless of whether there has been a previous in-person encounter between the licensee and the person.

b. A practitioner-patient relationship can be established through an in-person encounter, consultation with another licensee or health care provider, or telehealth encounter.

c. Notwithstanding paragraphs 7.9(5) "a" and "b," services may be provided through telehealth without first establishing a practitioner-patient relationship in the following settings or circumstances:

- (1) Institutional settings;
- (2) Licensed or certified nursing facilities, residential care facilities, intermediate care facilities, assisted living facilities, and hospice settings;
- (3) In response to an emergency or disaster;
- (4) Informal consultations with another health care provider performed by a licensee outside of the context of a contractual relationship, or on an irregular or infrequent basis, without the expectation or exchange of direct or indirect compensation;
- (5) Episodic consultations by a specialist located in another jurisdiction who provides consultation services upon request to a licensee;
- (6) A substitute licensee acting on behalf and at the designation of an absent licensee or other health care provider in the same specialty on an on-call or cross-coverage basis; or

(7) When a sexually transmitted disease has been diagnosed in a patient, a licensee prescribes or dispenses antibiotics to the patient's named sexual partner(s) for the treatment of the sexually transmitted disease as recommended by the U.S. Centers for Disease Control and Prevention.

7.9(6) Consent to telehealth. Prior to providing services via telehealth, the licensee shall obtain consent from the patient, or the patient's legal guardian or legal representative, to receive services via telehealth.

7.9(7) Technology. A licensee providing services through telehealth shall utilize technology that is secure and compliant with the Health Insurance Portability and Accountability Act of 1996, PL 104-191, August 21, 1996, 110 Stat. 1936, and any amendments as of October 30, 2024. The technology must be of sufficient quality, size, resolution, and clarity such that the licensee can safely and effectively provide the telehealth services and abide by the applicable standard of care.

7.9(8) Prescriptions. A licensee providing services through telehealth may issue a prescription to a patient as long as the issuance of such prescription is consistent with the standard of care applicable to the in-person setting.

7.9(9) Records. A licensee who provides services through telehealth shall maintain a record of the care provided to the patient. Such records shall comply with all applicable laws, rules, standards of care for recordkeeping, confidentiality, and disclosure of a patient's medical record.

7.9(10) Follow-up care. A licensee who provides services through telehealth shall refer a patient for follow-up care when required by the standard of care.

These rules are intended to implement Iowa Code sections 17A.3, 124.551A, 124.552, 147.2, 147.10, 147.11, 147.72, 147.74, 147.76, 147.80, 147.107, 152.1, 152.6, 152.7, and 272C.2C.

ARC 8795C

NURSING BOARD[655]

Notice of Intended Action

Proposing rulemaking related to uniform rules and providing an opportunity for public comment

The Board of Nursing hereby proposes to rescind Chapter 8, "Petitions for Rule Making," Chapter 9, "Declaratory Orders," Chapter 10, "Agency Procedure for Rule Making," Chapter 11, "Examination of Public Records," Chapter 13, "Disciplinary Hearing Costs," Chapter 14, "Fair Information Practices," Chapter 15, "Waiver Rules," Chapter 17, "Nonpayment of Child Support or State Debt," Chapter 18, "Military Service and Veteran Reciprocity," Chapter 19, "Iowa Nurse Assistance Program," and Chapter 20, "Contested Cases," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 22, 147, 152, 252J, 272C and 272D and Executive Order 10.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 22, 147, 252J and 272D and section 272C.3.

Purpose and Summary

In light of the Board's realignment with the Department of Inspections, Appeals, and Licensing resulting from 2023 Iowa Acts, Senate File 514, the Board finds it is unnecessary and unreasonably duplicative to repromulgate these chapters. It is the Board's intent to rely on the model chapters under agency number [481]. The proposed rescission of these chapters is in line with the stated goal of Iowa Code chapter 17A to "simplify government by assuring a uniform minimum procedure to which all agencies will be held in the conduct of their most important functions."

Chapter 8 provides guidance to the public and licensees on the procedures to petition the Board for rulemaking. These procedures are used when the public or a licensee believes a new rule should be promulgated by the Board. This chapter is substantially similar to 481—Chapter 2, which the Board will adopt by reference and utilize for petitions for rulemaking.

Chapter 9 provides guidance to the public and licensees on the procedures to petition for declaratory order from the Board. These procedures are used when the public or licensee requests a formal opinion from the Board on the interpretation of a rule. This chapter is substantially similar to 481—Chapter 3, which the Board will adopt by reference and utilize for the declaratory order process.

Chapter 10 adopts the Uniform Rules on Agency Procedure. The chapter provides for amendments to the uniform rules to fit the purpose of the Board. This chapter is substantially similar to 481—Chapter 4, which the Board will adopt by reference.

Chapter 11 provides guidance on public records and how individuals can receive public records from the Board. The chapter is substantially similar to 481—Chapter 5, which the Board will adopt by reference and utilize for the purposes of public records.

Chapter 13 provides definitions, authority, and fees for disciplinary hearings and proceedings before the Board. In light of Executive Order 10, this chapter is proposed to be rescinded and will be merged with 655—Chapter 4.

Chapter 14 provides guidance on fair information practices utilized by the Board. The chapter is substantially similar to 481—Chapter 5, which the Board will adopt by reference and utilize for the purposes of fair information practices.

Chapter 15 provides guidance to the public and licensees on when and how to request a waiver of an administrative rule. The chapter is substantially similar to 481—Chapter 6, which will be utilized by the Board for waivers.

Chapter 17 implements Iowa Code chapter 272D, which provides for procedures when a license may be denied, suspended, or revoked for nonpayment of a state debt and child support obligations. This chapter is substantially similar to 481—Chapter 8, which will be utilized by the Board for these procedures.

Chapter 18 provides a mechanism for United States veterans and spouses of veterans to apply for and be granted reciprocity for licensing requirements in the state of Iowa. This chapter is substantially similar to 481—Chapter 7, which the Board will adopt in place of this chapter.

Chapter 19 creates the Iowa Nurse Assistance Program. This is a confidential program to ensure that a licensee is safe to practice the licensee's profession. The program provides ongoing monitoring for eligible participants. This chapter is substantially similar to 481—Chapter 505, which will be utilized by the Board for its impaired practitioner program for physicians.

Chapter 20 provides the licensee an outline of how a contested case proceeding is initiated and the rights and responsibilities of the licensee during that process. The Board intends to rescind this chapter and adopt by reference 481—Chapter 506, which is substantially similar to this chapter.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 19, 2024

The Department received no public comments for these chapters.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on February 11, 2025. Comments should be directed to:

Emily DeRonde
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Phone: 515.381.7013
Email: emily.deronde@dia.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 11, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa Information on virtual participation will be available on the Department's website prior to the hearing.
February 12, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa Information on virtual participation will be available on the Department's website prior to the hearing.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

- ITEM 1. Rescind and reserve **655—Chapter 8.**
- ITEM 2. Rescind and reserve **655—Chapter 9.**
- ITEM 3. Rescind and reserve **655—Chapter 10.**
- ITEM 4. Rescind and reserve **655—Chapter 11.**
- ITEM 5. Rescind and reserve **655—Chapter 13.**
- ITEM 6. Rescind and reserve **655—Chapter 14.**
- ITEM 7. Rescind and reserve **655—Chapter 15.**

- ITEM 8. Rescind and reserve **655—Chapter 17.**
- ITEM 9. Rescind and reserve **655—Chapter 18.**
- ITEM 10. Rescind and reserve **655—Chapter 19.**
- ITEM 11. Rescind and reserve **655—Chapter 20.**

ARC 8794C

NURSING BOARD[655]

Notice of Intended Action

Proposing rulemaking related to certifying organizations and review committees and providing an opportunity for public comment

The Board of Nursing hereby proposes to rescind Chapter 12, “Registered Nurse Certifying Organizations/Utilization and Cost Control Review,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 509, 514, 514B and 514F and Executive Order 10.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 509.3(1)“g,” 514.7(4), 514B.1(5)“d” and 514F.1.

Purpose and Summary

Iowa Code sections 509.3(1)“g,” 514.7(4), and 514B.1(5)“d” all reference payment of covered services determined to be medically necessary that is, as specified in Iowa Code section 509.3(1)“g,” “provided by registered nurses certified by a national certifying organization, which organization shall be identified by the Iowa board of nursing pursuant to rules adopted by the board, if the services are within the practice of the profession of a registered nurse as that practice is defined in section 152.1.” Iowa Code section 514F.1 provides that the Board “shall establish utilization and cost control review committees of licensees under the respective chapters, selected from licensees who have practiced in Iowa for at least the previous five years, or shall accredit and designate other utilization and cost control organizations as utilization and cost control committees under this section, for the purposes of utilization review of the appropriateness of levels of treatment and of giving opinions as to the reasonableness of charges for diagnostic or treatment services of licensees,” and “shall adopt rules necessary and proper for the administration of this section pursuant to chapter 17A.” Iowa Code section 514F.1 further describes that “conduct of the utilization and cost control review committees authorized under this section shall be exempt from challenge under federal or state antitrust laws or other similar laws in regulation of trade or commerce.” The overall intended benefits of this chapter are to identify pertinent national certifying organizations in accordance with the requirements set forth herein, provide for the establishment of a utilization and cost control review (U.C.C.R.) committee, and describe the procedures by which such a U.C.C.R. committee would operate.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 19, 2024

The Department of Inspections, Appeals, and Licensing received no public comments for this chapter.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on February 11, 2025. Comments should be directed to:

Emily DeRonde
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Phone: 515.381.7013
Email: emily.deronde@dia.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 11, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa Information on virtual participation will be available on the Department's website prior to the hearing.
February 12, 2025 8:30 a.m.	6200 Park Avenue Des Moines, Iowa Information on virtual participation will be available on the Department's website prior to the hearing.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 655—Chapter 12 and adopt the following **new** chapter in lieu thereof:

CHAPTER 12
REGISTERED NURSE CERTIFYING ORGANIZATIONS/
UTILIZATION AND COST CONTROL REVIEW

655—12.1(509,514,514B,514F) Purpose. This chapter is promulgated for the purpose of administering the provisions of Iowa Code sections 509.3, 514.7, 514B.1 and 514F.1.

655—12.2 Reserved.

655—12.3(509,514,514B) National certifying organizations. Eligibility requirements for certification are established by the individual national certifying organization. National certifying organizations identified by the board pursuant to Iowa Code sections 509.3, 514.7, 514B.1, and 514F.1 are as follows:

- Addictions Nursing Certification Board
- American Academy of Nurse Practitioners
- American Association of Critical Care Nurses Certification Corporation
- American Association for Marriage and Family Therapy
- American Board of Medical Genetics
- American Board of Neuroscience Nursing
- American Board for Occupational Health Nurses, Inc.
- American Board of Post Anesthesia Nursing Certification, Inc.
- American Board of Urology
- American Urological Association
- American College of Nurse-Midwives
- American Holistic Nurses' Credentialing Corporation
- American Nurses' Credentialing Center
- American Society of Plastic Surgical Nurses
- Association of Perioperative Registered Nurses
- Association for Professionals in Infection Control and Epidemiology
- Association of Rehabilitation Nurses, Certification Board
- Board of Certification for Emergency Nursing
- Board of Nephrology Examiners Nursing and Technology
- Certifying Council for Gastroenterology Clinicians, Inc.
- Clinical Nutrition Certification Board
- National Board of Certification and Recertification for Nurse Anesthetists
- Dermatology Nurses Association
- Enterostomal Therapy Nursing Certification Board
- Association of Nurses in AIDS Care, HIV/AIDS Nursing Certification Board
- International Association of Infant Massage
- International Board of Lactation Consultant Examiners
- International Nurses Society on Addictions
- Infusion Nurses Certification Corporation
- Lamaze International
- National Board for Certification of School Nurses
- Certification Board for Diabetes Care and Education
- Pediatric Nurse Certification Board
- National Certification Corporation for the Obstetric, Gynecologic and Neonatal Nursing Specialties
- National Certifying Board for Ophthalmic Registered Nurses
- National Association of Chemical Dependency Nurses
- Oncology Nursing Certification Corporation
- Orthopaedic Nurses Certification Board
- Plastic Surgical Nursing Certification Board

Radiologic Nursing Certification Board
Society of Gastroenterology Nurses and Associates
Society of Otorhinolaryngology and Head-Neck Nurses
Society of Urological Nurses and Associates
Society for Vascular Nursing
Wound, Ostomy and Continence Nursing Certification Board

655—12.4(514F) Utilization and cost control review (U.C.C.R.) committee. The board may establish a U.C.C.R. committee for the purpose set forth in Iowa Code section 514F.1, including questions regarding:

1. Appropriateness of levels of nursing care.
2. Documentation of the credentials of the nurse(s) offering the service(s).
3. Documentation of the care provided.
4. Documentation of the costs of nursing services provided by credentialed nurses as requested by users and payers of such services.

655—12.5(514F) Selection and composition of the U.C.C.R. committee.

12.5(1) A U.C.C.R. committee will consist of five licensed registered nurses, three of whom shall be certified by the above. A quorum of the U.C.C.R. committee is three members. When a quorum is present, a position is carried by a majority of the committee members.

12.5(2) The chairperson of the board of nursing, upon receipt of a request for review, will appoint committee members and designate a chairperson and a secretary.

12.5(3) Members of the U.C.C.R. committee will:

- a. Have been actively practicing nursing in Iowa for a period of five years immediately prior to their appointment.
- b. Hold an active Iowa registered nurse license or hold a current license in another state and be recognized for licensure in Iowa pursuant to the nurse licensure compact contained in Iowa Code chapter 152E.
- c. Be actively involved in nursing practice during the term of appointment.
- d. Not be exempt from mandatory disclosure requirements of Iowa Code section 272C.9.
- e. Not be civilly liable when functioning in their capacity of committee members in compliance with Iowa Code section 272C.8.
- f. Observe the requirements of confidentiality imposed by Iowa Code section 272C.6(4).

655—12.6(514F) Scope of review.

12.6(1) Factors to determine appropriateness of nursing care deemed medically necessary may include but are not limited to:

- a. Utilization of the nursing process in establishing a nursing diagnosis.
- b. Development of a nursing care plan based on documentation of client needs and standards of care for that particular clinical specialty.
- c. Adequate completion of recommended nursing care plan.
- d. Quality of care as measured by outcome.
- e. Proper referral to specialists or physicians when conditions indicate.

12.6(2) Cost review will result in an opinion as to the fairness of charges for nursing care services based on criteria including but not be limited to:

- a. The nurse's usual charge for the service.
- b. The customary charge for the service based on a review of peer group charges.
- c. Reasonable variance due to degree of difficulty, skill, or judgment.

655—12.7(514F) Procedures for utilization and cost control review.

12.7(1) A request for review may be made to the board by a patient, licensee, or third-party payer of health care benefits.

12.7(2) The fee for a utilization and cost control review is \$50 per individual patient review, made payable to the department of inspections, appeals, and licensing.

12.7(3) A request for review may be submitted to the board by addressing the request to the board of nursing as provided in 481—Chapter 1 and on the website of the department of inspections, appeals, and licensing: dial.iowa.gov. Requests may be made on forms provided by the department. All references to identification and location of the licensee shall be deleted prior to submission.

12.7(4) The U.C.C.R. committee will present its findings and recommendations in writing to the chairperson of the board within 90 days of the committee appointment, with the parties notified of the findings thereafter.

12.7(5) If during its review the U.C.C.R. committee identifies a possible violation of Iowa Code chapter 152 or rules promulgated thereunder, the board may take further action, as appropriate.

12.7(6) Action of the U.C.C.R. committee does not constitute an action of the board.

These rules are intended to implement Iowa Code sections 509.3, 514.7, 514B.1, and 514F.1.

ARC 8733C

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rulemaking related to administration of cigarette, tobacco, vapor products, and alternative nicotine products and providing an opportunity for public comment

The Revenue Department hereby proposes to adopt new Chapter 230, “Administration of Cigarette, Tobacco, Vapor Products, and Alternative Nicotine Products,” and to rescind Chapter 254, “Administration,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 453A.8, 453A.13, 453A.25, 453A.40, 453A.47, 453A.47A and 453A.49.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 453A.

Purpose and Summary

The purpose of the proposed rulemaking is to adopt new Chapter 230 and rescind and reserve Chapter 254. Chapter 254 contains rules on the Department’s interpretation of Iowa Code chapter 453A on the administration of cigarette and tobacco taxes and the regulation of alternative nicotine and vapor products. The Department determined that the rules aid the public understanding of these topics. However, the Legislature’s recent passage of 2024 Iowa Acts, Senate File 345 and House File 2677, on the regulation of devices and vapor products, required, and in the case of House File 2677, mandated, the adoption of new administrative rules. The Department has determined that the current placement of the administrative rules on cigarette and tobacco-related and adjacent topics does not allow for these new forthcoming chapters of rules to be placed near the others, hindering the public’s accessibility to these rules.

Therefore, the Department proposes readopting the rules on the administration of the excise tax on cigarette and tobacco products and the regulation of alternative nicotine and vapor products in new Chapter 230. This move will provide the public easier accessibility to this and other cigarette and tobacco-related administrative rules. The Department proposes revisions to the text of the rules for better organization and clarification and to remove unnecessary, obsolete, and duplicative statutory language as required by Executive Order 10.

The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on December 10, 2024.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024. A public hearing was held on the following date(s):

- December 3, 2024

No public comments on the Regulatory Analysis were received at the hearing or in writing. References to 2024 Iowa Acts, Senate File 345 and House File 2677, have been removed since the legislation has been codified in the 2025 Iowa Code. No other changes from the Regulatory Analysis have been made.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on February 11, 2025. Comments should be directed to:

Matt Bishop
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.452.9205
Email: matt.bishop@iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 11, 2025 1 to 2 p.m.	Via videoconference call meet.google.com/dfi-ijbx-deo
February 12, 2025 1 to 2 p.m.	Via videoconference call meet.google.com/mki-dfmd-ybz

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 701—Chapter 230:

CHAPTER 230
ADMINISTRATION OF CIGARETTE, TOBACCO, VAPOR PRODUCTS, AND
ALTERNATIVE NICOTINE PRODUCTS

701—230.1(453A) Definitions. Terms have the same meaning as defined in Iowa Code chapters 421B, 453A, 453C, 453D, and 453E. In addition, as used in this title, the following definitions apply:

“*Permit*” means any permit or license issued under Iowa Code chapter 453A.

“*Permittee*” means any person holding or required to obtain a permit or license of any kind under Iowa Code chapter 453A.

“*Supplier*” means any person or firm authorized to manufacture or supply cigarette stamps for the department.

“*Tax*” means the tax imposed under Iowa Code chapter 453A.

“*Taxpayer*” means any person required to collect or remit tax directly to the department or required to be licensed or to file any report or return or keep records under Iowa Code chapter 453A.

“*Tobacco*” means the same as “tobacco products” as defined in Iowa Code sections 453A.1 and 453A.42.

This rule is intended to implement Iowa Code chapters 421B, 453A, 453C, 453D, and 453E.

701—230.2(453A) Records.

230.2(1) *Generally.* Every taxpayer shall keep, preserve, and make available to the department records for a period of at least three years. The following is a nonexhaustive list of records that are subject to the provisions of this rule. 701—Chapter 11 provides more information for taxpayers using an electronic data interchange process or technology. Nothing in this rule shall be construed to affect the provisions of any applicable federal law. The records will be considered inadequate when the requirements of this rule are not met. The director may, by express order in certain cases, authorize permit holders to keep their records in a manner and upon forms other than those so prescribed (agreements must be in writing).

230.2(2) *General requirements for records used in an appeal.* If a tax liability has been assessed and an appeal is pending to the department, district court or an appellate court, books, papers, records, memoranda or documents specified in this rule that relate to the period covered by the assessment shall be preserved until the final disposition of the appeal.

230.2(3) *Cigarette manufacturer.* Cigarette manufacturers are required to keep the following records.

- a. Records, including invoices, showing the sale of cigarettes in Iowa or the sale of cigarettes for shipment into Iowa.
- b. Records evidencing the transportation of cigarettes into Iowa.
- c. Records, including invoices, showing all sales of cigarettes to permittees.
- d. A record of all stamps purchased.
- e. Copies of all reports filed with the department.

230.2(4) *Cigarette distributing agent.* Cigarette distributing agents are required to keep the following records.

- a. Records of the receipt of all cigarettes showing the number of cigarettes received and from whom the cigarettes were received.
- b. Records of all distribution of cigarettes showing the number of cigarettes shipped and to whom and at whose direction the cigarettes were distributed.
- c. Records showing all exports of cigarettes.
- d. Copies of all reports filed with the department.
- e. Detailed inventory records.

f. Freight receiving and shipping records.

230.2(5) Cigarette distributors. Cigarette distributors are required to keep the following records.

- a. Records, including invoices, showing the purchase of all cigarettes sold, used or stored in Iowa.
- b. Records, including invoices, showing the sale of cigarettes in Iowa.
- c. Detailed inventory records.
- d. Freight receiving and shipping records.
- e. A record of all stamps purchased.
- f. Copies of all reports filed with the department.

230.2(6) Cigarette wholesaler. Cigarette wholesalers are required to keep the following records.

- a. Records, including invoices, evidencing the purchase of all cigarettes.
- b. Records, including invoices, evidencing the sale of all cigarettes.
- c. Detailed inventory records.

230.2(7) Cigarette vendor. Cigarette vendors are required to keep the following records.

- a. Records, including invoices, evidencing the purchase of all cigarettes.
- b. Records evidencing the sale of cigarettes.
- c. Inventory records.
- d. Records of all cigarette vending machines owned, furnished, installed, serviced, operated or maintained by the vendor and the location of each.

230.2(8) Cigarette retailer. Cigarette retailers are required to keep the following records.

- a. Records, including invoices, evidencing the purchase of all cigarettes.
- b. Inventory records.

230.2(9) Tobacco distributor. Tobacco distributors are required to keep the same records as a cigarette distributor as described in subrule 230.2(5), but with respect to tobacco, no records of stamps purchased are required.

230.2(10) Tobacco subjobber. Tobacco subjobbers are required to keep the same records as a cigarette wholesaler as described in subrule 230.2(6) but with respect to tobacco.

230.2(11) Tobacco retailer. Tobacco retailers are required to keep the same records as a cigarette retailer as described in subrule 230.2(8) but with respect to tobacco.

230.2(12) Common carrier engaged in transporting cigarettes or tobacco products into Iowa. Common carriers engaged in transporting cigarettes or tobacco products into Iowa are required to keep the following records.

- a. Copies of bills of lading or manifests as to each transportation of cigarettes or tobacco.
- b. Log book or trip sheets.

230.2(13) Microfilm and related records system.

a. Microfilm, microfiche, COM (computer on machine) and other related reduction in storage systems will be referred to as “microfilm” in this rule.

b. Microfilm reproductions of general books of account, such as a cash book, journals, voucher registers, ledgers, etc., are not acceptable other than those that have been approved by the Internal Revenue Service. However, microfilm reproductions of supporting records of detail, such as sales invoices, purchase invoices, credit memoranda, etc., may be allowed providing all the following conditions are met and accepted by the taxpayer.

- (1) Appropriate facilities are provided to ensure the preservation and readability of the films.
- (2) Microfilm rolls are indexed, cross-referenced, labeled to show beginning and ending numbers or beginning and ending alphabetical listing of documents included, and systematically filed.
- (3) The taxpayer agrees to provide transcripts of any information contained on microfilm that may be required for purposes of verification of tax liability.
- (4) Proper facilities are provided for the ready inspection and location of the particular records, including modern projectors for viewing and for the copying of records.
- (5) Any audit of “detail” on microfilm may be subject to sample audit procedures, to be determined at the discretion of the director or the director’s designated representative.
- (6) A posting reference must be on each invoice.
- (7) Credit memoranda must carry a reference to the document evidencing the original transaction.

(8) Documents necessary to support claimed exemptions from tax liability, such as bills of lading and purchase orders, must be maintained in an order by which they readily can be related to the transaction for which exemption is sought.

230.2(14) *Automatic data processing records.* Automatic data processing records are defined and described in 701—Chapter 11.

230.2(15) *Other persons.* The director may require any person other than those previously listed in this rule to maintain books and records as deemed necessary by the director.

This rule is intended to implement Iowa Code sections 453A.15, 453A.18, 453A.19, 453A.24, 453A.45, and 453A.49.

701—230.3(453A) Form of invoice. Whenever an invoice is required to be prepared or kept by Iowa Code chapter 453A or these rules, at minimum, it must contain the following information:

1. Seller's name and address.
2. Purchaser's name, address, and permit number (if any).
3. Date of sale.
4. All prices and discounts stated separately.
5. An indication as to whether cigarettes or tobacco products are being sold with or without tax stamps attached or tax included.
6. Origination and destination points.

This rule is intended to implement Iowa Code sections 453A.15, 453A.25, 453A.45, and 453A.49.

701—230.4(453A) Bonds. When bonds are required by Iowa Code chapter 453A or these rules, said bonds will be in the form of cash or a bond issued by a surety company licensed to do business in the state of Iowa, payable to the State of Iowa, and in a form approved by the director. Bonds required by tobacco distributors must be issued by a surety company licensed to do business in Iowa. However, with prior approval by the director, a cash bond will be accepted by the department as a substitute for the surety bond. Iowa Code section 453A.44(4) provides more information.

This rule is intended to implement Iowa Code sections 453A.14 and 453A.44.

701—230.5(453A) Permit applications and denials.

230.5(1) *Applications for permits in general.* The application forms for all permits issued under Iowa Code chapter 453A are available from the department. Each application must include the following information:

- a. Nature of the applicant's business;
- b. Type of permit requested;
- c. Address of the principal office of the applicant;
- d. Address of the place of business for which the permit is to apply;
- e. Names and addresses of no more than three principal officers or members, if the business is not a sole proprietorship;
- f. A list of persons who will be the applicant's suppliers or customers or both (whichever is applicable);
- g. Whether the applicant possesses any other permit issued under Iowa Code chapter 453A; and
- h. Signature of the person authorized to complete the application. For electronically transmitted applications, the application form will state that, in lieu of the person's handwritten signature, the person's email address or the person's fax signature will constitute a valid signature.
- i. Any other information required on the forms issued by the department for the purpose of administering Iowa Code chapter 453A and these rules.

230.5(2) *Cigarette distributor applicants.* In addition to the requirements above, cigarette distributor applicants must also supply certificates from cigarette manufacturers indicating the intention to sell unstamped cigarettes to the applicant.

230.5(3) *Denial of application for permit.*

- a. The department may deny a permit to any applicant who is, at the time of application, substantially delinquent in paying any tax due that is administered by the department or the interest or

penalty on the tax. Rule 701—201.10(423) describes what constitutes being substantially delinquent in paying a tax.

b. If the applicant is a partnership, a permit may be denied if a partner is substantially delinquent in paying any tax, penalty, or interest regardless of whether the tax is in any way a liability of or associated with the partnership.

c. If an applicant for a permit is a corporation, the department may deny the applicant a permit if any officer, with a substantial legal or equitable interest in the ownership of the corporation, owes any delinquent tax, penalty, or interest of the applicant corporation. Unlike a partnership, the corporation must, initially, owe the delinquent tax, penalty, or interest and the officer must be personally and secondarily liable for the tax.

d. The director will deny a permit to any applicant, who is an individual, if the department has received a certificate of noncompliance from child support services in regard to the individual unless the unit furnishes the department with a withdrawal of the certificate of noncompliance.

230.5(4) *Applications for retail permits.* Applications for retail permits are supplied by the department to city councils and county boards of supervisors. The application must be filed with the individual council or board either in a paper format or online through GovConnectIowa.

This rule is intended to implement Iowa Code chapter 252J and sections 453A.13, 453A.16, 453A.17, 453A.22, 453A.23, and 453A.44.

701—230.6(453A) Permit revocation.

230.6(1) *Revocation by the department.* Any permit revocation by the department under Iowa Code chapter 453A and this rule is subject to the requirements of rules 701—7.19(17A) and 701—7.39(17A).

230.6(2) *Delinquency.*

a. The department may revoke the permit of any permit holder who becomes substantially delinquent in paying any tax that is administered by the department or the interest or penalty on the tax. Rule 701—201.10(423) describes what constitutes being substantially delinquent in paying a tax.

b. If the permit holder is a corporation, the department may revoke the permit if any officer, with a substantial legal or equitable interest in the ownership of the corporation, owes any delinquent tax, penalty, or interest of the applicant corporation. In this latter instance, the corporation must, initially, owe the delinquent tax, penalty, or interest and the officer must be personally and secondarily liable for the tax.

c. If the permit holder is a partnership, a permit cannot be revoked for a partner's substantial delinquency in paying any tax, penalty, or interest that is not a liability of the partnership.

230.6(3) *Revocation by a local jurisdiction.* Iowa Code chapter 17A does not apply to boards of supervisors or city councils. As a result, any permit revocation by a board of supervisors or city council is subject to the procedure or policy adopted by such board of supervisors or city council.

230.6(4) *Revocations for child support violations.* The department will revoke a permit of a permit holder, who is an individual, if the department has received a certificate of noncompliance from child support services in regard to the permit holder unless the unit furnishes the department with a withdrawal of the certificate of noncompliance. The board of supervisors or the city council that issued a retail permit is required by Iowa Code chapter 252J to revoke the permit of any retailer who is an individual if the board or council has received a certificate of noncompliance from child support services in regard to the retailer unless the unit furnishes the board of supervisors or the city council with a withdrawal of the certificate of noncompliance.

This rule is intended to implement Iowa Code chapter 252J and sections 453A.13, 453A.22, 453A.44(11), and 453A.48(2).

701—230.7(453A) Inventory tax.

230.7(1) *Inventory.* All persons required to obtain a permit under Iowa Code section 453A.13 and 453A.44 as distributors shall take an inventory of all cigarettes and little cigars in their possession prior to delivery for resale upon which the tax stamp or metered imprint has been affixed and all unused

cigarette tax stamps and unused metered imprints in their possession at the close of business on the day preceding the effective date of an increase in the tax rate.

230.7(2) *Remittance.* Persons required to take an inventory shall remit the tax due on all cigarette stamps or metered imprints and all cigarettes and little cigars with stamps or metered imprints affixed in their possession prior to delivery for resale within 30 days of the inventory date.

230.7(3) *Computation.* The tax is equal to the difference between the amount paid for cigarette stamps or metered imprints purchased prior to the tax increase and the amount that is to be paid for cigarette stamps or metered imprints purchased after the tax increase.

In computing the inventory tax, any discount allowed or allowable under Iowa Code section 453A.8 shall not be considered.

230.7(4) *Applicability.* The inventory tax is applicable only when there is an increase in the tax rate. Rule 701—231.9(453A) provides an explanation of whether a refund is allowable when there is a decrease in the tax rate.

This rule is intended to implement Iowa Code sections 453A.6, 453A.40, and 453A.43.

ITEM 2. Rescind and reserve **701—Chapter 254.**

ARC 8734C

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rulemaking related to cigarette tax and regulation of delivery sales of alternative nicotine products or vapor products and providing an opportunity for public comment

The Revenue Department hereby proposes to adopt new Chapter 231, “Cigarette Tax and Regulation of Delivery Sales of Alternative Nicotine Products or Vapor Products,” and to rescind Chapter 255, “Cigarette Tax and Regulation of Delivery Sales of Alternative Nicotine Products or Vapor Products,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 453A.8, 453A.15, 453A.24, 453A.25 and 453A.47C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 423A.

Purpose and Summary

The purpose of the proposed rulemaking is to adopt new Chapter 231 and rescind and reserve Chapter 255. Chapter 255 contains rules on the Department’s interpretation of Iowa Code chapter 453A on the excise tax on cigarettes and the regulation of delivery sales of alternative nicotine and vapor products. The Department determined that the rules aid the public understanding of this topic. However, the Legislature’s recent passage of 2024 Iowa Acts, Senate File 345 and House File 2677, on the regulation of devices and vapor products, required, and in the case of House File 2677 mandated, the adoption of new administrative rules. The Department has determined that the current placement of the administrative rules on cigarette- and tobacco-related and adjacent topics does not allow for these new forthcoming chapters of rules to be placed near the others, hindering the public’s accessibility to these rules.

Therefore, the Department proposes readopting the rules on the excise tax on cigarettes and the regulation of alternative nicotine and vapor products in new Chapter 231 in order to provide the public easier accessibility to this and other cigarette- and tobacco-related administrative rules. The Department proposes revisions to the text of the rules for better organization and clarification and to remove portions

of the rules that the Department determined are unnecessary, obsolete, or duplicative of statutory language as required by Executive Order 10.

The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on December 10, 2024.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024. A public hearing was held on the following date(s):

- December 4, 2024

No public comments on the Regulatory Analysis were received at the hearing or in writing. References to 2024 Iowa Acts, Senate File 345 and House File 2677, have been removed since the legislation has been codified in the 2025 Iowa Code. No other changes from the Regulatory Analysis have been made.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 28, 2025. Comments should be directed to:

Matt Bishop
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.452.9205
Email: matt.bishop@iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 11, 2025 1 to 2 p.m.	Via videoconference call meet.google.com/dfi-ijbx-deo
February 12, 2025 1 to 2 p.m.	Via videoconference call meet.google.com/mki-dfmd-ybz

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 701—Chapter 231:

CHAPTER 231
CIGARETTE TAX AND REGULATION OF DELIVERY SALES OF ALTERNATIVE
NICOTINE PRODUCTS OR VAPOR PRODUCTS

701—231.1(453A) Definitions. Terms have the same meaning as defined in Iowa Code chapters 421B, 453A, 453C, 453D, and 453E and rule 701—230.1(453A).

This rule is intended to implement Iowa Code chapters 421B, 453A, 453C, 453D, and 453E.

701—231.2(453A) Permits required. Every person selling or distributing cigarettes or using or consuming untaxed cigarettes within the state of Iowa must first obtain the appropriate permit.

231.2(1) Distributor's permit. If a distributor performs any other function that requires a permit, a separate permit must be obtained. If a person is not performing the functions of a distributor, a permit will not be issued.

231.2(2) Wholesaler's permit. A “sale or distribution” of cigarettes connotes a transfer of cigarettes from one person or entity to another person or entity. Therefore, an intraentity transfer is not a transaction that qualifies as a function of a wholesaler. If a person is not performing the functions of a wholesaler, a permit will not be issued.

EXAMPLE: The XYZ Grocery Chain has a warehouse in Des Moines where stamped cigarettes are stored. The stamped cigarettes are purchased from a permitted distributor. XYZ transfers the cigarettes to its retail outlets across the state for the purpose of making retail sales and makes no other sales. The storage of stamped cigarettes and the retail sale of cigarettes are not functions of a wholesaler. Therefore, XYZ would not be eligible for a wholesaler's permit.

231.2(3) Cigarette vendor's permit. The duplicate permit applies to additional places of business from which the cigarette vendor conducts operations and not to those places of business where the cigarette vending machines are installed for retail sales.

EXAMPLE: A cigarette vendor owns three warehouses from which the vendor supplies cigarettes to 100 vending machines located at various retail establishments. The total permit cost for the vendor would be \$110 (\$100 for a regular permit plus \$10 for two duplicate permits at \$5 each).

231.2(4) Retail permits.

a. Location. Retail permits valid only for the location described in the permit and a retailer must obtain a separate permit for each place of business owned or operated by the retailer.

b. Local jurisdiction. The power to grant the retail permit is discretionary with the city council or board of supervisors, and uniform, nondiscriminatory limits may be placed on the issuance of the retail permit. The city or county must submit a copy of any retail permit issued within 30 days of issuance.

c. Mobile retailers. If a cigarette retailer sells cigarettes from a mobile concession vehicle, the vehicle itself is considered a place of business.

(1) If a retailer is selling cigarettes from a mobile concession vehicle within the area of several permit-issuing authorities, the retailer must obtain a permit from each authority.

(2) The retailer is operating a single place of business within the jurisdiction of the several authorities and is, therefore, subject to regulation by each.

(3) The location described on the permit shall include identification of the vehicle and the address of the permanent place of business from which the vehicle is dispatched. If the vehicle is traded in for a new vehicle, the exchange provisions of subrule 231.2(5) shall apply.

231.2(5) *Exchange of permits.* If a permittee changes the location of an operation requiring a permit but remains within the jurisdiction of the same entity that granted the original permit, the permittee may exchange the invalid permit (valid only for the location described in the permit) for a valid permit free of charge, without the partial payment-partial refund process described in Iowa Code section 453A.13(4).

EXAMPLE 1: City Bar and Grill sells cigarettes at retail and has obtained a retail cigarette permit from the city of Des Moines. The establishment is moved across the street but remains within the city limits of Des Moines. The retail permit is valid only for the location described in the permit, and therefore, the original permit is no longer valid. However, since the establishment has remained within the jurisdiction of the entity that granted the original permit, Des Moines, the original, presently invalid permit may be exchanged for a valid permit with a new location description at no cost.

EXAMPLE 2: Same as Example 1, except the new location of City Bar and Grill is outside the corporate limits of Des Moines and within the unincorporated area of Polk County. City Bar and Grill would have to surrender the old permit to the city of Des Moines and obtain a new permit from Polk County with the schedules set forth in this rule applying.

This rule is intended to implement Iowa Code sections 453A.13, 453A.16, 453A.17, and 453A.23.

701—231.3(453A) Bond requirements.

231.3(1) The amount of the bond required for each permit shall be as follows:

- a. Distributor permit: \$2,500.
- b. Wholesaler permit: \$2,500.
- c. Vendor permit: \$1,000.
- d. Railway car retail permit: \$500.
- e. Manufacturer permit: \$5,000.
- f. Distributing agent permit: \$2,500.
- g. Retail permit: \$0.

231.3(2) If a person is required to obtain more than one type of permit, the bond requirements shall be cumulative and additional bonds or a single bond equal to the total aggregate requirements must be obtained. More information on the required form of the bond is contained in rule 701—230.4(453A).

This rule is intended to implement Iowa Code sections 453A.14, 453A.17, and 453A.23.

701—231.4(453A) Cigarette tax—attachment—exclusivity of tax—exemption.

231.4(1) *Attachment.* The fact that the tax is eventually paid will not relieve the person's standing prior in the chain of distribution of the sanctions for distributing untaxed cigarettes if the tax should have been paid sooner by said person.

231.4(2) *Exclusivity of tax.* No other occupation or excise tax may be imposed by any political subdivision of the state. However, this provision does not apply to occupation or excise taxes imposed by the state.

231.4(3) *Sales exempt from tax.*

a. *Generally.* Sales of cigarettes that the state is prohibited from taxing under the Constitution or the laws of the United States or under the Constitution of this state are exempt from the tax. If the sale is exempt from the tax, stamps must not be attached. No refund will be issued for stamps that are attached to cigarette packages that are later sold exempt.

b. *Sales to the federal government.* Military post exchanges or instrumentalities of the federal government are not required to comply with the provisions of Iowa Code chapter 453A nor pay the tax imposed thereunder. However, individuals who have purchased or obtained cigarettes from a federal instrumentality and come within the jurisdiction of the state are subject to the provisions of Iowa Code sections 453A.6(2), 453A.36(1), and 453A.37.

c. Sales by or to Indians. Sales by Indians to other Indians of their own tribe on federally recognized Indian reservations or settlements of which they are tribal members are exempt from the tax. The Indian sellers are subject to the recordkeeping requirements of Iowa Code chapter 453A. The cigarettes must be purchased by the Indian seller with the tax included in the purchase price. The tax exemption is allowed to the Indian purchaser by the purchaser's filing a claim for refund of the tax paid or to the tribe of which the Indian purchaser is a member by the tribe's filing a claim for refund of the tax paid by the tribe on cigarettes sold to the Indian purchaser.

This rule is intended to implement Iowa Code section 453A.6.

701—231.5(453A) Cigarette tax stamps.

231.5(1) *Purchase of stamps from the department.* The stamps shall be sent to the purchaser through the United States Postal Service by registered mail or similar delivery service at the department's expense. The purchaser may request alternate methods of transmission, but such methods shall be at the expense of the purchaser. Regardless of the method used to send the stamps, title transfers to the purchaser at the time the department delivers the stamps to the carrier.

231.5(2) *Purchase of stamps from authorized bank.* The permittee shall furnish the bank with a requisition form prescribed by the department. The director may require such payments to be by cashier's check or certified check as to any individual distributor or manufacturer. The authorized bank shall be notified in writing by the department of any such requirement. Distributors or manufacturers that elect to purchase stamps from authorized banks shall advise the department in writing of the authorized bank so elected. The distributor or manufacturer may not purchase from any other bank other than the one so selected but may still purchase stamps directly from the department. Rule 701—231.6(453A) provides more information on restrictions on the sale of cigarette tax stamps placed on authorized banks. Rule 701—231.9(453A) provides more information on refunds relating to cigarette tax stamps.

This rule is intended to implement Iowa Code sections 453A.6, 453A.7, 453A.8, 453A.10, 453A.28, and 453A.35.

701—231.6(453A) Banks authorized to sell stamps—requirements—restrictions.

231.6(1) *Authorization.* The director has the discretion to allow the sale or distribution of stamps through authorized banks as defined in Iowa Code section 524.103. The authorization of a bank to sell stamps is not a mandatory direction but may be utilized by the director to enhance the efficiency of the tax stamp distribution system. The director will consider the following nonexhaustive list of factors to determine whether or not to authorize a bank to sell stamps:

- a.* Geographical location in relation to distributors or manufacturers requesting alternative purchase locations,
- b.* The anticipated volume of stamps to be purchased by the requesting distributors or manufacturers,
- c.* Access to transportation systems, and
- d.* Prior experience with the bank.

231.6(2) *Sale of stamps.* An authorized bank may sell cigarette stamps only to distributors or manufacturers holding valid permits who have "elected" (as per subrule 231.5(2)) to purchase stamps from that bank. The department shall furnish each bank with a list of all such distributors or manufacturers who have so elected, and the bank shall not sell stamps to persons not on the list. The bank must receive payment in full, less the discount, before selling stamps. A bank is not authorized to accept credit memorandums from distributors or manufacturers.

231.6(3) *Stamp inventory.* Each bank shall keep an adequate inventory of stamps on hand to supply distributors or manufacturers assigned to said bank for at least six weeks. Stamps will be shipped freight prepaid to the bank from the department or from the supplier of the stamps. The supplier of the stamps shall advise the department at once by mail of a shipment to a bank and the bank shall advise the department at once by mail of the receipt of the stamps. Each bank shall store stamps in a secure vault.

231.6(4) *Reports and remittances.* Each bank authorized to sell stamps shall forward to the department the invoices, requisitions, and remittances for stamps sold on a daily basis. Each bank shall

forward to the department, on the first working day of each month, an inventory report that shall minimally include as to the prior month: the quantity of stamps on hand at the beginning of the month, the quantity of stamps received during the month, the quantity of stamps sold as to each distributor or manufacturer, the quantity of stamps on hand at the end of the month and the signature of the person responsible for the stamps.

231.6(5) *Audit.* For the purpose of auditing for the end of the fiscal year, no bank shall sell cigarette stamps on the days from June 25 through June 30. With or without notice, the department or a representative designated by the department may take an inventory of stamps and audit stamp sales.

231.6(6) *Records.* Each bank must retain all records of inventory, stamp receipts, and stamp sales for a period of three years.

231.6(7) *Termination of authorization.* The director may terminate the authorization of a bank to sell stamps if the bank has failed to comply with the provisions of this rule or Iowa Code chapter 453A or if the director deems it desirable for the efficient distribution of stamps.

a. Notice of termination shall be sent to the bank by certified mail. The bank may appeal the termination determination by filing an appeal pursuant to 701—Chapter 7 within 30 days of notice of termination.

b. A bank may voluntarily terminate the sale of stamps by giving the department 90 days' written notice.

c. Upon termination, the bank must immediately return all stamps and present a final accounting, along with any remittances, to the department.

This rule is intended to implement Iowa Code sections 453A.8, 453A.12, and 453A.25.

701—231.7(453A) Reports. Whenever “cigarette” is used in this rule, it also includes taxable “little cigars.”

231.7(1) *In-state distributors not exporting cigarettes.* Every distributor with a place of business in Iowa where cigarettes are stamped and that is not engaged in exporting cigarettes from this state shall submit any forms required by the department.

a. All required forms must be completed before the report will be considered “filed” and may require but not be limited to the following information:

- (1) Distributor's name, permit number and address;
- (2) Amount of Iowa revenue purchased during the month;
- (3) Quantity of cigarettes on hand at the end of the month;
- (4) Amount of revenue on hand at the end of the month;
- (5) Purchases of cigarettes during the month and as to each purchase, the seller's name, the date of purchase, the invoice number, and the quantity purchased;
- (6) An inventory report as to out-of-state revenue;
- (7) Quantity of cigarettes returned to the factory along with supporting documents;
- (8) Certification of the person responsible for making the report;
- (9) Inventory accounting for cigarettes; and
- (10) Inventory accounting for revenue.

b. The quantity of cigarettes distributed or stamped should be equal to the tax equivalent of the revenue used. Any discrepancy must be adequately explained.

231.7(2) *In-state distributors exporting cigarettes.* Every distributor with a place of business in Iowa where cigarettes are stamped that also engages in exporting cigarettes from this state shall file the forms required by the department. The forms must be complete before the forms will be considered filed.

231.7(3) *Out-of-state distributors.* Every distributor stamping cigarettes only without the state shall file the forms required by the department and shall include but not be limited to:

- a.* The distributor's name, address and permit number;
- b.* An itemized statement of Iowa revenue purchased;
- c.* An inventory accounting of Iowa revenue;
- d.* A detailed schedule of cigarette distribution in Iowa and as to each distribution, the date, the name of purchaser or receiver, the purchaser's address and the quantity of cigarettes distributed; and

e. The certification of the person responsible for making the report.

231.7(4) *Manufacturers and other persons.* The monthly reports for manufacturers and other persons shall contain such information as the director deems necessary.

This rule is intended to implement Iowa Code section 453A.15.

701—231.8(453A) Manufacturer’s samples and replacement packages.

231.8(1) *Free samples.* Iowa Code section 453A.39 provides an exclusive method for manufacturers to distribute free sample packages of cigarettes or little cigars. In addition to the requirements under Iowa Code section 453A.39, the cigarettes or little cigars must also be clearly marked “sample” and contain an acknowledgment that the tax was paid on each carton containing free samples. The tax to be paid must be computed on a per cigarette basis rather than a per package basis.

231.8(2) *Distributor affidavit.* The department will stamp the distributor’s affidavit containing the remittance and return a copy of the affidavit to the distributor as the acknowledgment that taxes have been paid on the samples.

a. After receiving the acknowledgment, and before the sample cigarettes are distributed, each distributor is requested to stamp the cartons of free samples with a stamp containing the distributor’s name, permit number and the words “IOWA STATE TAX PAID.”

b. In the event the distributor needs acknowledgment sooner, the distributor may request that the department acknowledge by telephone and follow up with the affidavit acknowledgment at a later date.

c. In the event sample cigarettes must be returned to the manufacturer for some reason, a refund of the taxes previously paid will be made to the distributor that actually remitted the tax to the department. The refund will be made in the same manner as for regular cigarettes by the distributor filing the appropriate forms with the department.

231.8(3) *Replacement packages.* A manufacturer wants to respond to a customer complaint by replacing a package of 20 cigarettes purchased by the customer with another package of 20 cigarettes.

a. The replacement package must be clearly marked with the words “COMPLIMENTARY. NOT FOR SALE. ALL APPLICABLE STATE TAXES PAID.”

b. The manufacturer may pay the tax directly to the department by submitting an affidavit to the department containing the number of replacement packages sent into the state during the previous month, along with the remittance. The number of replacement packages and remittance may be submitted as part of the manufacturer’s affidavit required under Iowa Code section 453A.39.

This rule is intended to implement Iowa Code sections 453A.1, 453A.13, 453A.16, 453A.22, 453A.31, and 453A.39.

701—231.9(453A) Refund of tax—unused and destroyed stamps.

231.9(1) *Refunds of unused stamps and destroyed stamps.*

a. Refunds shall be issued for unused stamps that are returned to the department for any reason by a person entitled to receive a refund. This includes:

(1) Unused stamps unaffixed at the close of the business day next preceding the effective date of a decrease in the tax rate that are in excess of the unstamped cigarette inventory on hand as of that date.

(2) Stamps that are recalled by the director for purposes of effectuating a change of design of the stamps.

(3) Stamps that have been lost through destruction, since destroyed stamps have not been used. For purposes of this rule, destruction means destruction by fire, flood, other act of God as defined in 701—subrule 10.7(1), or other destruction not reasonably anticipated or foreseen and outside the control of the person seeking the refund. The claim for refund must be supported by proof of the fact of the loss and proof of the quantity of the loss. The claim must be filed within 30 days of the loss.

b. Refunds will not be issued for stamps that are lost (misplaced) or stolen because it is the distributor’s or manufacturer’s responsibility to maintain proper control over cigarette tax stamps.

c. Banks that are authorized to sell stamps or meter settings are not authorized to issue a refund; the stamps must be returned to the department and a refund will be issued only by the department.

231.9(2) *Return of used stamps.*

a. Refunds shall be issued for stamps that have been affixed to cigarettes that have become unfit for use or consumption or unsaleable. This refund is available to any permitted distributor or manufacturer upon proof that the cigarettes were returned to the manufacturer of the cigarettes.

b. The proof required shall be an affidavit from the distributor setting forth to whom the cigarettes were returned and verifying that cigarette stamps had been affixed thereto. An affidavit from the manufacturer to which the cigarettes were returned verifying the information must also be included.

231.9(3) *Cigarettes that have been destroyed.*

a. The tax shall be returned on cigarettes that have been destroyed after the tax stamps have been affixed to the person stamping the cigarettes. No refund is allowed for lost or stolen cigarettes.

b. The person claiming the loss must be able to prove the fact of the loss and quantity of the loss. The claim, on the form required by the department and accompanied by proof of the loss and proof of the quantity of the loss, must be filed with the department no later than 30 days following the date the loss occurred.

c. The amount of the refund shall be the face value of the stamps less the applicable discount allowed purchasers of tax stamps.

231.9(4) *No credit in lieu of a refund.* There are no statutory provisions to allow a credit in lieu of a refund of taxes paid for returned or destroyed cigarette stamps.

This rule is intended to implement Iowa Code section 453A.8.

701—231.10(453A) Delivery sales of alternative nicotine products or vapor products.

231.10(1) *Delivery sale permit for out-of-state retailers.* An out-of-state retailer that has applied and otherwise qualifies for a delivery sale permit will be issued the permit for the retailer's principal place of business.

231.10(2) *Sales and use tax permit.* A retailer holding a delivery sale permit must also have an Iowa sales or use tax permit. A retailer holding a delivery sale permit must collect and remit all Iowa sales and use tax due, including any applicable local option sales tax, on all sales in Iowa.

231.10(3) *Bond required.* A bond of \$1,000 is required to obtain a delivery sale permit.

231.10(4) *Prohibited delivery sales.* All delivery sales of cigarettes and tobacco products to consumers in Iowa are prohibited.

This rule is intended to implement Iowa Code sections 453A.47A, 453A.47B, and 453A.47C.

ITEM 2. Rescind and reserve **701—Chapter 255.**

ARC 8735C

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rulemaking related to tobacco tax and providing an opportunity for public comment

The Revenue Department hereby proposes to adopt new Chapter 232, "Tobacco Tax," and to rescind Chapter 256, "Tobacco Tax," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 453A.24, 453A.25, 453A.40, 453A.46, 453A.47A and 453A.49.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 453A.

Purpose and Summary

The purpose of the proposed rulemaking is to adopt new Chapter 232 and rescind and reserve Chapter 256. Chapter 256 contained rules on the Department's interpretation of Iowa Code chapter 453A on the application and imposition of the excise tax on tobacco. The Department determined that the rules aid the public understanding of this topic. However, the Legislature's recent passage of 2024 Iowa Acts, Senate File 345, and 2024 Iowa Acts, House File 2677, on the regulation of devices and vapor products, required, and in the case of House File 2677, mandated, the adoption of new administrative rules. The Department has determined that the current placement of the administrative rules on cigarette- and tobacco-related and adjacent topics does not allow for these new forthcoming chapters of rules to be placed near the others, hindering the public's accessibility to these rules.

Therefore, the Department proposes readopting the rules on the administration of the excise tax on tobacco and moving them into Chapter 232, which was previously reserved, in order to provide the public easier accessibility to this and other cigarette- and tobacco-related administrative rules. The Department proposes revisions to the text of the rules for better organization and clarification and to remove portions of the rules that the Department determined are unnecessary, obsolete, or duplicative of statutory language as required by Executive Order 10.

The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on December 10, 2024.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024. A public hearing was held on the following date(s):

- December 4, 2024

No public comments on the Regulatory Analysis were received at the hearing or in writing. References to 2024 Iowa Acts, Senate File 345 and House File 2677, have been removed since the legislation has been codified in the 2025 Iowa Code.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on February 11, 2025. Comments should be directed to:

Matt Bishop
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.452.9205
Email: matt.bishop@iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 11, 2025 1 to 2 p.m.	Via videoconference call meet.google.com/dfi-ijbx-deo
February 12, 2025 1 to 2 p.m.	Via videoconference call meet.google.com/mki-dfmd-ybz

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 701—Chapter 232:

CHAPTER 232
TOBACCO TAX

701—232.1(453A) Definitions. Terms have the same meaning as defined in Iowa Code chapters 421B, 453A, 453C, 453D, and 453E and rule 701—230.1(453A).

This rule is intended to implement Iowa Code chapters 421B, 453A, 453C, 453D, and 453E.

701—232.2(453A) Permits.

232.2(1) Generally. If the person holds a valid cigarette permit of any kind, the permit will be issued without cost if all other requirements for the permit are met, but the permit must still be obtained. A tobacco retailer is required to obtain a retail cigarette/tobacco permit.

232.2(2) Distributor permit.

a. Every person operating as a tobacco distributor as defined in Iowa Code section 453A.42 must obtain a tobacco distributor's permit.

b. In any distribution scheme whereby tobacco products are imported into this state for sale, there must be at least one distributor.

EXAMPLE 1: Manufacturer, Inc. is in the business of processing tobacco products in the state of North Carolina. Retailer, Inc. is in the business of selling tobacco products at retail in the state of Iowa. If Manufacturer, Inc. ships tobacco products directly to Retailer, Inc., f.o.b. manufacturer's plant, both are performing the functions of a distributor; Manufacturer, Inc. is selling tobacco products without this state and shipping them directly to a retailer in this state, and Retailer, Inc. is causing tobacco products to be brought into this state from without the state for the purpose of sale. Therefore, at least one of the parties must obtain a distributor permit.

EXAMPLE 2: Manufacturer, Inc. is in the business of processing tobacco products in the state of North Carolina. Retailer, Inc. is in the business of selling tobacco products at retail in the state of Iowa. If Manufacturer, Inc. ships tobacco products directly to Retailer, Inc., f.o.b. retailer's place of business, Manufacturer, Inc. is acting as a distributor and Retailer, Inc. is not. Manufacturer, Inc. is selling tobacco products without this state and shipping them directly to a retailer in this state. Retailer, Inc. is not

causing tobacco products to be brought into this state from without the state. Therefore, in this example, Manufacturer, Inc. must obtain a distributor permit.

232.2(3) Subjobber's permit.

a. Every person, other than persons permitted as tobacco distributors, operating as a tobacco subjobber, as defined in Iowa Code section 453A.42, must obtain a tobacco subjobber's permit.

b. A single subjobber's permit is sufficient for the subjobber's entire activities within the state because it is not issued for each place of business.

This rule is intended to implement Iowa Code section 453A.44.

701—232.3(453A) Distributor bond.

232.3(1) Generally. A bond in the amount of \$1,000 is required to be posted before a distributor's permit can be issued, regardless of whether or not the distributor is permitted and bonded as a cigarette permittee.

232.3(2) Aggregation. If the distributor has a cigarette permit of any kind and is required to post a bond thereunder, the amount of the cigarette bond(s) and the tobacco bond(s) may be aggregated to reach a single bond requirement, and the distributor may provide a single bond in the aggregate amount provided the bond may be used to discharge either a cigarette tax liability or a tobacco tax liability. Rule 701—230.4(453A) provides more information about bonds.

This rule is intended to implement Iowa Code section 453A.44.

701—232.4(453A) Tax on tobacco products.

232.4(1) Generally. The tax on tobacco products is to be paid once, either upon distribution by a distributor or upon use or storage by a consumer. The tax is in addition to any occupation or privilege tax or permit fees imposed by any city or county.

232.4(2) Distributor responsibility. The tax as specified in Iowa Code section 453A.43(1) "a" is imposed when a distributor does any of the activities as listed in Iowa Code section 453A.43(1) "e."

232.4(3) Consumer responsibility.

a. If the tax under Iowa Code section 453A.43(1) is not paid under the circumstances identified in Iowa Code section 453A.43(1) "e," the consumer is responsible for the tax specified in Iowa Code section 453A.43(2) based upon the cost to the consumer of the tobacco products used or stored by the consumer.

b. The tax does not apply to the use or storage of tobacco products in the circumstances identified in Iowa Code section 453A.43(2) "e."

c. The exceptions do not apply to tobacco products subject to the tax imposed upon distributors.

232.4(4) Discounted tobacco products.

a. *Generally.* A tobacco product sold by manufacturers to distributors that is discounted is taxed at the highest wholesale sales price for that product.

b. *Discounted tobacco products.* A tobacco product is discounted when, compared to an identical product on the price list, the tobacco product has a lower wholesale sales price.

(1) Tobacco products are identical if they are sold as the same package size on the price list, irrespective of whether such tobacco is flavored, adulterated, or mixed with any other ingredients; the price printed on the box; the manufacturer's suggested retail price provided to the retailer; the stock keeping unit or universal product code or similar codes used by the manufacturer; the type of packaging used; the name of the product as marketed; the geographic distribution; the target customer; or the length of the time of the promotion.

(2) The manufacturer's characterization of the tobacco product on the price list is a consideration to determine if a tobacco product is discounted, but it is not controlling.

(3) Examples of discounted tobacco products include but are not limited to prepriced cigars and reduced-price multipacks of tobacco products where the manufacturer sells an identical product on the price list at a higher wholesale sales price.

EXAMPLE 1: Manufacturer, Inc. sells XYZ Product cigars in 25-count packages as both a prepriced product and a regular-priced product. Manufacturer, Inc. provides a price list to Distributor, Inc. where

the wholesale sales price for the prepriced product is listed as \$480 and the wholesale sales price for the regular-priced product is listed as \$605. The prepriced XYZ Product is a discounted cigar product and shall be taxed at the higher wholesale sales price of \$605.

EXAMPLE 2: Manufacturer, Inc. sells ABC Product cigars in 25-count packages. ABC Product is prepriced at \$.99 and \$1.19. Manufacturer, Inc. provides a price list to Distributor, Inc. where the wholesale sales price for ABC Product at \$.99 is listed as \$346 and the wholesale sales price for ABC Product at \$1.19 is listed as \$360. ABC Product cigars, at both prepriced price points, shall be taxed at the higher wholesale sales price of \$360.

EXAMPLE 3: Manufacturer, Inc. sells H Product cigarillos in two 30-count packages as prepriced products and as “save on two” products. Prepriced H Product includes 2/\$.99 and 2/\$1.49. Manufacturer, Inc. provides a price list to Distributor, Inc. where the wholesale sales price for H Product at 2/\$.99 is listed as \$190, the wholesale sales price for H Product at 2/\$1.49 is listed as \$207, and the wholesale sales price for H Product as “save on two” is listed as \$350. H Product cigarillos shall be taxed at the highest wholesale sales price of \$350.

EXAMPLE 4: Manufacturer, Inc. sells multipacks of J Product cigarillos. The J Product multipacks are sold as five-packs, and some of the five-packs are labeled as “five for the price of three.” The wholesale sales price of the five-packs of J Product that are not labeled as discounted have a higher wholesale sales price than the five-packs of J Product that are labeled as “five for the price of three.” The five-packs labeled as “five for the price of three” shall be taxed at the higher wholesale sales price of J Product five-packs that are not labeled as discounted.

This rule is intended to implement Iowa Code sections 453A.42(18) and 453A.43.

701—232.5(453A) Tax on little cigars. All provisions applicable to cigarettes concerning rate, imposition, payment method, reporting, and affixing of stamps apply equally to little cigars, as defined in Iowa Code section 453A.42. The tax on little cigars is to be paid on the purchase of stamps by cigarette distributors or cigarette manufacturers who hold valid permits.

This rule is intended to implement Iowa Code sections 453A.42 and 453A.43.

701—232.6(453A) Distributor returns.

232.6(1) Generally. Every distributor permitted under Iowa Code section 453A.44 must file monthly returns.

a. Due date. Returns are due no later than the 20th day of the month following the month covered by the return. For example, a return covering the month of May 2025 would be due no later than June 20th, 2025.

b. Remittances. Remittances for the amount due minus the applicable discount are to be included with the monthly returns.

c. Discount. Permitted tobacco distributors filing returns under Iowa Code section 453A.46 are entitled to deduct a discount equal to 3.5 percent from the remittance for the tax due. For example, if the amount of tax due was \$100, then the distributor would be entitled to deduct \$3.50 from the tax due and would remit \$96.50 to the department.

232.6(2) In-state distributors.

a. Permitted tobacco distributors with a place of business in Iowa must file the form(s) prescribed by the department as the monthly distributor return.

b. Return information. Information to be included in the return includes but is not limited to:

(1) Distributor’s name, address, and permit number.

(2) An accounting of the acquisition of tobacco products subject to tax. For each acquisition, the return must provide:

1. Date received.

2. Date and number of invoice.

3. Seller information.

4. Manufacturer’s gross list price.

(3) Claims for credit for any tobacco products destroyed, returned to manufacturer, or exported.

1. Claims for credit are to be completed on the form prescribed by the department.
2. Claims for credit may also be completed via GovConnectIowa.
- (4) Certification of the person responsible for completing the return.

232.6(3) Out-of-state distributors.

a. Permitted tobacco distributors, with no place of business in Iowa, must file the prescribed form by the department as the monthly distributor return.

b. Return information. Information to be provided in the return includes but is not limited to:

- (1) Distributor name, address, and permit number.
- (2) Accounting of sales of tobacco products in Iowa that are subject to tax, including:
 1. Date of sale.
 2. Invoice number.
 3. Purchaser name and address.
 4. Manufacturer's gross list price.
- (3) Certification of the person responsible for completing the return.

This rule is intended to implement Iowa Code sections 453A.46 and 453A.47.

701—232.7(453A) Credits and refunds of taxes. Credits for tobacco products destroyed, returned to manufacturers, or exported are provided for in subrule 232.6(1). If the credits exceed the average monthly tax liability of the distributor, based upon the prior 12 tax periods, a refund may be issued.

Credits and refunds to a consumer who paid the tax pursuant to Iowa Code section 453A.43(2) are allowed for the same reasons and upon the same basis as credits and refunds to distributors.

This rule is intended to implement Iowa Code section 453A.47.

701—232.8(453A) Consumer's return.

232.8(1) Generally. Consumers or any person who is not a permitted tobacco distributor who obtains or possesses tobacco products on which the tax under Iowa Code section 453A.43 has not been paid is responsible for reporting and remitting tax on those tobacco products. Consumers must file a distributor tax return for any month the person is responsible for paying the tax.

232.8(2) Due date. Returns are due no later than the 20th day of the month following the month covered by the return. For example, if the return is covering the month of April 2025, the return is due no later than May 20, 2025.

232.8(3) Manner of return. Returns are to be completely filled out, excepting that the consumer will not have a permit number and so should indicate on the form that the permit number is not applicable to them.

a. The full amount of tax due must accompany the return when filed.

b. The discount provided under Iowa Code section 453A.46(1) for permitted distributors does not apply to consumers.

c. Returns can be filed electronically via GovConnectIowa or mailed to the department.

232.8(4) Penalties. Penalties provided in Iowa Code section 453A.46 for permitted distributors apply equally to consumers required to file a return.

This rule is intended to implement Iowa Code sections 453A.43, 453A.46, and 453A.49.

701—232.9(453A) Transporter's report.

232.9(1) Generally. All transportation of tobacco products into this state are to be reported to the director within 30 days of the importation.

232.9(2) Reports. Reports are to include but not to be limited to the following information:

- a. Description of the products imported,
- b. Name and address of seller or consignor,
- c. Date of import,
- d. Name and address of purchaser or consignee,
- e. Point of origin,
- f. Point of destination.

232.9(3) *Out-of-state distributors.* Permitted tobacco distributors that have a place of business outside of the state where tobacco products are shipped from do not need to file a separate transportation report permit. This information will be included within the distributor reports filed by the distributor.

232.9(4) *Common carriers.* Common carriers transporting tobacco products into this state need only report shipments to places other than public warehouses permitted under the provisions of Iowa Code chapter 554. Transporter reports filed by common carriers are due no later than the tenth day following the month of importation. For example, if a common carrier transported tobacco products during August 2025, its transporter report is due no later than September 10, 2025.

232.9(5) *Other transportation.* All other transportation of tobacco products into this state by persons other than out-of-state distributors and common carriers is to be reported to the department except:

a. The importation of tobacco products by a consumer in sufficiently small quantities to be exempt from the tax as identified in Iowa Code section 453A.45(5), or

b. The importation by a consumer of tobacco products if the consumer is responsible to report and pay the tax under Iowa Code sections 453A.43(2) and 453A.46(6).

This rule is intended to implement Iowa Code section 453A.45.

701—232.10(453A) Free samples. Persons responsible for the distribution of samples of tobacco products in the state are responsible for paying the amount of tobacco tax due on those samples and filing a return. The tax due is based on the usual wholesale price of these products.

This rule is intended to implement Iowa Code sections 453A.43, 453A.46, and 453A.49.

701—232.11(453A) Sales exempt from tax.

232.11(1) *Sales to the federal government.*

a. Military post exchanges or instrumentalities of the federal government are not required to comply with the provisions of Iowa Code chapter 453A or pay the tax imposed thereunder.

b. Individuals who have purchased or obtained tobacco products from a federal instrumentality and come within the jurisdiction of the state are subject to the provisions of Iowa Code sections 453A.43(2) and 453A.50.

232.11(2) *Sales by or to Indians.*

a. Sales by Indians to other Indians of their own tribe on federally recognized Indian reservations or settlements of which they are tribal members are exempt from the tax.

b. Indian sellers are subject to the recordkeeping requirements of Iowa Code chapter 453A.

c. Tobacco products are to be purchased by the Indian seller with the tax included in the purchase price.

d. The tax exemption is allowed to the Indian purchaser by the purchaser's filing a claim for refund of the tax paid or to the tribe of which the Indian purchaser is a member by the tribe's filing a claim for refund of the tax paid by the tribe on tobacco products sold to the Indian purchaser.

This rule is intended to implement Iowa Code section 453A.43(4).

ITEM 2. Rescind and reserve **701—Chapter 256.**

ARC 8736C

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rulemaking related to unfair cigarette sales and providing an opportunity for public comment

The Revenue Department hereby proposes to adopt new Chapter 233, "Unfair Cigarette Sales," and to rescind Chapter 257, "Unfair Cigarette Sales," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 421B.11.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 421B.

Purpose and Summary

The purpose of the proposed rulemaking is to adopt new Chapter 233 and rescind and reserve Chapter 257. Chapter 257 contained rules on the Department's interpretation of Iowa Code chapter 421B on unfair cigarette sales and the minimum pricing of cigarettes that works in conjunction with the excise tax on cigarettes found in Iowa Code chapter 453A. The Department determined that the rules aid the public understanding of this topic. However, the Legislature's recent passage of 2024 Iowa Acts, Senate File 345 and House File 2677, on the regulation of devices and vapor products, required, and in the case of House File 2677, mandated, the adoption of new administrative rules. The Department has determined that the current placement of the administrative rules on cigarette- and tobacco-related and adjacent topics does not allow for these new forthcoming chapters of rules to be placed near the others, hindering the public's accessibility to these rules.

Therefore, the Department proposes readopting the rules on unfair cigarette sales and minimum pricing of cigarettes and moving the rules into Chapter 233, which was previously reserved, in order to provide the public easier accessibility to this and other cigarette- and tobacco-related administrative rules. The Department proposes revisions to the text of the rules for better organization and clarification and to remove portions of the rules that the Department determined are unnecessary, obsolete, or duplicative of statutory language as required by Executive Order 10.

The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on December 10, 2024.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024. A public hearing was held on the following date(s):

- December 4, 2024

No public comments on the Regulatory Analysis were received at the hearing or in writing. No changes have been made to the text since publication of the Regulatory Analysis.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on February 11, 2025. Comments should be directed to:

Matt Bishop
Department of Revenue

Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.452.9205
Email: matt.bishop@iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 11, 2025 1 to 2 p.m.	Via videoconference call meet.google.com/dfi-ijbx-deo
February 12, 2025 1 to 2 p.m.	Via videoconference call meet.google.com/mki-dfmd-ybz

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 701—Chapter 233:

CHAPTER 233 UNFAIR CIGARETTE SALES

701—233.1(421B) Definitions. For purposes of this chapter, terms and phrases have the same meaning as defined in Iowa Code section 421B.2.

This rule is intended to implement Iowa Code section 421B.2.

701—233.2(421B) Minimum price.

233.2(1) *Cost to retailers or cost to wholesalers.* The “cost to the retailer” and “cost to wholesaler” are defined in Iowa Code section 421B.2. The formulas for determining the cost to a wholesaler or retailer are not conclusive. The retailer, wholesaler, or the department may prove that the cost is either higher or lower.

233.2(2) *Proving higher or lower than statutory presumption.*

a. The statutory presumptive cost must be used in determining minimum price until approval of the request to utilize another figure is granted by the department. If the requester continues to sell cigarettes at less than the presumptive cost, the department may revoke the requester's permit or seek an injunction pursuant to Iowa Code section 421B.10 to prevent such action.

b. Any wholesaler or retailer who desires to prove that the wholesaler's or retailer's cost is less than the statutory presumptive cost computed according to Iowa Code chapter 421B may submit a petition for approval of a lower cost along with actual cost data to the department.

c. Any requester making sales of cigarettes in or into Iowa for more than 12 months shall submit cost data for the 12-month period ending no more than 30 days prior to the submission of the petition. Any requester making sales of cigarettes in or into Iowa for less than 12 months shall submit cost data

for the period beginning with the start of business and ending no more than 30 days prior to the submission of the petition.

d. The department will notify the wholesaler or retailer of the acceptance or rejection of the petition. If the requester disagrees with the department's determination, the requester may file an appeal within 60 days of the department's decision in accordance with provisions of the "appeals" rule contained in 701—Chapter 7.

233.2(3) *Costs of doing business.*

a. Costs of doing business include but are not limited to freight charges, labor, and equipment costs to affix stamps, ink, glue, permit fees, management fees, labor costs (including salaries of officers), rents, depreciation, selling costs, maintenance expenses, interest expenses, delivery costs, taxes, insurance, advertising expenses, and any other operational and administrative costs. The requester shall set forth the basis for allocated costs.

b. When the computed cost amounts to any fractional part of a cent, the cost must be rounded up to at least the next higher whole cent.

c. Sales made between wholesalers as provided for in Iowa Code section 421B.5, sales described in Iowa Code section 421B.6, and sales outside of the ordinary channels of trade as provided in Iowa Code section 421B.9 shall not be required to adhere to the minimum pricing requirements set forth in Iowa Code section 421B.3 and this rule.

233.2(4) *Discounts.* For purposes of determining the basic cost of cigarettes for wholesalers or retailers, trade or cash discounts may be deducted, if available, even though not taken. The discount taken or available must be clearly specified on the invoice or it will not be allowed as a reduction in the basic cost of cigarettes. Any financial incentive given to a wholesaler or retailer by a manufacturer at a later date will not reduce the basic cost of cigarettes.

233.2(5) *Example.* The following example will demonstrate the application of Iowa Code chapter 421B and this rule.

Per thousand cigarettes:

Manufacturer cost	\$149.9500
Minus 2% discount	– 2.9990
Plus ½ of the tax	<u>+ 34.0000</u>
	=
Basic cost of cigarettes	\$180.9510
Plus 4% of basic cost	<u>+ 7.2380</u>
	=
Retailer's basic cost	\$188.1890
Plus ½ of the tax	<u>+ 34.0000</u>
Per 1000 cigarettes: Wholesaler Minimum price to retailer	=
	\$222.1890
Per carton (10 packs of 20 cigarettes):	
Wholesaler Minimum Price to Retailer	\$44.44
Minus ½ state tax	– <u>6.80</u>
Retailer's basic cost	\$37.6400
Plus 8% of basic cost	+ 3.0112
Plus ½ of state tax	<u>+ 6.8000</u>
	=
Minimum cost per carton to retailer	\$47.4600
	\$4.75/
Per pack	pack

This rule is intended to implement Iowa Code sections 421B.2, 421B.3, 421B.5, 421B.6 and 421B.9.

701—233.3(421B) Combination sales.

233.3(1) *Additional items sold with cigarettes.* Whenever cigarettes and another item are offered for sale at a total combined price, the sales price shall not be lower than the “cost to wholesaler” or “cost to the retailer” of all articles sold. The “cost to wholesaler” or “cost to the retailer” of all of the articles sold on a combined basis is determined under Iowa Code sections 421B.2(1), 421B.2(3), and 421B.2(4).

233.3(2) *Promotional gifts.* If a promotional gift is given to the wholesaler or retailer by a cigarette manufacturer at no cost, which gift is to be given to consumers at no cost upon the sale of cigarettes, the minimum sales price will not be affected. The invoice cost of the promotional gift is zero, and therefore, the “cost to wholesaler” or “cost to the retailer” of the promotional gift is zero. If, however, the wholesaler or retailer were to purchase items to be given away with the purchase of cigarettes by consumers, the minimum sales price would increase. The “cost to wholesaler” or the “cost to the retailer” of the promotional item would be based upon the lower of invoice cost or replacement cost.

This rule is intended to implement Iowa Code section 421B.4.

701—233.4(421B) Retail redemption of coupons. The redemption of coupons by retailers, which coupons were supplied to consumers by manufacturers and will be redeemed from the retailers by the manufacturers, does not affect the minimum sales price of cigarettes. The retailer is still receiving the statutory minimum price even though that price is paid by two different persons, the consumer and the manufacturer. Manufacturer incentives to the consumer in lieu of a coupon that reduce the cost of the cigarettes to the consumer do not affect the minimum sales price of cigarettes when the manufacturer absorbs the loss for the incentive.

This rule is intended to implement Iowa Code section 421B.3.

701—233.5(421B) Promotions using cigarettes, noncigarettes, or coupons.

233.5(1) *Promotions using cigarettes, noncigarettes or coupons generally.* Promotional situations are specifically covered by Iowa Code section 421B.4. A promotional situation as described in Iowa Code section 421B.4 is valid provided it is a promotion scheme complying with the procedural requirements that it be a sale.

233.5(2) *Promotion using cigarettes.* If a manufacturer wants to run a promotion where two packs of cigarettes are sold for the price of one, the manufacturer could give the complimentary cigarettes to a distributor to be stamped that would then give the complimentary cigarettes to a retailer who gives the complimentary cigarettes away with the purchase of another pack. Provided the distributor is reimbursed for the cost of the tax stamps, there is no violation of Iowa Code chapter 421B by anyone. The following example illustrates what a manufacturer can do.

EXAMPLE: A manufacturer ships packs of 20, free of charge, to a permitted distributor with instructions to stamp them and send them to retail outlets or deliver them to one of the manufacturer’s employees. The manufacturer reimburses the distributor for the cost of stamping the cigarettes. The manufacturer sends or furnishes instructions and display materials to retailers for the retail distribution of the cigarettes. This method of distribution would be proper.

The cost provisions of Iowa Code section 421B.4 would not prevent the distribution of cigarettes in this example since Iowa Code section 421B.4 is silent with respect to below cost combination sales by manufacturers. The cost of cigarettes that are sold is controlled by Iowa Code section 421B.2. The cigarettes sold under the “buy one” portion of the promotion will have a cost of the lower of the true invoice or the lowest replacement cost. The cigarettes sold under the “get one free” portion of the promotion and that were obtained free of charge will have no invoice cost to the retailer.

233.5(3) *Promotions using noncigarette items.* A manufacturer wants to give away promotional items with the purchase of cigarettes at the regular price. Since Iowa Code section 421B.4 is silent with respect to below cost combination sales by manufacturers, the practice of the manufacturer providing a gift item, such as cigarette lighters, through wholesale channels to retailers that will be delivered to the customer at the time of the sale of the cigarettes does not violate Iowa Code chapter 421B.

233.5(4) *Coupons.* A manufacturer distributes coupons to the general public to allow the purchase of cigarettes at a reduced price. Provided it is the manufacturer who absorbs the entire cost of the

reduction in price, there would be no violation of Iowa Code chapter 421B. Coupons that are sent to the final consumer to be redeemed by a retailer that is reimbursed by a manufacturer do not violate Iowa Code chapter 421B. This would be true even though the coupon represented the full price of the cigarettes.

This rule is intended to implement Iowa Code chapter 421B.

701—233.6(421B) Notification of manufacturer’s price increase. For purposes of determining the “cost to the retailer” and the “cost to wholesaler,” all manufacturers dealing with Iowa permittees shall notify the department in writing within five working days of the effective date of any change in the manufacturer’s list price for cigarettes.

This rule is intended to implement Iowa Code sections 421B.8 and 421B.11.

701—233.7(421B) Sanctions for violations.

233.7(1) Civil penalties. Violations of Iowa Code chapter 421B and this chapter will result in penalties as identified in Iowa Code section 421B.3.

233.7(2) Permit revocation or suspension generally. The department may revoke or suspend any permit issued under Iowa Code chapter 453A, subchapter I, for any violation of Iowa Code chapter 421B. The authority to revoke or suspend a retail cigarette permit for a violation of Iowa Code chapter 421B rests in the department even though the permit was issued by a city or county. The revocation or suspension shall be effectuated under the provisions of the “contested case proceedings” and “licenses” rules contained in 701—Chapter 7.

233.7(3) Waiting period. Once the permit is revoked or suspended, the permittee cannot obtain another cigarette permit, nor may a permit be issued for the location covered by the revoked or suspended permit, regardless of the identity of the applicant, for a period of at least six months.

This rule is intended to implement Iowa Code section 421B.11.

ITEM 2. Rescind and reserve **701—Chapter 257.**

ARC 8737C

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rulemaking related to tobacco master settlement agreement and providing an opportunity for public comment

The Revenue Department hereby proposes to adopt new Chapter 234, “Tobacco Master Settlement Agreement,” and to rescind Chapter 258, “Tobacco Master Settlement Agreement,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 453C.1(10), 453D.5(5) and 453D.7(3).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 453C and 453D.

Purpose and Summary

The purpose of the proposed rulemaking is to adopt new Chapter 234 and rescind and reserve Chapter 258. Chapter 258 contains rules required or necessary to ascertain the amount of excise tax paid on cigarettes sold by participating and nonparticipating tobacco manufacturers in Iowa each year and ensure tobacco product manufacturers comply with the Master Settlement Agreement (MSA). The rules

also establish provisions for escrow accounts and provide for periodic compliance reports. Iowa's model directory and escrow statutes, and corresponding rules, are required to conform to the MSA. All settling states have enacted qualifying statutes. Violations of the model statutes threaten the integrity of the MSA, the fiscal soundness of the State, and the public health. The Department determined the rules are necessary and aid the public's understanding about what is required of tobacco product manufacturers under the MSA.

However, the Legislature's recent passage of 2024 Iowa Acts, Senate File 345 and House File 2677, on the regulation of devices and vapor products, required, and in the case of House File 2677, mandated, the adoption of new administrative rules. The Department has determined that the current placement of the administrative rules on cigarette and tobacco-related and adjacent topics does not allow for these new forthcoming chapters of rules to be placed near the others, hindering the public's accessibility to these rules. Therefore, the Department proposes readopting the rules on the excise tax paid on cigarettes sold by participating and nonparticipating tobacco manufacturers in Iowa and tobacco product manufacturer compliance with the MSA in new Chapter 234. Moving the rules from Chapter 258 to Chapter 234 will provide the public easier accessibility to this and other cigarette- and tobacco-related administrative rules. The Department proposes revisions to the text of the rules for better organization and clarification and to remove unnecessary, obsolete, and duplicative statutory language as required by Executive Order 10.

The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on December 10, 2024.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024. A public hearing was held on the following date(s):

- December 4, 2024

No public comments on the Regulatory Analysis were received at the hearing or in writing. No changes have been made to the text since publication of the Regulatory Analysis.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on February 11, 2025. Comments should be directed to:

Matt Bishop
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.452.9205
Email: matt.bishop@iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 11, 2025

1 to 2 p.m.

Via videoconference call

meet.google.com/dfi-ijbx-deo

February 12, 2025

1 to 2 p.m.

Via videoconference call

meet.google.com/mki-dfmd-ybz

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 701—Chapter 234:

CHAPTER 234

TOBACCO MASTER SETTLEMENT AGREEMENT

DIVISION I

TOBACCO MASTER SETTLEMENT AGREEMENT

701—234.1(453C) National uniform tobacco settlement and definitions.

234.1(1) Purpose. In 1998, the state of Iowa joined a multistate agreement with cigarette manufacturers called the Master Settlement Agreement (MSA). Subsequent to entering into that agreement, in 1999 the Iowa general assembly enacted Iowa Code chapter 453C that requires the department to promulgate regulations to ascertain the amount of excise tax paid on cigarettes sold by nonparticipating tobacco product manufacturers in Iowa each year.

234.1(2) Definitions. For the purposes of this chapter, the definitions set forth in Iowa Code section 453C.1 apply.

701—234.2(453C) Annual report.

234.2(1) Filing. A report must be filed by tobacco products distributors, cigarette distributors, and persons who sell tobacco products at retail that were purchased from a person who is not required to file a distributor report.

234.2(2) Annual reporting. The report must be filed annually on or before the last day of the month following the close of the calendar year in which the sales were made and must be in a form and manner prescribed by the department. The reports must be submitted electronically via GovConnectIowa.

234.2(3) Report information. The report must include the following information with respect to units sold that were not purchased from a participating tobacco product manufacturer or units sold that were purchased from a participating tobacco product manufacturer but are not units sold as covered by the MSA:

- a. Number of units sold.
- b. Brand of the units sold.

- c. Name and address of the person from whom each unit was purchased.
- d. Name and address of the manufacturer of the unit, if known.
- e. Name and address of the importer of the unit, if known, and whether that importer is the exclusive importer of the unit, if known.

234.2(4) *Other reporting.* A retailer may need to file a report when purchasing roll-your-own tobacco or cigarettes over the Internet, through a catalog from a vendor located outside of Iowa, from an Indian tribe or from an enrolled member of an Indian tribe located on a reservation in or outside Iowa, by mail order, or from a vendor located in another state.

234.2(5) *Reporting purchases from participating tobacco product manufacturer.* A retailer must also, upon request by the department, report information with respect to units sold that were purchased from any participating tobacco product manufacturer.

701—234.3(453C) Recordkeeping. Every person who sells at retail tobacco products purchased from a person who is not required to file a report required by this chapter, and every tobacco products distributor and cigarette distributor subject to this reporting rule, must maintain complete and accurate records and underlying documentation for five years to support the data required to be supplied to the department under rule 701—234.2(453C). Upon request, all requested records and documents must be provided to the department.

701—234.4(453C) Disclosure to attorney general permitted. The department may disclose any and all information filed pursuant to rule 701—234.2(453C) to the attorney general for use in enforcing compliance with Iowa Code chapter 453C.

These rules are intended to implement Iowa Code chapter 453C.

DIVISION II
TOBACCO PRODUCT MANUFACTURERS' OBLIGATIONS AND PROCEDURES

701—234.5(453D) Purpose and definitions.

234.5(1) *Purpose.* Violations of Iowa Code chapter 453C threaten the integrity of the tobacco MSA, the fiscal soundness of the state, and the public health. In 2003, the general assembly enacted Iowa Code chapter 453D to establish procedural enforcement enhancements to aid in the enforcement of Iowa Code chapter 453C.

234.5(2) *Definitions.* For purposes of this division, the definitions set forth in Iowa Code section 453D.2 apply.

701—234.6(453D) Directory of tobacco product manufacturers.

234.6(1) *Directory of cigarettes approved for stamping and sale in Iowa.*

a. A tobacco product manufacturer and a brand family shall not be included in the directory authorized by Iowa Code section 453D.3 after April 30 each year until and unless the tobacco product manufacturer has provided current and accurate certification conforming to the requirements of Iowa Code section 453D.3.

b. Nonparticipating manufacturers and their brand families shall not be included in the directory after April 30 each year until and unless the attorney general has determined that the nonparticipating tobacco product manufacturer is in full compliance with Iowa Code section 453D.3 and that neither Iowa Code section 453D.3(2)“b”(1) nor 453D.3(2)“b”(2) applies to the nonparticipating tobacco product manufacturer or a brand family it seeks to have included in the directory.

c. A tobacco product manufacturer or brand family shall be deleted from the directory if a determination is made by the attorney general that the tobacco product manufacturer no longer meets the requirements of Iowa Code section 453D.3, or that either Iowa Code section 453D.3(2)“b”(1) or 453D.3(2)“b”(2) applies.

234.6(2) *Notice of inclusion in directory.* The attorney general shall notify a tobacco product manufacturer by mail that the tobacco product manufacturer has met the requirements of Iowa Code

section 453D.3 and will be included in the directory. This notice shall include each brand family that the attorney general determines will be included in the directory.

234.6(3) *Notice of noninclusion in or deletion from the directory.* Tobacco product manufacturers that have applied for inclusion in the directory shall be notified in writing of a decision made by the attorney general not to include in or to delete from the directory the tobacco product manufacturer or a brand family. Such notice shall be served on the tobacco product manufacturer's agent for service of process by certified mail.

234.6(4) *Procedure for contesting notice of noninclusion or deletion.*

a. Appeals. A tobacco product manufacturer that disagrees with a decision made by the attorney general in relation to the directory may contest the validity of the decision within 60 days of the date of the decision by filing an appeal of that decision with the department. Appeals shall conform generally to the requirements of the "appeals" rule contained in 701—Chapter 7 to the extent applicable. The appeal will, thereafter, be processed and a contested case hearing will be held in general conformity with the requirements of the "filings with the department" and "service by the department" subrules contained in 701—Chapter 7; the requirements of the "docket," "answer," "commencement of contested case proceedings," "discovery," and "prehearing conference" rules contained in 701—Chapter 7; the requirements of the "orders" subrule contained in 701—Chapter 7; and the requirements of the "record and transcript," "application for rehearing," and "ex parte communication and disqualification" rules contained in 701—Chapter 7 to the extent applicable. The burden of proof shall be on the tobacco product manufacturer to establish that the tobacco product manufacturer or a particular brand family is entitled to be listed in the directory.

b. Orders. The form, status, finality and appealability of orders shall be controlled by the general provisions of the "orders" subrule contained in 701—Chapter 7, except that no appeal to, or motion of, any other agency is authorized. All parties to the contested case may appeal any orders entered in relation to the contested case.

c. Stays and bonds. Stays of the decision of the attorney general during the pendency of the contested case proceedings and judicial review of the final contested case order of the department may be sought under the requirements of the "stays" subrule contained in 701—Chapter 7. However, the addition or retention of a tobacco product manufacturer or brand family in the directory shall not be ordered during the pendency of the contested case proceedings and judicial review of the final contested case order unless a sufficient bond has been provided to the attorney general to ensure that all escrow amounts owed at the time of bonding and all escrow amounts reasonably expected to become due during the pendency of the contested case and all related appeals will be satisfied if the tobacco product manufacturer does not ultimately prevail in its challenge. Such bonds shall be subject to update on a quarterly basis on motion of the attorney general.

d. Forfeit of bond. If a claim is made that a particular entity is the tobacco product manufacturer, the entity obtains an order allowing the entity and any of the brands the entity claims to be responsible for to be listed in the directory pending final resolution of the entity's status, and it is ultimately determined that the entity is not the tobacco product manufacturer, the required bond is forfeited to the state.

These rules are intended to implement Iowa Code chapter 453D.

ITEM 2. Rescind and reserve **701—Chapter 258**.

ARC 8738C

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rulemaking related to administration of marijuana and controlled substance stamp tax and providing an opportunity for public comment

The Revenue Department hereby proposes to adopt new Chapter 240, “Administration of Marijuana and Controlled Substance Stamp Tax,” and to rescind Chapter 269, “Administration of Marijuana and Controlled Substances Stamp Tax,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 453B.2.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 453B.

Purpose and Summary

The purpose of the proposed rulemaking is to adopt a new Chapter 240 and rescind and reserve Chapter 269. Chapter 269 contains rules on the Department’s interpretation of Iowa Code chapter 453B on the application and imposition of the excise tax on unlawful dealing in certain substances. The Department determined these rules aid the public’s understanding on this topic. However, the Legislature’s recent passage of 2024 Iowa Acts, Senate File 345 and House File 2677, on the regulation of devices and vapor products, required, and in the case of House File 2677, mandated, the adoption of new administrative rules. The Department has determined that the current placement of the administrative rules on cigarette and tobacco-related and adjacent topics does not allow for these new forthcoming chapters of rules to be placed near the others, hindering the public’s accessibility to these rules. Further, the Department determined that for ease of use and accessibility for the public, the rules on this excise tax should be placed close to the rules on the cigarette- and tobacco-related excise taxes.

Therefore, the Department proposes readopting and moving the rules on the administration of the excise tax on marijuana and controlled substance stamp tax into Chapter 240, which was previously reserved. The Department proposes revisions to the text of the rules for better organization and clarification and to remove portions of the rules that the Department determined are unnecessary, obsolete, or duplicative of statutory language as required by Executive Order 10.

The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on December 10, 2024.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024. A public hearing was held on the following date(s):

- December 4, 2024

No public comments on the Regulatory Analysis were received at the hearing or in writing. No changes have been made to the text since publication of the Regulatory Analysis.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on February 11, 2025. Comments should be directed to:

Matt Bishop
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.452.9205
Email: matt.bishop@iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 11, 2025 1 to 2 p.m.	Via videoconference call meet.google.com/dfi-ijbx-deo
February 12, 2025 1 to 2 p.m.	Via videoconference call meet.google.com/mki-dfmd-ybz

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 701—Chapter 240:

CHAPTER 240
ADMINISTRATION OF MARIJUANA AND
CONTROLLED SUBSTANCES STAMP TAX

701—240.1(453B) Marijuana and controlled substances stamp tax.

240.1(1) Definitions. For purposes of this chapter, words and terms have the same meanings as defined in Iowa Code section 453B.1.

240.1(2) Purchases of stamps.

a. Location. Stamps that are capable of being affixed to taxable substances are offered for sale to members of the public by the department during normal business hours at the rates set in Iowa Code section 453B.7. The stamps are sold at the Hoover State Office Building, First Floor, Des Moines, Iowa, and at other locations as may be designated by the director or may be purchased by mail.

b. Payment. Payment for stamps is accepted in the form of cash, cashier's check, or money order. Personal checks are not accepted.

c. Minimum purchase. The stamps are issued in the denominations requested by the purchaser so long as the minimum purchase price set in Iowa Code section 453B.8 is met. Also, the denomination of

individual stamps cannot be less than the price for ten dosage units, multiples of ten dosage units, one whole gram, or multiples of one gram even if the stamp will be affixed to a package containing less than ten dosage units or multiples thereof, or only a portion of one gram or multiples thereof.

240.1(3) *Types of stamps.* Four different stamps are offered for sale:

- a. Stamp for a substance consisting of or containing processed marijuana,
- b. Stamp for taxable substances other than marijuana that are sold by weight,
- c. Stamp for taxable substances other than marijuana that are not sold by weight, and
- d. Stamp for each unprocessed marijuana plant.

240.1(4) *Validity.* The stamps are valid for a period of six months from the date of issuance. Stamps contain a statement that the stamps expire after six months from the date of issue. A stamp is “unused” and expires if it has not been affixed to taxable substances within six months of the date of issue.

240.1(5) *Identification not required.* Persons purchasing stamps are not required to provide identification, such as their name or address, when purchasing stamps.

701—240.2(453B) Refunds pertaining to unused stamps.

240.2(1) *Refund date.* At any time up to 30 days after the expiration date as indicated on the stamp, any unused stamp may be returned to the department and a refund requested in accordance with Iowa Code section 453B.14 and these rules.

240.2(2) *Refund information.*

a. Persons seeking a refund for an unused stamp must provide a name in which a refund can be made. However, refund information is confidential under Iowa Code section 453B.10.

b. If granted, the refund in the form of a warrant may, at the request of the refund claimant, either be picked up in person from the department at the Hoover State Office Building, Des Moines, Iowa, during normal business hours, or sent by mail to an address designated by the refund claimant.

These rules are intended to implement Iowa Code chapter 453B.

ITEM 2. Rescind and reserve **701—Chapter 269.**

ARC 8727C

REVENUE DEPARTMENT[701]

Notice of Intended Action

**Proposing rulemaking related to vehicles subject to registration
and providing an opportunity for public comment**

The Revenue Department hereby proposes to rescind Chapter 250, “Vehicles Subject to Registration,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 321.105A(4).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 321.105A.

Purpose and Summary

The purpose of this proposed rulemaking is to rescind Chapter 250 and adopt new Chapter 250 on vehicles subject to registration. These rules describe the Department’s interpretation of the underlying statute to help the public understand the one-time fee for new registration for vehicles in Iowa. The Department proposes revisions to the chapter to remove portions of the rules that the Department determined are obsolete, unnecessary, or duplicative of statutory language as required by Executive

Order 10. Further, the Department proposes revisions to the chapter to add clarity to aid the public's understanding of the vehicle fee for new registration.

The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on December 10, 2024.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024. A public hearing was held on the following date(s):

- December 3, 2024

No public comments on the Regulatory Analysis were received at the hearing or in writing. No changes have been made to the text after publication of the Regulatory Analysis.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on February 11, 2025. Comments should be directed to:

Nick Behlke
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.336.9025
Email: nick.behlke@iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 11, 2025	Via videoconference call
11 a.m. to 12 noon	meet.google.com/iei-hezt-fuc
February 12, 2025	Via videoconference call
11 a.m. to 12 noon	meet.google.com/tbv-dhxq-cjx

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The

Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 701—Chapter 250 and adopt the following **new** chapter in lieu thereof:

CHAPTER 250
VEHICLES SUBJECT TO REGISTRATION

701—250.1(321) Definitions.

“Dealer” means the same as defined in Iowa Code section 321.1(17).

“Directly and primarily used” means the same as described in rule 701—215.15(423).

“Optional service agreement” means an arrangement to prepay or pay for a predetermined price for future vehicle services, including but not limited to oil changes and tire rotation.

“Recycling” means the same as defined in 701—paragraph 215.19(2) “a.”

“Regular course of business” means the activities that a person normally engages in as part of managing the person's trade or business. If referring to a dealer licensed under Iowa Code section 322.7, “regular course of business” further includes only the make or makes of new vehicles listed on the dealer's license.

“Single-member LLC” means a limited liability company (LLC) of which income is reported on Schedule C of the owner's personal income tax return. A single-member LLC shall be treated as a sole proprietorship.

“Vehicle protection package” means services including but not limited to exterior paint protection; interior fabric, leather, and vinyl protection; rust proofing; and undercoating that are purchased at the time the vehicle is purchased.

“Vehicle subject to registration” means any vehicle subject to registration pursuant to Iowa Code section 321.18.

This rule is intended to implement Iowa Code section 321.105A.

701—250.2(321) Purchase price.

250.2(1) Exclusions. “Purchase price” means the same as defined in Iowa Code section 321.105A(2) “a” and does not include:

- a. Cash discounts.
- b. Allowances for the trade-in of a vehicle subject to registration, as further outlined in rule 701—250.3(321).
- c. Gasoline, if separately itemized.
- d. Fees imposed by the dealer for document processing, including but not limited to those commonly known as “doc fees.”
- e. Any manufacturer's cash rebate to a purchaser that is applied to the purchase price of a vehicle.
- f. Optional service agreements, if separately itemized.
- g. Vehicle protection packages, if separately itemized.
- h. Amounts listed under Iowa Code section 423.1(51) “b.”

250.2(2) Inclusions. “Purchase price” includes but is not limited to the following, if valued in money even if not paid in money:

- a. Accessories.
- b. Additional equipment.
- c. Services.
- d. Freight and manufacturer's tax, valued in money.
- e. In-kind compensation.
- f. Amounts listed under Iowa Code section 423.1(51) “a.”

EXAMPLE: Person A is a shareholder and employee in Corporation. In the months of April through November, Person A worked a substantial amount of overtime. In December, Corporation allowed

Person A to choose whether to be paid for the overtime by receiving additional wages or by taking title to a corporate vehicle. Person A chose to take the vehicle, and Corporation transferred the title of the vehicle to Person A. The transfer of the vehicle to Person A was “in-kind” compensation paid by Corporation to Person A for the overtime hours worked. This compensation constitutes consideration. The fee for new registration is due on the amount of overtime pay that would be due had Person A opted to be paid.

250.2(3) Documentation. A bill of sale, or equivalent documentation, is required to establish purchase price. The bill of sale, or equivalent documentation, must be signed by the seller. The county treasurer, department of transportation, or department may require additional or alternative documentation as necessary to sufficiently establish purchase price.

250.2(4) Fee collection. If there is doubt about a purchase price, the county treasurer or the department of transportation will collect the fee. A claim for refund may be filed by the taxpayer if the taxpayer believes the fee has been erroneously collected.

This rule is intended to implement Iowa Code section 321.105A.

701—250.3(321) Trades.

250.3(1) Trades, generally.

a. A trade-in allowance is excluded from the purchase price if the requirements of Iowa Code section 321.105A(2) “a”(2) are met.

EXAMPLE A: Person D has an automobile with a value of \$5,000. Person E also has an automobile valued at \$5,000. They decide to trade automobiles. Person D and Person E make an even trade, automobile for automobile, with no money changing hands. The fee for new registration is not due on either automobile because the exchange is even in value.

EXAMPLE B: Person B has an automobile with a value of \$2,000. Person C has an automobile valued at \$3,500. Person B and Person C decide to trade automobiles. Person B pays Person C \$1,500 in cash for the difference in value. Person B will pay the fee for new registration on \$1,500. Person C will not pay the fee for new registration because the trade-in allowance reduces the purchase price to \$0.

EXAMPLE C: Person F has an automobile with a value of \$5,000. Person G has an automobile valued at \$3,000 and a forklift valued at \$2,000. They decide to trade these three items. An even trade is made, Person F’s automobile in exchange for Person G’s automobile and forklift, with no money changing hands. The forklift is not a vehicle subject to registration. Thus, Person G cannot receive a trade-in allowance for the forklift against the \$5,000 purchase price of Person F’s automobile. Person G will, however, receive a trade-in allowance on the value of the automobile, a vehicle subject to registration. Therefore, Person G will pay a fee for new registration on \$2,000. Person F will not pay the fee for new registration because the trade-in allowance reduces the purchase price to \$0.

b. Unless otherwise excluded, a trade-in allowance is excluded from the purchase price only if the person(s) listed on the title of the traded vehicle are the same as the person(s) listed on the newly acquired vehicle.

Example: Person H and Person I are unrelated and, together, own a vehicle subject to registration. The owner on the title of the vehicle is listed as “Person H or Person I.” Person I trades in the vehicle toward the purchase of a new vehicle to be owned together by Person I and Person J, also unrelated. The owner on the title of the new vehicle is listed as “Person I or Person J.” The trade-in allowance is not allowed against the purchase price because Person J is not one of the persons on the original vehicle title.

250.3(2) Trades involving family members. This allowance is only for lineal relationships and does not extend to nonlineal family members. Consequently, this allowance is not extended to brothers, sisters, aunts, uncles, or cousins.

EXAMPLE A: Grandmother and Grandfather are married and own a vehicle subject to registration together. The owner on the title of the vehicle is listed as “Grandmother or Grandfather.” Grandmother trades in the vehicle toward the purchase of a new vehicle. The owner on the title of the new vehicle is listed as “Grandmother or Grandson.” The trade-in allowance is allowed against the purchase price because all parties are lineal family members.

EXAMPLE B: Aunt and Uncle are married and own a vehicle subject to registration together. The owner on the title of the vehicle is listed as “Aunt or Uncle.” Aunt trades in the vehicle toward the purchase of a new vehicle. The owner on the title of the new vehicle is listed as “Aunt or Niece.” The trade-in allowance is not allowed against the purchase price because Niece is not a lineal family member of Aunt or Uncle.

250.3(3) *Trades involving an entity.*

a. When an entity is involved, the names on the title of the trade-in and newly acquired vehicle generally must be the same, except for sole proprietorships, which are not distinguished from the individual owner.

b. A trade-in credit is not allowed when a corporate vehicle owner trades in a vehicle subject to registration on behalf of a stockholder to purchase a new vehicle in the stockholder’s name, or vice versa.

EXAMPLE A: Corporation S owns a vehicle subject to registration. The owner on the title of the vehicle is listed as “Corporation S.” Corporation S trades the vehicle in for a new vehicle of equivalent value, which is titled in the name of “Stockholder G.” Stockholder G must pay the fee for new registration on the value of the new vehicle because no trade-in allowance is allowed.

EXAMPLE B: Business, Inc. and Person K own a vehicle subject to registration. The owner on the title of the vehicle is listed as “Business, Inc. or Person K.” Person K trades in the vehicle toward the purchase of a new vehicle. The owner on the title of the new vehicle is listed as “Person K.” The trade-in allowance is allowed against the purchase price because the original title is listed as “or” ownership and the received vehicle title contains only parties that were on the traded vehicle title.

250.3(4) *Trades involving a dealer.*

a. The dealer must be regularly engaged in the business of selling the type of vehicles involved in the trade.

EXAMPLE A: Person L trades a boat toward the purchase of a new vehicle subject to registration. The vehicle’s purchase price is \$10,000, and the dealer allows a trade-in allowance of \$5,000 for the boat. The dealer is not regularly engaged in the business of selling boats. The trade-in amount of \$5,000 for the boat does not reduce the amount subject to the fee for new registration because the traded vehicle is not one that the dealer sells in the regular course of business. The fee for new registration is due on \$10,000.

EXAMPLE B: Person N purchases a new truck and uses a truck that Person N currently owns as a trade. Person N goes to Truck Dealer to purchase the new truck. The truck that Person N wants has to be ordered from the manufacturer and will take six months for delivery. Truck Dealer prepares a purchase order showing the retail price of \$50,000 and a trade-in allowance for Person N’s truck of \$20,000. Since the truck being ordered will not be delivered for six months, Truck Dealer allows Person N to drive the traded truck until the new truck arrives. Truck Dealer still allows Person N the \$20,000 trade-in allowance regardless of the additional miles Person N may put on the traded truck. Since the purchase order for the new truck shows a \$20,000 trade-in allowance, the fee for new registration is imposed on \$30,000.

EXAMPLE C: Person O owns a car dealership corporation and a separate farm tractor dealership corporation. Person P wishes to purchase a car worth \$40,000 from Person O’s car dealership. Person P uses a tractor as trade, and Person O’s car dealership allows a trade-in allowance of \$40,000. Person P furnishes no money. Since Person P’s tractor was traded to the car dealership and not the tractor dealership, the trade-in allowance cannot be used for purposes of the fee for new registration. The fee for new registration is imposed on \$40,000.

EXAMPLE D: Person Q owns two cars and wants to trade both cars toward the purchase of a new car. Car Dealer allows a trade-in allowance of \$5,000 for the first car and \$7,000 for the second car, for a total trade-in allowance of \$12,000. The purchased car price is \$14,000. Since Car Dealer is in the business of selling used cars, both of Person Q’s cars can be used as a trade-in allowance. The fee for new registration is imposed on \$2,000.

b. For purpose of the fee for new registration, the total trade-in amount will be deducted from the purchase price, even if the trade-in is used to pay off an outstanding loan balance. The amount the

purchaser owes on the traded-in vehicle is not relevant in determining the purchase price of the new vehicle.

EXAMPLE A: Person D purchases a vehicle for \$35,000 and trades in a vehicle as part of the transaction. The dealer gives a trade-in amount of \$15,000 based on the actual value of the vehicle being traded. Person D still owes \$10,000 on the traded vehicle. A portion of the \$15,000 trade-in value is used to pay off the \$10,000 remaining loan balance. In this example, \$15,000 is allowed as a trade for fee for purposes of the new registration.

EXAMPLE B: Person E “trades down” a car by purchasing a vehicle for \$20,000 and trades in a vehicle valued at \$30,000. Person E also has a loan on the vehicle being traded in. The car dealership may give enough of a trade-in allowance to pay off the loan and have money left over to pay on the new vehicle. Even though the trade-in allowance may be quite large, the full amount of the trade should be allowed for purposes of the fee for new registration. In this case, the trade-in allowance is \$30,000, and since that exceeds the price of the new vehicle, no fee for new registration is due.

This rule is intended to implement Iowa Code section 321.105A.

701—250.4(321) Manufacturer’s rebate.

250.4(1) *Generally.* A manufacturer’s rebate can be used to reduce the purchase price of a vehicle subject to the fee for new registration.

250.4(2) *Qualifications.*

a. To qualify, the rebate must be:

- (1) A return of an amount that the purchaser would otherwise have paid;
- (2) In the form of money;
- (3) Offered by a manufacturer licensed under Iowa Code section 322.27; and
- (4) Applied to the purchase price of the vehicle;

b. Additionally, to qualify, the rebate is part of a transaction that is strictly between a manufacturer and a purchaser.

(1) The rebate must be from an entity acting as a manufacturer of such vehicle being purchased when offering the rebate. The rebate cannot be from a vehicle manufacturer engaging in other activities, such as a manufacturer acting in the capacity of a credit card issuer or a financing program; and

(2) The purchaser must be in the process of purchasing the vehicle when the rebate is given. The rebate cannot be given to a customer in a situation similar to the credit card rebate program, in which the customer earns the right to the rebate over a period of time. Purchase of the vehicle must occur simultaneously with the receipt of the rebate. The rebate cannot be allowed unless the customer purchases the vehicle.

250.4(3) *Exclusion from rebate.* Payment methods, such as credit or debit cards, issued by vehicle manufacturers that are used as a rebate toward the price of the manufacturer’s vehicle are not considered a manufacturer’s rebate for the purposes of the fee for new registration. These types of rebates cannot be used toward reducing the purchase price of a vehicle subject to the fee for new registration.

EXAMPLE: Person R purchases a vehicle subject to registration with a purchase price of \$30,000 and trades in a vehicle valued at \$10,000. The manufacturer of the newly purchased vehicle gives Person R \$1,000 on a manufacturer-issued credit card as a “rebate.” Person R pays \$19,000 in cash for the new vehicle. The fee for new registration is due on \$20,000, because the “rebate” was issued on a credit card rather than applied directly to the price.

This rule is intended to implement Iowa Code section 321.105A.

701—250.5(321) Selling and purchasing the same vehicle. If a person sells a vehicle subject to registration and then buys the same vehicle back, the transaction is not exempt from the fee for new registration. These are two separate transactions, and both are subject to the fee for new registration.

This rule is intended to implement Iowa Code section 321.105A.

701—250.6(321) Federal excise tax. To be excluded from the fee for new registration, the federal excise tax must meet both of the following requirements:

250.6(1) It must be imposed upon the purchaser and be due at the time of the retail sale.

250.6(2) It must be billed or charged as a separate item.

This rule is intended to implement Iowa Code section 321.105A.

701—250.7(321) Sales to a Native American. If a dealer delivers a vehicle to a resident Native American on a reservation and, at a later time, the resident Native American registers the vehicle at the county treasurer's office, the fee for new registration is not due since the delivery took place on a reservation.

250.7(1) Off-reservation delivery. If the vehicle is delivered off a reservation, the fee for new registration is due even if the sole use of the vehicle is on a reservation.

250.7(2) On-reservation delivery. If delivery takes place on a reservation, but the owner is not a member of any federally recognized tribe, the fee for new registration is due.

This rule is intended to implement Iowa Code section 321.105A.

701—250.8(321) Sale of chassis with added equipment or accessories.

250.8(1) Dealer-installed equipment. If a dealer sells a chassis and the purchaser has the dealer install any equipment, the fee for new registration is due on the full purchase price, including the chassis and the equipment. This is a completed vehicle when driven off the dealer's lot.

250.8(2) Third party-installed equipment. If the chassis is purchased from a dealer and the equipment is installed by the purchaser from a third party, the fee for new registration is due on the chassis and sales tax is due on the equipment.

EXAMPLE A: Business S purchases a chassis from an auto dealer for \$20,000. Business S wants a lift added to the chassis. The auto dealer agrees to sell and install the lift for \$15,000. The auto dealer takes the chassis to a lift dealer for purchase and installation of the lift. After the installation, Business S returns to the auto dealer to take delivery of the completed vehicle. Business S requests the auto dealer itemize the chassis price of \$20,000 and the lift price of \$15,000. Business S pays the auto dealer \$35,000 for the complete vehicle. The chassis and lift together are a vehicle subject to registration, because both constitute the completed vehicle, and the fee for new registration is due on \$35,000.

EXAMPLE B: Business T purchases a chassis from an auto dealer for \$20,000. Business T wants a lift added to the chassis. However, Business T will purchase the lift from a third party and not from the auto dealer. Business T pays the dealer \$20,000 for the chassis. Business T drives the chassis to a lift dealer to purchase and install a lift for \$12,000. The purchase of the chassis from the auto dealer is subject to the fee for new registration because it alone constitutes the completed vehicle purchased. The purchase and installation of the lift from the lift dealer are subject to Iowa sales tax and any applicable local option tax, rather than the vehicle fee for new registration.

This rule is intended to implement Iowa Code section 321.105A.

701—250.9(321) Sale of a boat or ATV with a trailer.

250.9(1) Itemization. If a boat or ATV dealer sells a boat or ATV with a trailer as a packaged deal, the dealer must itemize the boat or ATV, boat or ATV accessories, and trailer. The fee for new registration is due on the purchase price of the trailer.

250.9(2) Nonitemization. If the boat or ATV dealer does not itemize, it is assumed the full price of the packaged deal is for the purchase of a trailer and not for the boat or ATV and accessories. The fee for new registration will be calculated based on the full price of the packaged deal.

This rule is intended to implement Iowa Code section 321.105A.

701—250.10(321) Administration.

250.10(1) Affidavit. Vehicle registrants may utilize either a paper or electronic affidavit as a method of submission. The title and registration application created under Iowa Code section 321.20 is an affidavit for purposes of this rule.

250.10(2) Exemption categories. Exemptions are divided into eight categories as follows:

- a. UT01 - Iowa Code sections 321.105A(2)“c”(19) and 321.105A(2)“c”(20).
- b. UT02 - Iowa Code section 321.105A(2)“c”(1).
- c. UT03 - Iowa Code sections 321.105A(2)“c”(3) and 321.105A(2)“c”(12).

- d. UT04 - Iowa Code section 321.105A(2) “c”(14).
- e. UT05 - Iowa Code section 321.105A(2) “c”(6).
- f. UT06 - Iowa Code section 321.105A(2) “c”(2).
- g. UT07 - Iowa Code section 321.105A(2) “c”(5).
- h. UT08:
 - (1) UT08b - Iowa Code section 321.105A(2) “c”(10).
 - (2) UT08c - Iowa Code section 321.105A(2) “c”(8).
 - (3) UT08d - Iowa Code section 321.105A(2) “c”(16).
 - (4) UT08e - Iowa Code section 321.105A(2) “c”(7).
 - (5) UT08i - Iowa Code section 321.105A(2) “c”(18).
 - (6) UT08j - Iowa Code section 321.105A(2) “c”(13).
 - (7) UT08k - Iowa Code section 321.105A(2) “c”(11).
 - (8) UT08s - Iowa Code section 321.105A(2) “c”(17).
 - (9) UT08 - Other - Iowa Code sections 321.105A(2) “c”(4), 321.105A(2) “c”(9), 321.105A(2) “c”(15), and 321.105A(2) “c”(21) through 321.105A(2) “c”(31).

250.10(3) *Burden.* The burden of proof regarding whether an exemption applies is upon the person claiming the exemption.

250.10(4) *Signature.* Signatures are required on all affidavits. If a fleet (five or more vehicles) of vehicles is being registered, an affidavit for each vehicle within the fleet must be completed and signed.

250.10(5) *Claims.* Any claim for exemption from the fee for new registration made by a purchaser with a county treasurer is subject to review and ultimate determination by the department. If, after review, an exemption is found to have been claimed improperly, penalty and interest may apply in addition to the fee for new registration.

This rule is intended to implement Iowa Code section 321.105A.

701—250.11(321) Shell businesses.

250.11(1) The 90-day temporary period of operation under Iowa Code section 321.55(2) does not apply to a vehicle owned by a shell business.

250.11(2) Factors that indicate a business is a shell business include but are not limited to a lack of specific business activity or purpose and failure to maintain a physical location in the state in which the business is registered.

250.11(3) If the department determines that the nonresident owner of the vehicle is a shell business, it is presumed that:

- a. The Iowa resident in control of the vehicle is the actual owner of the vehicle;
- b. The vehicle is subject to Iowa registration; and
- c. The payment of the fee for new registration is owed by the Iowa resident.

This rule is intended to implement Iowa Code section 321.105A.

701—250.12(321) Purchased for resale.

250.12(1) *Dealer purchase for resale or service use.* A motor vehicle dealer licensed under Iowa Code chapter 322 may title or title and register a vehicle using an exemption under either Iowa Code section 321.105A(2) “c”(14) or 321.105A(2) “c”(15) if the vehicle is operated in a manner consistent with the lawful use of dealer plates under Iowa Code section 321.57 and any associated rules.

250.12(2) *Held for resale qualification.* In order for a vehicle to be considered to be “held for resale,” all of the following criteria must be met during all times that the vehicle is registered to the dealer:

- a. The dealer must be licensed in Iowa pursuant to Iowa Code chapter 322;
- b. Any use of the vehicle by the dealer must not constitute a taxable sale;
- c. The dealer must keep the vehicle in its inventory for sale at all times;
- d. The person using the vehicle must be aware of and accept that the vehicle may be sold at any time, resulting in the removal of the vehicle from that person’s possession;
- e. The dealer must permit the vehicle to be used without charge;

f. The dealer must not title the vehicle in its name and must operate the vehicle with dealer plates as provided in Iowa Code section 321.57.

250.12(3) *Held for resale disqualification.* If, at any time after the exemption is issued until the vehicle is no longer considered to be in the dealer's inventory, the dealer fails to maintain any criteria defined in subrule 250.12(2), the fee for new registration is due on the purchase price paid by the dealer at the time of acquisition of the vehicle.

EXAMPLE: Person R owns Auto Dealer, a sole proprietorship. Person R's child, Person U, needs a car, and Person R gifts a car worth \$5,000 from Auto Dealer's inventory to Person U. The vehicle had previously been registered as a vehicle purchased for resale. Person U does not provide any consideration. Person U does not owe the fee for new registration on the transfer. However, Auto Dealer owes the fee for new registration on the purchase price paid by Auto Dealer at the time of acquisition. The vehicle was purchased for resale; however, it was not sold by Auto Dealer. As a result, Auto Dealer loses its dealer exemption for resale on this vehicle, and the fee for new registration is due on the purchase price paid by the dealer at the time of acquisition of each vehicle.

250.12(4) *Expired, revoked, or suspended licenses.*

a. Expiration or revocation. If a dealer license expires and is not renewed or the dealer license has been revoked, the dealer must title and register all the vehicles in the dealership inventory within 30 days of the license revocation or expiration. The fee for new registration is due on the purchase price paid by the dealer at the time of acquisition of each vehicle.

b. Suspension. If a dealer license is suspended, a dealer is not required to title or register the vehicles in the dealer's inventory because a suspension is merely a temporary interruption in the dealership business. The dealer's exemption remains intact during the period of suspension.

This rule is intended to implement Iowa Code section 321.105A.

701—250.13(321) Loans. Relief from a loan balance constitutes consideration for the purposes of the fee for new registration.

EXAMPLE A: A vehicle is titled in Person V's name with a loan also in Person V's name. Person V transfers the title to Person W, who assumes the unpaid balance of the loan. A new lien is filed. The fee for new registration is due on Person V's outstanding loan balance.

EXAMPLE B: A vehicle is titled in Person X's name with an outstanding loan balance of \$10,000. Person X transfers the title to Person Y. Person Y takes out a \$15,000 loan to pay off Person X's outstanding loan of \$10,000 and also to have \$5,000 for repairs to Person Y's house. The fee for new registration is due only on Person X's outstanding loan balance of \$10,000.

This rule is intended to implement Iowa Code section 321.105A.

701—250.14(321) Leased vehicles.

250.14(1) The fee for new registration on leased vehicles is a liability of the owner (lessor) of the vehicle and not the lessee.

250.14(2) Owners/lessors may require the lessee to reimburse the owner/lessor, by adding the fee for new registration to the monthly lease payment or by requiring the lessee to pay the fee for new registration up front.

250.14(3) When a lessee chooses to terminate a lease and purchase the vehicle being leased, the purchase is subject to a fee for new registration on the purchase price. There is no refund of the fee for new registration paid on the lease price.

250.14(4) If an existing lease is transferred to another lessee, no additional fee for new registration is due so long as the title to the vehicle is maintained by the same lessor and the terms of the lease are not changed.

250.14(5) When a vehicle with an existing lease established in another state is registered in Iowa, the lease price is calculated as established in Iowa Code section 321.105A(3) "b" and is then prorated for the number of months remaining on the lease. No credit is allowed for any fee or tax paid to another state.

250.14(6) If a vehicle is leased between affiliates as defined in Iowa Code section 321.105A(3) “f”(3)(a) as enacted by 2024 Iowa Acts, House File 664, no fee for new registration is due on the lease so long as the fee was paid by the lessor prior to the lease.

This rule is intended to implement Iowa Code section 321.105A.

701—250.15(321) Exemption for vehicles purchased for the purpose of being leased and used exclusively for interstate commerce.

250.15(1) *Lease types.* The department makes a distinction between a true lease and a contract to haul. While an agreement may be a lease for purposes of the Interstate Commerce Commission, this does not mean it is a lease for purposes of the fee for new registration.

a. A true lease exists when the owner (lessor) gives the lessee exclusive possession of the lessor’s property for a specified period.

b. A contract to haul exists when an owner contracts to do a piece of work while retaining control of the vehicle and methods of operation. A contract to haul is not a lease; therefore, the vehicle is not exempt.

250.15(2) *Intrastate and interstate delivery.*

a. An intrastate delivery occurs when property is picked up at one location in Iowa and delivered to another location in Iowa, regardless of whether the vehicle travels in another state in between pick-up and delivery.

b. An interstate delivery occurs when either the pick-up or delivery site is located outside of Iowa.

EXAMPLE A: Leasing Company A purchased a cargo van for the purpose of leasing it to XYZ Trucking. The lease agreement is for 36 months. XYZ Trucking will pick up property from Iowa businesses to be delivered out of state. XYZ Trucking never uses the van for intrastate deliveries within Iowa. XYZ Trucking uses this van exclusively in interstate commerce. All of the trips are either totally outside the state of Iowa, or, if a product is loaded in Iowa, the product is delivered outside of Iowa. As long as pick-up and delivery points are in different states, then the trip is considered interstate commerce. As such, the van in this example may be purchased by Leasing Company A exempt from the fee for new registration.

EXAMPLE B: Leasing Company A purchases a flatbed truck for the purpose of leasing it to XYZ Trucking, located within Iowa. The lease is for five months. XYZ Trucking will use the truck for deliveries out of state and in Iowa. Since some deliveries occur in Iowa, the subsequent use in Iowa is not solely for interstate commerce. The purchase by Leasing Company A (lessor) of the flatbed is subject to the fee for new registration.

This rule is intended to implement Iowa Code section 321.105A.

701—250.16(321) Exemption for certain Iowa Code chapter 326 vehicles.

250.16(1) Vehicles registered or operated under Iowa Code chapter 326 and used substantially in interstate commerce are exempt from the fee for new registration under Iowa Code section 321.105A(2) “c”(5).

250.16(2) The period for substantiating the mileage to qualify for the exemption for these types of vehicles by the department is fiscal year July 1 to June 30, with an exception if the initial registration period is a short year (less than 12 months). Mileage during that period will be totaled with the first full year for substantiation purposes.

250.16(3) Whether a vehicle is registered prorate or has county plates does not determine eligibility for exemption.

250.16(4) Records from the first four years of operation of the vehicle must be kept for at least ten years to prove the vehicle has consistently been eligible for the exemption. Summary records, such as the monthly or annual records required by the International Fuel Tax Agreement (IFTA), may be kept to prove the mileage requirement was met. Records are required for power units but not for trailers or semi-trailers.

250.16(5) The exempt status of a trailer or semi-trailer is based upon to what it is attached. If attached to an exempt power unit, the trailer or semi-trailer is also exempt.

EXAMPLE A: XYZ Trucking purchased two semi-tractors two years ago. An exemption was claimed because 25 percent of the mileage for each was out-of-state mileage and they met the registered weight requirement. Two years later, XYZ Trucking decided one of the semi-tractors will be used only in Iowa. The registered weight did not change, but the 25 percent out-of-state mileage requirement was not maintained for the first four years, so the exemption no longer applies. XYZ Trucking's book value is \$60,000, and the market value is \$75,000. The book value is less than the market value; the fee for new registration is imposed on the \$60,000 book value.

EXAMPLE B: Two years ago, XYZ Trucking purchased a power unit and a semi-trailer. The power unit was used in excess of the 25 percent mileage requirement and met the 13-ton weight requirement, so an exemption was claimed. They were originally registered prorate. This year, XYZ Trucking decided to register the power unit and semi-trailer with county plates instead of renewing the prorate registration. Although the power unit and semi-trailer will be county-plated, XYZ Trucking will still use the power unit 25 percent outside of Iowa. The registered weight did not change. Since both the 25 percent mileage factor and the 13-ton registered weight factor are met, the fee for new registration is not due.

EXAMPLE C: Two years ago, XYZ Trucking purchased a power unit and a semi-trailer. Both the power unit and semi-trailer were used in excess of the 25 percent mileage requirement and met the 13-ton weight requirement, so an exemption was claimed. The power unit and the semi-trailer were originally registered prorate. This year, XYZ Trucking decided to register the semi-trailer with county plates instead of renewing the prorate registration. The power unit will still be used 25 percent outside of Iowa. The mileage of the semi-trailer does not matter because there is no record-keeping requirement for trailers or semi-trailers. The registered weight did not change. Since both the 25 percent mileage factor and weight requirements continue to be met, the fee for new registration is not due.

This rule is intended to implement Iowa Code section 321.105A.

701—250.17(321) Vehicles purchased outside of Iowa.

250.17(1) *Vehicles purchased with no intent for use in Iowa.* Vehicles that are purchased by a nonresident for use in a location other than Iowa are not subject to the fee for new registration upon move-in to Iowa. The determination of intention of use in Iowa is a factual determination. The county treasurer should consider any appropriate factors, including but not limited to the following:

- a. Whether the vehicle was owned by the owner for a significant time prior to relocation to Iowa. A longer period of ownership while in another location may be indicative of intent of use in the other location. Conversely, if the vehicle was purchased near the time of relocation to Iowa, this might suggest intent of use in Iowa.
- b. Whether the vehicle was registered in another location.
- c. Whether a substantial number of miles were driven in the vehicle in another location since the owner purchased the vehicle.

EXAMPLE: Person A, a resident of Moline, Illinois, purchased a vehicle from a dealership in Chicago, Illinois, one week before Person A moved to Davenport, Iowa. The vehicle was registered in Illinois. Person A was not aware at the time of purchase that Person A's employer would transfer Person A to Iowa. Person A's intent was not to use the vehicle in Iowa; therefore, Iowa's fee for new registration is not due.

250.17(2) *Vehicles purchased with intent of use in Iowa.* Vehicles subject to registration in Iowa are eligible for an exemption equal to a fee for new registration paid to another state or country. For the exemption to apply, the owner must show proof that the owner was legally required to, and did in fact, pay a fee for new registration, a sales or use tax, or an occupational tax to another state or country for the vehicle being registered in Iowa. Evidence of the payment may include but is not limited to purchase records, canceled checks, or invoices.

EXAMPLE A: Person L is an Iowa resident. While in Nevada, Person L purchased a new camper for \$20,000. Nevada did not require Person L to pay a state fee for new registration or a state sales, use, or occupational tax. Person L brought the camper back to Iowa. The camper requires an Iowa title and registration. Since no state fee for new registration or state sales, use, or occupational tax was paid to the state of Nevada, Iowa's fee for new registration is due on the purchase price of \$20,000.

EXAMPLE B: Person Q is an Iowa resident and spends the winter months in Florida. Person Q decides to purchase a new vehicle in Florida for \$35,000. Person Q is required to pay 5 percent Florida state sales tax. Person Q chooses not to title or register the vehicle in Florida. After spending the winter months in Florida, Person Q returns to Iowa and brings the new vehicle. Since Person Q had to pay a 5 percent Florida state sales tax, Person C receives a credit for that amount against Iowa's fee for new registration.

EXAMPLE C: Iowa resident Person W purchases a vehicle for \$25,000 while in Arizona. Person W was required to pay an Arizona state sales tax of 2 percent and a county tax of 1 percent. Person W returns to Iowa with the vehicle. The bill of sale shows a breakdown as follows:

Purchase Price.....	\$25,000
Arizona State Sales Tax.....	\$500
Arizona County Tax.....	\$250
Total Amount Due.....	\$25,750

When Person W titles and registers the vehicle in Iowa, the 5 percent Iowa fee for new registration would be \$1,250. Person W receives credit only for the Arizona state sales tax of \$500 but not the county sales tax. Iowa fee for new registration is as follows:

Iowa Fee for New Registration.....	\$1,250
Less Arizona State Sales Tax.....	\$500
Iowa Fee for New Registration Due.....	\$750

EXAMPLE D: Iowa resident Person Z purchases an \$80,000 vehicle in California and is required to pay a 9 percent California state sales tax of \$7,200. Person Z returns to Iowa with the vehicle. When Person Z titles and registers the vehicle in Iowa, the 5 percent Iowa fee for new registration would be \$4,000. Since Person Z paid a California state sales tax of \$7,200, which was more than the Iowa fee for new registration, the Iowa fee for new registration is not due.

This rule is intended to implement Iowa Code section 321.105A.

701—250.18(321) Business entity to business entity transfers with the same ownership and purpose. Transactions between two business entities may be exempted from the fee for new registration if the requirements described in Iowa Code section 321.105A(2)“c”(3) are met.

EXAMPLE A: Person F owns and operates a family farm as a sole proprietorship and wants to transfer assets (including a vehicle subject to registration) from Person F's personal name into a corporation (of which Person F or Person F's spouse is the sole shareholder). Person F filed articles of incorporation earlier this year with the secretary of state and intends to use the corporation to continue to operate Person F's family farm, the same purpose as the sole proprietorship. This transaction is eligible for the exemption described in Iowa Code section 321.105A(2)“c”(3) because the vehicle is being transferred from an eligible business type (sole proprietorship) to a corporation, with the ownership of the businesses being the same and the transaction occurring within two years of the corporation being formed, and the newly formed corporation was formed for the purpose of continuing the family farm business.

EXAMPLE B: Person G wants to start a construction business. Person G currently does not operate any business. Person G files articles of incorporation and wants to transfer a truck from Person G's personal name into the corporation. This transaction is not eligible for the exemption described in Iowa Code section 321.105A(2)“c”(3) because the purpose of the corporation is not to continue an existing eligible business.

EXAMPLE C: Person H operates a delivery business as a sole proprietorship and wants to expand. Person H gets together with two investors and files articles of incorporation with all three partners as shareholders and wants to transfer a van into the corporation. This transaction is not eligible for the exemption described in Iowa Code section 321.105A(2)“c”(3) because the ownership of the corporation

is not the same as the sole proprietorship, since all of the stock of the corporation is not owned by Person H.

This rule is intended to implement Iowa Code section 321.105A.

701—250.19(321) Homemade vehicles.

250.19(1) Homemade vehicles are exempt from the fee for new registration as described in Iowa Code section 321.105A(2) “c”(16). For the purposes of the vehicle fee for new registration, a homemade vehicle is one that has been constructed from any combination of new, used, or homemade parts that does not resemble a vehicle that was manufactured under a specific year, make, and model by a manufacturer and is not intended for resale.

250.19(2) Homemade vehicles include:

a. A vehicle that has been structurally modified so that it does not have the same appearance as a similar vehicle from the same manufacturer.

EXAMPLE: A vehicle with modified fenders, engine compartment lid, and front end, but still recognizable as the make/model of the vehicle, is not considered homemade;

b. A vehicle that has been constructed entirely from homemade parts and materials not obtained from other vehicles; or

c. A vehicle that has been constructed by using major component parts from one or more manufactured vehicles and cannot be identified as a specific make and model.

This rule is intended to implement Iowa Code section 321.105A.

701—250.20(321,423) Glider kit vehicles.

250.20(1) A glider kit vehicle is exempt from the fee for new registration upon sale or transfer by the person who purchased the parts and assembled the vehicle if sales or use tax was paid when the parts were purchased and the vehicle has never been registered previously.

250.20(2) A glider kit vehicle is subject to the fee for new registration, barring other applicable exemptions, if the glider kit vehicle is subsequently sold. Glider kit parts may be eligible for the resale exemption if the purchaser of the parts can satisfy the requirements of rule 701—225.3(423) to qualify for the exemption provided by Iowa Code section 423.3(2).

This rule is intended to implement Iowa Code sections 321.105A and 423.3.

ARC 8728C

REVENUE DEPARTMENT[701]

Notice of Intended Action

**Proposing rulemaking related to automobile rental excise tax
and providing an opportunity for public comment**

The Revenue Department hereby proposes to rescind Chapter 251, “Automobile Rental Excise Tax,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 421.14, 422.68, 423.42 and 423C.4.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 423C.

Purpose and Summary

The purpose of this proposed rulemaking is to rescind and adopt new Chapter 251. This chapter provides guidance on the excise tax imposed on the rentals of automobiles and the Department’s

administration of the tax. The Department proposes revisions to remove portions of the rules that the Department determined are unnecessary, obsolete, or duplicative of statutory language as required by Executive Order 10. Further, the Department proposes removing existing rule 701—251.4(423C) and adding the language of that rule to existing rule 701—251.2(423C), where it would be better suited.

The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on December 10, 2024.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024. A public hearing was held on the following date(s):

- December 3, 2024

No public comments on the Regulatory Analysis were received at the hearing or in writing. No changes have been made to the text since publication of the Regulatory Analysis.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on February 11, 2025. Comments should be directed to:

Nick Behlke
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.336.9025
Email: nick.behlke@iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 11, 2025	Via videoconference call
11 a.m. to 12 noon	meet.google.com/iei-hezt-fuc
February 12, 2025	Via videoconference call
11 a.m. to 12 noon	meet.google.com/tbv-dhxq-cjx

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 701—Chapter 251 and adopt the following new chapter in lieu thereof:

CHAPTER 251
AUTOMOBILE RENTAL EXCISE TAX

701—251.1(423C) Definitions and characterizations. For the purposes of this chapter, terms have the same meaning as defined in Iowa Code section 423C.2. In addition, the following definitions and characterizations of words apply.

“*Automobile*” means the same as defined in Iowa Code section 423C.2(2) and does not include delivery trucks designed primarily to carry cargo rather than passengers.

“*Lessor*” is a person engaged in the business of renting automobiles to users. Included within the meaning of the term “lessor” are motor vehicle dealers licensed under Iowa Code chapter 322 to sell new and used automobiles who also rent automobiles to users. A person need not be engaged in a profit-making enterprise to be in the business of renting automobiles.

701—251.2(423C) Tax imposed upon rental of automobiles.

251.2(1) Generally. A tax at the rate of 5 percent is imposed on the rental price of any automobile if the rental transaction is taxed under Iowa sales or Iowa use tax law. The tax imposed is in addition to the Iowa state sales or use tax. However, if the rental transaction is not subject to the state sales or use tax, then no automobile rental excise tax is due.

a. Sales tax. Sales tax is due on the rental price of the “rental” of an automobile if possession or the right to possession of the automobile is transferred, under a rental contract, in Iowa.

b. Use tax. Use tax is due on the rental price if an automobile is rented outside Iowa, used in Iowa under the rental contract, and payment of the rental price is made in Iowa at the termination of the rental agreement.

251.2(2) Administration. The director of revenue is required to administer the excise tax on automobile rental as nearly as possible in conjunction with the administration of the state sales tax.

a. Monthly reporting. On a monthly basis, the correct amount of automobile tax collected and due must be reported and remitted to the department electronically via GovConnectIowa.

b. Permit. No permit, other than an Iowa sales and use tax permit, is required to collect the tax imposed under Iowa Code chapter 423C. However, the director may require persons responsible for collecting the automobile rental excise tax to register with the department.

c. Other aspects to administration. 701—Chapters 10, 11, 201, 202, and 203 provide more information on other details of administering this tax.

701—251.3(423C) Lessor's obligation to collect tax. The lessor shall collect automobile rental excise tax from the user or from any other person paying the rental price for an automobile. The lessor shall collect the tax by adding the tax to the rental price of the automobile. When collected, the tax shall be stated on any billing or invoice as a distinct item separate and apart from the rental price of the automobile and separate and apart from any state or local option sales or service tax or any state use tax.

These rules are intended to implement Iowa Code chapter 423C.

ARC 8732C**REVENUE DEPARTMENT[701]****Notice of Intended Action****Proposing rulemaking related to state-imposed water service excise tax and providing an opportunity for public comment**

The Revenue Department hereby proposes to rescind Chapter 252, “State-Imposed Water Service Excise Tax,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 423G.5.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 423G and sections 423.1 and 423.3.

Purpose and Summary

The purpose of the proposed rulemaking is to rescind and adopt new Chapter 252. This chapter describes the Department’s interpretation of Iowa Code chapter 423G as it applies to the water service excise tax. The Department proposes removing portions of the rules that the Department determined are obsolete, inaccurate, unnecessary, or duplicative of statutory language pursuant to Executive Order 10.

The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on December 10, 2024.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024. A public hearing was held on the following date(s):

- December 3, 2024

No public comments on the Regulatory Analysis were received at the hearing or in writing. No changes have been made to the text since publication of the Regulatory Analysis.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on February 11, 2025. Comments should be directed to:

Matt Bishop
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.452.9205
Email: matt.bishop@iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 11, 2025	Via videoconference call
11 a.m. to 12 noon	meet.google.com/iei-hezt-fuc
February 12, 2025	Via videoconference call
11 a.m. to 12 noon	meet.google.com/tbv-dhxq-cjx

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 701—Chapter 252 and adopt the following **new** chapter in lieu thereof:

CHAPTER 252 STATE-IMPOSED WATER SERVICE EXCISE TAX

701—252.1(423G) Definitions.

252.1(1) *Incorporation of definitions.* To the extent they are consistent with Iowa Code chapter 423G, all words and phrases used in this chapter mean the same as defined in Iowa Code section 423.1.

252.1(2) *Chapter-specific definitions.* For the purposes of this chapter, unless the context otherwise requires:

“*Facilities*” means any storage tanks, water towers, wells, plants, reservoirs, aqueducts, hydrants, pumps, pipes, or any other similar devices, mechanisms, equipment, or amenities designed to hold, treat, sanitize, or deliver water.

“*State-imposed tax*” or “*tax*,” unless otherwise indicated, means the water service excise tax imposed by Iowa Code section 423G.3.

“*Water utility*” means the same as defined in Iowa Code section 423.3(103). “Corporation” as used in Iowa Code section 476.1 and as incorporated by Iowa Code section 423.3(103) includes municipal corporations.

This rule is intended to implement Iowa Code sections 423G.2 and 423G.3.

701—252.2(423G) Imposition. A state-imposed tax of 6 percent is imposed upon the sales price of water service furnished by a water utility to a purchaser.

This rule is intended to implement Iowa Code section 423G.3.

701—252.3(423G) Administration.

252.3(1) *Generally.* The department is charged with the administration of the tax, subject to the rules, regulations, and direction of the director.

252.3(2) *Application of 701—Chapter 11.* The requirements of 701—Chapter 11 apply to water utilities in the same manner that those requirements apply to all sellers and retailers making sales subject to state sales tax.

This rule is intended to implement Iowa Code section 423G.5.

701—252.4(423G) Charges and fees included in the provision of water service.

252.4(1) *Sales integral to the ability to furnish water service.* The water service excise tax applies to the sale of water by piped distribution to consumers or users, including sales of accompanying services that are integral to furnishing water by piped distribution, even if the water service and accompanying services are billed separately.

252.4(2) *Examples of sales integral to the provision of water service.* Sales of services to consumers or users that are considered integral to the furnishing of water by piped distribution include but are not limited to the following:

a. Nonitemized tangible personal property included with the sale of water service or an accompanying service that is integral to the provision of water service. More information on nonitemized tangible personal property is contained in subparagraph 252.4(4) “a”(2).

b. Water sold, regardless of whether the water is metered.

c. Service, account, or administrative charges or fees for water service, including but not limited to new customer account charges and minimum charges for access to water service, whether the customer uses the water service or not.

d. Fees for connection, disconnection, or reconnection to or from a water utility’s facilities, including tap fees.

e. Fees for maintenance, inspection, and repairs of the water distribution system, water supplies, and facilities, including but not limited to fees for labor or materials.

f. Fees for using or checking water meters.

g. Water distribution system infrastructure and improvement fees.

252.4(3) *Examples of sales that are not water service or are not integral to the provision of water service.* Sales of services that are not integral to the furnishing of water by piped distribution include but are not limited to the following:

a. Residential service contracts regulated under Iowa Code chapter 523C.

b. Sales or rentals of tangible personal property, other than water, sold for a separately itemized price. More information on itemized tangible personal property is contained in subparagraph 252.4(4) “a”(1).

c. Returned check fees.

d. Deposits, including but not limited to check and meter deposits.

e. Fees for printed bills, statements, labels, and other documents.

f. Fees for late charges and nonpayment penalties.

g. Leak detection fees.

252.4(4) *Sales generally not subject to water service excise tax.* Water utilities may make sales that may or may not be integral to the sale of water service but that are not subject to water service excise tax because those nonintegral sales are subject to sales tax under Iowa Code section 423.2 as the sale of tangible personal property enumerated nonwater services or specified digital products.

a. *Sales of tangible personal property.* Whether the sale of tangible personal property that is integral to water service is subject to the water service excise tax depends on whether the tangible personal property is sold to the consumer or user for a separately itemized price.

(1) Itemized tangible personal property. Sales or rentals of tangible personal property by a water utility for a separately itemized price are not subject to the water service excise tax but may be subject to sales and use tax.

(2) Nonitemized tangible personal property. If the sale of tangible personal property is not itemized but is instead bundled with the sale of water service, including sales of services listed in subrule 252.4(2), then the entire sales price is subject to the water service excise tax.

b. Painting of hydrants. The painting of hydrants constitutes painting services under Iowa Code section 423.2(6) “*aj.*” Painting is subject to sales tax and is not subject to water service excise tax.

c. Pipe fitting and plumbing. Some repairs of a water distribution system may constitute pipe fitting and plumbing under Iowa Code section 423.2(6) “*an.*” Pipe fitting and plumbing services are subject to sales tax and are not subject to water service excise tax.

252.4(5) Exemptions. The exemptions from sales tax under Iowa Code section 423.3 also apply to sales subject to water service excise tax. For example, a water utility that purchases water service from a different water utility may be eligible to claim the sale for resale exemption pursuant to Iowa Code section 423.3(2).

This rule is intended to implement Iowa Code sections 423G.4 and 423G.5.

701—252.5(423G) When water service is furnished for compensation.

252.5(1) Itemized sales of water service. Water service is furnished for compensation when water service is sold for a separately itemized price.

EXAMPLE A: Itemized sale of water service. Z is an entity that provides water from a well by piped distribution to various homes in the community. Each home that is connected to the well pays \$20 per month, which is used by Z for maintaining the water distribution system. Z is a water utility making sales of water service and must collect and remit tax on the \$20 monthly fee charged to each of Z’s members.

EXAMPLE B: Sale for resale. An apartment owner purchases water from a city water utility and distributes the water to each unit through a system of pipes. The city meters the apartment owner’s use of water each month and charges the apartment owner for the water service. The apartment owner separately bills each of the tenants \$40 per month for water service, including the cost of water and maintenance on the water distribution system. The apartment owner is a water utility and must collect and remit tax on the \$40 monthly charge for water service. The apartment owner may purchase the water from the city exempt from tax as a sale for resale.

252.5(2) Water service sold for an identifiable price. Water service is furnished for compensation when the price of the water service is identifiable from an invoice, bill, catalog, price list, rate card, receipt, agreement, or other similar document, including where the total sales price increases when water service is included in the sale.

EXAMPLE: Cost varies with inclusion of water service. A campground provides three campsite packages to its customers:

Package A includes only campsite access for \$10 per night.

Package B includes campsite access and an electrical hookup for \$20 per night.

Package C includes campsite access, an electrical hookup, and water service for \$30 per night.

Sales of package C by the campground include sales of water service. The campground must collect and remit tax on \$10—the identifiable sales price of water service.

252.5(3) Water service not furnished for compensation; incidental sales. No sale of water service for compensation occurs where water service is not sold for a separately itemized or identifiable price and is incidental to the rental of real property.

EXAMPLE A: Water service sold with real estate rental for one nonitemized price. A manufactured housing community (MHC) owner owns a well and pipes water to the lots. The MHC owner charges tenants \$500 per month for each lot rental. Water from the well is included in the \$500 rental charge. The MHC owner does not do any of the following: charge a flat water fee, charge tenants based on their actual water used, or offer comparable lots at a lower price that do not have access to water service. The MHC owner is not required to collect or remit tax because water is not being furnished for compensation; it is incidental to the rental of real property.

EXAMPLE B: Water service sold with real estate rental for one nonitemized price. A manufactured housing community (MHC) purchases water from a city water utility and distributes the water to each lot

in the community through a system of pipes. The city meters the MHC's use of water each month and charges the MHC for the water service and the applicable tax. The MHC charges its tenants \$500 for lot rental. As in the previous example, the MHC owner does not do any of the following: charge a flat water fee, charge tenants based on their actual water used, or offer comparable lots at a lower price that do not have access to water service. The MHC owner is not required to collect or remit tax because water is not being furnished for compensation; it is incidental to the rental of real property.

This rule is intended to implement Iowa Code section 423G.3.

701—252.6(423G) Itemization of tax required. A water utility shall add the tax to the sales price of the water service, and the tax, when collected, shall be stated as a distinct item on any bill, receipt, agreement, or other similar document. The tax shall be identified as the water service excise tax, and the amount of tax paid shall be displayed clearly on the bill, receipt, agreement, or other similar document provided to the purchaser.

This rule is intended to implement Iowa Code section 423G.3.

701—252.7(423G) Date of billing—effective date and repeal date. For purposes of determining whether sales tax or water service excise tax applies to billings that span across the July 1, 2018, effective date of Iowa Code chapter 423G or the future repeal date described in Iowa Code section 423G.7, the provisions of rule 701—204.7(423) apply.

This rule is intended to implement Iowa Code section 423G.5.

701—252.8(423G) Filing returns; payment of tax.

252.8(1) *Application of 701—Chapter 202.* The requirements of 701—Chapter 202 apply to water utilities in the same manner that those requirements apply to all sellers and retailers making sales subject to state sales tax.

252.8(2) *Frequency of return filing and payment of tax based on combined water service excise tax and sales and use tax.* With respect to the tax thresholds used for determining whether a retailer must file a return and remit sales and use tax monthly or annually as described in rule 701—202.1(423), the threshold for determining how frequently a water utility must file a return and remit the water service excise tax is based on the sum of the total amount of sales and use tax collected and the total amount of water service excise tax collected.

This rule is intended to implement Iowa Code section 423G.5.

701—252.9(423G) Permits.

252.9(1) *Application of 701—Chapter 201.* The requirements of 701—Chapter 201 apply to water utilities in the same manner that those requirements apply to all sellers and retailers making sales subject to state sales tax.

252.9(2) *Separate water service excise tax permit required.* All water utilities must register for a water service excise tax permit and remit the tax under that permit. Water utilities that also make other sales subject to sales tax must obtain a water service excise tax permit and a sales tax permit and must remit all sales tax under the sales tax permit and all water service excise tax under the water service excise tax permit.

This rule is intended to implement Iowa Code section 423G.5.

ARC 8729C

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rulemaking related to state-imposed and locally imposed hotel and motel taxes and providing an opportunity for public comment

The Revenue Department hereby proposes to rescind Chapter 253, “State-Imposed and Locally Imposed Hotel and Motel Taxes,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 421.14, 422.68, 423.42 and 423A.6.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 423A.

Purpose and Summary

The purpose of the proposed rulemaking is to rescind Chapter 253 and adopt a new Chapter 253 regarding the Department’s role in the administration of state and local hotel and motel taxes. These rules interpret the underlying statutes about the applicability, collection, and remittance of the state and locally imposed hotel and motel taxes. The Department proposes revisions to the chapter to remove portions of the rules that the Department determined are obsolete, unnecessary, or duplicative of statutory language as required by Executive Order 10. Further, the Department proposes revisions to the chapter to add clarity and better organization to aid the public’s understanding of state and local hotel and motel taxes. The Department also renumbered some rules due to other edits and for organizational reasons.

The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on December 10, 2024.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024. A public hearing was held on the following date(s):

- December 3, 2024

No public comments on the Regulatory Analysis were received at the hearing or in writing. No changes have been made to the text since publication of the Regulatory Analysis.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on February 11, 2025. Comments should be directed to:

Nick Behlke
Department of Revenue
Hoover State Office Building
P.O. Box 10457

Des Moines, Iowa 50306
Phone: 515.336.9025
Email: nick.behlke@iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 11, 2025	Via videoconference call
11 a.m. to 12 noon	meet.google.com/iei-hezt-fuc
February 12, 2025	Via videoconference call
11 a.m. to 12 noon	meet.google.com/tbv-dhxq-cjx

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 701—Chapter 253 and adopt the following **new** chapter in lieu thereof:

CHAPTER 253

STATE-IMPOSED AND LOCALLY IMPOSED HOTEL AND MOTEL TAXES

701—253.1(423A) Definitions.

253.1(1) *Incorporation of definitions.* To the extent they are consistent with Iowa Code chapter 423A and this chapter, all other words and phrases used in this chapter shall mean the same as defined in Iowa Code chapter 423A.

253.1(2) *Chapter-specific definitions.* For purposes of this chapter, unless the context otherwise requires:

“*Land use district*” means a district created under Iowa Code chapter 303.

“*Locally imposed tax*” means the hotel and motel tax levied by Iowa Code section 423A.4.

“*Retailer*” means a person required to collect hotel and motel tax, including but not limited to lodging providers, lodging facilitators, and lodging platforms.

“*State-imposed tax*” means the hotel and motel tax levied by Iowa Code section 423A.3.

“*Tax*” or “*hotel and motel tax*” means the state-imposed hotel and motel tax levied by Iowa Code section 423A.3 and any locally imposed hotel and motel tax levied by Iowa Code section 423A.4.

This rule is intended to implement Iowa Code sections 423A.2, 423A.3, 423A.4, 423A.5, and 423A.5A.

701—253.2(423A) Administration. Except as otherwise stated in this chapter, the requirements of 701—Chapter 11 apply to retailers required to collect hotel and motel tax in the same manner that those requirements apply to all sellers and retailers making sales subject to state sales tax.

This rule is intended to implement Iowa Code section 423A.6.

701—253.3(423A) Filing returns; payment of tax; penalty and interest.

253.3(1) *Incorporation of 701—Chapter 202.* Except as otherwise stated in this chapter, the requirements of 701—Chapter 202 apply to retailers required to collect hotel and motel tax in the same manner that those requirements apply to all sellers and retailers making sales subject to state sales tax.

253.3(2) *Filing returns.* Retailers required to collect and remit hotel and motel tax must file returns as required in Iowa Code section 423.31.

253.3(3) *Combined sales and hotel and motel tax return.*

a. On the monthly sales tax return, a retailer shall report the gross sales subject to the hotel and motel tax for the month, listing allowable deductions and calculating tax for the month. The information required for the computation of the hotel and motel tax liability is separate from that required for the computation of the retail sales tax liability and must be separately stated and computed even though total tax liability may be paid with a single remittance.

b. The monthly returns are due on the last day of the month following the close of each calendar month during which the tax is collected. For example, the return for tax collected during April 2025 is due on or before May 31, 2025.

253.3(4) *Application of partial payments.*

a. All payments received with the return will be applied to satisfy state sales tax and hotel and motel tax liabilities, which include penalty and interest.

b. Application of partial payments received with the tax return and any subsequent partial payment received for that tax period will be applied based on a ratio formula unless properly designated by the taxpayer as provided in Iowa Code section 421.60(2)“d.” The denominator in the ratio shall be the total of the hotel and motel tax due and the state sales tax due less any monthly sales tax deposits. The numerators in the ratio formula shall be the amounts of hotel and motel tax due and the net state sales tax due.

EXAMPLE: Hotel owes a total of \$1,000 in net state sales tax and hotel and motel tax for the month. Of the \$1,000 owed, \$600 is for hotel and motel tax and \$400 is for state sales tax. Hotel files its monthly sales tax return accompanied by a \$500 partial payment. The \$500 partial payment would be applied based on the following computation:

$$\frac{600}{1,000} \times 500 = \$300 \text{ Hotel and motel tax}$$

$$\frac{400}{1,000} \times 500 = \$200 \text{ State sales tax}$$

253.3(5) *Application of payments upon termination by a land use district.* If a land use district terminates its local hotel and motel tax, lodging within the district becomes subject to any local hotel and motel tax imposed by a city or county within the corporate boundaries of that district on the date of termination. If a city or county imposes a local hotel and motel tax within the district, all revenues received from or moneys refunded to lodging within the district after the date on which the land use district terminates its local hotel and motel tax are treated as collected from or refunded to lodging in such city or county. If no city or county imposes a local hotel and motel tax within the district, all revenues received from or moneys refunded to lodging within the district at least 180 days after the date on which the land use district terminates its local hotel and motel tax shall be deposited in or withdrawn from the state general fund as described in Iowa Code section 423A.6(1).

This rule is intended to implement Iowa Code sections 423A.3, 423A.4, and 423A.6.

701—253.4(423A) Permits.

253.4(1) *Incorporation of 701—Chapter 201.* Except as otherwise stated in this chapter, the requirements of 701—Chapter 201 apply to retailers required to collect hotel and motel tax in the same manner that those requirements apply to all sellers and retailers making sales subject to state sales tax.

253.4(2) *Sales tax permit required.*

a. There is no separate hotel and motel tax permit; retailers required to collect and remit hotel and motel tax shall obtain an Iowa sales tax permit.

b. Any lodging facilitator not in the business of renting rooms to transient guests but that facilitates rentals of lodging at varying locations in Iowa to transient guests may register once under this chapter.

c. A lodging facilitator is not required to register under this chapter if the lodging facilitator and its affiliates do not exceed the transaction and sales thresholds in Iowa Code section 423A.5A.

This rule is intended to implement Iowa Code sections 423A.3, 423A.4, 423A.5A, and 423A.6.

701—253.5(423A) Special collection and remittance obligations.

253.5(1) *Exclusion from facilitation fee; itemization of components of sales price not required.* A retailer is not required to separately itemize any component part of the sales price as separate and distinct from the rest of the sales price. Component parts of the sales price could include discount room charges, facilitation fees, or other similar charges. Regardless of how such charges are presented to a user, these charges are included in the definition of “sales price” as defined by Iowa Code section 423A.2(1) “k” and are subject to the hotel and motel taxes.

253.5(2) *Obligations of lodging providers for rentals not involving lodging facilitators or lodging platforms.* A lodging provider must collect and remit the hotel and motel tax on the entire sales price of the rental if the transaction does not involve a lodging facilitator or lodging platform. In transactions that do not involve lodging facilitators or lodging platforms, only the lodging provider has a hotel and motel tax collection and remittance obligation on the transaction.

EXAMPLE 1: Lodging provider. H owns a hotel located in Iowa. H offers rooms for rent to transient guests. Users can book rooms directly with H—in person, by phone, or through H’s website—or through lodging facilitators. H is a lodging provider as defined in Iowa Code section 423A.2(1) “h” and must collect and remit hotel and motel tax.

EXAMPLE 2: Lodging provider—property management company. M offers property management and listing services on behalf of lake homeowners. O owns a lake home. O enters into an agreement with M, under which M will manage the property, list the property for rent, enter into rental agreements with users, and receive money from users for the rental of the property.

The lake home is lodging as defined in Iowa Code section 423A.2(1) “e.” M is a lodging provider as defined in Iowa Code section 423A.2(1) “h” as a consequence of operating and managing the lodging and making the lodging available for rent. Therefore, M must collect and remit the hotel and motel tax to the department.

EXAMPLE 3: Collection and remittance by a lodging provider. H operates a hotel and is a lodging provider. A user books a room by calling H’s telephone number and paying a sales price of \$100 to rent the room for one night. H’s hotel is located in a jurisdiction with a 7 percent locally imposed hotel and motel tax. H is required to charge the user \$112. H is required to add the \$5 state-imposed tax as separate and apart from the sales price and separate and apart from the locally imposed tax. H is required to add the \$7 locally imposed tax as separate and apart from the sales price and separate and apart from the state-imposed tax. H is required to remit \$12, the total hotel and motel tax, to the department. Iowa Code section 423A.5A provides more information about the collection and remittance of hotel and motel tax.

253.5(3) *Obligations of retailers in transactions involving lodging facilitators.* When a user rents lodging through a lodging facilitator, the lodging facilitator shall collect from the user the hotel and motel tax on the entire sales price paid by the user to the lodging facilitator and the lodging provider shall collect from the user the hotel and motel tax on the entire sales price paid by the user to the lodging provider.

a. *Remittance of tax when lodging facilitators do not charge the user a facilitation fee.* If the lodging facilitator does not charge the user a facilitation fee, the lodging facilitator is required to transmit the entire hotel and motel tax collected from the user to the lodging provider. The lodging provider is required to remit the tax received from the lodging facilitator, together with any hotel and motel tax collected by the lodging provider directly from the user, to the department.

EXAMPLE: H owns a hotel and is a lodging provider. A user books a room for one night at H’s hotel using T, a travel agency. The total sales price is \$100. T coordinates the user’s payment by collecting and

transmitting the \$100 sales price plus tax from the user to H. T is a lodging facilitator. T does not retain any part of the user's \$100 payment nor impose an additional fee to the user for facilitating the transaction with H. After the user has stayed at H's hotel, T receives a \$20 commission from H. T and H are not affiliates.

The lodging is located in a jurisdiction with a locally imposed hotel and motel tax of 7 percent. The commission H pays to T is not a facilitation fee. Iowa Code section 423A.2(1) "d" provides more information on facilitation fees. Therefore, there is no hotel and motel tax applied to the commission paid to T. T is required to collect \$12 of hotel and motel tax (12 percent combined hotel and motel tax rate $\times$ \$100 sales price) and remit the \$12 to H when T facilitates payment of the sales price to H. H is required to receive the \$12 tax on the sales price from T and then remit the entire \$12 tax to the department. T does not have an obligation to remit any hotel and motel tax to the department on this transaction.

b. Remittance of tax when lodging facilitators charge the user a facilitation fee. If the lodging facilitator charges the user a facilitation fee, the lodging facilitator is required to transmit the portion of the hotel and motel tax attributable to the discount room charge that is charged by the lodging provider to the lodging provider and remit to the department the remaining hotel and motel tax, which represents tax on the facilitation fee charged to the user. The lodging provider is required to remit the tax received from the lodging facilitator, together with any hotel and motel tax collected by the lodging provider directly from the user, to the department.

EXAMPLE 1: F operates an online travel company. On its website, F allows users to search for, book, and pay for hotel rooms. F's website includes listings from various hotels. Users are allowed to pay for the hotel room through a checkout page on F's website. F retains a portion of each sale as compensation for arranging the rental.

A user finds and selects a hotel room in Iowa on F's website. The user pays for the room through F's website. The lodging provider that owns the hotel is not an affiliate of F. The total price charged to the user includes an amount retained by F for arranging the rental of the hotel room. In this transaction, F is a lodging facilitator. The amount F retains from the user as compensation for arranging the rental is a facilitation fee. Iowa Code section 423A.2(1) "c," "d," and "f" provides more information about lodging facilitators and facilitation fees.

EXAMPLE 2: H operates a hotel and is a lodging provider. F operates an online travel company and is therefore a lodging facilitator. A user books a room at H's hotel through F's website. The total sales price charged to the user is \$100. The \$100 sales price includes a \$20 facilitation fee that is retained by F. H charges F a discount room charge of \$80.

The lodging is located in a jurisdiction with a locally imposed hotel and motel tax of 7 percent. The total price F must charge to the user is \$112, which is the sum of the sales price, the 5 percent state-imposed hotel and motel tax, and the 7 percent locally imposed hotel and motel tax.

F is required to add the \$5 state-imposed tax separate and apart from the sales price and separate and apart from the locally imposed tax. F is required to add the \$7 locally imposed tax separate and apart from the sales price and separate and apart from the state-imposed tax. On any document F provides to the user confirming the transaction, F is required to separately state the sales price (\$100), the state-imposed tax (\$5), and the locally imposed tax (\$7). F is not required to identify to the user the portion of the sales price attributable to either the discount room charge or the facilitation fee.

F is required to remit to H that portion of hotel and motel taxes collected on \$80, the sales price that represents the discount room charge. F remits \$9.60 hotel and motel tax (i.e., 12 percent hotel and motel tax rate $\times$ \$80 discount room charge) to H. F remits \$2.40 hotel and motel tax (i.e., 12 percent hotel and motel tax rate $\times$ \$20 facilitation fee) to the department. H remits the \$9.60 hotel and motel tax to the department. Iowa Code section 423A.5A provides more information on the collection and remittance of hotel and motel tax.

EXAMPLE 3: Assume the same facts as in Example 2. However, at check-in time, the user upgrades with H to a larger room for an additional sales price of \$50. The user pays this additional \$50 directly to H. H is required to charge the user \$56, which is the sum of the additional sales price, the 5 percent state-imposed hotel and motel tax, and the 7 percent locally imposed hotel and motel tax. H remits the \$6

hotel and motel tax, as well as the \$9.60 hotel and motel tax received from F as described in Example 2, to the department.

253.5(4) *Obligations of lodging platforms.* Where a retailer is a lodging platform, the retailer must collect and remit the hotel and motel tax on the entire sales price of the transaction to the department.

EXAMPLE 1: Z operates a home-sharing platform. Z allows individual property owners to list rooms or entire properties with sleeping accommodations for rent to transient guests on the home-sharing platform. Users search, book, and pay for lodging through Z’s platform.

O lists O’s house on Z’s home-sharing platform. O is not an affiliate of Z. A user books and pays for O’s listing using Z’s home-sharing platform. In this transaction, Z is a lodging platform as described in Iowa Code section 423A.2(1) “g.”

EXAMPLE 2: Z operates the home-sharing platform described in Example 1 above. O owns a cabin in Iowa. The cabin is located in a local jurisdiction that imposes a 7 percent locally imposed hotel and motel tax. O lists O’s property for short-term rentals on Z’s marketplace. O offers O’s property for rent for a three-day weekend for \$900 and guests are also required to pay a \$20 towel fee and a \$50 cleaning fee. On this transaction, Z imposes a \$30 service charge on the user for processing the transaction on Z’s website. A user reserves and pays for the cabin on Z’s website.

The total sales price is \$1,000 (i.e., \$900 lake home rental + \$20 towel fee + \$50 cleaning fee + \$30 service charge) before taxes. Z is required to charge the user \$1,120. Z must add the \$50 state-imposed tax separate and apart from the sales price and separate and apart from the locally imposed tax. Z is required to add the \$70 locally imposed tax separate and apart from the sales price and separate and apart from the state-imposed tax. As a lodging platform, Z does not remit any part of the \$120 in tax to O. Instead, Z is required to remit the \$120 in tax to the department.

This rule is intended to implement Iowa Code sections 423A.3, 423A.4, and 423A.5A.

701—253.6(423A) Certification of funds.

253.6(1) *Certification of funds.* Within 45 days after the date that the monthly returns and payments are due, the director will certify to the treasurer of state the amount of locally imposed tax to be transferred from the general fund to the local transient guest tax fund that is to be distributed to each city, county, and land use district that has adopted the tax. Payments received after the date of certification will remain in the general fund until the next certification.

253.6(2) *Revenues credited to local fund.* All locally imposed hotel and motel tax revenues received under Iowa Code chapter 423A are to be credited to the local transient guest tax fund. Revenues include all interest and penalties applicable to any locally imposed hotel and motel tax report or remittance, whether resulting from delinquencies or audits.

This rule is intended to implement Iowa Code sections 423A.6 and 423A.7.

ARC 8739C

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rulemaking related to fuel excise taxes and providing an opportunity for public comment

The Revenue Department hereby proposes to rescind Chapter 259, “Administration,” and adopt a new Chapter 259, “Fuel Tax Administration”; rescind Chapter 260, “Motor Fuel and Undyed Special Fuel,” and adopt a new chapter with the same name; rescind Chapter 261, “Liquefied Petroleum Gas—Compressed Natural Gas—Liquefied Natural Gas,” and adopt a new Chapter 261, “Liquefied Petroleum Gas—Compressed Natural Gas—Liquefied Natural Gas—Hydrogen”; and rescind Chapter 262, “Electric Fuel Excise Tax,” and to adopt a new chapter with the same title, Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 423.25, 452A.2(15), 452A.8(2)“c,” 452A.8(2)“d,” 452A.8(2)“e”(3), 452A.8(4), 452A.15(6), 452A.17(1)“a”(6), 452A.41(3), 452A.59, 452A.68(3), 452A.72, 452A.76(2) and 452A.85(2).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 452A and sections 422.110 and 423.3.

Purpose and Summary

The purpose of the proposed rulemaking is to rescind and adopt new Chapters 259, 260, 261, and 262. These chapters describe the Department’s interpretation of Iowa Code chapter 452A as it applies to fuel excise taxes. Chapter 259 contains rules on the administration of all fuel excise taxes. Chapter 260 provides guidance on the collection and remittance of the excise tax on motor fuel and undyed special fuel. Chapter 261 provides such guidance on the excise tax on liquified petroleum gas, compressed natural gas, and liquefied natural gas. Chapter 262 provides such guidance on the excise tax on electric fuel. The Department proposes revisions to these chapters to remove rules and portions of the rules that were determined obsolete, inaccurate, unnecessary, or duplicative statutory language as required by Executive Order 10.

The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on December 10, 2024.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024. A public hearing was held on the following date(s):

- December 3, 2024

No public comments on the Regulatory Analysis were received at the hearing or in writing. No changes have been made to the text since publication of the Regulatory Analysis.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on February 11, 2025. Comments should be directed to:

Matt Bishop
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306

Phone: 515.452.9205
Email: matt.bishop@iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 11, 2025 2 to 3 p.m.	Via videoconference call meet.google.com/ima-dbfq-ttv
February 12, 2025 2 to 3 p.m.	Via videoconference call meet.google.com/uco-aouw-qnc

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 701—Chapter 259 and adopt the following **new** chapter in lieu thereof:

CHAPTER 259 FUEL TAX ADMINISTRATION

701—259.1(452A) Definitions. For purposes of 701—Chapters 259, 260, 261, and 262, the following definitions apply:

“B-20” means biodiesel blended fuel formulated with a minimum percentage of 20 percent by volume of biodiesel, if the formulation meets the standards provided in Iowa Code section 214A.2. A similar notation refers to biodiesel blended fuel containing other percentages of biodiesel. For example, “B-5” means biodiesel blended fuel formulated with a minimum percentage of 5 percent by volume of biodiesel, if the formulation meets the standards provided in Iowa Code section 214A.2.

“Biodiesel distribution percentage” means the number of gallons of biodiesel blended fuel classified as B-20 or higher that is distributed in this state as expressed as a percentage of the number of gallons of special fuel for diesel engines of motor vehicles distributed in this state during the determination period. The determination period is the previous calendar year.

“Carrier” means and includes any person who operates or causes to be operated any commercial motor vehicle on any public highway in this state.

“End user” of special fuel means a person who has purchased a minimum of 240,000 gallons of special fuel each year in the two preceding years who elects to make delayed payments to a licensed supplier and must use electronic funds transfer.

“Ethanol distribution percentage” means the number of gallons of ethanol blended gasoline that is distributed in this state as expressed as a percentage of the number of gallons of motor fuel, excluding aviation gasoline, distributed in this state during the determination period. The determination period is the previous calendar year.

“Foreign supplier” means a person licensed as a supplier to collect and report the tax, but who does not have jurisdictional connections with this state.

“Fuel(s)” means and includes motor fuel, special fuel, and electric fuel as defined in Iowa Code chapter 452A.

“Invoiced gallons” means gross gallons as shown on the bill of lading or manifest.

“Motor fuel” means a substance or combination of substances that is intended to be or is capable of being used for the purpose of operating an internal combustion engine, including but not limited to a motor vehicle, and is kept for sale or sold for that purpose and includes the following:

1. All products commonly or commercially known or sold as gasoline (including ethanol blended gasoline, casinghead, and absorption or natural gasoline) regardless of their classifications or uses, and including transmix that serves as a buffer between fuel products in the pipeline distribution process.

2. Any liquid advertised, offered for sale, sold for use as, or commonly or commercially used as a fuel for propelling motor vehicles, which when subjected to distillation of gasoline, naphtha, kerosene, and similar petroleum products (American Society of Testing Materials designation D-86), shows not less than 10 percent distilled (recovered) below 347°F (175°C) and not less than 95 percent distilled (recovered) below 464°F (240°C).

“Motor fuel” does not include special fuel and does not include liquefied gases that would not exist as liquids at a temperature of 60°F and a pressure of 14 7/10 pounds per square inch absolute, or naphthas and solvents unless the liquefied gases or naphthas and solvents are used as a component in the manufacture, compounding, or blending of a liquid within paragraph “2,” in which event the resulting product shall be deemed to be motor fuel. “Motor fuel” also does not include methanol unless blended with other motor fuels for use in an aircraft or for propelling motor vehicles.

“Person” means and includes natural persons, partnerships, firms, associations, corporations, representatives appointed by any court, and political subdivisions of this state or any other group or combination acting as a unit and the plural as well as the singular number applies.

“Petrodiesel” means petroleum-based diesel fuel. Petrodiesel contains no biodiesel.

“Reefer” or *“reefer unit”* means a refrigeration unit powered by fuel.

“Taxpayer” means anyone responsible for paying fuel taxes directly to the department of revenue under Iowa Code chapter 452A.

“Withdrawn from terminal” means physical movement from a supplier to a distributor or eligible end user or from an alcohol manufacturer to a nonterminal location and includes an importer going out of state and obtaining fuel from a terminal and bringing the fuel into the state, and a restrictive supplier bringing fuel into the state even though not purchased directly from a terminal. Exchange of product by suppliers while in the distribution channel and the physical movement of alcohol from an alcohol manufacturer to an Iowa licensed supplier’s alcohol storage at a terminal are not to be considered “withdrawn from terminal.”

This rule is intended to implement Iowa Code sections 452A.2, 452A.57 and 452A.59.

701—259.2(452A) Taxpayers required to keep records.

259.2(1) The records required to be kept by this rule must be preserved for a period of three years and will be open for examination by the department during this period of time. The department, after an audit and examination of the records, may authorize the disposal of the records required to be kept upon written request by the taxpayer. 701—subrule 11.3(3) contains additional information for taxpayers using an electronic data interchange.

259.2(2) Every supplier or restrictive supplier required to file a monthly return under Iowa Code section 452A.8, every importer required to file a semimonthly return under Iowa Code section 452A.8, and every exporter, terminal or nonterminal storage facility operator, distributor, blender, and dealer is required to keep and preserve records in compliance with 701—Chapter 11. Such persons are also required to keep the following records relating to the purchase or sale of fuel:

- a. Copies of bills of lading or manifests.
- b. Copies of sales and purchase invoices.
- c. Sales records and purchase records.
- d. Copies of filed returns and supporting schedules.
- e. Record of payment.

- f.* Export schedules.
- g.* Delivery tickets.
- h.* Copies of reports, returns, and supporting schedules filed with the importing state.
- i.* Exemption certificates.

This rule is intended to implement Iowa Code section 452A.8.

701—259.3(452A) Audit—costs.

259.3(1) The department has the right and duty to examine or cause to be examined the books, records, memoranda, or documents of a taxpayer for the purpose of verifying the correctness of a return filed or determining the tax liability of any taxpayer.

259.3(2) The costs incurred in examining the records of a taxpayer are at the taxpayer's expense when the records are kept at an out-of-state location. Cost will include meals, lodging, and travel expenses, but will not include salaries of department personnel.

This rule is intended to implement Iowa Code sections 452A.10, 452A.62, 452A.55, and 452A.69.

701—259.4(452A) Estimate gallonage.

259.4(1) *Inadequate records.* In the event the taxpayer's records are lacking or inadequate to support any return filed by the taxpayer, or to determine the taxpayer's liability, the department has the power to estimate the gallonage upon which tax is due.

259.4(2) *Determination of estimate.* Estimated gallonage will be based upon such factors as, but not limited to, the following:

- a.* Prior experience of the taxpayer;
- b.* Taxpayers in similar situations;
- c.* Industry averages;
- d.* Records of suppliers or customers; and
- e.* Other pertinent information the department may possess, obtain or examine.

This rule is intended to implement Iowa Code section 452A.64.

701—259.5(452A) Timely filing of returns, reports, remittances, applications, or requests.

259.5(1) The returns, reports, remittances, applications, or requests required under Iowa Code chapter 452A or 701—Chapters 259 through 262 shall be filed through GovConnectIowa unless otherwise required by the department.

259.5(2) Such documents provided by mail are deemed filed within the required time if:

- a.* Postpaid,
- b.* Properly addressed, and
- c.* Postmarked on or before midnight of the day on which due and payable.

Any return that is not signed and any return that does not contain substantially all of the pertinent information are not considered "filed" until such time as the taxpayer signs or supplies the information to the department.

259.5(3) The filing of a return within the period prescribed by law and payment of the tax required to be shown thereon are simultaneous acts, unless remittance is required to be transmitted electronically; and if either condition is not met, a penalty will be assessed. Remittances transmitted electronically are considered to have been made on the date the remittance is added to the bank account designated by the treasurer of the state of Iowa. If the final filing date falls on a Saturday, Sunday, or holiday, the next day that is not a Saturday, Sunday, or holiday is the final filing date.

259.5(4) The director may require by rule that reports and returns be filed by electronic transmission.

259.5(5) All licensees must file returns by electronic transmission. All suppliers, restricted suppliers, importers, terminals, blenders, and nonterminal storage facilities with at least 5,000 gallons of product on their return or report must also file the schedules which support the return or report by electronic transmission.

259.5(6) All returns, reports, remittances, applications, or requests should be mailed to: Motor Fuel Refunds, Iowa Department of Revenue, Tax Management Division—Fuel Tax, P.O. Box 10465, Des Moines, Iowa 50306-0465, unless electronic transmission is required.

In the event a dispute arises as to the time of filing, or a return, report, or remittance is not received by the department, the provisions of Iowa Code section 622.105 are controlling. This rule applies only when the document is not received or the postmark on the envelope is illegible, erroneous, or omitted.

This rule is intended to implement Iowa Code sections 452A.8 and 452A.61.

701—259.6(452A) Statute of limitations, supplemental assessments and refund adjustments.

259.6(1) After a return is filed, the department must examine it, determine fuel taxes due, and give notice of assessment to the taxpayer. Iowa Code sections 452A.64 and 452A.67 and rule 701—259.5(452A) contain additional information on the failure to file returns and the period for examination.

259.6(2) The department may, at any time within the period prescribed for assessment or refund adjustment, make a supplemental assessment or refund adjustment whenever it is ascertained that any assessment or refund adjustment is imperfect or incomplete in any respect.

259.6(3) If the assessment or refund adjustment is appealed (protested under rule 701—7.9(17A)) and is resolved, whether by informal proceedings or by adjudication, the department and the taxpayer are precluded from making a supplemental assessment or refund adjustment concerning the same issue involved in such appeal for the same tax period unless there is a showing of mathematical or clerical error or a showing of fraud or misrepresentation.

This rule is intended to implement Iowa Code section 452A.67.

701—259.7(452A) Extension of time to file. The department may grant an extension for the filing of any required return or tax payment or both.

259.7(1) *Application for extension.* In order for an extension to be granted, the application requesting the extension must be filed, in writing, with the department prior to the due date of the return or remittance. In determining whether an application for extension is timely filed, the provisions of rule 701—259.5(452A) shall apply. The application for extension must be accompanied by an explanation of the circumstances justifying such extension.

259.7(2) *Length of extension.* The extension period will not exceed 30 days.

259.7(3) *Penalties in the event of an extension.* In the event an extension is granted, the penalties under Iowa Code section 452A.65 applicable to late-filed returns or remittances will not accrue until the expiration of the extension period. The interest on tax due under the same section will accrue as of the original filing date.

This rule is intended to implement Iowa Code section 452A.61.

701—259.8(452A) Penalty and interest. Rules 701—10.6(421) and 701—10.2(421) contain information on failure to timely file a return or failure to timely pay the tax. Rule 701—10.8(421) contains information on penalty exceptions. Rule 701—10.72(452A) contains additional information on interest on refunds. Rule 701—10.71(421) contains additional information on penalty and enforcement provisions.

This rule is intended to implement Iowa Code chapter 452A.

701—259.9(452A) Application of remittance. All payments are to be first applied to the penalty and then to the interest. The balance, if any, will then be applied to the amount of tax due. If a taxpayer remits a payment on or before the due date, but the payment is insufficient to discharge the tax liability, the entire amount of the payment applies to the tax, and the penalty and interest are based on the unpaid portion of the tax. If the department determines there is additional tax due from a taxpayer, interest and penalty accrue on that amount from the date it should have been reported and paid.

This rule is intended to implement Iowa Code sections 452A.59, 452A.65 and 452A.66.

701—259.10(452A) Reports, returns, records—variations.

259.10(1) The department will prescribe and furnish forms upon which reports, returns, and applications are to be made to the department under Iowa Code chapter 452A. Claims for refund will be made on forms provided by the department or in any other manner as prescribed by the director. Licensees may substitute forms for their use, other than official forms, if all the requirements in department rule 701—8.3(17A) are met.

259.10(2) If the information required in these documents is presented to the department on forms or in a manner other than the prescribed form, or approved substitute form, the return, application, or claim for refund or credit shall not be deemed “filed.” The forms may be furnished by the department (except those pertaining to division III interstate operations, which are available from the department of transportation) and, therefore, the fact that the reporting party does not have the prescribed form is not an excuse for failure to file.

259.10(3) The department may also prescribe the form of the records that the reporting parties are required to keep in support of the reports/returns they file. The department may approve the form of the records that are being kept by any reporting party and must approve the form of record being kept if that form contains all of the information on the prescribed form, the information is compiled in such a manner as to make it easily ascertainable by department personnel, and substantially complies with the prescribed form.

This rule is intended to implement Iowa Code section 452A.60.

701—259.11(452A) Invoices.

259.11(1) *Requirements for invoices.* Whenever an invoice is required to be kept or prepared by Iowa Code chapter 452A or these rules, the invoice must:

- a. Be prepared by someone other than the purchaser and include the seller’s name, address, and identification number.
- b. Include the purchaser’s name and address.
- c. Contain a serial number of three or more digits.
- d. Include the calendar date of purchase.
- e. Indicate the type of fuel purchased. Diesel fuel must be designated as dyed or undyed.
- f. Indicate the quantity of fuel purchased in gross gallons.
- g. Indicate the total purchase price and show separately the amount of state and federal fuel tax included in the purchase price or include a statement that all state and applicable federal taxes are included in the purchase price.
- h. For ethanol blended gasoline or biodiesel blended fuel, state its designation as provided in Iowa Code section 214A.2.
- i. Be prepared on paper that will prevent erasure or alteration or on another form approved by the department.

259.11(2) *Credit card invoices.* Credit card invoices are acceptable if they meet substantially all the requirements of rule 701—259.11(452A). For refund purposes, presentation of a credit card invoice or billing statement is prima facie evidence that the fuel tax has been paid.

This rule is intended to implement Iowa Code sections 452A.10, 452A.12, and 452A.60.

701—259.12(452A) Taxes erroneously or illegally collected.

259.12(1) *Generally.* Licensees are entitled to a refund of taxes, penalty, and interest erroneously or illegally collected by the department.

259.12(2) *Refund requests.* The request for refund must be (1) in writing, (2) filed with the department within three years of the time the tax was paid (3) filed by the licensee who remitted the tax to the department, and (4) accompanied by documentation supporting the claim for refund.

- a. *Computational errors.* If the erroneous collection was the result of a computational error on the part of the taxpayer and that error is discovered by the department during an examination of the taxpayer’s records within three years of the overpayment, the taxes will be refunded and a written request will not be necessary.

b. Penalties and interest. If the request includes the return of erroneously or illegally collected (assessed) penalty or interest, the interest or penalty shall be refunded in the same proportion as the tax.

c. Sales or use tax. A refund issued under this rule will be reduced by sales or use tax if applicable. There is no minimum refund amount for refunds claimed under the provisions of Iowa Code section 452A.72.

259.12(3) Amended returns.

a. Generally. Amended returns must be filed for the tax periods in which an error occurred.

b. Motor fuel and undyed special fuel suppliers. Motor fuel and undyed special fuel suppliers must inform the department upon which bill(s) of lading, by number, and upon which monthly return(s) the tax was erroneously paid. The gallonage upon which a refund is requested on motor fuel or undyed special fuel must be reduced by the distribution allowance provided in Iowa Code section 452A.5.

c. Restrictive suppliers, importers, and blenders. Restrictive suppliers, importers, and blenders must inform the department upon which bill(s) of lading or invoice, by number, and upon which monthly or semimonthly return(s) the tax was erroneously paid and an explanation of the erroneous payment. An amended return must be filed for the tax period in which the error occurred.

This rule is intended to implement Iowa Code section 452A.72.

701—259.13(452A) Information confidential.

259.13(1) Generally. Iowa Code section 452A.63, which makes all information obtained from reports, returns, or records required to be filed or kept under Iowa Code chapter 452A confidential, applies generally to the director, deputies, auditors, agents, officers, or other employees of the department. The information may be divulged to appropriate public officials, including:

- a.* Member(s) of the Iowa general assembly,
- b.* Committees of either chamber of the Iowa legislature,
- c.* State officers,
- d.* Persons who have responsibility for the enforcement of Iowa Code chapter 452A,
- e.* Officials of the federal government entrusted with enforcement of federal motor vehicle fuel tax laws, and
- f.* Officials of other states who have responsibility to enforce motor vehicle fuel tax laws and who will furnish like information to the department.

259.13(2) Exception. An exception to this rule is that the appropriate state agency may make available to the public the total gallons of motor fuel, undyed special fuel, and ethanol blended gasoline withdrawn from terminals or imported into the state by suppliers, restrictive suppliers, and importers. The public request must be made within 45 days following the last day of the month in which the tax is required to be paid.

This rule is intended to implement Iowa Code section 452A.63.

701—259.14(452A) Audit and examination. The compliance division of the department may examine reports, returns, and records; make audits; and determine the correct amount of tax, interest, penalties, and fines due and take all actions authorized to collect the same, subject to review by or appeal to the director.

This rule is intended to implement Iowa Code sections 452A.62 and 452A.76.

701—259.15(452A) Practice and procedure before the department of revenue. The practice and procedure before the department is governed by Iowa Code chapter 17A and 701—Chapter 7.

This rule is intended to implement Iowa Code chapter 17A.

701—259.16(452A) Time for filing an appeal. Any person wishing to contest an assessment, denial of all or any portion of a refund claim, or any other department action, except licensing, which may culminate in a contested case proceeding, must file an appeal as directed in 701—Chapter 7. If a taxpayer fails to timely appeal a notice of assessment, the taxpayer may make payments pursuant to 701—subrule 7.9(3) and file a refund claim within the period provided by law for filing claims.

This rule is intended to implement Iowa Code section 452A.64.

701—259.17(452A) Bonding procedure. The director may, when necessary and advisable in order to secure the collection of the tax, require any person subject to the tax to file with the department a bond in an amount as the director may fix, or in lieu of the bond, securities approved by the director in an amount as the director may prescribe. Pursuant to the statutory authorization in Iowa Code sections 423.35 and 452A.66, the director has determined that the following procedures will be instituted with regard to bonds:

259.17(1) When required.

a. Classes of business. When the director determines, based on departmental records, other state or federal agency statistics, or current economic conditions, that certain segments of the petroleum business community are experiencing above average financial failures such that the collection of the tax might be jeopardized, a bond or security will be required from every licensee operating a business within this class unless it is shown to the director's satisfaction that a particular licensee within a designated class is solvent and that the licensee previously timely remitted the tax. If the director selects certain classes of licensees for posting a bond or security, rulemaking will be initiated to reflect a listing of the classes in the rules.

b. New applications for fuel tax permits. Notwithstanding the provisions of paragraph “a” above, the director has determined that importers will be required to post a bond in the amount of \$25,000 and other applicants for a new fuel tax permit will be requested to post a bond or security if (1) it is determined upon a complete investigation of the applicant's financial status that the applicant would likely not be able to timely remit the tax, or (2) the new applicant held a prior fuel tax license and the remittance record of the tax under the prior license falls within one of the conditions in paragraph “c” below, or (3) the department experienced collection problems while the applicant was engaged in business under the prior license, or (4) the applicant is substantially similar to a person who would have been required to post a bond under the guidelines as set forth in “c” or such person had a previous fuel tax permit revoked. The applicant is “substantially similar” to the extent that said applicant is owned or controlled by persons who owned or controlled the previous licensee. For example, X, a corporation, had a previous fuel tax permit revoked. X is dissolved and its shareholders create a new corporation, Y, which applies for a fuel tax permit. The persons or stockholders who controlled X now control Y. Therefore, Y will be requested to post a bond or security.

c. Existing licensees—amount of bond or security. The simultaneous late filing of the return and the late payment of the tax will count as one delinquency. See rule 701—259.24(452A). However, the late filing of the return or the late payment of the tax will not count as a delinquency if the license holder can satisfy one of the conditions set forth in Iowa Code section 421.27, penalty waiver.

(1) Suppliers will be requested to post a bond or security when they have had one or more delinquencies in remitting the fuel tax or timely filing monthly returns during the past six months. The bond or security will be an amount sufficient to cover six months' fuel tax liability or \$5,000, whichever is greater.

(2) Restrictive suppliers will be requested to post a bond or security when they have had two or more delinquencies in remitting the fuel tax or timely filing monthly returns during the past 12 months. The bond or security will be an amount sufficient to cover 12 months' fuel tax liability or \$2,000, whichever is greater.

(3) Blenders will be requested to post a bond or security when they have had two or more delinquencies in remitting the fuel tax or timely filing monthly returns during the past six months. The bond or security will be an amount sufficient to cover 12 months' fuel tax liability or \$2,000, whichever is greater.

(4) Compressed natural gas, liquefied natural gas, and liquefied petroleum gas dealers and users will be requested to post a bond or security when they have had two or more delinquencies in remitting the fuel tax or timely filing monthly returns during the past 12 months. The bond or security will be an amount sufficient to cover 12 months' fuel tax liability or \$500, whichever is greater.

d. Bond or security required. Eligible purchasers and end users will be required to post a bond or security when they have failed to pay the tax to a supplier. They will not be allowed to register as an eligible purchaser or end user again until the bond or security requirement has been complied with.

The bond or security will be an amount sufficient to cover six months' fuel tax based on previous purchases.

e. Waiver of bond. If a licensee has been requested to post a bond or security or if an applicant for a license has been requested to post a bond or security, upon the filing of the bond or security if the licensee maintains a good filing record for a period of two years, the licensee may request that the department waive the continued bond or security requirement. Importer bonds will not be waived.

259.17(2) *Type of security or bond.* When it is determined that a licensee or applicant for a fuel tax permit is required to post collateral to secure the collection of the fuel tax, the following types of collateral will be considered as sufficient: cash, surety bonds, securities, or certificates of deposit. "Cash" means guaranteed funds including, but not limited to, cashier's check, money order, or certified check. If cash is posted as a bond, the bond will not be considered filed until the final payment is made, if paid in installments. A certificate of deposit must have a maturity date of 24 months from the date of assignment to the department. An assignment from the bank must accompany the original certificate of deposit filed with the department for the bank to be released from liability. When a licensee elects to post cash rather than a certificate of deposit as a bond, conversion to a certificate of deposit will not be allowed. When the licensee is a corporation, an officer of the corporation may assume personal responsibility for the payment of fuel tax. Security requirements for the officer will be evaluated as provided in 259.17(1) above as if the officer applied for a fuel tax license as an individual.

259.17(3) *Existing license holders.* Existing license holders may be requested to post a bond or security when they have had two or more delinquencies in remitting the fuel tax or filing returns timely during the past 12 months when filing returns on a monthly basis. The bond or security will be an amount sufficient to cover 12 months' fuel tax liability or \$500, whichever is greater. The simultaneous late filing of the return and the late payment of the tax will count as one delinquency. However, the late filing of the return or late payment of the tax will not count as a delinquency if the license holder can satisfy one of the conditions set forth in Iowa Code section 421.27 (penalty waiver). The department may waive the bond under circumstances described in paragraph 259.17(1) "e."

259.17(4) *Type of security.* The types of security or bond considered as sufficient are described in subrule 259.17(2).

This rule is intended to implement Iowa Code sections 423.35 and 452A.66.

701—259.18(452A) Supplier, restrictive supplier, importer, exporter, blender, dealer, or user licenses.

259.18(1) *Requirements for license.* In order to become licensed as a fuel supplier, restrictive supplier, importer, exporter, blender, dealer, or user, the person must electronically file an application with the department. The license is valid until revoked or canceled and is nonassignable. The application is to include but not be limited to the following information:

- a.* The name under which the licensee will transact business in the state.
- b.* The location of the principal place of business of the licensee and the mailing address if different.
- c.* The social security number or federal identification number of the licensee.
- d.* The type of ownership.
- e.* The name and complete residency address of the owner(s) of the business or, if a corporation or association, the names and addresses of the principal officers.
- f.* The type of license being requested.
- g.* Exporters only—the state and license number for that state in which the fuel is being exported.

259.18(2) *Assignment of a license.* Licenses are not assignable. A person must apply for a new license when:

- a.* Buying the business of another license holder, even if the new owner operates under the same name.
- b.* Changing of the name under which the licensee conducts business.
- c.* Merging or otherwise combining businesses, resulting in a new or different entity.

259.18(3) *Denial of a license.* The department may deny a license to any applicant who may be denied a sales tax permit under rule 701—201.10(423). Rule 701—201.10(423) also contains a characterization of the terms “tax administered by the department” and “substantially delinquent” in paying a tax. Rule 701—7.9(17A) contains information about rights to appeal denial of an application for a license.

259.18(4) *Revocation of a license.* The department may revoke the license of any licensee whose sales tax permit may be revoked under rule 701—201.11(423). Rule 701—201.10(423) contains characterizations of the terms “tax administered by the department” and “substantially delinquent” in paying a tax. The department may also revoke the license of any licensee who abuses the privileges for which the license was issued; who files a false return; or who fails to file a return (including supporting schedules), pay the full amount of tax due, produce records requested, or extend cooperation to the department. Rule 701—7.9(17A) contains more information about rights to appeal.

259.18(5) *Efficient administration of motor fuel laws.* When necessary for the efficient administration of Iowa Code chapter 452A, the director may regard persons or facilities in possession of motor fuel, special fuel, biofuel, alcohol, or alcohol derivative substances as blenders, dealers, eligible purchasers, exporters, importers, restrictive suppliers, suppliers, terminal operators, or nonterminal storage facility operators. The department will notify the person or facility of the various requirements under the motor vehicle fuel tax laws and will ensure that a license is issued.

This rule is intended to implement Iowa Code sections 452A.4 and 452A.6.

701—259.19(452A) Reinstatement of license canceled for cause.

259.19(1) *Reinstatement generally.* A license canceled for cause will be reinstated only on such terms and conditions as the cause may warrant. Terms and conditions will include payments of any applicable fuel tax liability including interest and penalty that is due the department.

259.19(2) *Requirements after cancellation.* Upon the cancellation of a motor vehicle fuel tax license, the licensee will be required to pay all delinquent fuel tax liabilities including interest and penalty, to file returns, and to post a bond and have refrained from activities requiring a license under Iowa Code sections 452A.4 and 452A.6 during the waiting period as required by the director prior to the reinstatement or issuance of a new motor vehicle fuel tax license.

259.19(3) *Waiting periods.* The director may impose a waiting period during which the licensee must refrain from activities requiring a license pursuant to the penalties provided in Iowa Code section 452A.74.

a. Waiting periods of up to 90 days may be imposed as a condition for the restoration of a license or the issuance of a new license after cancellation for cause.

b. The department may require a statement that the licensee has fulfilled all requirements of said order canceling the license for cause and the dates on which the license holder refrained from restricted activities.

259.19(4) *Offenses.* Each of the following situations will be considered one offense for the purpose of determining the waiting period to reinstate a license canceled for cause or issuing a new license after being canceled for cause unless otherwise noted.

a. Failure to post a bond as required.

b. Failure to file a report or return timely.

c. Failure to pay tax timely (including unhonored payments, failure to pay and late payments).

d. Failure to file a return and pay tax as shown on the return (counts as one offense).

259.19(5) *Length of waiting period.* The hearing officer or director of revenue may order a waiting period after the cancellation for cause not to exceed:

a. Waiting periods for multiple offenses.

(1) Five days for one through five offenses.

(2) Seven days for six or seven offenses.

(3) Ten days for eight or nine offenses.

(4) Thirty days for ten offenses or more.

b. Waiting periods for multiple cancellations. The hearing officer or director of revenue may order a waiting period not to exceed:

(1) Forty-five days if the second cancellation for cause occurs within 24 months of the first cancellation for cause.

(2) Sixty days if the second cancellation for cause occurs within 18 months of the first cancellation for cause.

(3) Ninety days if the second cancellation for cause occurs within 12 months of the first cancellation for cause.

(4) Ninety days if the third cancellation for cause occurs within 36 months of the second cancellation for cause.

This rule is intended to implement Iowa Code section 452A.68.

701—259.20(452A) Fuel used in implements of husbandry. Dyed special fuel is exempt from tax. Motor fuel or undyed special fuel is subject to refund when used in implements of husbandry as defined in Iowa Code section 321.1(32). A vehicle as defined in Iowa Code section 321.1(90) is not an implement of husbandry. The department of revenue, the state department of transportation, the department of public safety, and any other peace officer as requested by such department is empowered to enforce the use of special fuel or motor fuel in any illegal manner, including the inspection and testing of fuel in the fuel supply tank of an implement of husbandry.

This rule is intended to implement Iowa Code section 452A.76.

701—259.21(452A) Excess tax collected. If a licensee collects tax on exempt fuel or collects more tax than is due, the licensee must return the excess tax paid to the purchaser if the tax has not been paid to the department. If the tax has been paid to the department, the department will return the excess tax paid to the consumer upon appropriate documentation.

This rule is intended to implement Iowa Code section 452A.22.

701—259.22(452A) Retailer gallons report.

259.22(1) The department is required to compile information reported to it by retail dealers regarding the number of gallons of the various fuel classifications sold by retail dealers in the previous calendar year and submit a report to the governor and the legislative services agency by April 1 of each year.

a. Each retail dealer is required to file a report with the department detailing the number of motor fuel gallons sold during the previous calendar year on both a companywide basis and a site-by-site basis as required by the department.

b. The retail dealer report is due by January 31 following the close of the calendar year.

259.22(2) The report filed by the department will include information in the aggregate relating to total sales of gasoline, ethanol blended gasoline, diesel fuel, and biofuels. The report will also include appropriate percentage sales of various fuel products. The report will not include individual retail dealer information, trade secret information, or confidential information.

259.22(3) Any entity selling or otherwise providing gasoline, ethanol blended gasoline, diesel fuel, or biofuels in this state to an end user will be presumed to be a retail dealer under Iowa Code section 452A.2(40).

This rule is intended to implement Iowa Code section 452A.33.

ITEM 2. Rescind 701—Chapter 260 and adopt the following **new** chapter in lieu thereof:

CHAPTER 260 MOTOR FUEL AND UNDYED SPECIAL FUEL

701—260.1(452A) Tax rates—time tax attaches—responsible party.

260.1(1) *Fuel distribution percentages.*

a. *Ethanol distribution percentage.*

(1) Except as otherwise provided in this paragraph, this paragraph shall apply to the excise tax imposed on each gallon of motor fuel used for any purpose for the privilege of operating motor vehicles in this state. An excise tax of 30 cents is imposed on each gallon of motor fuel other than ethanol blended gasoline classified as E-15 or higher.

(2) On and after July 1, 2030, an excise tax of 30 cents is imposed on each gallon of ethanol blended gasoline classified as E-15 or higher.

(3) Before July 1, 2030, the rate of the excise tax on ethanol blended gasoline classified as E-15 or higher shall be based on the ethanol distribution percentage as specified in Iowa Code section 452A.3 and subparagraph 260.1(1)“a”(4). The ethanol distribution percentage is the number of gallons of ethanol blended gasoline classified as E-15 or higher that are distributed in this state as expressed as a percentage of the number of gallons of motor fuel, excluding aviation gasoline, distributed in this state. The department shall determine the percentage for each determination period beginning January 1 and ending December 31 based on data from reports filed pursuant to Iowa Code section 452A.33. The rate for the excise tax shall apply for the period beginning July 1 and ending June 30 following the end of the determination period.

(4) The rate of the excise tax on ethanol blended gasoline classified as E-15 or higher is as follows:

Ethanol Distribution Percentage	Per Gallon Excise Tax on E-15 or Higher
0% to 10%	\$0.240
>10% to 12%	\$0.245
>12% to 14%	\$0.250
>14% to 16%	\$0.255
>16% to 18%	\$0.260
>18% to 20%	\$0.265
>20% to 22%	\$0.270
>22% to 26%	\$0.275
>26% to 35%	\$0.280
>35% to 45%	\$0.285
>45% to 65%	\$0.290
>65% to 85%	\$0.292
>85% to 95%	\$0.295
>95% to 100%	\$0.300

b. Biodiesel distribution percentage.

(1) Except as otherwise provided in this paragraph, the rate of the excise tax on each gallon of special fuel for diesel engines of motor vehicles used for any purpose for the privilege of operating motor vehicles in this state, other than biodiesel blended fuel classified as B-20 or higher, is 32.5 cents.

1. Except as otherwise provided in this paragraph, this paragraph shall apply to the excise tax imposed on each gallon of biodiesel blended fuel classified as B-20 or higher used for any purpose for the privilege of operating motor vehicles in this state.

2. On and after July 1, 2030, the rate of the excise tax on each gallon of biodiesel blended fuel classified as B-20 or higher is 32.5 cents.

3. Before July 1, 2030, the rate of the excise tax shall be based on the biodiesel distribution percentage as specified in Iowa Code section 452A.3 and subparagraph 260.1(1)“b”(3). The biodiesel distribution percentage is the number of gallons of biodiesel blended fuel classified as B-20 or higher that is distributed in this state as expressed as a percentage of the number of gallons of special fuel for diesel engines of motor vehicles distributed in this state. The department shall determine the percentage for each determination period beginning January 1 and ending December 31 based on data from reports filed pursuant to Iowa Code section 452A.33. The rate for the excise tax shall apply for the period beginning July 1 and ending June 30 following the end of the determination period.

(2) The determination period for the biodiesel distribution percentage is January through December each calendar year.

(3) The rate of the excise tax on biodiesel blended fuel classified as B-20 or higher is as follows:

Biodiesel Distribution Percentage	Per Gallon Excise Tax on B-20 or Higher
0% to 50%	\$0.295
>50% to 55%	\$0.298
>55% to 60%	\$0.301
>60% to 65%	\$0.304
>65% to 70%	\$0.307
>70% to 75%	\$0.310
>75% to 80%	\$0.313
>80% to 85%	\$0.316
>85% to 90%	\$0.319
>90% to 95%	\$0.322
>95% to 100%	\$0.325

260.1(2) *Attachment, payment, and remittance of tax.*

a. Attachment of tax. The tax attaches when the fuel is withdrawn from a terminal or imported into Iowa.

b. Payment of tax. The tax is payable to the department by the supplier, restrictive supplier, importer, blender, or any person who owns the fuel at the time it is brought into the state by a restrictive supplier or importer or any other person who possesses taxable fuel upon which the tax has not been paid. In the event a licensee sells fuel upon which the tax has not been paid to a second licensee of the same license type, the first licensee, which would be the seller, shall remit the tax to the department unless mutually agreed upon by both licensees of the transaction that the second licensee shall remit the tax to the department.

c. Remittance of tax.

(1) Suppliers, restrictive suppliers, and blenders. The tax is to be remitted to the department by a supplier, restrictive supplier, or blender by the last day of the month following the month in which the fuel is withdrawn from a terminal or imported.

(2) Importers. The tax is to be remitted by an importer by the last day of the month for fuel imported in the first 15 days of the month and by the fifteenth day of the following month for fuel imported after the fifteenth day of the previous month.

(3) Nonlicensees. Nonlicensees who possess taxable fuel upon which the tax has not been paid must file returns and pay the tax the same as a restrictive supplier (monthly). All licensees must make payment by electronic funds transfer.

260.1(3) *Inventory tax.* Retailers, eligible purchasers, and other persons having title to motor fuel, undyed special fuel, or hydrogen in storage and held for sale on the effective date of an increase in the excise tax rate, including an increase in the excise tax rate due to a reclassification of fuel types, imposed on motor fuel, undyed special fuel, or hydrogen are subject to an inventory tax based upon the gallonage in storage as of the close of the business day preceding the effective date of the increased excise tax rate of motor fuel or undyed special fuel that will be subject to the increased excise tax rate. Suppliers and other persons holding fuel that has not yet been taxed are not subject to the inventory tax.

a. Persons subject to the tax imposed under this subrule shall take an inventory to determine the gallonage in storage for purposes of determining the tax and shall report the gallonage and pay the tax due within 30 days of the prescribed inventory date.

b. The amount of the inventory tax is equal to the inventory tax rate times the gallonage in storage. The inventory tax rate is equal to the increased excise tax rate less the previous excise tax rate. The inventory tax does not apply to an increase in the tax rate of a specified fuel, except for compressed natural gas, unless the increase in the tax rate of that fuel is in excess of one-half cent per gallon.

This rule is intended to implement Iowa Code sections 452A.3, 452A.8 and 452A.85.

701—260.2(452A) Exemption.

260.2(1) *Exported fuel.* Motor fuel or undyed special fuel sold for export or exported from this state to another state, territory, or foreign country is exempt from the excise tax.

a. The fuel is deemed sold for export or exported only if the bill of lading or manifest indicates that the destination of the fuel withdrawn from the terminal is outside the state of Iowa. The mode of transportation is not of consequence.

b. In the event fuel is taxed and then subsequently exported, an amount equal to the tax previously paid will be allowable as a refund, upon receipt by the department of the appropriate documents, to the party who originally paid the tax.

c. If the sale of exported fuel is completed in Iowa, then the sale is subject to Iowa sales tax if it is not exported for resale or otherwise exempt from sales tax. The sale is completed in Iowa if the foreign purchaser takes physical possession of the fuel in this state (rule 701—220.2(423)).

260.2(2) *Exempt purposes.* “Exempt purposes” as they relate to dyed fuel requirements in Iowa Code section 452A.3(3) “*b*” are described in Iowa Code section 452A.17(1) “*a*.” This exemption does not apply to fuel used for idle time, power takeoffs, reefer units, or pumping credits, or fuel used by contract carriers.

This rule is intended to implement Iowa Code sections 452A.3 and 452A.17.

701—260.3(452A) Responsibilities of blenders at nonterminal locations.

260.3(1) *Generally.* A person who blends ethanol blended gasoline or biodiesel blended fuel at a nonterminal location must:

a. Obtain a blender’s license. Blending ethanol with gasoline, or blending biodiesel with petrodiesel, may result in additional tax due or an allowable refund depending on the ethanol content of the mixture and the tax paid on its components.

b. Make payments of any additional tax due that may result from blending depending on the content of the mixture.

c. Obtain a refund permit to receive allowable refunds of any overpayment of tax that may result from blending depending on the content of the mixture.

EXAMPLE 1: A blender blends three parts ethanol E-100 with 17 parts gasoline to create ethanol blended gasoline classified as E-15 or higher. The blended product is taxed as ethanol blended gasoline E-15 or higher, and the blender may be due a refund for excess tax paid on the gasoline used to create the blended product.

EXAMPLE 2: A blender blends one-part biodiesel B-100 with four parts petrodiesel to create biodiesel blended fuel classified as B-20 or higher. The blended product is taxed as biodiesel B-20 or higher undyed, and the blender may be due a refund for excess tax paid on the petrodiesel used to create the blended product.

EXAMPLE 3: A blender blends one part biodiesel B-100 with 19 parts petrodiesel to create biodiesel blended fuel classified as B-5. The blended product is taxed as special fuel undyed, and the blender may owe additional tax to the department on the biodiesel B-100 used to create the blended product.

EXAMPLE 4: A blender blends one part biodiesel blended fuel classified as B-20 with five parts biodiesel blended fuel classified as B-2 to create biodiesel blended fuel classified as B-5. The blended product is taxed as special fuel undyed other than B-20 or higher, and the blender may owe additional tax to the department on the biodiesel blended fuel classified as B-20 used to create the blended product.

260.3(2) *Blenders of ethanol blended gasoline.*

a. *E-15 or higher additional tax due example where ethanol is owned by a blender and gasoline is purchased by the blender from a supplier.*

(1) A blender who owns the ethanol (supplier) being used to blend with gasoline must purchase the gasoline from a supplier and pay the appropriate tax to the supplier.

(2) The blender must obtain a blender’s license and compute the tax due on the total gallons of blended product and make payment to the department for the additional amount due.

(3) Example. For purposes of the following example, the tax rate for gasoline is presumed to be 30¢ per gallon and the tax rate for ethanol blended gasoline E-15 or higher is presumed to be 24¢ per gallon. The actual tax rates for the appropriate period may be found on the department's website at revenue.iowa.gov.

EXAMPLE:

Blender purchases 7,000 gallons tax-paid gasoline ($7,000 \times .30$) =	\$2,100.00
Blender adds 3,000 gallons untaxed ethanol	\$.00
Total tax paid on products	<u>\$2,100.00</u>
Total tax due on 10,000 gallons ethanol blended gasoline E-15 or higher ($10,000 \times .24$) =	\$2,400.00
Additional Amount Due	<u>\$300.00</u>

b. E-15 or higher refund example where ethanol and gasoline are purchased by a blender from a supplier. A blender who purchases ethanol and gasoline from a supplier must pay tax on both the ethanol purchased and the gasoline purchased. The blender must obtain a refund permit to receive a refund of the overpayment of tax on the blended product. Example: For purposes of the following example, the tax rate for gasoline is presumed to be 30¢ per gallon and the tax rate for ethanol blended gasoline E-15 or higher is presumed to be 24¢ per gallon. The actual tax rates for the appropriate period may be found on the department's website at revenue.iowa.gov.

EXAMPLE:

Blender purchases 7,000 gallons tax-paid gasoline ($7,000 \times .30$) =	\$2,100.00
Blender purchases 3,000 gallons tax-paid ethanol ($3,000 \times .24$) =	\$720.00
Total tax paid on products	<u>\$2,820.00</u>
Total tax due on 10,000 gallons ethanol blended gasoline E-15 or higher ($10,000 \times .24$) =	\$2,400.00
Amount of Refund Allowable	<u>\$420.00</u>

c. E-10 to E-14 example where ethanol and gasoline are purchased by a blender from any source. A blender who purchases ethanol and gasoline from any source must pay tax on both the ethanol purchased and the gasoline purchased. The blender must obtain a blender's license and compute the tax due on the total gallons of blended product and make payment to the department for the additional amount due. Example: For purposes of the following example, the tax rate for gasoline is presumed to be 30¢ per gallon, the tax rate for ethanol is presumed to be 24¢ per gallon, and the tax rate for ethanol blended gasoline E-10 is presumed to be 30¢ per gallon. The actual tax rates for the appropriate period may be found on the department's website at revenue.iowa.gov.

EXAMPLE:

Blender purchases 7,200 gallons tax-paid gasoline ($7,200 \times .30$) =	\$2,160.00
Blender purchases 800 gallons tax-paid ethanol ($800 \times .24$) =	\$192.00
Total tax paid on products	<u>\$2,352.00</u>
Total tax due on 8,000 gallons ethanol blended gasoline E-10 ($8,000 \times .30$) =	\$2,400.00
Additional Amount Due	<u>\$48.00</u>

d. E-15 or higher refund example where ethanol blended gasoline E-10 to E-14 and ethanol blended gasoline E-15 or higher are purchased by a blender from a supplier. A blender who purchases ethanol blended gasoline E-10 to E-14 and ethanol blended gasoline E-15 or higher from a supplier must pay tax on both the ethanol blended gasoline E-10 to E-14 purchased and the ethanol blended gasoline E-15 purchased. The blender must obtain a refund permit to receive a refund of the overpayment of tax on the blended product. Example: For purposes of the following example, the tax rate for E-10 to E-14 purchased is presumed to be 30¢ per gallon and the tax rate for ethanol blended gasoline E-15 or higher

is presumed to be 24¢ per gallon. The actual tax rates for the appropriate period may be found on the department's website at revenue.iowa.gov.

EXAMPLE:

Blender purchases 7,000 gallons tax-paid ethanol blended gasoline E-10 to E-14 ($7,000 \times .30$) =	\$2,100.00
Blender purchases 3,000 gallons tax-paid ethanol blended gasoline E-15 or higher ($3,000 \times .24$) =	\$720.00
Total tax paid on products	<u>\$2,820.00</u>
Total tax due on 10,000 gallons ethanol blended gasoline E-15 or higher ($10,000 \times .24$) =	\$2,400.00
Amount of Refund Allowable	<u>\$420.00</u>

e. Ethanol blended gasoline E-15 or higher blending errors. Where a blending error occurs and an insufficient amount of ethanol has been blended with gasoline so that the mixture fails to qualify as ethanol blended gasoline E-15 or higher, a 1 percent tolerance applies in determining the tax on the blended product as described below:

(1) If the amount of the ethanol erroneously blended with gasoline is at least 14 percent of the total blended product by volume, the ethanol and gasoline blended product is considered ethanol blended gasoline E-15 or higher and there is no penalty or assessment of additional tax.

(2) If the amount of ethanol erroneously blended with gasoline is less than 14 percent of the total blended product by volume, the total blend of gasoline and ethanol is subject to tax as motor fuel other than ethanol blended gasoline E-15 or higher at the prevailing rate of tax.

1. Blending errors occur only if a blender intends to produce ethanol blended gasoline E-15 or higher. If a blender does not intend to produce ethanol blended gasoline when blending ethanol and gasoline, and the mixture contains less than 14 percent ethanol by volume, no error has occurred and the mixture is subject to tax as motor fuel other than ethanol blended gasoline E-15 or higher.

2. The following formulas are used to compute blending errors:

Actual gasoline + actual ethanol = total gallons of blended product

Total gallons of blended product $\times .14$ = required ethanol

3. Examples. The following factors are assumed for all examples:

The blender in each example intends to blend ethanol blended gasoline E-15 or higher. Figures are rounded to the nearest whole gallon; ethanol blended gasoline E-15 or higher is taxed at 24¢ per gallon; gasoline is taxed at 30¢ per gallon. The actual tax rates for the appropriate period may be found on the department's website at revenue.iowa.gov. Penalty and interest charges are not computed in the examples.

EXAMPLE 1:

Actual gasoline	=	8,500 gal.
Actual ethanol	=	1,500 gal.
Total blended product	=	10,000 gal.
$10,000 \times .14$	=	1,400 gal. required ethanol

The actual ethanol (1,500 gallons) is more than the required ethanol (1,400 gallons), which means that the tax is applied according to subparagraph 260.4(2) "e"(1) as follows:

10,000 gal. of blended product $\times .24$ = \$2,400 tax on ethanol blended gasoline E-15 or higher

EXAMPLE 2:

Actual gasoline	=	9,200 gal.
Actual ethanol	=	800 gal.
Total blended product	=	10,000 gal.
$10,000 \times .14$	=	1,400 gal. required ethanol

The actual ethanol (800 gallons) is less than the required ethanol (1,400 gallons), which means that the entire blend is considered motor fuel other than ethanol blended gasoline E-15 or higher and the tax is applied according to subparagraph 260.4(2) “e”(2) as follows:

$$10,000 \text{ gal. of blended product} \times .30 = \$3,000 \text{ tax on motor fuel other than ethanol blended gasoline E-85 or higher}$$

260.3(3) Blenders of biodiesel blended fuel.

a. Biodiesel B-20 or higher additional tax due.

(1) A blender who owns the biodiesel being used to blend with diesel must purchase the diesel from a supplier and pay the appropriate tax to the supplier.

(2) The blender must obtain a blender’s license and compute the tax due on the total gallons of blended product and make payment to the department for the additional amount due.

(3) Examples. For purposes of the following examples, the tax rate for B-20 or higher is presumed to be 29.5¢ per gallon and the tax rate for special fuel other than B-20 or higher is presumed to be 32.5¢ per gallon. The actual tax rates for the appropriate period may be found on the department’s website at revenue.iowa.gov.

EXAMPLE 1:

Blender purchases 8,000 gallons tax-paid petrodiesel ($8,000 \times .325$) =	\$2,600.00
Blender adds 2,000 gallons untaxed biodiesel =	\$.00
Total tax paid on products =	<u>\$2,600.00</u>

The blended product is 10,000 gallons of special fuel, which includes 2,000 gallons (20 percent by volume) of biodiesel. Thus, the product is taxed as B-20 or higher.

Total tax due on 10,000 gallons blended B-20 or higher ($10,000 \times .295$) =	\$2,950.00
Additional Amount Due =	<u>\$350.00</u>

EXAMPLE 2:

Blender purchases 7,600 gallons tax-paid petrodiesel ($7,600 \times .325$) =	\$2,470.00
Blender adds 400 gallons untaxed biodiesel =	\$.00
Total tax paid on products =	<u>\$2,470.00</u>

The blended product is 8,000 gallons of special fuel, which includes 400 gallons (5 percent by volume) of biodiesel. Thus, the product is taxed as special fuel undyed classified as other than B-20 or higher.

Total tax due on 8,000 gallons special fuel undyed classified as other than B-20 or higher ($8,000 \times .325$) =	\$2,600.00
Additional Amount Due =	<u>\$130.00</u>

EXAMPLE 3:

Blender purchases 7,750 gallons tax-paid B-2 ($7,750 \times .325$) =	\$2,518.75
Blender adds 250 gallons untaxed biodiesel =	\$.00
Total tax paid on products =	<u>\$2,518.75</u>

7,750 gallons of B-2 contains 155 gallons (2 percent) of biodiesel. The blended product is 8,000 gallons of special fuel, which includes 405 gallons ($155 + 250$, or 5 percent by volume) of biodiesel. Thus, the product is taxed as special fuel undyed classified as other than B-20 or higher.

Total tax due on 8,000 gallons special fuel undyed classified as other than B-20 ($8,000 \times .325$) =	\$2,600.00
Additional Amount Due =	<u>\$81.25</u>

b. Diesel purchased by blender.

(1) A blender who purchases diesel products from a supplier must pay the appropriate tax on all diesel products purchased.

(2) The blender must obtain a blender's license and compute the tax due on the total gallons of blended product and make payment to the department for any additional amount due.

(3) The blender must also obtain a refund permit to receive a refund of any overpayment of tax on the blended product.

(4) Examples. For purposes of the following examples, the tax rate for B-20 or higher is presumed to be 29.5¢ per gallon and the tax rate for special fuel other than B-20 or higher is presumed to be 32.5¢ per gallon. The actual tax rates for the appropriate period may be found on the department's website at revenue.iowa.gov.

EXAMPLE 1:

Blender purchases 8,000 gallons tax-paid petrodiesel ($8,000 \times .325$) =	\$2,600.00
Blender purchases 2,000 gallons tax-paid biodiesel ($2,000 \times .295$) =	\$590.00
Total tax paid on products =	<u>\$3,190.00</u>

The blended product is 10,000 gallons of biodiesel blended fuel classified as B-20 or higher, which includes 2,000 gallons (20 percent by volume) of biodiesel. Thus, the product is taxed as biodiesel blended fuel classified as B-20 or higher.

Total tax due on 10,000 gallons of blended fuel classified as B-20 or higher ($10,000 \times .295$) =	\$2,950.00
Amount of Refund Allowable =	<u>\$240.00</u>

EXAMPLE 2:

Blender purchases 7,600 gallons tax-paid petrodiesel ($7,600 \times .325$) =	\$2,470.00
Blender purchases 400 gallons tax-paid biodiesel ($400 \times .295$) =	\$118.00
Total tax paid on products =	<u>\$2,588.00</u>

The blended product is 8,000 gallons of biodiesel blended fuel classified as other than B-20 or higher, which includes 400 gallons (5 percent by volume) of biodiesel. Thus, the product is taxed as special fuel other than B-20 or higher.

Total tax due on 8,000 gallons blended B-5 ($8,000 \times .325$) =	\$2,600.00
Additional Amount Due =	<u>\$12.00</u>

EXAMPLE 3:

Blender purchases 4,000 gallons tax-paid B-2 ($4,000 \times .325$) =	\$1,300.00
Blender purchases 4,000 gallons tax-paid B-20 ($4,000 \times .295$) =	\$1,180.00
Total tax paid on products =	<u>\$2,480.00</u>

4,000 gallons of B-2 contains 80 gallons (2 percent) of biodiesel, and 4,000 gallons of B-20 contains 800 gallons (20 percent) of biodiesel. The blended product is 8,000 gallons of special fuel, which includes 880 gallons ($80 + 800$, or 11 percent by volume) of biodiesel. Thus, the product is taxed as special fuel other than B-20 or higher.

Total tax due on 8,000 gallons B-11 or higher ($8,000 \times .301$) =	\$2,600.00
Amount of Refund Allowable =	<u>\$120.00</u>

260.3(4) Blending errors.

a. *Blending tolerance.* Where a blending error occurs and an insufficient amount of biodiesel has been blended with petrodiesel so that the mixture fails to qualify as B-20 or higher as defined in rule 701—259.1(452A), a 1 percent tolerance applies in determining the tax on the blended product as described below:

(1) If the amount of the biodiesel erroneously blended with petrodiesel is at least 19 percent of the total blended product by volume, the biodiesel and petrodiesel blended product is considered B-20 or higher and there is no penalty or assessment of additional tax.

(2) If the amount of biodiesel blended with petrodiesel is less than 19 percent of the total blended product by volume, the entire mixture is considered taxable diesel other than B-20 or higher and subject to tax at the prevailing rate.

b. Intention to blend. Blending errors occur only if a blender intends to produce B-20 or higher. If a blender does not intend to produce B-20 or higher when blending biodiesel and petrodiesel, and the mixture contains less than 19 percent biodiesel by volume, no error has occurred and the mixture is subject to tax as diesel other than B-20 or higher.

c. Computation of blending errors. The following formulas are used to compute blending errors:

Actual biodiesel + actual petrodiesel = total gallons of blended product

Total gallons of blended product $\times$.19 = required biodiesel

d. Examples. The following factors are assumed for all examples:

The blender in each example intends to blend B-20 or higher. Figures are rounded to the nearest whole gallon; B-20 or higher is taxed at .295¢ per gallon; diesel other than B-20 or higher is taxed at .325¢ per gallon. The actual tax rates for the appropriate period may be found on the department's website at revenue.iowa.gov. Penalty and interest charges are not computed in the examples.

EXAMPLE 1:

Actual petrodiesel	=	6,400 gal.
Actual biodiesel	=	1,600 gal.
Total blended product	=	8,000 gal.
$8,000 \times .19$	=	1,520 gal. required biodiesel

The actual biodiesel (1,600 gallons) is more than the required biodiesel (1,520 gallons). Thus, the tax is applied according to subparagraph 260.4(3) "c"(1) as follows:

$$8,000 \text{ gal. of blended product} \times .295 = \$2,360 \text{ tax on B-20 or higher}$$

EXAMPLE 2:

Actual petrodiesel	=	6,600 gal.
Actual biodiesel	=	1,400 gal.
Total blended product	=	8,000 gal.
$8,000 \times .19$	=	1,520 gal. required biodiesel

The actual biodiesel (1,400 gallons) is less than the required biodiesel (1,520 gallons). Thus, the tax is applied according to subparagraph 260.4(3) "c"(2) as follows:

$$8,000 \text{ gal. of blended product} \times .325 = \$2,600 \text{ tax on diesel other than B-20 or higher}$$

EXAMPLE 3:

A blender erroneously mixes 3,000 gallons of B-2 with 5,000 gallons of B-30 with the intent of creating B-20 or higher. 3,000 gallons of B-2 contains 60 gallons (2 percent) of biodiesel. 5,000 gallons of B-30 contains 1,500 gallons (30 percent) of biodiesel. Thus, the 8,000 gallons (3,000 + 5,000) of blended product includes 1,560 gallons (60 + 1,500) of biodiesel and 6,440 gallons (8,000 – 1,560) of petrodiesel.

Actual petrodiesel	=	6,440 gal.
Actual biodiesel	=	1,560 gal.
Total blended product	=	8,000 gal.
$8,000 \times .19$	=	1,520 gal. required biodiesel

The actual biodiesel (1,560 gallons) is greater than the required biodiesel (1,520 gallons), which means that the entire blend is considered B-20 or higher and the tax is applied according to subparagraph 260.4(3) “c”(1) as follows:

$$8,000 \text{ gal. of blended product} \times .295 = \$2,360 \text{ tax on B-20 or higher}$$

This rule is intended to implement Iowa Code section 452A.8.

701—260.4(452A) Tax returns—computations.

260.4(1) Supplier—nexus.

a. Determination of tax liability amount. The fuel tax liability for a supplier is computed by multiplying the per gallon fuel tax rate by the total number of invoiced gallons of motor fuel or undyed special fuel withdrawn from the terminal by the supplier within the state or by the supplier with an Iowa nexus from a terminal outside the state during the preceding calendar month, less deductions for fuel exported in the case of in-state withdrawals and the distribution allowance provided for in Iowa Code section 452A.5.

b. Supplier responsibility. Tax shall not be paid when the sale of ethanol occurs within a terminal from an ethanol manufacturer to a licensed supplier. The tax shall be paid by the licensed supplier when the invoiced gross gallonage of the ethanol or the ethanol part of the ethanol blended gasoline is withdrawn from a terminal for delivery in this state. This makes the licensed supplier responsible for the tax on both the ethanol and the gasoline portions of the ethanol blended gasoline and for the reporting and accounting of this fuel as ethanol blended gasoline on the supplier report.

c. Terminals outside of Iowa. If fuel is withdrawn by a supplier with no nexus in Iowa, but who voluntarily agrees to collect and report the tax, from a terminal outside of Iowa for importation into Iowa, the tax liability is computed in the same manner as in paragraph 260.4(1) “a” with the exception that no deduction is allowable for exports.

260.4(2) Restrictive supplier. The fuel tax liability for a restrictive supplier is to be computed by multiplying the per gallon fuel tax rate by the total number of invoiced gallons of motor fuel or undyed special fuel imported into Iowa during the preceding calendar month.

260.4(3) Importer. The fuel tax liability for an importer is computed by multiplying the per gallon fuel tax rate by the total number of invoiced gallons of motor fuel or undyed special fuel imported into Iowa during the applicable reporting period.

260.4(4) Nonlicensee. The tax liability for a nonlicensee is computed the same as for a restrictive supplier. If motor fuel or undyed special fuel is exported from this state with no tax paid and subsequently returned to this state because all or a portion of it was not delivered where destined, the tax must be paid to the department by the nonlicensee.

All gallon entries on the return for determining the tax liability must be rounded to the nearest whole gallon.

This rule is intended to implement Iowa Code sections 452A.3, 452A.5, 452A.8, and 452A.9.

701—260.5(452A) Distribution allowance. The tax computation for a supplier includes a distribution allowance of 1.6 percent of the motor fuel gallonage and 0.7 percent of the undyed special fuel gallonage removed from the terminal during the reporting period. The distributor purchasing the fuel from the supplier is entitled to 1.2 percent of the motor fuel distribution allowance. The distributor or dealer purchasing fuel from a supplier is entitled to 0.35 percent of the undyed special fuel distribution allowance. The distribution allowance does not apply to fuel exported.

This rule is intended to implement Iowa Code sections 452A.5 and 452A.8.

701—260.6(452A) Supplier credit—uncollectible account.

260.6(1) Generally. A licensed supplier who is unable to recover the tax from an eligible purchaser or end user is not liable for the tax and may credit the amount of unpaid tax against a later remittance of tax.

260.6(2) Qualification for credit.

a. To qualify for the credit, the supplier must notify the department in writing of the uncollectible account no later than ten calendar days after the due date for payment of the tax.

b. Notification is to be provided to the department via email at idrmotorfuel@iowa.gov. The notification must include all information required by the department.

c. Disqualification for credit.

(1) A supplier does not qualify for the credit if the purchaser did not elect to apply for the eligible purchaser or end user status or did not qualify to be an eligible purchaser.

(2) The credit does not apply if the supplier sells additional fuel to a delinquent eligible purchaser or end user after notifying the department that the supplier has an uncollectible debt with an eligible purchaser.

260.6(3) *Cancellation of eligible status.* Upon notification from the supplier that an eligible purchaser is in default of the tax payment, that person's eligible purchaser or end user status will be canceled by the department. The eligible purchaser or end user status will not be reinstated until such time as the purchaser posts securities to guarantee future tax payments as provided in 701—paragraph 259.17(1) "d."

260.6(4) *Eligible purchasers.*

a. *Registration.* Any distributor of motor fuel or special fuel or end user of special fuel who requests authorization to make delayed payments of the motor vehicle fuel tax must first register with the department to become an eligible purchaser.

b. *Payment of tax.* The eligible purchaser must pay the tax to the supplier by electronic funds transfer one business day prior to the date the tax is to be paid by the supplier.

c. *Validity.* Once approved, the eligible purchaser status is valid until voluntarily canceled by the eligible purchaser or canceled by the department of revenue. More information is contained in 701—subrule 259.18(4).

This rule is intended to implement Iowa Code section 452A.8.

701—260.7(452A) Refunds. Refunds are allowable for the tax paid on motor fuel and undyed special fuel as identified in Iowa Code section 452A.17. Iowa Code section 452A.17(1) "a" contains the complete list of allowable refunds.

260.7(1) *Federal government.* For fuel sold to the United States or to any agency or instrumentality of the United States, the tax is subject to refund regardless of how the fuel is used. The name of the federal agency or instrumentality must appear on the invoice as the purchaser of the fuel for the purchase to be eligible for a refund.

a. The department will consider the factors found in 701—subrule 212.12(3) to determine whether an organization is an instrumentality of the United States government.

b. The American Red Cross, Project Head Start, Federal Land Banks and Federal Land Bank Associations, among others, have been determined to be instrumentalities of the federal government.

c. *Ineligible for refunds.* Receivers or trustees appointed in the federal bankruptcy proceedings are subject to the excise tax and ineligible for refund. The refund is not available to employees of the federal government who purchase fuel individually and are later reimbursed by the federal government.

260.7(2) *The state and political subdivisions.*

a. *Generally.* Fuel sold to the state of Iowa, agencies of the state, or any political subdivision of the state and that is used for public purposes may be eligible for a refund. This refund is not available to agencies or instrumentalities of political subdivisions.

b. *Political subdivision attributes.* The general attributes and factors in determining if an entity is a political subdivision of the state of Iowa are whether the entity has:

- (1) A specific geographic area;
- (2) Public officials elected at public elections;
- (3) Taxing power;
- (4) A general public purpose or benefit; and

(5) The attributes, factors or powers listed in subparagraphs 260.7(2) "a"(1) to "a"(4) delegated to it by the state of Iowa.

c. *Employees.* The refund is not available to employees of a governmental unit who purchase fuel individually and are later reimbursed by the governmental unit. The name of the governmental unit must appear on the invoice as the purchaser of the fuel or the refund will not be allowed.

260.7(3) *Contract carriers.*

a. Fuel sold to a contract carrier who has a contract with a public school under Iowa Code section 285.5 for the transportation of pupils of an approved public or nonpublic school is refundable.

b. If the contract carrier also uses fuel for purposes other than the transportation of pupils, the refund will be based on that percentage of the total amount of fuel purchased which reflects the pupil transportation usage.

c. A refund requested by a contract carrier will be reduced by the applicable sales tax unless otherwise exempt. The name of the contract carrier must appear on the invoice as the purchaser of the fuel or the refund will not be allowed.

260.7(4) *Unlicensed vehicles, stationary engines, machinery and equipment used for nonhighway purposes, implements used in agricultural production, and home heating.* Fuel used in unlicensed vehicles, stationary engines, machinery and equipment used for nonhighway purposes, implements used in agricultural production, and fuel used for home heating.

260.7(5) *Idle time.*

a. *Claims.* Persons who wish to claim a refund for idle time (the engine is running but not propelling the vehicle) must first apply to the department and provide statistical information on how the refund amount will be calculated.

b. *Qualification.*

(1) Normally, to qualify for a refund the vehicle must be equipped with an on-board monitoring device that records the actual time the engine is idling and the amount of fuel consumed while idling.

(2) If the device only records the idle time and not fuel used, the refund amount will be calculated at one-half gallon of fuel consumed per one hour of idle time.

(3) The computation must also consider the miles driven in Iowa versus total miles driven. The department will require a review of interstate carrier reports before approval of the computation method.

260.7(6) *Power takeoff.*

a. *Generally.* Persons operating vehicles that have auxiliary equipment powered by the power takeoff may apply for a refund for that portion of the fuel used for powering the auxiliary equipment.

b. *Exempt percentage.* The person requesting the refund must furnish the department with statistical information on how the exempt percentage is established. The percentage can be established by using the following methods:

(1) Determine the actual fuel usage by the hour while the auxiliary equipment is in use compared to total hours the engine is running.

(2) Establish total miles per gallon for the vehicle when auxiliary equipment is not in use compared to miles per gallon while the equipment is in use.

(3) Other computation methods to be reviewed by the department prior to approval.

260.7(7) *Fuel used in relation to cement and solid waste.* It has been predetermined that tax on fuel used in the mixing of cement into concrete, the off-loading of the concrete, and the loading and off-loading of solid waste will be refunded on the basis of 30 percent of the fuel placed in the fuel supply tank of the vehicle provided proper records are maintained. Proper records shall consist of records of fills for each vehicle from tax-paid bulk storage tanks or sales tickets where fuel is purchased directly from a service station. Each vehicle must be identifiable by a unit number so the department can trace fuel usage to specific vehicles. An additional allowance will be granted where it can be substantiated through the use of separate meters that operate to measure the fuel when the vehicle is stationary or the use of separate tanks that fuel the vehicle only when the vehicle is stationary that the actual nonhighway fuel usage exceeds 30 percent.

260.7(8) *Refrigeration units (reefers).*

a. *Generally.* Tax paid on fuel for reefer units is subject to refund.

b. Documentation. The person must maintain records of fuel purchases to substantiate the tax-paid purchases. Invoices must meet the criteria set forth in rule 701—259.11(452A). In addition, the invoices must separately state fuel purchased and placed in the reefer unit.

260.7(9) Pumping credits.

a. Generally. A refund will be allowed for taxes paid on fuel once that fuel has been placed in the fuel supply tank of a motor vehicle when the motor of that vehicle is used as a power source for off-loading procedures.

b. Documentation. Meter readings from the pump used in the off-loading procedure or the invoice, manifest, or bill of lading number covering the product off-loaded must be retained.

c. Claim amounts. Unless a different amount can be proven, the claims for refund will be:

(1) One-half gallon credit for each 1,000 gallons of liquid products pumped and three-tenths of a gallon credit for each ton of dry products off-loaded when using motor fuel or undyed diesel fuel to power the motor; and

(2) One gallon credit for each 1,000 gallons of liquid products pumped and three-tenths of a gallon credit for each ton of dry products off-loaded when using L.P.G. to power the motor.

260.7(10) Transport diversions.

a. Generally. When a transport load of fuel is sold tax-paid with a destination in this state and later diverted to a destination outside the state, the person who actually paid the Iowa tax is entitled to a refund.

b. Refund claims. To secure a refund, the person must file a completed claim form provided by the department with supporting documentation including a copy of the bill of lading, invoices, or document showing where and to whom the fuel was delivered, a copy of the reporting form, and evidence of payment to the state where the fuel was actually delivered.

260.7(11) Casualty loss.

a. Notification. In the event fuel is lost or destroyed through fire, explosion, lightning, flood, storm, earthquake, terrorist attack, or other casualty, the taxpayer has ten days from the discovery of the loss to inform the department in writing of such loss. The notification must contain the amount of gallonage lost or destroyed, which must be in excess of 100 gallons.

b. Refund. An application for refund must be submitted to the department within 60 days of the notification. This application must contain a notarized affidavit sworn to by the person having immediate custody of the fuel at the time of the loss or destruction setting forth, in full detail, the circumstances of the loss or destruction and the number of gallons.

c. Presumption when fuel is in storage. If the fuel was in storage where several fuel purchases were commingled, it is a rebuttable presumption that the fuel lost through casualty was a part of the last delivery into the storage just prior to the loss.

d. Exclusion from refund. No refund is allowed for fuel lost through evaporation, theft, normal leakage, or unknown causes. However, leakage resulting from a major accident or catastrophe is subject to refund.

260.7(12) Exports by eligible purchasers (distributors). Distributors who have purchased tax-paid fuel and sell the fuel to consumers outside the state may apply for a refund of the Iowa tax paid. The distributor must retain records as provided in rule 701—259.2(452A) to support the request for refund.

260.7(13) Blending errors for special fuel.

a. Dyed special fuel commingled with undyed special fuel.

(1) If dyed special fuel is inadvertently mixed with tax-paid undyed special fuel to the extent that the undyed fuel must have additional dye added to meet federal dying requirements to qualify as exempt dyed fuel, the tax is refundable on the undyed special fuel. The refund request must contain the number of gallons of undyed fuel lost through the mixing error and documentation as to how the gallonage was determined.

(2) The request for refund must contain documentation that the commingled product was destroyed or sold for purposes of refinement at a terminal.

b. Motor fuel commingled with special fuel.

c. If motor fuel is blended in error with dyed special fuel to produce a commingled product that must be destroyed or refined for subsequent use, the tax-paid fuel is subject to refund.

d. The request for refund must contain documentation that the commingled product was destroyed or sold for purposes of refinement at a terminal.

260.7(14) Native Americans.

a. *Generally.* Sales by Native Americans to others of their own tribe located on federally recognized Native American reservations or settlements of which they are tribal members are exempt from the tax.

b. *Purchases of fuel by seller.* Fuel must be purchased by the Native American seller with the tax included in the purchase price unless the seller's status under a particular license authorizes the seller to purchase tax-free fuel.

c. *Purchase of fuel by purchasers.* Exempt sales from a Native American seller who purchased fuel with the tax attached to a Native American purchaser are eligible for refund of tax paid. Either the purchasers can file a claim for refund of the tax paid or the purchaser's tribe can file a claim for refund of the tax paid by the tribe on the fuel sold to the purchaser.

d. *Recordkeeping.* Native American sellers are subject to the recordkeeping requirements of Iowa Code chapter 452A.

This rule is intended to implement Iowa Code section 452A.17.

701—260.8(452A) Claim for refund—payment of claim.

260.8(1) Generally. Only claimants holding a refund permit may receive refunds.

260.8(2) Proof of claim.

a. *Exempt purpose.* Requests for refunds for fuel used for an exempt purpose should include the following information:

- (1) Refund permit number,
- (2) Type of fuel,
- (3) Total number of gallons/tons of fuel used to calculate the refund amount,
- (4) The beginning and ending dates of the tax period,
- (5) Net cost of fuel,
- (6) Iowa sales tax due (net cost of fuel times sales tax rate),
- (7) Other items depending on the type of permit and claim type,
- (8) The total amount of refund claimed, and
- (9) Additional information as required.

b. *Other refunds types.* Persons requesting a refund for casualty loss, transport diversions, blending errors of motor fuel and ethanol, and blending errors of special fuel must file in writing on the forms provided by the department and must attach supporting documents explaining why a refund is due.

260.8(3) Designation of agent.

a. *Generally.* Refunds are made and the amount of the refund is paid to the person who actually paid the tax.

b. *Designation.* Persons requesting a refund for idle time, power takeoff, reefer units, pumping credits, or transport diversions may designate another person as an agent to file the claim and receive the refund.

(1) *Documentation.* The person acting as an agent for others must provide the department with the following information including, but not limited to, the name, address, and federal identification number or social security number of the person on whose behalf they are requesting the refund.

(2) *Duration.* Once a person is designated as an agent, this designation remains in force until the department is notified in writing that the agency agreement is no longer enforceable. A governmental agency may designate another governmental agency as an agent for filing and receiving any tax refund authorized in Iowa Code section 452A.17.

260.8(4) Deposit of refund. If the person so designates, the department will direct deposit the refund in the person's designated bank account. In lieu of direct deposit, the permit holder will receive a state warrant.

This rule is intended to implement Iowa Code sections 452A.17, 452A.19, 452A.21, and 452A.72.

701—260.9(452A) Refund permit.

260.9(1) *Generally.* To obtain the refund provided for in Iowa Code chapter 452A and rule 701—260.7(452A), the claimant must have an active refund permit.

260.9(2) *Application.* The application for a refund permit is provided by the department and will contain, but not be limited to, the following information:

- a. The name and location of the business and the mailing address if different,
- b. The type of ownership,
- c. The social security number or federal identification number of the applicant, and
- d. The type of refund requested.

260.9(3) *Cost and effective dates.* The refund permit remains in effect until revoked or canceled or until the permit becomes invalid.

260.9(4) *Recordkeeping.* All refund permit holders are required to keep invoices and copies of returns if filed, supporting schedules, and studies for documentation to support the refund.

This rule is intended to implement Iowa Code section 452A.18.

701—260.10(452A) Revocation of refund permit.

260.10(1) *Revocation.* Iowa Code section 452A.19(1) provides the circumstances under which a refund permit may be revoked.

260.10(2) *Waiting period for reissuance.* If a permit is revoked for reasons provided in Iowa Code section 452A.19(1), the permit will not be reissued for a period of at least one year after the revocation.

260.10(3) *Nonuse.* Permits that have not been used to claim a refund for at least three years will be invalidated but are subject to reinstatement or issuance of a new permit without a waiting period upon proper application.

260.10(4) *Procedure.* Rule 701—7.39(17A) provides more information about the revocation or invalidation of permits.

This rule is intended to implement Iowa Code section 452A.19.

701—260.11(452A) Income tax credit in lieu of refund.

260.11(1) *Tax credit in lieu of refund permit.* A person or corporation may claim the refund allowable under Iowa Code section 452A.17(2) as an income tax credit rather than apply for a refund permit.

260.11(2) *Cancellation of refund permit.* If a person or corporation holds a refund permit and elects to receive an income tax credit, the person or corporation must cancel the refund permit within 30 days after the first day of its year or the permit becomes invalid and application must be made for a new permit.

260.11(3) *Effective dates.* Once the election to receive an income tax credit has been made, it remains in effect until the election is changed.

260.11(4) *Exclusions from credit.* The income tax credit is not available for refunds relating to casualty losses, transport diversions, pumping credits, blending errors, idle time, power takeoffs, reefer units, exports by distributors, and excess tax paid on ethanol blended gasoline.

This rule is intended to implement Iowa Code sections 422.110, 452A.17(2), and 452A.21.

701—260.12(452A) Reduction of refund—sales and use tax.

260.12(1) *Generally.* Refunds of the fuel tax paid on sales of fuel will be reduced by any applicable sales or use tax. Iowa Code section 423.3(56) and rule 701—218.11(423) provide more information on the exemption from sales or use tax when the fuel tax has been imposed and paid.

260.12(2) *Exclusion from reduction of refund.* Refunds of the fuel tax paid on sales of fuel used for other exempt purposes under Iowa Code chapter 423 and fuel lost through casualty will not be reduced by the applicable sales or use tax.

260.12(3) *Applicable sale price.* The sales price upon which the sales and use tax will be applied shall include all federal excise taxes but will not include the Iowa fuel tax.

This rule is intended to implement Iowa Code sections 423.3(356) and 452A.17.

701—260.13(452A) Terminal withdrawals—meters. Any refinery or terminal within this state must be fixed with meters that totalize the gross gallons withdrawn. All bills of lading or manifests must show the gross gallons withdrawn. A temperature-adjusted or other method shall not be used except as it applies to liquefied petroleum gas and the sale or exchange of petroleum products between petroleum refiners. All fuel withdrawn from a refinery or terminal within this state must pass through these meters.

This rule is intended to implement Iowa Code sections 452A.2, 452A.8, 452A.15(2), and 452A.59.

701—260.14(452A) Terminal and nonterminal storage facility reports and records.

260.14(1) Generally. Each terminal and nonterminal storage facility operating in Iowa must file a monthly inventory report with the department.

260.14(2) Report information. The report shall include, but not be limited to, the following information:

- a. Name and license number of the company that owns and operates the terminal or nonterminal storage facility.
- b. Location of the terminal or nonterminal storage facility.
- c. Month and year covered by the report.
- d. Terminal code assigned by the Internal Revenue Service or the storage facility license number assigned by the department.
- e. Beginning inventory.
- f. Total receipts for the month with each receipt providing the following information:
 - (1) Gross gallons received by schedule code and fuel type and, if diesel fuel, whether dyed or undyed fuel,
 - (2) Bill of lading number,
 - (3) Date of receipt,
 - (4) Seller,
 - (5) Carrier,
 - (6) Mode of transportation, and
 - (7) Destination state.
- g. Total withdrawals for the month, with each withdrawal providing the following information:
 - (1) Gross gallons withdrawn by schedule code and by fuel type and, if diesel fuel, whether dyed or undyed fuel,
 - (2) Bill of lading number,
 - (3) Date of withdrawal,
 - (4) Consignor,
 - (5) Consignee,
 - (6) Mode of transportation,
 - (7) Destination state,
 - (8) Origin state, and
 - (9) Carrier.
- h. The actual ending inventory and any gains or losses.
- i. The signature or electronic signature of the person responsible for preparing the report.
- j. Any additional information as the department may require.

260.14(3) Civil penalty.

a. *Failure to file.* The director may impose a civil penalty against any person who fails to file the reports required under Iowa Code section 452A.15(2) or 452A.15(3).

b. *Amount.* The penalty is \$100 for the first violation and increases by \$100 for each additional violation occurring in the calendar year in which the first violation occurred.

This rule is intended to implement Iowa Code section 452A.15(2).

701—260.15(452A) Transportation reports.

260.15(1) Generally. The reports required under Iowa Code section 452A.15(1) are to be filed by railroad carriers, common carriers, contract carriers, distributors transporting fuel for others, and anyone else transporting fuel from without the state and unloading it at other than terminal storage within the state.

260.15(2) Report information.

- a. Reports are to be filed monthly.
- b. Reports must include all fuel that was imported into Iowa and unloaded at other than terminal storage, all fuel withdrawn from Iowa terminal storage and delivered in Iowa, and all fuel withdrawn from Iowa terminal storage and exported from Iowa.
- c. For each report, the following information for each delivery is to be included:
 - (1) The name, address, and federal identification number or social security number of the person to whom actually delivered.
 - (2) The name, address, and federal identification number or social security number of the originally named consignee, if delivered to anyone other than the originally named consignee.
 - (3) The point of origin, the point of delivery, and the date of delivery.
 - (4) The number and initials of each tank car and the number of gallons contained therein, if shipped by rail.
 - (5) The name of the boat, barge, or vessel, and the number of gallons contained therein, if shipped by water.
 - (6) The registration number of each tank truck and the number of gallons contained therein, if transported by motor truck.
 - (7) The manner, if delivered by other means, in which the delivery is made.
 - (8) Such additional information relative to shipments of motor fuel or special fuel as the department may require.

260.15(3) Civil penalties.

a. *Failure to file.* The director may impose a civil penalty against any person who fails to file the reports required under Iowa Code section 452A.15(1).

b. *Penalty amount.* The penalty is \$100 for the first violation and increases by \$100 for each additional violation occurring in the calendar year in which the first violation occurred.

This rule is intended to implement Iowa Code section 452A.15.

701—260.16(452A) Bill of lading or manifest requirements. Whenever a bill of lading or manifest is required to be issued, carried, retained, or submitted by these rules, it shall contain the following information:

1. Name and address of the refinery, terminal, ethanol plant, biodiesel plant or point of origin.
2. Date of withdrawal or import.
3. Name of the shipper-supplier-consignor.
4. Name of the purchaser-consignee.
5. Place of actual destination.
6. Name of the transporter.
7. Gross gallons by fuel type.
8. Designation for ethanol blended gasoline or biodiesel blended fuel as provided in Iowa Code section 214A.2.
9. Statement designating whether diesel fuel is dyed or undyed.
10. Machine printed serial number of not less than four digits.

This rule is intended to implement Iowa Code sections 452A.10, 452A.12, 452A.60, and 452A.76.

ITEM 3. Rescind 701—Chapter 261 and adopt the following **new** chapter in lieu thereof:

CHAPTER 261
LIQUEFIED PETROLEUM GAS—COMPRESSED
NATURAL GAS—LIQUEFIED NATURAL GAS—HYDROGEN

701—261.1(452A) Definitions and applicability.

261.1(1) For the purpose of this chapter, terms have the same meaning as provided in Iowa Code sections 452A.2 and 452A.57 and rule 701—259.1(452A). Additionally, the following definitions apply:

“C.N.G.” means compressed natural gas.

“*Invoiced gallons*” means gross gallons as shown on the bill of lading or invoice. A temperature-adjusted method may be used as it applies to liquefied petroleum gas.

“*Licensed metered pumps or metered pumps*” means pumps that have been metered, inspected, tested for accuracy, sealed and licensed by the state department of agriculture pursuant to Iowa Code section 452A.8(2).

“*Licensed metered storage or metered storage*” means storage facilities containing “licensed metered pumps.”

“L.N.G.” means liquefied natural gas.

“L.P.G.” means liquefied petroleum gas.

“*Owner*” means and includes the owner or the employees, agents, or persons under the control of the owner.

“*Special fuel*” means liquefied petroleum gas, liquefied natural gas, compressed natural gas, or hydrogen.

261.1(2) *Applicability of other rules.* All rules in 701—Chapters 259 and 260 apply if not specifically stated in this chapter.

This rule is intended to implement Iowa Code chapter 452A.

701—261.2(452A) Tax rates—time tax attaches—responsible party—payment of the tax.

261.2(1) *Attachment of tax.*

a. L.P.G. The excise tax on L.P.G. attaches when the special fuel is placed in a fuel supply tank of a motor vehicle.

b. C.N.G., L.N.G., and hydrogen. The excise tax on C.N.G. and L.N.G. attaches at the time of delivery into equipment for compressing the gas for subsequent delivery into the fuel supply tank of a motor vehicle.

261.2(2) *Responsibility for collection and remittance.* The person responsible for the tax must collect the tax from the purchaser and remit the tax to the department. Iowa Code section 452A.8(2) “e” contains more information on the person responsible for the tax.

261.2(3) *Licensing.* The person responsible for placing L.P.G. into the fuel supply tank of a motor vehicle and the person responsible for placing C.N.G., L.N.G., or hydrogen into compressing equipment must hold a license as a dealer or user as defined in Iowa Code section 452A.4.

261.2(4) *Returns.* The return and tax are due no later than the last day of the month following the month the L.P.G. was placed in a vehicle or C.N.G., L.N.G., or hydrogen was placed into compressing equipment. The tax must be remitted by means of electronic funds transfer, unless the licensee can show that this method of payment would cause undue hardship on the licensee. The return must be remitted by means of electronic transmission.

261.2(5) *Penalty and interest.* Rule 701—259.8(452A) provides information on penalty and interest.

This rule is intended to implement Iowa Code section 452A.8.

701—261.3(452A) Persons authorized to place L.P.G., L.N.G., C.N.G., or hydrogen in the fuel supply tank of a motor vehicle.

261.3(1) *Generally.* The only persons authorized to place L.P.G., L.N.G., C.N.G., or hydrogen into the fuel supply tank of a motor vehicle are: licensed L.P.G., L.N.G., C.N.G., or hydrogen dealers, or licensed L.P.G., L.N.G., C.N.G., or hydrogen users.

261.3(2) *L.P.G., L.N.G., C.N.G., or hydrogen dealer’s license.* Anyone who delivers untaxed L.P.G. into the fuel supply tank of a motor vehicle or places untaxed C.N.G., L.N.G., or hydrogen into compression equipment must be licensed as an L.P.G., L.N.G., C.N.G., or hydrogen dealer. A dealer may also fuel the dealer’s own vehicles under this license.

261.3(3) *L.P.G., L.N.G., C.N.G., or hydrogen user's license.* Anyone who delivers untaxed L.P.G., L.N.G., C.N.G., or hydrogen upon which fuel tax has not been previously paid, into the fuel supply tank of a motor vehicle, which tank is owned or leased by the person delivering it and which vehicle will be for highway use, must be licensed as an L.P.G., L.N.G., or C.N.G. user. If that same person delivers the fuel into tanks owned by others, that person must be licensed as a dealer in lieu of being licensed as a user.

261.3(4) *L.P.G. "mobile" tank authorization.*

a. When a person has an L.P.G. storage tank which is "mobile" and the storage is moved from location to location, that person may be issued an L.P.G. user's license.

(1) This licensee will be allowed to move the storage tank to a new location without procuring a new license for each new location.

(2) The issuance of this license is discretionary with the director, and the license will be issued only when the person requesting the license shows a need for mobile storage.

(3) The license will be issued to the licensee at the licensee's principal place of business, and each mobile storage tank is deemed a separate pump at that location.

b. The operation of such licensed mobile storage shall be subject to the following conditions:

(1) Each mobile storage tank must:

1. Be fixed with licensed, metered pumps.

2. Be assigned a separate number.

3. Have the gallonage reported on a per-tank basis.

4. Display in a size no smaller than six inches in height and $\frac{3}{4}$ inches in width, the unit number and licensee's license number.

(2) There may be a total of only nine mobile storage tanks operated under a single license. If the licensee operates more than nine such storage tanks, the licensee must obtain a separate license for each multiple of nine or fraction thereof.

(3) When a licensee changes the licensee's principal place of business, the licensee is responsible for canceling the license and must apply for a new license for the new principal place of business.

(4) All records required to be kept shall be maintained at the licensee's principal place of business.

(5) Except for the requirement of having a separate license for each location where L.P.G. is used, the licensee is subject to all the requirements of other licensed L.P.G. users.

261.3(5) *Authorization for emergency filling by distributors.*

a. Upon request from a stranded motorist, L.P.G. distributors may place up to 20 gallons of L.P.G. into the fuel supply tank of a stranded vehicle without being considered an unlicensed L.P.G. dealer in violation of Iowa Code section 452A.74(1).

b. For emergency fills, distributors must remit the tax on a licensed dealer form and pay the tax before the last day of the month following the month of the emergency fill.

This rule is intended to implement Iowa Code section 452A.8.

701—261.4(452A) Requirements to be licensed. To become licensed as an L.P.G., L.N.G., C.N.G., or hydrogen user or dealer, a person must file with the department a completed application form for the appropriate license. A separate license is required for each place of business or location where L.P.G., L.N.G., C.N.G., or hydrogen is regularly delivered or placed into the fuel supply tank of motor vehicles. Iowa Code section 452A.4 and 701—subrule 259.18(1) contain licensing requirements.

This rule is intended to implement Iowa Code section 452A.8.

701—261.5(452A) Licensed metered pumps.

261.5(1) *Location pumps.*

a. Criteria. In order for the department to grant a L.P.G., L.N.G., C.N.G., or hydrogen dealer or user license, all pumps designed to fuel motor vehicles at a location must be:

(1) Metered,

(2) Inspected,

(3) Tested for accuracy,

- (4) Sealed, and
- (5) Licensed by the department of agriculture and land stewardship.

b. Multiple pumps. If there is more than one pump at a location to be licensed, each pump will be assigned a separate pump number, and the licensee will report the gallonage each month with reference to such number.

261.5(2) Temperature correction.

a. Each L.P.G. distributor, dealer, or user may elect to measure L.P.G. for the tax purposes either temperature compensated to 60°F, or without temperature compensation.

b. If the L.P.G. distributor, dealer, or user elects to measure L.P.G. temperature compensated to 60°F for tax purposes, the L.P.G. distributor, dealer or user must use meters that are of an automatic temperature compensating type that compute gross gallons corrected to 60°F.

This rule is intended to implement Iowa Code section 452A.8.

701—261.6(452A) Single license for each location.

261.6(1) Place of business or location. A single license is required for each separate place of business or location where L.P.G., L.N.G., C.N.G., or hydrogen is delivered into the fuel supply tank of a motor vehicle.

a. All dealer or user operations at that location will be conducted under that license.

b. A licensee may have a different type of license (dealer, user) for each separate location where L.P.G., L.N.G., C.N.G., or hydrogen is dispensed.

EXAMPLE: If a licensee holds an L.P.G., L.N.G., C.N.G., or hydrogen dealer's license for location A and an L.P.G., L.N.G., C.N.G., or hydrogen user's license for location B, the licensee may sell fuel to others or fuel the licensee's own vehicles at location A, but the licensee may only fuel the licensee's own vehicles at location B.

261.6(2) Reports.

a. For reporting purposes, a licensee may file a separate return for each license.

b. Consolidated returns.

(1) A licensee may file a consolidated return reporting all sales made at all locations for which a license is held if authorized by the department.

(2) A consolidated return may not be used to combine dealer and user operations. All working papers used in the preparation of the information required must be available for examination by the department.

This rule is intended to implement Iowa Code section 452A.4.

701—261.7(452A) Dealer's and user's license nonassignable.

261.7(1) Generally. An L.P.G., L.N.G., C.N.G., or hydrogen dealer's license or user's license cannot be assigned.

261.7(2) Situations considered assignments. The following is a nonexclusive list of situations that will be considered an assignment and therefore require an application for a new license:

a. A change in the name under which the licensee conducts business.

b. A change in the location where the business is conducted.

c. A sale of the business, even if the new owner(s) operates under the same business name.

d. A merger or other business combination that results in a new or different entity.

This rule is intended to implement Iowa Code section 452A.4.

701—261.8(452A) Separate storage—bulk sales—highway use.

261.8(1) If a person is operating as an L.P.G. dealer's or user's licensee and also makes bulk sales for nonhighway use, the licensee must maintain separate storage for bulk sales and sales for highway use.

261.8(2) If any amount of L.P.G. in a storage facility is used directly from bulk storage for highway purposes or if the storage is connected to a device which is designed in such a way as to be able to fuel motor vehicles, all fuel dispensed from the storage shall be dispensed through licensed metered pumps.

261.8(3) Tax is due on all fuel dispensed through licensed metered pumps unless such fuel is exempt as evidenced by exemption certificates.

This rule is intended to implement Iowa Code section 452A.8.

701—261.9(452A) Combined storage—bulk sales—highway sales or use.

261.9(1) *Generally.* If a person is operating as an L.P.G. dealer's or user's licensee, L.P.G. may be dispensed for bulk nontaxable sales and for taxable highway sales from the same storage if, and only if, the following requirements are complied with:

- a. All pumps that are of such a design to be able to fuel motor vehicles must be licensed, sealed, metered, and inspected as provided in rule 701—261.3(452A).
- b. All fuel passing through the pumps is taxed unless supported by exemption certificates.
- c. All pumps that are not licensed, sealed, metered, and inspected are of such a design that it is impossible to use them to place fuel into the fuel supply tank of a motor vehicle.
- d. Accurate records are kept showing all purchases of fuel and all nontaxable bulk sales of fuel.

261.9(2) *Presumption.* All L.P.G. placed in this combined storage is presumed to be for highway use and taxable unless supported by exemption certificates (for fuel passing through the licensed pumps) or detailed records showing bulk sales for nonhighway use or to other users or dealers (for fuel passing through the nonlicensed pumps).

261.9(3) *Separate storage.* If at any time the licensee fails to comply with the requirements of this rule, separate storage for taxable sales and nontaxable bulk sales will be required under rule 701—261.8(452A).

This rule is intended to implement Iowa Code section 452A.8.

701—261.10(452A) Exemption certificates.

261.10(1) *Certificate use.*

a. If L.P.G. is dispensed from metered highway storage for other than highway purposes, an exemption certificate must be completed by the seller and signed by the purchaser.

b. The dealer or user must retain completed exemption certificates.

c. Certificate information. The exemption certificate must include but is not limited to the following information:

- (1) Date,
- (2) Seller's name and license number,
- (3) Invoice number covering the fuel sold if sold by a dealer,
- (4) Identification of fuel's intended use,
- (5) Name, address, and signature of the purchaser or user.

d. The exemption certificate will be provided by the department, or a dealer or user may provide the exemption certificate if it contains all information required by the director.

261.10(2) *Exempt sales.*

a. *Exempt sale types.* Exempt sales of L.P.G. from metered highway storage are limited to the following uses:

(1) Placed directly into a fuel supply tank that is connected to the heating or cooling unit installed on a highway "reefer" unit, provided the fuel supply tank is not connected nor has provisions for connection directly or indirectly to the power source of the highway motor vehicle.

(2) Placed directly into the fuel supply tank of a nonhighway motor vehicle.

(3) Placed into carryout containers.

b. *Nonexempt sales.* All other sales for other than highway use must be from bulk storage and not from metered highway storage.

This rule is intended to implement Iowa Code section 452A.8.

701—261.11(452A) L.P.G. sold to the state of Iowa, its political subdivisions, contract carriers under contract with public schools to transport pupils or regional transit systems.

261.11(1) *Exempt sales.*

a. If L.P.G. is sold to the state of Iowa, its agencies, a political subdivision of the state, or a regional transit system for public use, or a use specified in Iowa Code section 452A.57(11), and placed in storage, it may be sold tax-free.

b. Fuel sold by a dealer and delivered directly into the fuel supply tank of a motor vehicle must be sold tax-paid.

c. Since the L.P.G. delivered into storage is not subject to tax, the governmental unit or regional transit system need not be licensed as a special fuel user. However, if the L.P.G. is used by a governmental unit or regional transit system for other than “public purposes,” it must obtain a user’s license and pay the tax on all highway L.P.G. used from the storage.

261.11(2) *L.P.G. sold to a contract carrier under contract with public schools to transport pupils.*

a. When special fuel is sold directly to contract carriers who have a contract with a public school under Iowa Code section 285.5 for the transportation of pupils of an approved public or nonpublic school, the fuel shall be sold tax-paid.

b. If the contract carrier is licensed as an L.P.G. fuel dealer or user, the licensee may buy the fuel tax-free, but the tax must be remitted on the monthly dealer or user return.

c. Any contract carrier who has paid the tax is entitled to a refund.

(1) A refund requested by contract carriers will be reduced by the applicable sales tax, unless otherwise exempt.

(2) All contract carriers must apply to the department for a refund registration even if they currently hold a motor fuel tax license.

(3) 701—subrule 260.8(4) provides more information about this refund type.

This rule is intended to implement Iowa Code sections 452A.3 and 452A.17.

701—261.12(452A) Refunds.

261.12(1) *Availability.* Refunds of taxes paid on L.P.G., C.N.G., or hydrogen used for other than highway use are available if the tax has been paid.

261.12(2) *Refund process.*

a. To qualify for a refund, all of the following need to be met:

(1) The special fuel was used for a purpose other than to propel motor vehicles,

(2) The person requesting the refund has a refund permit,

(3) The claim is filed within the appropriate time and in the appropriate manner.

b. The income tax credit set forth in rule 701—260.11(452A) applies equally to special fuel.

This rule is intended to implement Iowa Code section 452A.17.

701—261.13(452A) Notice of meter seal breakage.

261.13(1) *Notice.* The department must be notified within 24 hours when the seal of any sealed meter is broken. The reason for the breakage does not affect this notification requirement.

261.13(2) *Content of notice.* Notice must contain but is not limited to the following information:

a. The name, address, and license number of the person who controls the meter.

b. The meter number.

c. The type of fuel pumped through the meter.

d. The date of seal breakage.

e. The name and address of the person(s) responsible for the seal breakage, if known.

f. The reason for seal breakage.

g. The meter reading before seal breakage.

h. The meter reading after the meter is resealed.

i. The signature of the person who controls the meter.

261.13(3) *Reports.*

a. For reporting purposes, the meter is be considered two meters, one before the seal breakage and one after. The return must note the seal breakage.

b. Meter readings.

- (1) The meter readings of the meter before the seal breakage must be reported by meter number as usual.
 - (2) The meter readings after the meter was resealed must be reported by using the meter number plus the letter “A.”
 - (3) The two readings must appear on the same return schedule.
- This rule is intended to implement Iowa Code sections 452A.3, 452A.8, 452A.59, and 452A.62.

701—261.14(452A) Location of records—special fuel users and dealers.

261.14(1) *Generally.* The records required to be prepared and kept by special fuel dealers and users under Iowa Code section 452A.10 and 701—subrule 259.3(5) must be maintained at the location that appears on the license unless the licensee keeps the records at a central location as described in 701—subrule 261.16(2).

261.14(2) *Central location.*

- a.* If the licensee has more than one license, all of the records for each separate license may be kept at a central location so long as the records for each license are kept separated.
- b.* The central location where the records must be kept is within the state unless:
 - (1) The licensee brings the records into the state when requested to do so by the department for purposes of audit, or
 - (2) The licensee agrees to pay the cost (as defined in rule 701—259.3(452A)) of an out-of-state audit.

This rule is intended to implement Iowa Code sections 452A.10 and 452A.74(2).

ITEM 4. Rescind 701—Chapter 262 and adopt the following new chapter in lieu thereof:

CHAPTER 262
ELECTRIC FUEL EXCISE TAX

701—262.1(452A) Definitions and applicability.

262.1(1) *Definitions.* For the purpose of this chapter, terms have the same meaning as provided in Iowa Code sections 452A.2 and 452A.40 and rule 701—259.1(452A).

262.1(2) *Applicability of other rules.* All rules in 701—Chapters 259 and 260 apply if not specifically stated in this chapter.

This rule is intended to implement Iowa Code section 452A.41.

701—262.2(452A) Tax imposed. Electric fuel excise tax must be remitted to the department by a license holder regardless of whether the licensed electric fuel dealer or licensed electric fuel user sells the fuel or gives the fuel to customers for no charge. This tax shall be calculated based on the kilowatt-hours of electric fuel delivered.

This rule is intended to implement Iowa Code section 452A.41.

701—262.3(452A) Licensing.

262.3(1) *License requirements.*

a. License required. A person shall not sell or dispense electric fuel within this state at a location other than a residence or otherwise act as a licensed electric fuel dealer or user without a license. The holder of an electric fuel user’s license is authorized to dispense electric fuel, measured in kilowatt-hours, into the batteries or other energy storage devices of electric motor vehicles owned or controlled by the holder.

b. No license required for residential charging. A person may dispense electric fuel at a residence without a license. “Residence” is defined in Iowa Code section 452A.40. For purposes of this rule, “residence” includes apartment buildings or other multiresidential facilities and houses regardless of whether the owner lives in the house. “Residence” does not include hotels, including extended-stay hotels, motels, or other facilities rented to transient guests.

EXAMPLE 1: Hotel A owns and operates an electric fuel charging station in its parking lot and offers electric fuel to its guests at no charge. Hotel A also owns an electric vehicle it uses as a shuttle for its guests and charges the vehicle at its charging station. Hotel A must obtain an electric fuel dealer's license because it dispenses fuel to customers as well as an electric fuel user's license because it charges its own vehicle at its charging station.

EXAMPLE 2: Hotel B hosts an electric fuel charging station in its parking lot and offers electric fuel to its guests for a fee. Hotel B owns an electric vehicle it uses as a shuttle for its guests and charges the vehicle at the charging station in its parking lot. The charging station in Hotel B's parking lot is owned by Station Retailer C. Station Retailer C must obtain an electric fuel dealer's license. Hotel B does not need to obtain an electric fuel license.

EXAMPLE 3: Homeowner D lists Homeowner D's house on a short-term home rental online platform. Homeowner D has an electric fuel charging station installed in the garage attached to the house. Guest E agrees to rent Homeowner D's house for a week. Guest E charges an electric vehicle using Homeowner D's charging station. Homeowner D does not need to obtain an electric fuel license.

EXAMPLE 4: Person F owns ten houses that each have electric fuel charging stations installed. Person F only resides in one of the houses and uses the other nine as rental properties. Person F does not need to obtain an electric fuel dealer license for any of the ten houses Person F owns.

EXAMPLE 5: Person G operates a motor carrier business as a sole proprietor. Person G owns an electric vehicle and uses the electric vehicle for the business. Person G operates the business from Person G's residence and charges the electric vehicle at that residence. Because Person G charges the electric vehicle at a residence, Person G does not need to obtain an electric fuel user license.

c. No license required for entities only dispensing nontaxable electric fuel. A person that only sells or dispenses electric fuel for which an exemption or refund may be claimed is not required to obtain a license to dispense such fuel.

EXAMPLE 1: Utility A is a municipal utility, wholly controlled by a municipality in Iowa. Utility A owns electric vehicle charging stations and only charges its own fleet of vehicles or other municipally owned vehicles at the charging stations. Utility A does not need an electric fuel user license since such sale or dispensing of electric fuel is not subject to tax pursuant to Iowa Code section 452A.17(1) "a"(3).

EXAMPLE 2: Utility B is a municipal utility, wholly controlled by a municipality in Iowa. Utility B owns electric vehicle charging stations where it charges its own fleet of vehicles. Utility B also allows individuals or private businesses to charge electric vehicles at its charging stations. Because Utility B is selling or dispensing fuel for nonpublic purposes when individuals or private businesses use its charging stations, Utility B must obtain an electric fuel dealer license.

262.3(2) License applications. Applications for a license must be filed electronically via GovConnectIowa and must be complete with all information required under Iowa Code section 452A.42(2). Applications must indicate the date on which the applicant began or plans to begin selling or dispensing electric fuel.

262.3(3) Electric fuel users. An electric fuel user's license does not grant authority to the holder of the license to sell or dispense electric fuel to consumers. A person wishing to sell or dispense fuel for vehicles the person owns or controls as well as to a consumer must obtain both an electric fuel user's license and an electric fuel dealer's license for each location from which electric fuel will be sold or dispensed.

262.3(4) No fee imposed. There is no fee to apply for or hold a license to sell or dispense electric fuel.

262.3(5) License for each place of business or location. A license is required for each separate place of business or location where electric fuel is placed into the battery or other storage device of an electric vehicle.

262.3(6) Denial of license application. The department may deny a license for any of the reasons provided in Iowa Code section 452A.42(4).

262.3(7) Bonding procedures. Existing license holders may be required to post a bond or security when they have had two or more delinquencies in remitting the electric fuel tax or filing returns timely during the past 12 months. The bond or security will be an amount sufficient to cover 12 months' electric

fuel tax liability or \$500, whichever is greater. The simultaneous late filing of the return and late payment of the tax will count as one delinquency. However, the late filing of the return or late payment of the tax will not count as a delinquency if the license holder can satisfy one of the penalty waiver conditions set forth in Iowa Code section 421.27. More information regarding waiver of bond is available in 701—paragraph 259.21(1)“e.”

This rule is intended to implement Iowa Code sections 452A.17 and 452A.42.

701—262.4(452A) Filing of returns and payment of tax.

262.4(1) *Required information on returns.* Licensed dealers and users of electric fuel must file with the department a biannual electric fuel excise tax return. For each location where electric fuel is placed into the battery or other storage device of an electric vehicle, the return must include the following information:

- a. The name and license number of the entity that owns the charging facility.
- b. In the case of a sole proprietorship, the individual owner’s name.
- c. In the case of a partnership, the names of all partners.
- d. The address of the location.
- e. Total number of kilowatt-hours delivered or placed into the battery or other storage device of an electric vehicle.

262.4(2) *Return and payment due date.* The electric fuel excise tax return must be filed with the department no later than the last date of the month following the close of the tax periods prescribed in Iowa Code section 452A.41. The return must be accompanied by remittance of the tax due for the period of the return.

262.4(3) *Electronic filing required.* Returns must be filed and payments must be remitted electronically through govconnect.iowa.gov.

262.4(4) *Consolidated return.* A license holder that holds more than one electric fuel license must file one consolidated return reporting sales made at all locations for which a license is held.

262.4(5) *International Fuel Tax Agreement returns not impacted.* The electric fuel excise tax return is separate and independent from the tax returns required under the International Fuel Tax Agreement.

This rule is intended to implement Iowa Code section 452A.41.

701—262.5(452A) Charging station verification and testing.

262.5(1) *Reporting of kilowatt-hours.*

a. Licensed dealers and users may rely upon the following methods to determine kilowatt-hours sold for reporting on a return:

- (1) Electric meters that measure only electricity sold as electric fuel.
- (2) Software included in a charging station that tracks kilowatt-hours that flow through the station.

b. If neither subparagraph 262.5(1)“a”(1) or 262.5(1)“a”(2) is available, prior to filing any returns, licensed dealers and users shall contact the department for approval of a method to calculate electricity used as electric fuel as determined by an electricity study.

262.5(2) *Testing of charging stations.* The department of agriculture and land stewardship tests all charging stations owned by licensed dealers and users pursuant to standards set forth in Iowa Code section 452A.41. The department of agriculture and land stewardship will report to the department any charging station that is not compliant with those standards.

This rule is intended to implement Iowa Code section 452A.41.

701—262.6(452A) Refunds.

262.6(1) *Filing of refund claim.* Taxpayers seeking to claim a refund of electric fuel tax must obtain a refund permit pursuant to Iowa Code section 452A.44. Because returns will be filed and tax paid on a biannual basis, refund claims may be filed and will only be processed on a biannual basis after the tax period for which the refund is sought has closed.

262.6(2) *Sales tax.* Electric fuel used in an exempt manner may be subject to sales tax. Rule 701—260.13(452A) contains more information regarding reductions in refunds due to the applicability of sales or use tax on exempt electric fuel sales.

262.6(3) *International Fuel Tax Agreement refunds not impacted.* This refund process is separate and independent from any refund process authorized under 761—Chapter 505 related to the International Fuel Tax Agreement.

This rule is intended to implement Iowa Code section 452A.44.

701—262.7(452A) Exemption certificates.

262.7(1) If electric fuel is sold or dispensed for a nontaxable purpose, the purchaser may complete and provide an exemption certificate produced by the department to the license holder. The certificate is to be retained by the license holder consistent with Iowa Code section 452A.43.

262.7(2) The exemption certificate must include but not be limited to the following information:

- a. The date.
- b. The license holder's name.
- c. The license holder's electric fuel dealer or electric fuel user license number applicable to the sale.
- d. The invoice number covering the fuel sold if it is sold by an electric fuel dealer.
- e. An indication of the use to which the fuel will be put.
- f. The name, address, and signature of the purchaser.

This rule is intended to implement Iowa Code sections 452A.17 and 452A.43.

TREASURER OF STATE

Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the following interest rates of interest for public obligations and special assessments have been established. The usury rate for January is 6.25%.

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 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 10, 2025, 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 1.65%

180-364 days	Minimum 1.65%
One year to 397 days	Minimum 1.95%
More than 397 days	Minimum 1.70%

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 Roby Smith, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

USURY

In accordance with the provisions of Iowa Code section 535.2(3)“a,” the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

February 1, 2024 — February 29, 2024	6.00%
March 1, 2024 — March 31, 2024	6.00%
April 1, 2024 — April 30, 2024	6.25%
May 1, 2024 — May 31, 2024	6.25%
June 1, 2024 — June 30, 2024	6.50%
July 1, 2024 — July 31, 2024	6.50%
August 1, 2024 — August 31, 2024	6.25%
September 1, 2024 — September 30, 2024	6.25%
October 1, 2024 — October 31, 2024	5.75%
November 1, 2024 — November 30, 2024	5.75%
December 1, 2024 — December 31, 2024	6.00%
January 1, 2025 — January 31, 2025	6.25%
February 1, 2025 — February 28, 2025	6.50%

ARC 8797C

UTILITIES COMMISSION[199]

Notice of Intended Action

Proposing rulemaking related to power production and providing an opportunity for public comment

The Utilities Commission hereby proposes to rescind Chapter 15, “Cogeneration and Small Power Production,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 476.1, 476.8, 476.58, 476B.10 and 476C.7.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 476.1, 476.8, 476.41 and 476.45; 18 CFR Part 292; and Section 210 of the Public Utility Regulatory Act of 1978 as amended by the Energy Policy Act of 2005.

Purpose and Summary

This rulemaking was commenced in accordance with Executive Order 10. The intended benefit of the proposed chapter is to promote the safe and adequate service to the public through the effective regulation of cogeneration and small power production and to provide for the means of implementing tax credits as provided under Iowa law.

The Commission issued an Order Approving Regulatory Analysis on October 17, 2024. The Commission issued an order commencing rulemaking on November 22, 2024. The order is available on the Commission's electronic filing system, efs.iowa.gov, under Docket No. RMU-2023-0015.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on April 17, 2024. A public hearing was held on the following date(s):

- May 16, 2024

The Commission accepted written comments from the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; the Iowa Association of Electric Cooperatives; and MidAmerican Energy.

Fiscal Impact

This rulemaking has no fiscal impact beyond the legislation it intends to implement.

Jobs Impact

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

Waivers

No waiver provision is included in the proposed amendments because the Commission has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in Chapter 45.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Commission no later than 4:30 p.m. on February 11, 2025. Comments should be directed to:

IT Support
Iowa Utilities Commission
Phone: 515.725.7300
Email: ITSupport@iuc.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

March 4, 2025 2 to 4 p.m.	Commission Hearing Room 1375 East Court Avenue Des Moines, Iowa Via Zoom
March 18, 2025 2 to 4 p.m.	Commission Hearing Room 1375 East Court Avenue Des Moines, Iowa Via Zoom

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Commission and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 199—Chapter 15 and adopt the following new chapter in lieu thereof:

UTILITIES AND
TRANSPORTATION DIVISIONS

CHAPTER 15
COGENERATION AND SMALL POWER PRODUCTION

199—15.1(476) Definitions. Terms defined in the Public Utility Regulatory Policies Act of 1978 (PURPA), in effect on October 24, 1992, 16 U.S.C. 2601, et seq., have the same meaning for purposes of these rules as they have under PURPA, unless further defined in this chapter.

“*AEP facility*” means: (1) an electric production facility that derives 75 percent or more of its energy input from solar energy, wind, waste management, resource recovery, refuse-derived fuel, agricultural crops or residues, or wood burning; (2) a hydroelectric facility at a dam; (3) land, systems, buildings, or improvements that are located at the project site and are necessary or convenient to the construction, completion, or operation of the facility; or (4) transmission or distribution facilities necessary to conduct the energy produced by the facility to the purchasing utility.

“*Alternate energy purchase program*” or “*AEP program*” means a utility program that allows customers to contribute voluntarily to the development of alternate energy in Iowa.

“*Avoided costs*” means the incremental costs to an electric utility of electric energy or capacity or both that, but for the purchase from the qualifying facility or qualifying facilities, such utility would generate itself or purchase from another source.

“*Backup power*” means electric energy or capacity supplied by an electric utility to qualifying facilities and AEP facilities to replace energy ordinarily generated by a facility's own generation equipment during an unscheduled outage of the facility.

“*CFR*” means the Code of Federal Regulations, which contains the general administrative rules adopted by federal departments and agencies, in effect of [effective date of these rules], unless a separate effective date is identified in a specific rule.

“*Distributed generation facility*” means a qualifying facility, an AEP facility, or an energy storage facility.

“*Interconnection costs*” means the reasonable costs of connection, switching, metering, transmission, distribution, safety provisions, and administrative costs incurred by the electric utility directly related to the installation and maintenance of the physical facilities necessary to permit interconnected operations with qualifying facilities and AEP facilities, to the extent the costs are in excess of the corresponding costs that the electric utility would have incurred if it had not engaged in interconnected operations, but instead generated an equivalent amount of electric energy itself or purchased an equivalent amount of electric energy or capacity from other sources. Interconnection costs do not include any costs included in the calculation of avoided costs.

“*Interruptible power*” means electric energy or capacity supplied by an electric utility subject to interruption by the electric utility under specified conditions.

“*Maintenance power*” means electric energy or capacity supplied by an electric utility during scheduled outages of qualifying facilities and AEP facilities.

“*Purchase*” means the purchase of electric energy or capacity or both from qualifying facilities and AEP facilities by an electric utility.

“*Qualifying facility*” means a cogeneration facility or a small power production facility that is a qualifying facility under 18 CFR Part 292, Subpart B, in effect April 5, 2021.

“*Sale*” means the sale of electric energy or capacity or both by an electric utility to qualifying facilities and AEP facilities.

“*Supplementary power*” means electric energy or capacity supplied by an electric utility, regularly used by qualifying facilities and AEP facilities in addition to that which the facility generates itself.

“*System emergency*” means a condition on a utility’s system that is likely to result in imminent significant disruption of service to customers or is imminently likely to endanger life or property.

199—15.2(476) Scope. These rules do not:

15.2(1) Limit the authority of any electric utility, any qualifying facility, or any AEP facility to agree to a rate for any purchase, or terms or conditions relating to any purchase, which differ from the rate or terms or conditions that would otherwise be required by these rules; or

15.2(2) Affect the validity of any contract entered into between an electric utility and a qualifying facility or AEP facility for any purchase.

199—15.3(476) Information to commission. In addition to the information required to be supplied to the commission under 18 CFR 292.302, in effect April 9, 1980, all rate-regulated electric utilities will maintain records of contracts executed for the purchase, sale, or resale of energy or capacity, which will be made available to the commission upon request. If the purchases or sales are made other than pursuant to the terms of a written contract, then information as to the relevant prices and conditions shall be maintained and made available to the commission upon request.

199—15.4(476) Rate-regulated electric utility obligations under this chapter regarding qualifying facilities.

15.4(1) *Obligation to purchase from qualifying facilities.* Unless such obligation is terminated by the Federal Energy Regulatory Commission (FERC) order pursuant to 18 CFR Part 292, Subpart C, each electric utility shall purchase any energy and capacity that is made available from a qualifying facility:

- a. Directly to the electric utility; or
- b. Indirectly to the electric utility in accordance with subrule 15.4(4).

15.4(2) *Obligation to sell to qualifying facilities.* Each electric utility shall sell to any qualifying facility any energy and capacity requested by the qualifying facility.

15.4(3) *Obligation to interconnect.* Any electric utility shall make the interconnections with any qualifying facility as may be necessary to accomplish purchases or sales under these rules. The obligation to pay for any interconnection costs shall be determined in accordance with 199—Chapter 45. However, no electric utility is required to interconnect with any qualifying facility if, solely by reason of purchases or sales over the interconnection, the electric utility would become subject to regulation as a public utility under Part II of the Federal Power Act, in effect December 4, 2015.

15.4(4) *Transmission to other electric utilities.* If a qualifying facility agrees, an electric utility that would otherwise be obligated to purchase energy or capacity from the qualifying facility may transmit the energy or capacity to any other electric utility. Any electric utility to which the energy or capacity is transmitted shall purchase the energy or capacity under this subrule as if the qualifying facility were supplying energy or capacity directly to the electric utility. The rate for purchase by the electric utility to which the energy is transmitted shall be adjusted up or down to reflect line losses and shall not include any charges for transmission.

15.4(5) *Parallel operation.* Each electric utility shall offer to operate in parallel with a qualifying facility, provided that the qualifying facility complies with any applicable standards established in accordance with these rules.

199—15.5(476) Rates for purchases from qualifying facilities by rate-regulated electric utilities.

15.5(1) *Rates for purchases.* Rates for purchases shall:

- a.* Be just and reasonable to the electric consumer of the electric utility and in the public interest; and
- b.* Not discriminate against qualifying cogeneration and small power production facilities.

Nothing in these rules requires any electric utility to pay more than the avoided costs, as set forth in these rules, for purchases.

15.5(2) *Relationship to avoided costs.* For purposes of this subrule, “new capacity” means any purchase from a qualifying facility, construction of which was commenced on or after November 9, 1978.

A rate for purchases satisfies this rule if the rate equals the avoided costs determined after consideration of the factors set forth in subrule 15.5(6); except that a rate for purchases other than from new capacity may be less than the avoided cost if the commission determines that a lower rate is consistent with subrule 15.5(1) and is sufficient to encourage cogeneration and small power production.

Unless the qualifying facility and the utility agree otherwise, rates for purchases shall conform to this rule regardless of whether the electric utility making purchases is simultaneously making sales to the qualifying facility.

In the case in which the rates for purchases are based upon estimates of avoided costs over the specific term of the contract or other legally enforceable obligation, the rates for purchases do not violate this rule if the rates for the purchases differ from avoided costs at the time of delivery.

15.5(3) *Standard rates for purchases.* Electric utilities will file and maintain with the commission tariffs specifying standard rates for purchases from qualifying facilities with a design capacity of 100 kilowatts (kW) or less. These tariffs may differentiate between qualifying facilities using various technologies on the basis of the supply characteristics of the different technologies. All utilities shall include a seasonal differential in these rates for purchases to the extent avoided costs vary by season. All utilities shall make available time of day rates for those facilities with a design capacity of 100 kW or less, provided that the qualifying facility shall pay, in addition to the interconnection costs set forth in these rules, all additional costs associated with the time of day metering.

The standard rates set forth in this rule shall indicate what portion of the rate is attributable to payments for the utility’s avoided energy costs, and what portion of the rate, if any, is attributable to payments for capacity costs avoided by the utility. If no capacity credit is provided in the standard tariff, a qualifying facility may petition the commission for an allowance of the capacity credit. The petition shall be handled by the commission as a contested case proceeding, and the burden of proof shall be on the qualifying facility to demonstrate that capacity credit is warranted in the case in question.

15.5(4) *Other purchases.* Rates for purchases from qualifying facilities with a design capacity of greater than 100 kW shall be determined in contested case proceedings before the commission unless the rates are otherwise agreed upon by the qualifying facility and the utility involved.

15.5(5) *Purchases “as available” or pursuant to a legally enforceable obligation.* Each qualifying facility shall have the option either:

- a.* To provide energy as the qualifying facility determines the energy to be available for the purchases, in which case the rates for the purchases shall be based on the purchasing utility’s avoided costs calculated at the time of delivery; or
- b.* To provide energy or capacity pursuant to a legally enforceable obligation for the delivery of energy or capacity over a specified term, in which case the rates for the purchases shall, at the option of the qualifying facility exercised prior to the beginning of the specified term, be based on either: the avoided costs calculated at the time of delivery; or the avoided costs calculated at the time the obligation is incurred.

15.5(6) *Factors affecting rates for purchases.* In determining avoided costs, the following factors shall, to the extent practicable, be taken into account:

- a.* The prevailing rates for capacity or energy on any interstate power grid with which the utility is interconnected.
- b.* The incremental energy costs or capacity costs of the utility itself or utilities in the interstate power grid with which the utility is interconnected.
- c.* The time of day or season during which capacity or energy is available, including:

- (1) The ability of the utility to dispatch the qualifying facility;
- (2) The expected or demonstrated reliability of the qualifying facility;
- (3) The terms of any contract or other legally enforceable obligation, including the duration of the obligation, termination notice requirement and sanctions for noncompliance;
- (4) The extent to which scheduled outages of the qualifying facility can be usefully coordinated with scheduled outages of the utility's facilities;
- (5) The usefulness of energy and capacity supplied from a qualifying facility during system emergencies, including the qualifying facility's ability to separate its load from its generation; and
- (6) The individual and aggregate value of energy and capacity from qualifying facilities on the electric utility's system.

d. The costs or savings resulting from variations in line losses from those that would have existed in the absence of purchases from the qualifying facility, if the purchasing electric utility generated an equivalent amount of energy itself.

15.5(7) *Periods during which purchases are not required.* An electric utility will not be required to purchase electric energy or capacity during any period during which, due to operational circumstances, purchases from qualifying facilities will result in costs greater than those that the utility would incur if it did not make the purchases, but instead generated an equivalent amount of energy itself; provided, however, that the electric utility seeking to invoke this subrule must notify each affected qualifying facility within a reasonable amount of time to allow the qualifying facility to cease the delivery of energy or capacity to the electric utility.

a. An electric utility that fails to comply with the provisions of this subrule will be required to pay the usual rate for the purchase of energy or capacity from the facility.

b. A claim by an electric utility that such a period has occurred or will occur is subject to verification by the commission.

199—15.6(476) Rates for sales to qualifying facilities and AEP facilities by rate-regulated electric utilities. Rates for sales to qualifying facilities and AEP facilities shall be just, reasonable and in the public interest, and shall not discriminate against qualifying facilities and AEP facilities in comparison to rates for sales to other customers with similar load or other cost-related characteristics served by the utility. The rate for sales of backup or maintenance power shall not be based upon an assumption (unless supported by data) that forced outages or other reductions in electric output by all qualifying facilities and AEP facilities will occur simultaneously or during the system peak, or both, and shall take into account the extent to which scheduled outages of qualifying facilities and AEP facilities can be usefully coordinated with scheduled outages of the utility's facilities.

199—15.7(476) Additional services to be provided to qualifying facilities and AEP facilities by rate-regulated electric utilities.

15.7(1) Upon request of qualifying facilities and AEP facilities, each electric utility shall provide supplementary, backup, maintenance, and interruptible power. Rates for such service will comply with subrule 15.5(6), and shall be in accordance with the terms of the utility's tariff.

15.7(2) The commission may waive this requirement pursuant to rule 199—1.3(17A,474) only after notice in the area served by the utility and an opportunity for public comment. The waiver may be granted if compliance with this rule will:

- a.* Impair the electric utility's ability to render adequate service to its customers, or
- b.* Place an undue burden on the electric utility.

199—15.8(476) System emergencies. For purposes of this rule, "electric utility" means a rate-regulated electric utility. Qualifying facilities and AEP facilities shall provide energy or capacity to an electric utility during a system emergency only to the extent:

15.8(1) Provided by agreement between the qualifying facility or AEP facility and the electric utility; or

15.8(2) Ordered under Section 202(c) of the Federal Power Act, in effect December 4, 2015. During any system emergency, an electric utility may immediately discontinue:

- a.* Purchases from qualifying facilities and AEP facilities if purchases would contribute to the emergency; and
- b.* Sales to qualifying facilities and AEP facilities, provided that the discontinuance is on a nondiscriminatory basis.

199—15.9(476) Standards for interconnection, safety, and operating reliability. For purposes of this rule, “electric utility” or “utility” means both rate-regulated and non-rate-regulated electric utilities.

15.9(1) *Acceptable standards.* The interconnection of distributed generation facilities and associated interconnection equipment to an electric utility system shall meet the applicable provisions of the publications listed below:

a. Standard for Interconnecting Distributed Resources with Electric Power Systems, IEEE Standard 1547, in effect April 6, 2018. For guidance in applying IEEE Standard 1547, the utility may refer to:

(1) IEEE Recommended Practices and Requirements for Harmonic Control in Electrical Power Systems—IEEE Standard 519-2022, as approved May 13, 2022; and

(2) IEC/TR3 61000-3-7 Assessment of Emission Limits for Fluctuating Loads in MV and HV Power Systems, as published on March 4, 2024.

b. Iowa Electrical Safety Code, as defined in 199—Chapter 25.

c. National Electrical Code, ANSI/NFPA 70-2023, as amended through November 30, 2023.

15.9(2) *Interconnection facilities.*

a. A distributed generation facility placed in service after July 1, 2015, is required to have a disconnection device that is installed, owned, and maintained by the owner of the distributed generation facility and is easily visible and adjacent to an interconnection customer’s electric meter at the facility. Disconnection devices are considered easily visible if the clearly identified container holding the disconnection device is within the line of sight of the meter, at a height of 30 inches to 72 inches above final grade. Disconnection devices are considered adjacent to the interconnection customer’s electric meter: for a home or business, within 10 feet with nothing blocking access between the disconnection device and electric meter; or for large areas with multiple buildings that require electric service, within 30 feet with nothing blocking access between the disconnection device and electric meter. The disconnection device shall be labeled with a permanently attached sign with clearly visible letters that gives 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 provide and place a permanent placard no more than 10 feet away from the electric meter. The placard must: be visible from the electric meter, clearly identify the presence and location of the disconnection device for the distributed generation facilities on the property, be made of material that is suitable for the environment, and 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.

c. The interconnection includes overcurrent devices on the facility to automatically disconnect the facility at all currents that exceed the full-load current rating of the facility.

d. Distributed generation facilities with a design capacity of 100 kW or less must be equipped with automatic disconnection upon loss of electric utility-supplied voltage.

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.

15.9(3) Access. If a disconnection device is required, the operator of the distributed generation facility, the utility, and emergency personnel shall have access to the disconnection device at all times. For distributed generation facilities installed prior to July 1, 2015, an interconnection customer may elect to provide the utility with access to 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 disconnection device. In consultation with the customer, the utility will determine the location of the lockbox, which will 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 utility operating personnel for accessing the disconnection device. If the utility needs to isolate the distributed generation facility, the utility shall not be held liable for any damages resulting from the actions necessary to isolate the generation facility.

15.9(4) Inspections and testing. The operator of the distributed generation facility shall adopt a program of inspection and testing of the generator, 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 15.10(3) for inspection and testing with reasonable prior notice to the applicant.

15.9(5) Emergency disconnection. In the event that an electric utility or its customers experience problems caused by the presence of alternating currents or voltages with a frequency higher than 60 Hertz, the utility shall be permitted to open and lock the interconnection switch pending a complete investigation of the problem. Where the utility believes the condition creates a hazard to the public or to property, the disconnection may be made without prior notice. However, the utility shall notify the operator of the distributed generation facility by written notice and, where possible, verbal notice as soon as practicable after the disconnections.

15.9(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.

15.9(7) Disconnections. If an interconnection customer fails to comply with this rule, the electric utility may disconnect the applicant's distributed generation facility until the facility complies. 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 or 27.

15.9(8) Reconections. If a customer's distributed generation facility or electric service is disconnected due to noncompliance with this rule, the customer shall be responsible for payment of any costs associated with reconnection once the facility is in compliance with the rules.

199—15.10(476) Additional rate-regulated electric utility obligations regarding AEP facilities.

15.10(1) *Obligation to purchase from AEP facilities.* Each utility shall purchase, pursuant to contract, its share of at least 105 megawatts (MW) of AEP generating capacity and associated energy production. The utility's share of 105 MW is based on the utility's estimated percentage share of Iowa peak demand, which is based on the utility's highest monthly peak shown in its 1990 FERC Form 1 annual report, and on its related Iowa sales and total company sales and losses shown in its 1990 FERC Form 1 and IE-1 annual reports. Each utility's share of the 105 MW is determined to be as follows:

	Percentage Share of <u>Iowa Peak</u>	Utility Share of <u>105 MW</u>
Interstate Power and Light	47.43%	49.8 MW
MidAmerican Energy	52.57%	55.2 MW

15.10(2) *Annual reporting requirement.* Each utility shall file an annual report listing nameplate MW capacity and associated monthly megawatt-hour (MWH) purchased from AEP facilities.

15.10(3) *Net metering.* Each utility shall offer to operate in parallel through either net metering (with a single meter monitoring only the net amount of electricity sold or purchased) or inflow-outflow billing with an AEP facility, provided that the facility complies with any applicable standards established in accordance with these rules.

In the alternative, by choice of the facility, the utility and facility shall operate in a purchase and sale arrangement whereby any electricity provided to the utility by the AEP facility is sold to the utility at the tariffed rate.

199—15.11(476) Alternate energy purchase programs. This rule applies to utilities that elect rate regulation pursuant to Iowa Code section 476.1A where specifically stated.

15.11(1) *Obligation to offer programs.*

a. All utilities will file plans with the commission for alternative energy purchase programs pursuant to Iowa Code section 476.47.

b. Each rate-regulated electric utility shall demonstrate on an annual basis that it produces or purchases sufficient energy from program AEP facilities located in Iowa to meet the needs of its Iowa program. These Iowa-based AEP facilities shall not include AEP facilities for which the utility has sought cost recovery under the commission's "electric energy automatic adjustment" rule in 199—Chapter 20 prior to July 1, 2001.

15.11(2) *Customer notification.*

a. Each electric utility shall notify eligible customer classes of the implementation or modification of AEP programs pursuant to Iowa Code section 476.47(3) and will include the following, as applicable:

- (1) A description of the availability and purpose of the program or program modification, clarifying that customer contributions will not involve the direct sale of alternate energy to individual customers;
- (2) The effective date of the program or program modification;
- (3) Customer classes eligible for participation;
- (4) Forms and levels of customer contribution available to program participants;
- (5) A utility telephone number for answering customers' questions about the program; and
- (6) Customer instructions that explain how to participate in the program.

b. In addition to the notification requirements under paragraph 15.11(2)"a," each rate-regulated electric utility shall:

- (1) Include fuel report information described under subrule 15.11(5); and
- (2) Submit the proposed notification to the commission for approval at least 30 days prior to the proposed date of issuance of the notification.

15.11(3) *Program plan filing requirements for rate-regulated utilities.* Initial program plans and any subsequent modifications filed by rate-regulated electric utilities will be subject to commission approval. The initial program plan filing shall include:

- a.* The program tariff;
- b.* The program effective date;

- c. A sample of the customer notification, including a description of the method of distribution;
- d. Customer classes eligible for participation and the schedule for extending participation to all customer classes;
- e. Identification of each AEP facility used for the program, including:
 - (1) Fuel type;
 - (2) Nameplate capacity;
 - (3) Estimated annual kilowatt-hour (kWh) output;
 - (4) Estimated in-service date;
 - (5) Ownership, including any utility affiliation;
 - (6) A copy of any contract for utility purchases from the facility;
 - (7) A description of the method or procedure used to select the facility;
 - (8) Facility location; and
 - (9) If the facility is located outside of Iowa, an explanation of how the facility qualifies under Iowa Code section 476.47(4);
- f. The forms and levels of customer contribution available to program participants, including but not limited to:
 - (1) kWh rate premiums applied to percentages of participant kWh usage, with an explanation of how the kWh rate premiums are derived; or
 - (2) kWh rate premiums applied to fixed kWh blocks of participant usage, with an explanation of how the kWh rate premiums are derived; or
 - (3) Fixed contributions, with an explanation of how the fixed amounts are derived;
- g. The maximum allowable time lag between the beginning of customer contributions and the in-service date for identified AEP facilities, and the procedures for suspending customer contributions if the maximum time lag is exceeded;
- h. The intended treatment of program participants under the commission's "electric energy automatic adjustment" rule in 199—Chapter 20;
- i. An accounting plan for identifying and tracking participant contributions and program costs, including:
 - (1) Identification of incremental program costs not otherwise recovered through the utility's rates, including but not limited to program start-up and administration costs, program marketing costs, and program energy and capacity costs associated with identified AEP facilities;
 - (2) Methods for quantifying, assigning, and allocating costs of the program and for segregating those costs in the utility's accounts; and
- j. A marketing and customer information plan, including schedules and copies of all marketing and information materials, as available.

15.11(4) *Annual reporting requirements for rate-regulated utilities.* Each rate-regulated electric utility shall file with the commission a report of program activity for the previous calendar year. The annual report shall include:

- a. Program information, including:
 - (1) The number of program participants, by customer class;
 - (2) Participant contribution revenues, by customer class, by form and level of contribution, and by associated participant kWh sales;
 - (3) Program electricity generated from each program AEP facility and the associated costs; and
 - (4) Other program costs, by cost type.
- b. An annual reconciliation of participant contributions and program costs.
 - (1) Program costs are incremental costs associated with the utility's alternate energy purchase program not otherwise recovered through the utility's base tariff rates, and electricity costs dedicated to the program and separated from the utility's energy automatic adjustment clause as defined in the commission's "electric energy automatic adjustment" rule in 199—Chapter 20.
 - (2) The excess of participant contributions over program costs is an annual program surplus, and the excess of program costs over participant contributions is an annual program deficit.
 - (3) Annual program surpluses and deficits are cumulative over successive years.

(4) A program deficit may be recovered through the utility's energy automatic adjustment clause as defined in the commission's "electric energy automatic adjustment" rule in 199—Chapter 20.

(5) Any program surplus shall be used to offset prior years' program deficits previously recovered through the energy automatic adjustment clause, and the offset amount shall be credited through the utility's energy automatic adjustment clause.

c. Identification of any other AEP or renewable energy requirements being met with program AEP facilities and identification of any revenues derived from the separate sale of the renewable energy attributes of program AEP facilities.

d. Documentation that shows the energy produced by the utility's program AEP facilities in Iowa (whether contracted, leased, or owned), not including AEP facilities for which the utility has sought cost recovery under the commission's "electric energy automatic adjustment" rule in 199—Chapter 20 prior to July 1, 2001, is sufficient to meet the requirement of the utility's Iowa AEP program.

e. A description of program marketing and customer information activities, including schedules and copies of all marketing and information materials related to the program.

f. Program modifications and uses for any program surplus that are under consideration, including procurement or assignment of additional electricity from AEP facilities.

g. A copy of the utility's annual fuel report to customers under subrule 15.11(5).

15.11(5) *Annual fuel reporting requirements for rate-regulated electric utilities.*

a. Each rate-regulated electric utility shall annually report to all of its Iowa customers the rate-regulated electric utility's percentage mix of fuel and energy inputs used to produce electricity. The report shall, to the extent practical, specify percentages of electricity produced by coal, nuclear energy, natural gas, oil, AEP electricity produced for the utility's AEP program, non-program AEP electricity, and resources purchased from other companies. The percentages for AEP electricity shall further specify percentages of electricity produced by wind, solar, hydropower, biomass, and other technologies.

b. The report shall include an estimate of sulfur dioxide (SO₂), nitrogen oxide (NO_x), and carbon dioxide (CO₂) emissions for each known fuel and energy input type. The emission estimate shall be expressed in pounds per 1000 kWh.

15.11(6) *Tariff filing requirements for non-rate-regulated electric utilities.*

a. Utilities that are not subject to rate regulation or that elect rate regulation pursuant to Iowa Code section 476.1A will include the following information in tariffs filed pursuant to Iowa Code section 476.47(2) "b":

- (1) The program tariff;
- (2) The program effective date;
- (3) A sample of the customer notification, including a description of the method of distribution;
- (4) Customer classes eligible for participation;
- (5) Identification of any specific AEP facilities to be included in the program and the criteria listed under paragraph 15.11(3) "e"; and
- (6) Forms and levels of customer contribution available to program participants.

b. Joint filings. An electric utility that is not subject to rate regulation by the commission or that elects rate regulation pursuant to Iowa Code section 476.1A may file its tariff jointly with other non-rate-regulated utilities or through an agent. A joint tariff filing shall contain the information required by paragraph 15.11(6) "a," separately identified for each utility participating in the joint tariff. The information for each utility may be provided by reference to an attached document or to a section of the joint tariff filing.

199—15.12(476C) Certification of eligibility for wind energy and renewable energy tax credits under Iowa Code chapter 476C. Any person applying for certification of eligibility for state tax credits for wind energy or renewable energy pursuant to Iowa Code section 476C.3 is subject to this rule.

15.12(1) Filing. Any person applying for certification of eligibility for wind energy or renewable energy tax credits must file with the commission an application that contains substantially all of the following:

a. Information regarding the applicant, including the legal name, address, telephone number, and, as applicable, facsimile transmission number and email address of the applicant.

b. Information regarding the ownership of the facility, including the legal name of each owner, information demonstrating the legal status of each owner, and the percentage of equity interest held by each owner. The “legal status of each owner” refers to either ownership of a small wind energy system operating in a small wind innovation zone as defined in Iowa Code section 476.48(1)“c” and as described in rule 199—15.14(476), or, alternatively, the ownership requirements as described in Iowa Code section 476C.1(6)“b.”

c. A statement attesting that each owner meeting the eligibility requirements of Iowa Code section 476C.1(6)“b” does not have an ownership interest in more than two eligible renewable energy facilities.

d. For any owner meeting the eligibility requirements of Iowa Code section 476C.1(6)“b” with an equity interest in the facility equal to or greater than 51 percent, a statement attesting that the owner does not have an equity interest greater than 10 percent in any other eligible renewable energy facility.

e. For any owner meeting the eligibility requirements of Iowa Code section 476C.1(6)“b” with an equity interest in the facility greater than 10 percent and less than 51 percent, a statement attesting that the owner does not have an equity interest equal to or greater than 51 percent in any other eligible renewable energy facility.

f. A description of the facility, including at a minimum the following information:

(1) Type of facility (that is, a qualified facility as defined in Iowa Code section 476C.1);

(2) Total nameplate generating capacity rating, plus maximum hourly output capability for any energy production capacity equivalent as defined in Iowa Code section 476C.1(7). For applications filed on or after July 1, 2011, the facility’s combined nameplate capacity or energy production capacity equivalent must be no less than three-fourths of a MW if all or part of the facility’s renewable energy production is used for the owners’ on-site consumption, and no more than 60 MW if the facility is not a wind energy conversion facility;

(3) A description of the location of the facility in Iowa, including an address or other geographic identifier;

(4) The date the facility was placed in service; that is, placed in service on or after July 1, 2005, but before January 1, 2018, for eligibility under Iowa Code chapter 476C; and

(5) For eligibility under Iowa Code chapter 476C, demonstration that the facility’s combined MW nameplate generating capacity and maximum hourly output capability of energy production capacity equivalent as defined in Iowa Code section 476C.1(7), divided by the number of separate owners who meet the requirements of Iowa Code chapter 476C, equals no more than 2.5 MW of capacity per eligible owner.

g. A signed statement from the owners attesting that the owners intend to either sell all the renewable energy produced by the facility, consume all the renewable energy on site, or use all the renewable energy through a combination of sale and consumption. For purposes of the signed statement, renewable energy consumed on site means any renewable energy produced by the facility and not sold.

h. If the owners intend to sell renewable energy produced by the facility, a copy of the power purchase agreement or other agreement to purchase electricity, hydrogen fuel, methane or other biogas, or heat for a commercial purpose, which shall designate either the producer or the purchaser as eligible to apply for the renewable energy tax credit. If the power purchase agreement or other agreement has not yet been finalized and executed, the commission will accept a binding statement from the applicant that designates which party will be eligible to apply for the renewable energy tax credit; that designation shall not be subject to change.

i. A statement indicating the type of tax credit being sought; that is, indicating that the applicant is applying for tax credits pursuant to Iowa Code chapter 476C (1.5 cents per kWh, wind and other renewable energy tax credits).

15.12(2) *Review.* Upon receipt of a complete application, the commission will review the eligibility of the facility in accordance with Iowa Code section 476C.3(2).

15.12(3) *Loss of eligibility status.*

a. Within 30 months following commission approval of eligibility, the applicant shall file information demonstrating that the eligible facility is operational and producing usable energy. If the commission determines that the eligible facility was not operational within 30 months of commission approval, the facility will lose eligibility status.

b. If the facility is a wind energy conversion facility and is not operational within 18 months due to the unavailability of necessary equipment, the applicant may apply for a 12-month extension of the 30-month limit, attesting to the unavailability of necessary equipment. After granting the 12-month extension, if the commission determines that the facility was not operational within 42 months of commission approval, the facility will lose eligibility status.

c. Prior to expiration of the time periods specified in paragraphs 15.12(3)“a” and “b,” the applicant may apply for a further 12-month extension if the facility is still expected to become operational. Extensions may be renewed for succeeding 12-month periods if the applicant applies for the extension prior to expiration of the current extension period. If the applicant does not apply for further extension, the facility will lose eligibility status.

d. If the owners of a facility discontinue efforts to achieve operational status, the owners shall notify the commission. Upon the commission’s receipt of such notification, the facility will lose eligibility status.

e. If the facility loses eligibility status, the applicant may reapply to the commission for new eligibility.

15.12(4) *Allocation of capacity among eligible applicants.* In the event the commission receives applications for tax credits that, in total, exceed the statutory limits found in Iowa Code section 476C.3(4), the commission will rule on the applications in the order the applications are received, based upon the date of receipt. If such a petition is submitted, the commission will notify all applicants who filed on that particular date, allowing each applicant to opt into the allocation within 45 days of the date of the filing of the petition.

15.12(5) *Waiting lists for excess applications.* The commission will maintain waiting lists of excess eligibility applications for facilities that might have received preliminary eligibility under subrule 15.12(2). The priorities of the waiting lists will be in the order the applications were received, based upon the dates of receipt. If additional capacity becomes available within the capacity restrictions under subrule 15.12(4), the commission will review the applications on the waiting lists based on each application’s priorities, before reviewing new applications. Applications will be removed from the waiting lists after the applications are either approved or denied. Each applicant on a waiting list shall annually provide the commission a statement of verification attesting that the information contained in the applicant’s eligibility application remains true and correct, or stating that the information has changed and providing the new information.

This rule is intended to implement Iowa Code chapter 476C.

199—15.13(476C) Applications for renewable energy tax credits under Iowa Code chapter 476C.

The renewable energy tax credits equal 1.5 cents per kWh of electricity, or 44 cents per 1,000 standard cubic feet of hydrogen fuel, or \$4.50 per 1 million British thermal units (Btu) of methane gas or other biogas used to generate electricity, or \$4.50 per 1 million Btu of heat for a commercial purpose, generated by eligible renewable energy facilities under rule 199—15.12(476C), which is sold or used for on-site consumption by the owners. For renewable energy that is sold, either the owners of an eligible facility or a designated purchaser of renewable energy from the facility may apply for renewable energy tax credits for up to ten tax years following the date the facility is placed in service. For renewable energy used for on-site consumption, the owners of an eligible facility may apply for renewable energy tax credits for up to ten tax years following the date the facility is placed in service. For purposes of this rule, renewable energy used for on-site consumption means any renewable energy produced by the facility and not sold.

For the first tax year for which tax credits can be claimed, the kWh, standard cubic feet, or Btu generated by and purchased from an eligible facility may exceed 12 months’ production.

15.13(1) *Application process for renewable energy tax credits.* A renewable energy facility must be approved as eligible by the commission under rule 199—15.12(476C) in order to qualify for renewable energy tax credits. Tax credit applications must be filed with the commission in the GovConnectIowa system at govconnect.iowa.gov no later than 30 days after the close of the tax year for which the credits are to be applied.

a. Either the facility owners or the purchaser of renewable energy shall be eligible to apply for the tax credits related to renewable energy that is sold, as designated under paragraph 15.12(1)“*h.*” Only facility owners shall be eligible to apply for tax credits related to renewable energy used for on-site consumption. If a facility is jointly owned, then owners applying for the tax credits must file their application jointly. For each application, the following information must be included:

(1) A copy of the original application for facility eligibility under rule 199—15.12(476C), plus any subsequent amendments to the application.

(2) A copy of the commission’s determination approving the facility as eligible for tax credits under rule 199—15.12(476C).

(3) A statement attesting that the owners have not received wind energy tax credits for the facility under Iowa Code chapter 476B.

(4) For any renewable energy sold, a copy of the power purchase agreement or other agreement to purchase from the facility electricity, hydrogen fuel, methane or other biogas, or heat for a commercial purpose. The agreement shall designate whether the producer or purchaser of renewable energy will be eligible to apply for the tax credits and shall be consistent with the designation originally filed under paragraph 15.12(1)“*h.*”

(5) For any renewable energy sold, the owners must provide a statement attesting that the electricity, hydrogen fuel, methane or other biogas, or heat for a commercial purpose, for which tax credits are sought, has been generated by the eligible facility and sold to an unrelated purchaser. For purposes of the renewable energy tax credits, persons are related to each other if either person owns an 80 percent or more equity interest in the other person. For any renewable energy used for on-site consumption, the owners must provide a signed statement attesting under penalty of perjury that the claimed amount of electricity, hydrogen fuel, methane or other biogas, or heat for a commercial purpose, for which tax credits are sought, has been generated by the eligible facility and not sold.

(6) The date that the eligible facility was placed in service (that is, between July 1, 2005, and January 1, 2018).

(7) The total number of kWh of electricity, standard cubic feet of hydrogen fuel, Btu of methane gas or other biogas used to generate electricity, or Btu of heat for a commercial purpose generated by the eligible facility during the tax year.

(8) For any renewable energy sold, invoices or other information that documents the number of kWh of electricity, standard cubic feet of hydrogen fuel, Btu of methane gas or other biogas used to generate electricity, or Btu of heat for a commercial purpose generated by the eligible facility and sold to an unrelated purchaser during the tax year. For any renewable energy used for on-site consumption, the number of kWh of electricity, standard cubic feet of hydrogen fuel, Btu of methane gas or other biogas used to generate electricity, or Btu of heat for a commercial purpose generated by the eligible facility during the tax year and not sold.

(9) Information regarding the facility owners or designated eligible purchaser, including the name, address, and tax identification number of each owner or purchaser. If the application is filed by the facility owners, this shall also include the percentage of equity interest held by each owner during the period for which renewable energy tax credits will be sought under Iowa Code chapter 476C. This information shall be consistent with ownership information provided in the original application for facility eligibility, as amended, under rule 199—15.12(476C).

(10) The type of tax for which the credits will be applied and the first tax year in which the credits will be applied.

(11) Identification of any applicants that are eligible to receive renewable electricity production credits authorized under Section 45 of the Internal Revenue Code, effective August 16, 2022. This

identification should include a statement from the applicant attesting to the applicant's eligibility and any available supporting documentation.

(12) If any of the applicants is a partnership, limited liability company, S corporation, estate, trust, or any other reporting entity all of whose income is taxed directly to its equity holders or beneficiaries for taxes imposed under Iowa Code chapter 422, Division II or III, the applicant shall provide the partners, members, shareholders, or beneficiaries of the entity. The applicants shall include the name, address, tax identification number, and pro-rata share of earnings from the entity for each of the partners, members, shareholders, or beneficiaries of the entity. The renewable energy tax credits will flow through to the entity's partners, shareholders, or members in accordance with their pro-rata share of earnings from the entity.

If the entity is also eligible to receive renewable electricity production credits authorized under Section 45 of the Internal Revenue Code, effective August 16, 2022, the entity may designate specific partners if the business is a partnership, shareholders if the business is an S corporation, or members if the business is a limited liability company to receive the renewable energy tax credits issued under Iowa Code chapter 476C and the percentage allocable to each. Such an entity may also designate a percentage of the tax credits allocable to an equity holder or beneficiary as a liquidating distribution or portion thereof of a holder or beneficiary's interest in the applicant entity. Otherwise, in the absence of such designations, the renewable energy tax credits will flow through to the entity's partners, shareholders, or members in accordance with their pro-rata share of earnings from the entity.

Alternatively, the tax credits will be issued directly to the entity if the entity is a partnership, limited liability company, S corporation, estate, trust, or any other reporting entity, all of whose income is taxed directly to its equity holders or beneficiaries for taxes imposed under Iowa Code chapter 422, Division V, or under Iowa Code chapter 423, 432, or 437A.

b. The commission will forward the tax credit applications to the department of revenue for review and processing. Along with each forwarded application, the commission will provide staff analysis and opinion regarding:

- (1) The completeness of the application.
- (2) The facility's eligibility status under rule 199—15.12(476C).
- (3) Whether the reported kWh of electricity, standard cubic feet of hydrogen fuel, Btu of methane gas or other biogas used to generate electricity, or Btu of heat for a commercial purpose generated by the facility and sold or used by the owners for on-site consumption during the tax year seem accurate and eligible for renewable energy tax credits.

15.13(2) *Review process and computation of renewable energy tax credits.* The department of revenue will review the applications and opinions forwarded by the commission, calculate the tax credits, and issue renewable energy tax credit certificates to the facility owners or designated purchaser, in accordance with department of revenue requirements and procedures under the department of revenue's rules for "renewable energy tax credit" in 701—Chapter 42, "renewable energy tax credit" in 701—Chapter 52, and "renewable energy tax credit" in 701—Chapter 58.

199—15.14(476) Small wind innovation zones.

15.14(1) *Definitions.* For purposes of this rule:

"Model interconnection agreement" means the applicable standard interconnection agreement under 199—Chapter 45.

"Model ordinance" means the model ordinance developed pursuant to Iowa Code section 476.48(3), which when adopted will be posted on the websites of the Iowa League of Cities at www.iowaleague.org and the Iowa State Association of Counties at www.iowacounties.org.

15.14(2) *Application for small wind innovation zone designation.* A political subdivision of this state, including but not limited to a city, county, township, school district, community college, area education agency, institution under the control of the state board of regents, or any other local commission, association, or tribal council, may apply to the commission for designation as a small wind innovation zone under Iowa Code section 476.48. The application must include the following information:

- a.* The name, location, description, and legal boundary of the political subdivision seeking designation as a small wind innovation zone;
- b.* Contact information for the applicant filing on behalf of the political subdivision, including legal name, address, telephone number, and, as applicable, facsimile transmission number and email address;
- c.* If the political subdivision is other than a local government:
 - (1) Identification of the local government (or governments) that encompasses the political subdivision;
 - (2) Confirmation that all identified local governments have either adopted or are about to adopt the model ordinance, including copies of model ordinances adopted by the local governments or copies of pending amendments to existing zoning ordinances intended to comply with the model ordinance; and
 - (3) Dates the model ordinances were adopted or anticipated dates of adoption of pending amendments to existing zoning ordinances intended to comply with the model ordinance;
- d.* If the political subdivision is a local government:
 - (1) A copy of the model ordinance adopted by the local government or copy of a pending amendment to an existing zoning ordinance intended to comply with the model ordinance; and
 - (2) Date the model ordinance was adopted or anticipated date of adoption of the pending amendment to an existing zoning ordinance intended to comply with the model ordinance;
- e.* Identification of the electric utilities that provide service within the political subdivision; and
- f.* Documentation from each electric utility that provides service within the political subdivision confirming that the electric utility is serving the political subdivision and that the utility is either:
 - (1) A utility subject to the provisions of 199—Chapter 45; or
 - (2) A utility not subject to the provisions of 199—Chapter 45, but which nonetheless agrees to use the standard forms, procedures, and standard interconnection agreements of 199—Chapter 45 for small wind energy systems in its service territory within the political subdivision; or
 - (3) A utility that is not subject to the provisions of 199—Chapter 45 and has not adopted them.

NOTE: Electric utilities shall provide political subdivisions the documentation required in paragraph 15.14(2)“f.”

15.14(3) *Motion for modification of a model interconnection agreement in a small wind innovation zone.* An electric utility that uses the standard interconnection agreements in 199—Chapter 45 and the owner of a small wind energy system in a small wind innovation zone may jointly seek to modify the electric utility’s and the owner’s version of the model interconnection agreement by jointly filing a motion for commission approval. The motion must include the following information:

- a.* The name, location, and description of the political subdivision designated as a small wind innovation zone;
- b.* The interconnecting electric utility;
- c.* Information regarding the owner of the small wind energy system, including legal name, address, telephone number, and, as applicable, facsimile transmission number and email address;
- d.* Description of the small wind energy system, including location and nameplate generating capacity;
- e.* A copy of the modified interconnection agreement clearly identifying the proposed modifications;
- f.* A description of the reasons and circumstances that require the modifications; and
- g.* Signed statements from the electric utility and the owner of the small wind energy system attesting that the proposed modifications to the interconnection agreement are mutually agreeable.

15.14(4) *Annual reporting requirement.* Utilities that have one or more small wind innovation zones in its service territory shall file an annual report for the previous calendar year listing the nameplate kW capacity of each small wind energy system that was interconnected (or previously interconnected) with the utility and produced electricity in each of the small wind innovation zones served by the utility.

These rules are intended to implement Iowa Code sections 476.1, 476.8, 476.41 to 476.45, 476.48, and 476.58; Section 210 of the Public Utility Regulatory Policies Act of 1978; and 18 CFR Part 292.

ARC 8796C**UTILITIES COMMISSION[199]****Notice of Intended Action****Proposing rulemaking related to service supplied by gas utilities
and providing an opportunity for public comment**

The Utilities Commission hereby proposes to rescind Chapter 19, “Service Supplied by Gas Utilities,” and to adopt a new Chapter 19, “Service Supplied by Rate-Regulated Gas Utilities,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 476.1.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 476.1, 476.2, 476.6, 476.8, 476.20, 476.54, 476.66, 476.86 and 476.87.

Purpose and Summary

The Commission commenced this rulemaking under the provisions of Executive Order 10. This chapter is intended to ensure there are clear rules and procedures for rate-regulated and municipal gas systems. The Commission is proposing to rescind the existing Chapter 19 and repromulgate a new version of Chapter 19 with the removal of unnecessary and unneeded language and to reduce restrictive terms.

The Commission issued an Order Approving Regulatory Analysis on September 3, 2024. The Commission issued an order commencing rulemaking on December 5, 2024. The order is available on the Commission’s electronic filing system, efs.iowa.gov, under Docket No. RMU-2023-0019.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on April 17, 2024. A public hearing was held on the following date(s):

- May 16, 2024

The hearing was attended by the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; the Iowa Association of Municipal Utilities; the Developers Council of the Homebuilders Association of Greater Des Moines (DevCo); MidAmerican Energy Company (MidAmerican); and Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy (Black Hills). DevCo provided oral comments requesting a more balanced outcome regarding the burden of construction costs, and both Black Hills and MidAmerican agree that something needs to be done to strike a balance to ensure a single customer class is not bearing the burden of construction costs. The Commission also accepted written comments prior to and following the technical conference from the following parties: OCA, DevCo, Interstate Power and Light Company, and MidAmerican.

Based on the written and oral comments received, the Commission revised proposed Chapter 19 to produce the version in this Notice of Intended Action.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

No waiver provision is included in the proposed amendments because the Commission has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in Chapter 45.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Commission no later than 4:30 p.m. on February 11, 2025. Comments should be directed to:

IT Support
Iowa Utilities Commission
Phone: 515.725.7300
Email: ITSupport@iuc.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 11, 2025
9 to 11 a.m.

Commission Hearing Room
1375 East Court Avenue
Des Moines, Iowa
[Via Zoom](#)

February 25, 2025
9 to 11 a.m.

Commission Hearing Room
1375 East Court Avenue
Des Moines, Iowa
[Via Zoom](#)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Commission and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 199—Chapter 19 and adopt the following **new** chapter in lieu thereof:

CHAPTER 19
SERVICE SUPPLIED BY RATE-REGULATED GAS UTILITIES

199—19.1(476) General information.

19.1(1) Purpose and application of rules. The rules shall apply to any rate-regulated gas utility operating within the state of Iowa as defined in Iowa Code chapter 476 and shall supersede any tariff on file with this commission that is in conflict with these rules. These rules are intended to promote safe and adequate service to the public, to provide standards for uniform and reasonable practices by utilities, and to establish a basis for determining the reasonableness of such demands as may be made by the public upon the utilities.

19.1(2) Definitions. The following words and terms shall have the meaning indicated below:

The abbreviations used, and their meanings, are as follows:

Btu—British thermal unit

LP gas—liquefied petroleum gas

psig—pounds per square inch gauge

W.C.—water column

“*Appliance*” refers to any device that utilizes gas fuel to produce light, heat or power.

“*CFR*” means the Code of Federal Regulations in effect as of [the effective date of this rule] unless a separate effective date is identified in a specific rule.

“*Commission*” means the Iowa utilities commission.

“*Complaint*” as used in these rules is a statement or question by anyone, whether a utility customer or not, alleging a wrong, grievance, injury, dissatisfaction, illegal action or procedure, dangerous condition or action, or utility failure to fulfill an obligation.

“*Cubic foot*” of gas has the following meanings:

1. Where gas is supplied and metered to customers at the pressure (as defined in subrule 19.7(2)) normally used for domestic customers’ appliances, a cubic foot of gas shall be that quantity of gas which, at the temperature and pressure existing in the meter, occupies one cubic foot, except that where a temperature compensated meter is used, the temperature base shall be 60°F.

2. When gas is supplied to customers at other than the pressure in “1” above, the utility shall specify in its rules the base for measurement of a cubic foot of gas (subparagraph 19.2(4) “c”(6)). Unless otherwise stated by the utility, such cubic foot of gas shall be that quantity of gas which, at a temperature of 60°F and a pressure of 14.73 pounds per square inch absolute, occupies one cubic foot.).

3. The standard cubic foot of gas for testing the gas itself for heating value shall be that quantity of gas, saturated with water vapor, which, at a temperature of 60°F and a pressure of 30 inches of mercury, occupies one cubic foot. (Temperature of mercury = 32°F acceleration due to gravity = 32.17 ft. per second per second density = 13.595 grams per cubic centimeter.)

“*Customer*” means any person, firm, association, or corporation; any agency of the federal, state or local government; or any legal entity responsible by law for payment for the gas service or heat from the gas utility.

“*Delinquent*” or “*delinquency*” means an account for which a service bill or service payment agreement has not been paid in full on or before the last day for timely payment.

“*Gas*,” unless otherwise specifically designated, means manufactured gas, natural gas, other hydrocarbon gases, or any mixture of gases produced, transmitted, distributed or furnished by any gas utility.

“*Gas plant*” means all facilities including all real estate, fixtures and property owned, controlled, operated or managed by a gas utility for the production, storage, transmission or distribution of gas and heat.

“*Interruption of service*” means any disturbance of the gas supply whereby gas service to a customer cannot be maintained.

“*Main*” means a non-service line gas pipe that is owned, operated, or maintained by a utility and is used for the purpose of transmission or distribution of gas.

“*Master meter*” means a single meter used in determining the amount of gas provided to a multi-tenant building or to multiple buildings.

“*Meter*,” without other qualification, means any device or instrument that is used by a utility in measuring a quantity of gas.

“*Meter shop*” means a shop where meters are inspected, repaired and tested, and may be at a fixed location or may be mobile.

“*Plant addition*” means any additional plant, other than a distribution main or service line, required to be constructed to provide service to a customer.

“*Pressure*,” unless otherwise stated, is expressed in pounds per square inch above atmospheric pressure, i.e., gauge pressure (abbreviation-psig).

“Rate-regulated utility” means any utility that is subject to rate regulation as provided in Iowa Code chapter 476.

“Service line” means a distribution line that transports gas from a common source of supply to a customer meter or the connection to a customer’s piping, whichever is farther downstream, or the connection to a customer’s piping if there is not a customer meter. A customer meter is the meter that measures the transfer of gas from a utility to a customer.

“Tap” or *“town border station”* means the delivery point or measuring station at which a gas distribution utility receives gas from a natural gas transmission company.

“Tariff” means the entire body of rates, tolls, rentals, charges, classifications, rules, procedures, policies, etc., adopted and filed with the commission by a gas utility in fulfilling its role of furnishing gas service.

“Therm” means 100,000 British thermal units.

“Timely payment” is a payment on a customer’s account made on or before the date shown on a current bill for service or on a form that records an agreement between the customer and a utility for a series of partial payments to settle a delinquent account, as the date that determines application of a late payment charge.

“Utility” means any person, partnership, business association, or corporation, domestic or foreign, owning or operating any facilities for furnishing gas or heat to the public for compensation.

199—19.2(476) Records, reports, and tariffs.

19.2(1) *Tariffs to be filed with the commission.* The schedules of rates and rules of rate-regulated gas utilities shall be filed with the commission in accordance with this chapter. Tariff provisions will be definite and clear.

Utilities that are not subject to the rate regulation provided for by Iowa Code chapter 476 shall not be required to file schedules of rates, rules, or contracts outlined in this chapter, unless otherwise directed by the commission.

19.2(2) *Form and identification.* All tariffs shall conform to the following rules:

a. Tariffs will be filed through the commission’s electronic filing system and will be formatted to fit 8½ by 11-inch paper. A tariff filed with the commission may be the same format as is required by a federal agency provided that the rules of the commission as to title page; identity of superseding, replacing or revision sheets; identity of amending sheets; identity of the filing utility, issuing official, date of issue, effective date; and the words “Gas Tariff Filed with Commission” shall apply in the modification of the federal agency format for the purposes of filing with this commission.

b. The title page of every tariff and supplement shall show:

(1) The first page as the title page, which includes:

(Name of Public Utility)

Gas Tariff

Filed with

Iowa Utilities Commission

(date)

(2) Tariffs that supersede or replace an existing tariff will show on the upper right corner of its title page that it is a revision of a tariff on file and the number being superseded or replaced, for example:

Tariff No. _____

Supersedes Tariff No. _____

(3) A proposed tariff will clearly identify any part of the tariff that is being eliminated.

(4) A symbol will be placed in the right margin for tariffs that modify existing sheets and indicate the place, nature and extent of the change, as provided below:

<i>Symbol</i>	<i>Meaning</i>
(C)	A change in regulation
(D)	A discontinued rate, treatment or regulation
(I)	An increased rate or new treatment resulting in increased rate
(N)	A new rate, treatment or regulation

<i>Symbol</i>	<i>Meaning</i>
(R)	A reduced rate or new treatment resulting in a reduced rate
(T)	A change in text but no change in rate, treatment or regulation
(L)	A change in text location

c. All sheets except the title page shall also include the following information:

- (1) Name of utility under which shall be set forth the words “Filed with Commission.”
- (2) Issuing official and issue date.
- (3) Effective date (to be left blank by rate-regulated utilities).

d. All sheets except the title page shall have the following form:

(Company Name)	(Part identification)
Gas Tariff	(This sheet identification)
Filed with commission	(Canceled sheet identification, if any)
	(Content of tariff)
Issued: (Date)	Effective:
Issued by: (Name, title)	(Proposed Effective Date:)

The issued date is the date the tariff or the amended sheet content was adopted by the utility.

The effective date will always be left blank when filed, and will be provided by the commission once approved.

If there are billing system timing requirements applicable to the effective date for proposed tariffs, the utility should identify those parameters in its cover letter.

19.2(3) *Content of tariffs.* A tariff filed with the commission shall contain:

a. A table of contents containing a list of rate schedules and other sections in the order in which they appear that indicates the first page of each section.

b. All rates for each type of gas as they apply to each class of customer. Tariffs will also include the prices per unit of service, the number of units per billing period to which the prices apply, the period of billing, the minimum bill, the method of measuring demands and consumptions, including the method of calculating or estimating loads or minimums, delivery pressure, and any special terms or conditions applicable. All rates, books, and records should be separated into “gas” and “nongas” components. Books and records shall be available to the commission for audits upon request. The gas components will be the result of the utility’s periodic review of gas procurement practices (rule 199—19.10(476)) and PGA (rule 199—19.9(476)) proceeding. The nongas components will be established through rate case proceedings under Iowa Code section 476.3 or 476.6. The period during which the net amount may be paid before the account becomes delinquent shall be specified. In any case where net and gross amounts are billed, the difference between net and gross is a late payment charge and shall be so specified.

Customer charges for all special services relating to providing the basic utility service, including disconnection, reconnection, and service or trip charges, shall be specified.

c. A copy of the utility’s rules, or terms and conditions, describing the utility’s policies and practices in providing service shall include:

(1) A statement as to the equivalent total heating value of the gas in Btus per cubic foot on which the customers are billed. If necessary, this may be listed by district, division or community.

(2) A list of the items that the utility furnishes, owns, and maintains on the customer’s premises, such as service pipe, meters, regulators, vents, and shut-off valves.

(3) A general statement indicating the extent to which the utility will provide service in the adjustment of customer appliances at no additional customer charge.

(4) A general statement of the utility’s policy in making adjustments for wastage of gas when such wastage occurs without the knowledge of the customer.

(5) A statement indicating the minimum number of days allowed for payment after the due date of the customer’s bill before service will be discontinued for nonpayment.

(6) A statement indicating the volumetric measurement base to which all sales of gas at other than standard delivery pressure are corrected.

- (7) Forms of standard contracts required of customers for the various types of service available.
 - (8) A statement indicating that all rates and charges contained in this tariff or contract with reference thereto may be modified at any time by a subsequent filing made pursuant to the provisions of Iowa Code chapter 476.
 - (9) A copy of each type of customer bill.
 - (10) Definitions of classes of customers.
 - (11) Rules for extending service in accordance with subrule 19.3(7).
 - (12) Rules with which prospective customers must comply as a condition of receiving service, and the terms of contracts required.
 - (13) Rules governing the establishment and maintenance of credit by customers for payment of service bills.
 - (14) Rules governing disconnecting and reconnecting service.
 - (15) Notice required from customer for having service discontinued.
 - (16) Rules covering temporary, emergency, auxiliary, and stand-by service.
 - (17) Rules that address any limitations on loads or the type of equipment that may or may not be connected.
 - (18) Rate-regulated utilities shall include a list of service areas and the applicable rates in such form as to facilitate ready determination of the rates available in each municipality and in such unincorporated communities as have service.
 - (19) Rules on meter reading, billing periods, bill issuance, timely customer payment, notice of delinquency and service disconnection for nonpayment of bill.
 - (20) Rules on how a customer or prospective customer should file a complaint with the utility, and how the complaint will be processed.
 - (21) Rules on how a customer, disconnected customer or potential customer for residential service may negotiate for a payment agreement on amount due, determination of even payment amounts, and time allowed for payments.
 - (22) If a sliding scale or automatic adjustment is applicable to regulated rates or charges of billed customers, the manner and method of such adjustment calculation through a detailed explanation.
- 19.2(4)** *Annual, periodic and other reports to be filed with the commission.*
- a. System map verification.* A utility shall file annually with the commission a verification that it has a correct set of utility system maps for each operating or distribution area. The maps shall show:
 - (1) Peak shaving facility location(s).
 - (2) Feeder and distribution mains indicating size and pressure.
 - (3) System metering (town border stations and other supply points).
 - (4) Regulator stations in system indicating inlet and outlet pressures.
 - (5) Calorimeter location.
 - (6) State boundary crossing.
 - (7) Franchise area.
 - (8) Names of all communities (post offices) served.
 - b. Reports of gas service.* Each utility shall compile a monthly record of gas service, which will be available to the commission upon request. The record shall be completed within 30 days after the end of the month covered. Such record shall contain:
 - (1) The daily and monthly average of total heating values of gas in accordance with subrule 19.7(6).
 - (2) The monthly acquisition and disposition of gas.
 - (3) Interruptions of service occurring during the month in accordance with subrule 19.7(7). If there were no interruptions, then it should be so stated.
 - (4) The number of customer pressure investigations made and the results.
 - (5) The number of customer meters tested and test results tabulated as follows: The number that falls into limits 0 to + 2%, + 2 to + 4%, 0 to - 2%, - 2 to - 4%, over + 4%, under - 4%, and "Does Not Register" in accuracy.
 - (6) Progress on leak survey programs including the number of leaks found classified as to hazard and nature, and if known, the cause and type of pipe involved.

- (7) Number of district regulators checked and nature of repairs required.
- (8) Number of house regulators checked and nature of repairs required.
- (9) Description of any unusual operating difficulties.
- (10) Type of odorant and monthly average pounds per million cubic feet used in each individual distribution system.

c. Filing published meter and service installation rules. A copy of the utility's current rules, if any, published or furnished by the utility for use by engineers, architects, plumbing contractors, etc., covering meter and service installation shall be filed with the commission.

d. Filing customer bill forms. A copy of each type of customer bill form in current use shall be filed with the commission.

e. Reports to federal agencies. Copies of reports submitted to the U.S. Department of Transportation pursuant to 49 CFR Part 191, Part 192, or Part 199 shall be filed with the commission no later than ten days following the submission. Utilities operating in other states shall provide data to the commission for Iowa only.

f. Change in rate. A notification to the commission shall be made of any planned change in rate of service by a utility. This information shall reflect the amount of increase or decrease and the effective date of application. An up-to-date tariff sheet shall be supplied to the commission showing the current rates.

g. List of persons authorized to receive commission inquiries.

(1) As part of each utility's annual report as required by the general information rule in 199—Chapter 23, utilities shall also file a list of names, titles, addresses, and telephone numbers of persons authorized to receive, act upon, and respond to communications from the commission in connection with:

1. General management duties;
2. Customer relations (complaints);
3. Engineering operations;
4. Meter tests and repairs; and
5. Pipeline permits (gas).

(2) Each utility shall file with the commission a telephone contact number or numbers where the commission can obtain current information 24 hours a day about incidents and interruptions of service from a knowledgeable person. The contact information shall be kept current as changes or corrections are made.

h. Residential customer statistics. Each rate-regulated gas utility shall file with the commission on or before the fifteenth day of each month one copy of the following residential customer statistics for the preceding month:

- (1) Number of accounts;
- (2) Number of accounts certified as eligible for energy assistance since the preceding October 1;
- (3) Number of accounts past due;
- (4) Number of accounts eligible for energy assistance and past due;
- (5) Total revenue owed on accounts past due;
- (6) Total revenue owed on accounts eligible for energy assistance and past due;
- (7) Number of disconnection notices issued;
- (8) Number of disconnection notices issued on accounts eligible for energy assistance;
- (9) Number of disconnections for nonpayment;
- (10) Number of reconnections;
- (11) Number of accounts deemed uncollectible; and
- (12) Number of accounts eligible for energy assistance and deemed uncollectible.

i. Monthly, periodic and annual reports. Each utility shall file such other monthly, periodic and annual reports as are requested by the commission. Monthly and periodic reports shall be due in the commission's office within 30 days after the end of the reporting period. All annual reports shall be filed with the commission by April 1 of each year for the preceding calendar year.

This rule is intended to implement Iowa Code section 476.2.

199—19.3(476) General service requirements.

19.3(1) *Disposition of gas.* The meter and any service line pressure regulator shall be owned by the utility. The utility shall place a visible seal on all meters and service line regulators in customer use, such that the seal must be broken to gain entry.

- a.* All gas sold by a utility shall be on the basis of meter measurement except:
 - (1) Where the consumption of gas may be readily computed without metering; or
 - (2) For temporary service installations.
- b.* The amount of all gas delivered to multi-tenant buildings shall be measured on the basis of individual meter measurement for each unit, except in the following instances:
 - (1) Where gas is used in centralized heating, cooling, or water-heating systems;
 - (2) Where a facility is designated for elderly or handicapped persons;
 - (3) Where submetering or resale of service was permitted prior to 1966; or
 - (4) Where individual metering is impractical. “Impractical” means:
 - 1. Where conditions or structural barriers exist that would make individual meters unsafe or physically impossible to install; or
 - 2. Where the cost of providing individual metering exceeds the long-term benefits of individual metering.

(5) Where the benefits of individual metering (reduced or controlled energy consumption) are more effectively accomplished through a master meter arrangement.

1. A new multi-tenant building qualifies for master metering under this subparagraph if the predicted annual gas use would result in at least a 30 percent savings compared to the predicted annual gas use of a new building meeting the requirements of the state of Iowa energy code and operating with equipment, fixtures, and appliances meeting federal gas standards for manufactured devices for a new building.

2. An existing multi-tenant building qualifies for master metering under this subparagraph when the predicted annual gas use would result in at least a 20 percent energy savings compared to the building’s current annual gas usage levels.

3. In determining whether a building’s predicted annual gas use would result in at least a 20 or 30 percent savings, all relevant factors that decrease the building’s gas usage may be considered, so long as each factor is relevant to why master metering more effectively reduces or controls the building’s gas consumption. This includes but is not limited to new or more efficient equipment, materials, or appliances; improved operating practices; changes in fuel type; or structural improvements. This does not affect the determination made for buildings approved prior to the effective date of this subparagraph.

4. A report from a qualified independent third party stating that the proposed building or renovation will meet the gas savings requirements of this subparagraph shall establish a rebuttable presumption of eligibility for master metering. “Qualified, independent third party” means a licensed architect or engineer, a certified residential energy services network home energy rating system (RESNET HERS) rater, or any other professional deemed qualified by the commission.

c. If a multi-tenant building is master metered, the end user occupants may be charged for natural gas as an unidentified portion of the rent, condominium fee, or similar payment, or, if some other method of allocating the cost of the gas service is used, the total charge for gas service shall not exceed the total gas bill charged by the utility for the same period.

d. Master metering to multiple buildings is prohibited, except for multiple buildings owned by the same person or entity. Multi-tenant premises within a multiple building complex may be master-metered pursuant to this paragraph only if the requirements of paragraph 19.3(1) “*b*” have been met.

e. All gas consumed by the utility shall be on the basis of meter measurement except where consumption may be readily computed without metering or where metering is impractical.

19.3(2) *Meter reading records.* The meter reading records shall show:

- a.* Customer’s name, address, rate schedule, or identification of rate schedule.
- b.* Identifying number or description of the meter(s).
- c.* Meter readings.
- d.* Whether the reading has been estimated.

e. Any applicable multiplier or constant, or reference thereto.

19.3(3) *Meter register.* If it is necessary to apply a multiplier to the meter readings, the multiplier must be marked on the face of the meter register or stenciled in weather-resistant paint upon the front cover of the meter. Customers shall have continuous visual access to meter registers as a means of verifying the accuracy of bills presented to them and for implementing energy conservation initiatives as they desire. Where remote meter reading is used, whether outdoor on premises or off-premises-automated, the customers shall have a readable meter register at the meter as a means of verifying the accuracy of bills presented to them; however, utilities may also comply with this subrule by making the required information available via the Internet or other equivalent means.

19.3(4) *Prepayment meters.* Prepayment meters shall not be geared or set so as to result in the charge of a rate or amount higher than would be paid if a standard type meter were used, except under tariffs approved by the commission.

19.3(5) *Meter reading and billing interval.*

a. Readings of all meters used for determining charges and billings to customers shall be scheduled at least monthly and for the beginning and termination of service. Bills to larger customers may, for good cause, be provided weekly or daily for a period not to exceed one month unless a waiver is granted by the commission. If the commission denies a waiver, or if a waiver is not sought with respect to a large-volume customer after the initial month, that customer's bill shall be provided monthly for the next 12 months unless prior approval is received from the commission for a shorter interval. The group of larger customers to which shorter billing intervals may be applied shall be specified in the utility's tariff sheets, but shall not include residential customers.

b. Utilities should obtain readings of the meters on corresponding days of each meter reading period when possible. Unless the utility has a plan to test check meter readings, a utility representative shall physically read the meter at least once each 12 months and when the utility is notified there is a change of customer.

19.3(6) *Readings and estimates.*

a. When a customer is connected or disconnected or the meter reading date causes a given billing period to deviate by more than 10 percent (counting only business days) from the normal meter reading period, such bill shall be prorated on a daily basis.

b. When access to a meter cannot be gained, the utility may, at its discretion, leave with the customer a meter reading form. The customer may provide the meter reading by telephone, email (if it is allowed by the utility), or mail. If the meter reading information is not obtained in time for the billing operation, an estimated bill may be provided. If an actual meter reading cannot be obtained, the utility may provide an estimated bill without reading the meter or supplying a meter reading form to the customer. Only in unusual cases or when approval is obtained from the customer shall more than three consecutive estimated bills be provided.

c. Utilities will file with the commission procedures for calculating bill estimates, which incorporate normalized weather data, as well as procedures for determining the reasonable heating degree day data to use in the calculations. Utilities shall inform the commission when changes are made to the procedures for calculating estimated bills.

19.3(7) *Plant additions, distribution main extensions, and service lines.*

a. Definitions. The following definitions apply to the terms in this subrule:

"Advance for construction" means cash payments or equivalent surety made to the utility by an applicant for an extensive plant addition or a distribution main extension, portions of which may be refunded depending on any subsequent service line attached to the extensive plant addition or distribution main extension. Cash payments or equivalent surety shall include a grossed-up amount for the income tax effect of such revenue. The amount of tax shall be reduced by the present value of the tax benefits to be obtained by depreciating the property in determining the tax liability.

"Agreed-upon attachment period" means a period of 30 days, unless a longer period—not more than one year—is mutually agreed on by the utility and applicant, within which the customer will attach.

"Contribution in aid of construction" means a nonrefundable cash payment grossed-up for the income tax effect of such revenue covering the costs of a service line that are in excess of costs paid by

the utility. The amount of tax shall be reduced by the present value of the tax benefits to be obtained by depreciating the property in determining the tax liability.

“Distribution main extension” means a segment of pipeline installed to convey gas to individual service lines or other distribution mains.

“Estimated base revenues” shall be calculated by subtracting the cost of purchased gas and energy efficiency charges from estimated annual revenues.

“Estimated construction costs” shall be calculated using average current costs in accordance with good engineering practices and upon the following factors: amount of service required or desired by the customer requesting the distribution main extension or service line; size, location, and characteristics of the distribution main extension or service line, including appurtenances; and whether the ground is frozen or whether other adverse conditions exist. Estimated construction costs shall not include costs associated with facilities built for the convenience of the utility. The customer shall be charged actual permit fees in addition to estimated construction costs. Permit fees are to be paid regardless of whether the customer is required to pay an advance for construction or a nonrefundable contribution in aid of construction, and the cost of any permit fee is not refundable.

“Plant addition” means any additional plant, other than a distribution main or service line, required to be constructed to provide service to a customer.

“Similarly situated customer” means a customer whose annual consumption or service requirements, as defined by estimated annual revenue, are approximately the same as the annual consumption or service requirements of other customers.

b. Plant additions. The utility shall provide all gas plant at its cost and expense without requiring an advance for construction from customers or developers except in those unusual circumstances where extensive plant additions are required before the customer can be served. A written contract between the utility and the customer that requires an advance for construction by the customer to make plant additions shall be available for commission inspection.

c. Distribution main extensions. Where the customer will attach to the distribution main extension within the agreed-upon attachment period after completion of the distribution main extension, the following shall apply:

(1) The utility shall finance and make the distribution main extension for a customer without requiring an advance for construction if the estimated construction costs to provide a distribution main extension are less than or equal to six times estimated base revenue calculated on the basis of similarly situated customers. If the utility uses a feasibility model to determine an advance for construction, the utility will file a summary explaining the model’s inputs and a description of the model as part of the utility’s tariff. The utility may charge customers for actual permit fees, which are not refundable.

(2) If the estimated construction cost to provide a distribution main extension is greater than six times estimated base revenue calculated on the basis of similarly situated customers, the applicant for a distribution main extension shall contract with the utility and make, no more than 30 days prior to commencement of construction, an advance for construction based upon the following formula:

$$\frac{(\text{estimated construction cost} - 6 \times \text{estimated base revenues})}{2}$$

2

If a utility uses a feasibility model to determine if an advance for construction is necessary, it will file a summary explaining the model’s inputs and a description of the model as part of the utility’s tariff. A written contract between the utility and the customer shall be available for commission inspection upon request. The utility will provide the customer with a cost estimate that details the costs and credits, by category. The utility may charge customers for actual permit fees, which are not refundable.

(3) Advances for construction may be paid by cash or equivalent surety, unless the customer has failed to comply with the conditions of surety in the past, and shall be refundable for ten years.

(4) When the customer is required to make an advance for construction, the utility shall refund the advance in aid of construction to the depositor for a period of ten years from the date of the original advance a pro rata share for each service line attached to the distribution main extension no less than four times per year.

1. The utility will provide the customer receiving the refund with a statement detailing the refund calculation.

2. Any amounts subject to refund shall be paid by the utility without interest.

(5) The utility shall keep a record of each work order under which the distribution main extension was installed, to include the estimated revenues, the estimated construction costs, the amount of any payment received, and any refunds paid.

d. Service lines.

(1) The utility shall finance and construct a service line without requiring a contribution in aid of construction or any payment by the applicant where the length of the service line to the riser is up to 50 feet on private property or 100 feet on private property if polyethylene plastic pipe is used.

(2) Where the length of the service line exceeds 50 feet on private property or 100 feet if polyethylene plastic pipe is used, the applicant shall provide a contribution in aid of construction for that portion of the service line on private property in excess of 50 feet or in excess of 100 feet if polyethylene plastic pipe is used, exclusive of the riser, within 30 days after completion. The contribution in aid of construction for that portion of the service line shall be computed as follows:

(Estimated Construction Costs)	(Total Length in Excess of 50 Feet) or (Total Length in Excess of 100 Feet) (Total Length of Service Line)
×	

(3) A utility may adopt a tariff or rule that allows the utility to finance and construct a service line of more than 50 feet, or 100 feet if polyethylene plastic pipe is used, without requiring a contribution in aid of construction from the customer if the tariff or rule applies equally to all customers.

(4) Whether or not the construction of the service line would otherwise require a payment from the customer, the utility may charge the customer for actual permit fees.

e. Extensions. Utilities are not required to make distribution main extensions or attach service lines as described in this subrule unless the distribution main extension or service line shall be of a permanent nature. When the utility provides a temporary service to a customer, the utility may require that the customer bear all of the cost of installing and removing the service in excess of any salvage realized.

f. Different payment arrangement. Utilities may make a contract with a customer using a different payment arrangement than provided in this subrule, if the contract provides a more favorable payment arrangement to the customer, so long as no discrimination is practiced among similarly situated customers.

g. Areas without service or with constrained service. A utility may finance and expand natural gas service into an area of the state with no natural gas service or where capacity constraints limit the expansion of service. A utility expanding service under this paragraph may do so without requiring an advance for construction from a customer or group of customers.

19.3(8) Cooperation and advance notice. In order that full benefit may be derived from this chapter and in order to facilitate its proper application, all utilities shall observe the following cooperative practices:

a. A utility will provide all other public utilities in the same general territory advance notice of any construction or change in construction or in operating conditions of its facilities concerned or likely to be concerned in situations of proximity.

b. All utilities will assist in promoting conformity with this chapter. An arrangement should be set up among all utilities whose facilities may occupy the same general territory, providing for the interchange of pertinent data and information including that relative to proposed and existing construction and changes in operating conditions concerned or likely to be concerned in situations of proximity.

This rule is intended to implement Iowa Code section 476.8.

199—19.4(476) Customer relations.

19.4(1) Customer information. Each utility shall:

a. Maintain up-to-date maps, plans or records of its entire transmission and distribution systems, with such other information as may be necessary to enable the utility to advise prospective customers, and others entitled to the information, as to the facilities available for serving customers in its service area.

b. Assist customers or prospective customers in selecting the most economical rate schedule available for the proposed type of service.

c. Notify customers affected by a change in rates or schedule classification in the manner provided in the rules of practice and procedure before the commission (compliance filings and tariffs rule in 199—Chapter 26).

d. Post a notice in a conspicuous place in each office of the utility where applications for service are received, informing the public that copies of the rate schedules and rules relating to the service of the utility, as filed with the commission, are available for public inspection. If the utility provides access to its rate schedules and rules for service on its website, the notice shall include the website address.

e. Upon request, inform its customers as to the method of reading meters.

f. State, on the bill form, that tariff and rate schedule information is available upon request at the utility's local business office. If the utility provides access to its tariff and rate schedules on its website, the statement shall include the website address.

g. Upon request, transmit a statement of either the customer's actual consumption, or degree day adjusted consumption, at the company's option, of natural gas for each billing period during the prior 12 months.

h. Furnish such additional information as the customer may reasonably request.

19.4(2) *Customer contact employee qualifications.* Utilities will promptly and courteously resolve inquiries for information or complaints. Employees who receive customer telephone calls and office visits shall be qualified and trained in screening and resolving complaints to avoid a preliminary recitation of the entire complaint to employees without ability and authority to act. The employee shall provide identification to the customer that will enable the customer to reach that employee again if needed.

Rate-regulated utilities will notify their customers, by bill insert or notice on the bill form, of the address and telephone number where a utility representative qualified to assist in resolving the complaint can be reached. The bill insert or notice shall also include the following statement: "If (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Commission by calling 515.725.7300 or toll-free 877.565.4450, or by writing to 1375 E. Court Ave., Des Moines, IA 50319-0069, or by email to customer@iuc.iowa.gov."

The bill insert or notice for municipal utilities shall include the following statement: "If your complaint is related to service disconnection, safety, or renewable energy, and (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Commission by calling 515.725.7300, or toll-free 877.565.4450, by writing to 1375 E. Court Ave., Des Moines, IA 50319, or by email to customer@iuc.iowa.gov."

The bill insert or notice on the bill form shall be provided monthly by utilities serving more than 50,000 Iowa retail customers and no less than annually by all other natural gas utilities. Any utility that does not use the standard statement described in this subrule will file its proposed statement in its tariff for approval. A utility that bills by postcard may place an advertisement in a local newspaper of general circulation or a customer newsletter instead of a mailing as long as the advertisement is of a type size that is easily legible and conspicuous and contains the information set forth above.

19.4(3) *Customer deposits.*

a. Each utility may require from any customer or prospective customer a deposit intended to guarantee partial payment of bills for service. Each utility will allow a person other than the customer to pay the customer's deposit. In lieu of a cash deposit, the utility may accept the written guarantee of a surety or other responsible party as surety for an account. Upon termination of a guarantee contract, or whenever the utility deems the contract insufficient as to amount or surety, a cash deposit or a new or additional guarantee may be required for good cause upon reasonable written notice.

b. A new or additional deposit may be required from a customer when a deposit has been refunded or is found to be inadequate. Written notice shall be mailed advising the customer of any new or additional deposit requirement. The customer will have no less than 12 days from the date of mailing to comply. The new or additional deposit shall be payable at any of the utility's business offices or local authorized agents. An appropriate receipt shall be provided. The utility does not need to provide written notice of a deposit required as a prerequisite for commencing initial service.

c. No deposit shall be required as a condition for service other than determined by application of either credit rating or deposit calculation criteria, or both, of the filed tariff.

d. The total deposit for any residential or commercial customer for a place that has previously received service shall not be greater than the highest billing of service for one month for the place in the previous 12-month period. The deposit for any residential or commercial customer for a place that has not previously received service or for an industrial customer shall be the customer's projected one-month usage for the place to be served as determined by the utility or as may be reasonably required by the utility in cases involving service for short periods or special occasions.

19.4(4) *Interest on customer deposits.* Interest will be paid by the rate-regulated utility to each customer required to make a deposit. Utilities will compute interest on customer deposits at 7.5 percent per annum, compounded annually. Interest for prior periods shall be computed at the rate specified by the rule in effect for the period in question. Interest is to be paid for the period beginning with the date of deposit to the date of refund or to the date that the deposit is applied to the customer's account, or to the date the customer's bill becomes permanently delinquent. The date of refund is that date on which the refund or the notice of deposit refund is forwarded to the customer's last-known address. The date a customer's bill becomes permanently delinquent, relative to an account treated as an uncollectible account, is the most recent date the account became delinquent.

19.4(5) *Customer deposit records.* Each utility shall keep records to show:

- a. The name and address of each depositor.
- b. The amount and date of the deposit.
- c. Each transaction concerning the deposit.

19.4(6) *Customer's receipt for a deposit.* Utilities will issue a receipt of deposit to each customer from whom a deposit is received and provide means whereby a depositor may establish claim if the receipt is lost.

19.4(7) *Deposit refund.* A deposit shall be refunded after 12 consecutive months of prompt payment (which may be 11 timely payments and one automatic forgiveness of late payment) unless the utility is entitled to require a new or additional deposit. For refund purposes, accounts will be reviewed after 12 months of service following the making of the deposit and for each 12-month interval terminating on the anniversary of the deposit. However, deposits received from customers subject to the waiver provided by subrule 19.3(5), including surety deposits, may be retained by the utility until final billing. Upon termination of service, the deposit plus accumulated interest, less any unpaid utility bill of the customer, shall be reimbursed to the person who made the deposit.

19.4(8) *Unclaimed deposits.* Utilities will make reasonable efforts to return each unclaimed deposit and accrued interest after the termination of the services for which the deposit was made. The utility shall maintain a record of deposit information for at least two years or until such time as the deposit, together with accrued interest, escheats to the state pursuant to Iowa Code section 556.4, at which time the record and deposit, together with accrued interest less any lawful deductions, will be sent to the state treasurer pursuant to Iowa Code section 556.11.

19.4(9) *Customer bill forms.* Each customer shall be informed as promptly as possible following the reading of the customer's meter, on bill form or otherwise, of the following:

- a. The reading of the meter at the beginning and at the end of the period for which the bill is provided.
- b. The dates on which the meter was read at the beginning and end of the billing period.
- c. The number and kind of units metered.
- d. The applicable rate schedule with the identification of the applicable rate classification.

e. The account balance brought forward and the amount of each net charge for rate-schedule-priced utility service, sales tax, other taxes, late payment charge, and total amount currently due. In the case of prepayment meters, the amount of money collected shall be shown.

f. The last date for timely payment, which will not be less than 20 days after the bill is provided.

g. A distinct marking to identify an estimated bill, when applicable.

h. A distinct marking to identify a minimum bill.

i. Any conversions from meter reading units to billing units, or any calculations to determine billing units from recording or other devices, or any other factors, such as sliding scale or automatic adjustment and amount of sales tax adjustments used in determining the bill.

19.4(10) Customer billing information alternate. A utility serving fewer than 5000 gas customers may provide the information in subrule 19.4(9) on bill form or otherwise. If the utility elects not to provide the information in subrule 19.4(9) on the bill form, it shall advise the customer, on the bill form or by bill insert, that such information can be obtained by contacting the utility's local office.

19.4(11) Payment agreements.

a. *Availability of a first payment agreement.* When a residential customer cannot pay in full a delinquent bill for utility service or has an outstanding debt to a utility for residential utility service and is not in default of a payment agreement with the utility, the utility shall offer the customer an opportunity to enter into a reasonable payment agreement.

b. *Reasonableness.* Whether a payment agreement is reasonable will be determined by considering the current household income, ability to pay, payment history including prior defaults on similar agreements, the size of the bill, the amount of time and the reasons why the bill has been outstanding, and any special circumstances creating extreme hardships within the household. The utility may require the person to confirm financial difficulty with an acknowledgment from the department of health and human services or another agency.

c. *Terms of payment agreements.*

(1) First payment agreement. The utility shall offer the following conditions to customers who have received a disconnection notice or who have been previously disconnected and are not in default of a payment agreement:

1. For customers who received a disconnection notice or who have been disconnected less than 120 days and are not in default of a payment agreement, the utility shall offer an agreement with at least 12 even monthly payments. For customers who have been disconnected more than 120 days and are not in default of a payment agreement, the utility shall offer an agreement with at least six even monthly payments. Utilities will inform customers they may pay off the delinquency early without incurring any prepayment penalties.

2. The agreement shall also include provision for payment of the current account.

3. The utility may also require the customer to enter into a budget billing plan to pay the current bill.

4. When the customer makes the agreement in person, a signed copy of the agreement shall be provided to the customer.

5. The utility may offer the customer the option of making the agreement over the telephone or through electronic transmission.

6. When the customer makes the agreement over the telephone or through electronic transmission, the utility shall provide to the customer a written document reflecting the terms and conditions of the agreement within three days of the date the parties entered into the oral agreement or electronic agreement.

7. The document will be considered provided to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the document is considered provided to the customer when delivered to the last-known address of the person responsible for payment for the service.

8. The document shall state that unless the customer notifies the utility otherwise within ten days from the date the document is provided, it will be deemed that the customer accepts the terms as

reflected in the written document. The document stating the terms and agreements shall include the address and a toll-free or collect telephone number where a qualified representative can be reached.

9. Once the first payment required by the agreement is made by the customer or on behalf of the customer, the oral or electronic agreement is deemed accepted by the customer.

10. Each customer entering into a first payment agreement shall be granted at least one late payment that is four days or less beyond the due date for payment, and the first payment agreement shall remain in effect.

11. The initial payment is due on the due date for the next regular bill.

(2) Second payment agreement. The utility shall offer a second payment agreement to a customer who is in default of a first payment agreement if the customer has made at least two consecutive full payments under the first payment agreement.

1. The second payment agreement shall be for a term at least as long as the term of the first payment agreement.

2. The customer shall pay for current service in addition to the monthly payments under the second payment agreement and may be required to make the first payment up-front as a condition of entering into the second payment agreement.

3. The utility may also require the customer to enter into a budget billing plan to pay the current bill.

(3) Additional payment agreements. The utility may offer additional payment agreements to the customer.

d. Refusal by utility. A customer may offer the utility a proposed payment agreement. If the utility and the customer do not reach an agreement, the utility may refuse the offer orally, but the utility must provide a written refusal of the customer's final offer, stating the reason for the refusal, within three days of the oral notification. The written refusal shall be considered provided to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the written refusal shall be considered provided to the customer when delivered to the last-known address of the person responsible for the payment for the service.

A customer may ask the commission for assistance in working out a reasonable payment agreement within ten days after the written refusal is provided. During the review of this request, the utility shall not disconnect the service.

19.4(12) Bill payment terms. The bill is considered provided to the customer when deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the bill is considered provided when delivered to the last-known address of the party responsible for payment. The customer will have a minimum of 20 days between the providing of a bill and the date by which the account becomes delinquent. Bills for customers on more frequent billing intervals under subrule 19.3(5) will not be considered delinquent less than five days from the date the bill is provided. However, a late payment charge will not be assessed if payment is received within 20 days of the date the bill is provided.

a. The date of delinquency for all residential customers or other customers whose consumption is less than 250 ccf per month shall be changeable for cause, such as, but not limited to, 15 days from the approximate date each month upon which income is received by the person responsible for payment. Utilities are not required to delay the date of delinquency more than 30 days beyond the date of preparation of the previous bill.

b. In any case where net and gross amounts are billed to customers, the difference between net and gross is a late payment charge and is valid only when part of a delinquent bill payment. A utility's late payment charge shall not exceed 1.5 percent per month of the past due amount. No collection fee may be levied in addition to this late payment charge. This rule does not prohibit cost-justified charges for disconnection and reconnection of service.

c. If the customer makes partial payment in a timely manner, and does not designate the service or product for which payment is made, the payment shall be credited pro rata between the bill for utility services and related taxes.

d. Each account shall be granted not less than one complete forgiveness of a late payment charge each calendar year. The utility's rules shall be definitive that on one monthly bill in each period of

eligibility, the utility will accept the net amount of such bill as full payment for such month after expiration of the net payment period. The rules shall state how the customer is notified that the eligibility has been used. Complete forgiveness means no effect upon the credit rating of the customer and no collection of late payment charge.

e. Budget billing plan. Utilities shall offer a budget billing plan to all residential customers or other customers whose consumption is less than 250 ccf per month. A budget billing plan should be designed to limit the volatility of a customer's bill and maintain reasonable account balances and will include at least the following:

(1) Be offered to each eligible customer when the customer initially requests service. The plan may be estimated if there is insufficient usage history to create a budget billing plan based on actual use.

(2) Allow for entry into the budget billing plan anytime during the calendar year.

(3) Provide that a customer may request termination of the plan at any time. If the customer's account is in arrears at the time of termination, the balance shall be due and payable at the time of termination. If there is a credit balance, the customer may obtain a refund or apply the credit to future charges. A utility is not required to offer a new budget billing plan to a customer for six months after the customer has terminated from a budget billing plan.

(4) Use a computation method that produces a reasonable monthly budget billing amount, which may take into account forward-looking factors such as fuel price and weather forecasts, and that complies with requirements in this subrule. The computation method used by the utility shall be described in the utility's tariff. The utility shall give notice to customers when it changes the type of computation method in the budget billing plan.

1. The amount to be paid at each billing interval by a customer on a budget billing plan shall be computed at the time of entry into the plan and be recomputed at least annually. The budget billing amount may be recomputed monthly, quarterly, when requested by the customer, or whenever price, consumption, or a combination of factors results in a new estimate differing by 10 percent or more from that in use.

2. When the budget billing amount is recomputed, the utility shall divide the budget billing plan account balance by 12, and add the resulting amount to the estimated monthly budget billing amount. Except when a utility has a budget billing plan that recomputes the budget billing amount monthly, the customer may apply any credit to payments of subsequent months' budget billing amounts due or obtain a refund of any credit in excess of \$25.

3. Except when a utility has a budget billing plan that recomputes the budget billing amount monthly, the customer shall be notified of the recomputed payment amount not less than one full billing cycle prior to the date of delinquency for the recomputed payment. The notice may accompany the bill prior to the bill that is affected by the recomputed payment amount.

Irrespective of the account balance, a delinquency in payment is subject to the same collection and disconnection procedures as other accounts, with the late payment charge applied to the budget billing amount. If the account balance is a credit, the budget billing plan may be terminated by the utility after 30 days of delinquency.

19.4(13) *Customer records.* The utility shall retain customer billing records for the length of time necessary to permit the utility to comply with subrule 19.4(14) but not less than five years. Customer billing records shall show, where applicable:

- a.* Therm consumption.
- b.* Meter reading.
- c.* Total amount of bill.

19.4(14) *Adjustment of bills.* Bills that are incorrect due to billing errors or faulty metering installation are to be adjusted as follows:

a. Fast metering. Whenever a metering installation is tested and found to have overregistered more than 2 percent, the utility shall recalculate the bills for service.

(1) The bills for service shall be recalculated from the time at which the error first developed or occurred if that time can be definitely determined.

(2) If the time at which the error first developed or occurred cannot be definitely determined, it shall be assumed that the overregistration has existed for the shortest time period calculated as one-half the time since the meter was installed or one-half the time elapsed since the last meter test unless otherwise ordered by the commission.

(3) If the recalculated bills indicate that \$5 or more is due an existing customer or \$10 or more is due a person no longer a customer of the utility, the tariff shall provide for refunding of the full amount of the calculated difference between the amount paid and the recalculated amount. Refunds shall be made to the two most recent customers who received service through the metering installation during the time the error existed. In the case of a previous customer who is no longer a customer of the utility, a notice of the amount subject to refund shall be mailed to such previous customer at the last-known address, and the utility shall, upon demand made within three months thereafter, refund the same.

Refunds shall be completed within six months following the date of the metering installation test.

b. Slow metering. Whenever a meter is found to be more than 2 percent slow, the tariff may provide for back billing the customer for the amount the test indicates has been undercharged for the period of inaccuracy.

When the average error cannot be determined by test because of failure of part or all of the metering equipment, the tariff may provide for use of the registration of check metering installation, if any, or for estimating the quantity consumed based on available data. The utility will advise the customer of the failure and of the basis for the estimate of quantity billed.

(1) The utility may not back bill due to underregistration unless a minimum back bill amount is specified in its tariff. The minimum amount specified for back billing shall not be less than \$5 for an existing customer or \$10 for a former customer. All recalculations resulting in an amount due equal to or greater than the tariff specified minimum shall result in issuance of a back bill.

(2) The period for back billing shall not exceed the last six months the meter was in service unless otherwise ordered by the commission.

(3) Back billings shall be provided no later than six months following the date of the metering installation test.

c. Billing adjustments due to fast or slow meters shall be calculated on the basis that the meter should be 100 percent accurate. For the purpose of billing adjustment, the meter error shall be one-half of the algebraic sum of the error at full-rated flow plus the error at check flow.

d. When a customer has been overcharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the meter, or other similar reasons, the amount of the overcharge shall be adjusted, refunded, or credited to the customer. The time period which the utility is required to adjust, refund, or credit the customer's bill shall not exceed five years unless a different time period is ordered by the commission.

e. Undercharges. When a customer has been undercharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the meter, or other similar reasons, the amount of the undercharge may be billed to the customer. The period for which the utility may adjust for the undercharge shall not exceed five years unless otherwise ordered by the commission. The maximum back bill will not exceed the dollar amount equivalent to the tariffed rate for like charges (e.g., usage-based, fixed, or service charges) in the 12 months preceding discovery of the error unless otherwise ordered by the commission.

f. Credits and explanations. Credits due to a customer because of meter inaccuracies, errors in billing, or misapplication of rates shall be separately identified.

19.4(15) *Refusal or disconnection of service.* A customer, as defined in subrule 19.1(2), may be refused or disconnected from service in accordance with tariffs that are consistent with these rules.

a. The utility shall give written notice of pending disconnection except as specified in paragraph 19.4(15) "b." The notice shall set forth the reason for the notice and final date by which the account is to be settled or specific action taken. The notice is considered provided to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the notice is considered provided when delivered to the last-known address of the person responsible for payment for the service. The date for disconnection of service shall be not less

than 12 days after the notice is provided. The date for disconnection of service for customers on shorter billing intervals under subrule 19.3(5) shall not be less than 24 hours after the notice is posted at the service premises.

One written notice, including all reasons for the notice, shall be given where more than one cause exists for disconnection of service. In determining the final date by which the account is to be settled or other specific action taken, the days of notice for the causes shall be concurrent.

b. Service may be disconnected without notice:

(1) In the event of a condition determined by the utility to be hazardous.

(2) In the event of customer use of equipment in a manner that adversely affects the utility's equipment or the utility's service to others.

(3) In the event of tampering with the equipment furnished and owned by the utility. For the purposes of this subrule, a broken or absent meter seal alone shall not constitute tampering.

(4) In the event of unauthorized use.

c. Service may be disconnected or refused after proper notice:

(1) For violation of or noncompliance with the utility's rules on file with the commission.

(2) For failure of the customer to furnish the service equipment, permits, certificates, or rights-of-way that are specified to be furnished, in the utility's rules filed with the commission, as conditions of obtaining service, or for the withdrawal of that same equipment, or for the termination of those same permissions or rights, or for the failure of the customer to fulfill the contractual obligations imposed as conditions of obtaining service by any contract filed with and subject to the regulatory authority of the commission.

(3) For failure of the customer to permit the utility reasonable access to the utility's equipment.

d. Service may be refused or disconnected after proper notice for nonpayment of a bill or deposit, except as restricted by subrules 19.4(16) and 19.4(17), provided that the utility has complied with the following provisions when applicable:

(1) Given the customer a reasonable opportunity to dispute the reason for the disconnection or refusal;

(2) Given the customer, and any other person or agency designated by the customer, written notice that the customer has at least 12 days in which to make settlement of the account to avoid disconnection and a written summary of the rights and responsibilities available. Customers billed more frequently than monthly pursuant to subrule 19.3(5) shall be given posted written notice that they have 24 hours to make settlement of the account to avoid disconnection and a written summary of the rights and responsibilities. All written notices shall include a toll-free or collect telephone number where a utility representative qualified to provide additional information about the disconnection can be reached. Each utility representative must provide the representative's name and have immediate access to current, detailed information concerning the customer's account and previous contacts with the utility.

(3) The summary of the rights and responsibilities must be approved by the commission. Any utility providing gas service and defined as a public utility in Iowa Code section 476.1 that does not use the standard form set forth below for customers billed monthly shall submit to the commission electronically its proposed form for approval. A utility billing a combination customer for both gas and electric service may modify the standard form to replace each use of the word "gas" with the words "gas and electric" in all instances.

CUSTOMER RIGHTS AND RESPONSIBILITIES TO AVOID SHUTOFF OF GAS SERVICE FOR NONPAYMENT

1. What can I do if I receive a notice from the utility that says my gas service will be shut off because I have a past due bill?

a. Pay the bill in full; or

b. Enter into a reasonable payment plan with the utility (see #2 below); or

c. Apply for and become eligible for low-income energy assistance (see #3 below); or

d. Give the utility a written statement from a doctor or public health official stating that shutting off your gas service would pose an especial health danger for a person living at the residence (see #4 below); or

e. Tell the utility if you think part of the amount shown on the bill is wrong. However, you must still pay the part of the bill you agree you owe the utility (see #5 below).

2. How do I go about making a reasonable payment plan? (Residential customers only)

a. Contact the utility as soon as you know you cannot pay the amount you owe. If you cannot pay all the money you owe at one time, the utility may offer you a payment plan that spreads payments evenly over at least 12 months. The plan may be longer depending on your financial situation.

b. If you have not made the payments you promised in a previous payment plan with the utility and still owe money, you may qualify for a second payment agreement under certain conditions.

c. If you do not make the payments you promise, the utility may shut off your utility service on one day's notice unless all the money you owe the utility is paid or you enter into another payment agreement.

3. How do I apply for low income energy assistance? (Residential customers only)

a. Applications are taken at your local community action agency. If you are unsure where to apply, call 211 or 800.244.7431, or visit hhs.iowa.gov/programs/programs-and-services/liheap.

b. To avoid disconnection, you must apply for energy assistance or weatherization before your service is shut off. Notify your utility that you may be eligible and have applied for energy assistance. Once your service has been disconnected, it will not be reconnected based on approval for energy assistance.

c. Being certified eligible for energy assistance will prevent your service from being disconnected from November 1 through April 1. Between November 1 and April 1, the utility will delay disconnection of your service for 30 days once you notify the utility that you are applying for energy assistance or weatherization assistance, to allow you time to obtain assistance. Only one 30-day delay is required during the moratorium period.

4. What if someone living at the residence has a serious health condition? (Residential customers only)

Contact the utility if you believe this is the case. Contact your doctor or a public health official and ask the doctor or health official to contact the utility and state that shutting off your utility service would pose an especial health danger for a person living at your residence. The doctor or public health official must provide a written statement to the utility office within five days of when your doctor or public health official notifies the utility of the health condition; otherwise, your utility service may be shut off. If the utility receives this written statement, your service will not be shut off for 30 days. This 30-day delay is to allow you time to arrange payment of your utility bill or find other living arrangements. After 30 days, your service may be shut off if full payment or a payment agreement has not been made.

5. What should I do if I believe my bill is not correct?

You may dispute your utility bill. You must tell the utility that you dispute the bill. You must pay the part of the bill you think is correct. If you do this, the utility will not shut off your service for up to 45 days from the date the bill was mailed while you and the utility work out the dispute over the part of the bill you think is incorrect. You may ask the Iowa Utilities Commission for assistance in resolving the dispute. (See #9 below.)

6. When can the utility shut off my utility service because I have not paid my bill?

a. Your utility can shut off service between the hours of 6 a.m. and 2 p.m., Monday through Friday.
b. The utility will not shut off your service on nights, weekends, or holidays for nonpayment of a bill.
c. The utility will not shut off your service if you enter into a reasonable payment plan to pay the overdue amount (see #2 above).

d. The utility will not shut off your service if the temperature is forecasted to be 20 degrees Fahrenheit or colder during the following 24-hour period, including the day your service is scheduled to be shut off.

e. If you have qualified for low-income energy assistance, the utility cannot shut off your service from November 1 through April 1. However, you will still owe the utility for the service used during this time.

f. The utility will not shut off your service if you have notified the utility that you dispute a portion of your bill and you pay the part of the bill that you agree is correct.

g. If one of the heads of household is a service member deployed for military service, utility service cannot be shut off during the deployment or within 90 days after the end of deployment. In order for this exception to disconnection to apply, the utility must be informed of the deployment prior to disconnection. However, you will still owe the utility for service used during this time.

7. How will I be told the utility is going to shut off my gas service?

a. You must be given a written notice at least 12 days before the utility service can be shut off for nonpayment. This notice will include the reason for shutting off your service.

b. If you have not made payments required by an agreed-upon payment plan, your service may be disconnected with only one day's notice.

c. The utility must also try to reach you by telephone or in person before it shuts off your service. From November 1 through April 1, if the utility cannot reach you by telephone or in person, the utility will put a written notice on the door or another conspicuous place of your residence to tell you that your utility service will be shut off.

8. If service is shut off, when will it be turned back on?

a. The utility will turn your service back on if you pay the whole amount you owe or agree to a reasonable payment plan.

b. If you make your payment during the utility's regular business hours, or by 7 p.m. for utilities permitting such payment or other arrangements after regular business hours, the utility must make a reasonable effort to turn your service back on that day. If service cannot reasonably be turned on that same day, the utility must do it by 11 a.m. the next day.

c. The utility may charge you a fee to turn your service back on. The fee may be higher in the evening or on weekends, so you may ask that your service be turned on during normal utility business hours.

9. Is there any other help available besides my utility?

If the utility has not been able to help you with your problem, you may contact the Iowa Utilities Commission toll-free at 877.565.4450. You may also write the Iowa Utilities Commission at 1375 E. Court Avenue, Des Moines, Iowa 50319-0069, or by email at customer@iuc.iowa.gov. Low-income customers may also be eligible for free legal assistance from Iowa Legal Aid, and may contact Legal Aid at 800.532.1275.

(4) When disconnecting service to a residence, the utility has made a diligent attempt to contact, by telephone or in person, the person responsible for payment for service to the residence to inform the customer of the pending disconnection and the customer's rights and responsibilities. During the period from November 1 through April 1, if the attempt at customer contact fails, the premises shall be posted at least one day prior to disconnection with a notice informing the customer of the pending disconnection and rights and responsibilities available to avoid disconnection.

If an attempt at personal or telephone contact of a customer occupying a rental unit has been unsuccessful, the utility shall make a diligent attempt to contact the landlord of the rental unit, if known, to determine if the customer is still in occupancy and, if so, the customer's present location. The landlord shall also be informed of the date when service may be disconnected, which will be provided at least 48 hours prior to disconnection of service to a tenant.

If the disconnection will affect occupants of residential units leased from the customer, the premises of any building known by the utility to contain residential units affected by disconnection must be posted, at least two days prior to disconnection, with a notice informing any occupants of the date when service will be disconnected and the reasons for the disconnection.

(5) Disputed bill. If the customer has received notice of disconnection and has a dispute concerning a bill for natural gas service, the utility may require the customer to pay a sum of money equal to the amount of the undisputed portion of the bill pending settlement and thereby avoid disconnection of service. A utility shall delay disconnection for nonpayment of the disputed bill for up to 45 days after the providing of the bill if the customer pays the undisputed amount. The 45 days may be extended by the commission in the event the customer files a written complaint with the commission in compliance with 199—Chapter 6.

(6) Reconnection. Disconnection of a residential customer may take place only between the hours of 6 a.m. and 2 p.m. on a weekday and not on weekends or holidays. If a disconnected customer makes payment or other arrangements during the utility's normal business hours, or by 7 p.m. for utilities permitting such payment or other arrangements after normal business hours, all reasonable efforts shall be made to reconnect the customer that day. If a disconnected customer makes payment or other arrangements after 7 p.m., all reasonable efforts shall be made to reconnect the customer not later than 11 a.m. the next day.

(7) Severe cold weather. A disconnection may not take place where gas is used as the only source of space heating or to control or operate the only space heating equipment at a residence when the actual temperature or the 24-hour forecast of the National Weather Service for the residence's area is predicted to be 20 degrees Fahrenheit or colder. If the utility has properly posted a disconnect notice but is precluded from disconnecting service because of severe cold weather, the utility may immediately proceed with appropriate disconnection procedures, without further notice, when the temperature in the residence's area rises above 20 degrees Fahrenheit and is forecasted to remain above 20 degrees Fahrenheit for at least 24 hours, unless the customer has paid in full the past due amount or is otherwise entitled to postponement of disconnection.

(8) Health of a resident. Disconnection of a residential customer shall be postponed if the disconnection of service would present an especial danger to the health of any permanent resident of the premises. An especial danger to health is indicated if a person appears to be seriously impaired and may, because of mental or physical problems, be unable to manage the person's own resources, to carry out activities of daily living or to be protected from neglect or hazardous situations without assistance from others. Indicators of an especial danger to health include but are not limited to age, infirmity, or mental incapacitation; serious illness; physical disability, including blindness and limited mobility; and any other factual circumstances that indicate a severe or hazardous health situation.

The utility may require written verification of the especial danger to health by a physician or a public health official, including the name of the person endangered; a statement that the person is a resident of the premises in question; the name, business address, and telephone number of the certifying party; the nature of the health danger; and approximately how long the danger will continue. Initial verification by the verifying party may be by telephone if written verification is forwarded to the utility within five days.

Verification shall postpone disconnection for 30 days. In the event service is terminated within 14 days prior to verification of illness by or for a qualifying resident, service shall be restored to that residence if a proper verification is thereafter made in accordance with the foregoing provisions. If the customer does not enter into a reasonable payment agreement for the retirement of the unpaid balance of the account within the first 30 days and does not keep the current account paid during the period that the unpaid balance is to be retired, the customer is subject to disconnection pursuant to paragraph 19.4(15) "f."

(9) Winter energy assistance (November 1 through April 1). If the utility is informed that the customer's household may qualify for winter energy assistance or weatherization funds, there shall be no disconnection of service for 30 days from the date the utility is notified to allow the customer time to obtain assistance. Disconnection shall not take place from November 1 through April 1 for a resident who is a head of household and who has been certified to the public utility by the community action agency as eligible for either the low-income home energy assistance program or weatherization assistance program. A utility may develop an incentive program to delay disconnection on April 1 for customers who make payments throughout the November 1 through April 1 period. All such incentive programs shall be set forth in tariffs approved by the commission.

(10) Deployment. If the utility is informed that one of the heads of household, as defined in Iowa Code section 476.20, is a service member deployed for military service, as defined in Iowa Code section 29A.90, disconnection cannot take place at the residence during the deployment or prior to 90 days after the end of the deployment.

e. Abnormal gas consumption. A customer who is subject to disconnection for nonpayment of bill, and who has gas consumption that appears to the customer to be abnormally high, may request the utility

to provide assistance in identifying the factors contributing to this usage pattern and to suggest remedial measures. The utility shall provide assistance by discussing patterns of gas usage that may be readily identifiable, suggesting that an energy audit be conducted, and identifying sources of energy conservation information and financial assistance that may be available to the customer.

f. A utility may disconnect gas service without the written 12-day notice for failure of the customer to comply with the terms of a payment agreement, except as provided in numbered paragraph 19.4(11) "c"(1)"4," provided the utility complies with the provisions of paragraph 19.4(15) "d."

g. Prior to November 1, utilities will mail customers a notice describing the availability of winter energy assistance funds and the application process. The notice must be of a type size that is easily legible and conspicuous and contain the information set out by the state agency administering the assistance program. A utility serving fewer than 25,000 customers may publish the notice in a customer newsletter in lieu of mailing. A utility serving fewer than 6,000 customers may publish the notice in an advertisement in a local newspaper of general circulation or shopper's guide.

19.4(16) *Insufficient reasons for denying service.* The following do not constitute sufficient cause for refusal of service to a customer:

- a. Delinquency in payment for service by a previous occupant of the premises to be served.
- b. Failure to pay for merchandise purchased from the utility.
- c. Failure to pay for a different type or class of public utility service.
- d. Failure to pay the bill of another customer as guarantor thereof.
- e. Failure to pay the back bill provided in accordance with paragraph 19.4(14) "b" (slow meters).
- f. Failure to pay adjusted bills based on the undercharges set forth in paragraph 19.4(14) "e."
- g. Failure of a residential customer to pay a deposit during the period November 1 through April 1 for the location at which the customer has been receiving service in the customer's name.
- h. Delinquency in payment for service by an occupant, if the customer applying for service is creditworthy and able to satisfy any deposit requirements.
- i. Delinquency in payment for service arising more than ten years prior, as measured from the most recent of:

- (1) The last date of service for the account giving rise to the delinquency,
- (2) Physical disconnection of service for the account giving rise to the delinquency, or
- (3) The last voluntary payment or voluntary written promise of payment made by the customer, if made before the ten-year period described in this paragraph has otherwise lapsed.

19.4(17) *When disconnection prohibited.*

a. No disconnection may take place from November 1 through April 1 for a resident who is a head of household and who has been certified to the public utility by the local community action agency as being eligible for either the low-income home energy assistance program or weatherization assistance program.

b. If the utility is informed that one of the heads of household as defined in Iowa Code section 476.20 is a service member deployed for military service, as defined in Iowa Code section 29A.90, disconnection cannot take place at the residence during the deployment or prior to 90 days after the end of the deployment.

19.4(18) *Change in character of service.* The following shall apply to a material change in the character of gas service:

a. *Changes under the control of the utility.* The utility shall make such changes only with the approval of the commission and after adequate notice to the customers (paragraph 19.7(6) "a").

b. *Changes not under control of the utility or customer.* Utilities will adjust appliances to attain the proper combustion of the gas supplied. Due consideration shall be given to the gas heating value and specific gravity (paragraph 19.7(6) "b").

c. *Appliance adjustment charge.* Utilities will make any necessary adjustments to the customer's appliances without charge and shall conduct the adjustment program with a minimum of inconvenience to the customers.

19.4(19) *Customer complaints.* Utilities will investigate promptly and thoroughly and keep a record of written complaints and all other reasonable complaints received by it from its customers in regard to

safety, service, or rates, and the operation of its system that will enable it to review and analyze its procedures and actions. The record shall show the name and address of the complainant, the date and nature of the complaint, and its disposition and the date thereof. All complaints caused by a major outage or interruption shall be summarized in a single report.

a. Tariffs will include a concise, fully informative procedure for the resolution of customer complaints.

b. Reasonable steps will be taken to ensure that customers unable to travel are not denied the right to be heard.

c. The final step in a complaint hearing and review procedure shall be a filing for commission resolution of the issues.

This rule is intended to implement Iowa Code sections 476.2, 476.6, 476.8, 476.20 and 476.54.

199—19.5(476) Engineering practice.

19.5(1) Requirement for good engineering practice. The gas plant of the utility shall be constructed, installed, maintained, and operated in accordance with accepted good engineering practice in the gas industry to ensure, as far as reasonably possible, continuity of service, uniformity in the quality of service furnished, and the safety of persons and property.

19.5(2) Standards incorporated by reference.

a. The design, construction, operation, and maintenance of gas systems and liquefied natural gas facilities shall be in accordance with the following standards where applicable:

(1) 49 CFR Part 191, "Transportation of Natural and Other Gas by Pipeline; Annual Reports, Incident Reports, and Safety-Related Condition Reports."

(2) 49 CFR Part 192, "Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards."

(3) 49 CFR Part 193, "Liquefied Natural Gas Facilities: Federal Safety Standards."

(4) 49 CFR Part 199, "Drug and Alcohol Testing."

(5) ASME B31.8 - 2022, "Gas Transmission and Distribution Piping Systems," published December 22, 2022.

(6) NFPA 59 - 2024, "Utility LP-Gas Plant Code," published January 1, 2023.

(7) At railroad crossings, the engineering standards for pipelines rule in 199—Chapter 42.

b. The following publications are adopted as standards of accepted good practice for gas utilities:

(1) ANSI Z223.1/NFPA 54 - 2024, "National Fuel Gas Code," published January 26, 2024.

(2) NFPA 501A - 2021, "Standard for Fire Safety Criteria for Manufactured Home Installations, Sites, and Communities," published January 1, 2021.

19.5(3) Adequacy of gas supply. The natural gas regularly available from supply sources supplemented by production or storage capacity must be sufficiently large to meet all reasonable demands for firm gas service.

19.5(4) Gas transmission and distribution facilities. The utility's gas transmission and distribution facilities shall be designed, constructed and maintained as required to reliably perform the gas delivery burden placed upon them. Utilities will be capable of emergency repair work on a scale consistent with its scope of operation and with the physical conditions of its transmission and distribution facilities.

In appraising the reliability of the utility's transmission and distribution system, the commission will consider, as principal factors, the condition of the physical property and the size, training, supervision, availability, equipment and mobility of the maintenance forces.

19.5(5) Inspection of gas plant. Utilities will adopt and follow a program of inspection of its gas plant in order to determine the necessity for replacement and repair. The frequency of the various inspections shall be based on the utility's experience and accepted good practice. Utilities will keep sufficient records to give evidence of compliance with its inspection program.

199—19.6(476) Metering.

19.6(1) Inspection and testing program. Each utility shall adopt a written program for the inspection and testing of its meters to determine the necessity for adjustment, replacement or repair. The

frequency of inspection and methods of testing shall be based on the utility's experience, manufacturer's recommendations, and accepted good practice. The commission considers the publications listed in subrule 19.6(3) to be representative of accepted good practice. Each utility shall maintain inspection and testing records for each meter and associated device until three years after its retirement.

19.6(2) *Program content.* The written program shall, at minimum, address the following subject areas:

- a. Classification of meters by capacity, type, and any other factor considered pertinent.
- b. Checking of new meters for acceptable accuracy before being placed in service.
- c. Testing of in-service meters, including any associated instruments or corrective devices, for accuracy, adjustments, or repairs, and including meters removed from service for any reason.
- d. Periodic calibration or testing of devices or instruments used by the utility to test meters.
- e. Leak testing of meters before return to service.
- f. The limits of meter accuracy considered acceptable by the utility.
- g. The nature of meter and meter test records maintained by the utility.

19.6(3) *Accepted good practice.* The following publications are considered to be representative of accepted good practice in matters of metering and meter testing:

- a. American National Standard for Gas Displacement Meters (500 Cubic Feet Per Hour Capacity and Under), ANSI B109.1-2000, published January 12, 2013.
- b. American National Standard for Diaphragm Type Gas Displacement Meters (Over 500 Cubic Feet Per Hour Capacity), ANSI B109.2-2000, published January 12, 2013.
- c. American National Standard for Rotary Type Gas Displacement Meters, ANSI B109.3-2000, published January 12, 2013.
- d. Measurement of Gas Flow by Turbine Meters, ANSI/ASME MFC-4M-1986 (Reaffirmed 2016), issued July 15, 1986.
- e. Orifice Metering of Natural Gas and Other Related Hydrocarbon Fluids, API MPMS Chapter 14.3, Parts 1-4.

19.6(4) *Meter adjustment.* All meters and associated metering devices, when tested, will be adjusted as closely as practicable to the condition of zero error.

19.6(5) *Request tests.* Utilities will test a customer's meter at the customer's request, but need not do so more frequently than once in 18 months.

Test results will be mailed to the customer within ten days of the completed test, and a record of each test shall be kept on file at the utility's office. The utility shall give the customer or a representative of the customer the opportunity to be present while the test is conducted.

If the test finds the meter is accurate within the limits accepted by the utility in its meter inspection and testing program, the utility may charge the customer \$25 or the cost of conducting the test, whichever is less. The customer shall be advised of any potential charge before the meter is removed for testing.

19.6(6) *Referee tests.* Upon written request by a customer or utility, the commission will conduct a referee test of a meter but not more frequently than once in 18 months. In addition to the written request, the customer will also provide the utility with a \$30 deposit. The customer's request to the commission will indicate that the deposit has been paid.

Within five days of receipt of the written request and payment, the commission will notify the utility of the test. The utility shall, within 30 days after notification of the request, schedule the date, time, and place of the test with the commission and customer. The meter shall not be removed or adjusted before the test. The utility shall furnish all testing equipment and facilities for the test. If the tested meter is found to be more than 2 percent fast or 2 percent slow, the deposit will be returned to the party requesting the test and billing adjustments made pursuant to subrule 19.4(14). The commission will issue its report after the test is conducted.

19.6(7) *Condition of meter.* No meter that is known to be mechanically defective, has an incorrect correction factor, or has not been tested and adjusted, if necessary, in accordance with paragraphs 19.6(2) "b," "c," and "e," shall be installed or continued in service. The capacity of the meter and the index mechanism shall be consistent with the gas requirements of the customer.

199—19.7(476) Standards of quality of service.

19.7(1) Purity. All gas supplied to customers shall be substantially free of impurities that may cause corrosion of mains or piping or from corrosive or harmful fumes when burned in a properly designed and adjusted burner.

19.7(2) Pressure limits. The maximum allowable operating pressure for a low-pressure distribution system shall not be so high as to cause the unsafe operation of any connected and properly adjusted low-pressure gas-burning equipment.

19.7(3) Adequacy for pressure. Each utility shall have a substantially accurate knowledge of the pressures inside its piping. Periodic pressure measurements shall be taken during periods of high demand at remote locations in distribution systems to determine the adequacy of service. Records of such measurements including the date, time, and location of the measurement shall be maintained not less than two years.

19.7(4) Standards for pressure measurements.

a. Secondary standards. Each utility shall own or have access to a dead weight tester that is maintained in an accurate condition.

b. Working standards. Each utility must have or have access to water manometers, laboratory quality indicating pressure gauges, and field-type dead weight pressure gauges as necessary for the proper testing of the indicating and recording pressure gauges used in determining the pressure on the utility's system. Working standards must be checked periodically by comparison with a secondary standard.

19.7(5) Handling of standards. Extreme care must be exercised in the handling of standards to ensure that their accuracy is not disturbed. Each standard shall be accompanied at all times by a certificate or calibration card, duly signed and dated, on which are recorded the corrections required to compensate for errors found at the customary test points at the time of the last previous test.

19.7(6) Heating value.

a. Awareness. Each utility shall have a substantially accurate knowledge of the heating value of the gas being delivered to customers at all times.

b. Natural and LP gas. The heating value of natural gas and undiluted, commercially pure LP gas is not considered to be under the control of the utility. Utilities will determine the allowable range of monthly average heating values within which its customers' appliances may be expected to function properly without repeated readjustment of the burners. If the monthly average heating value is above or below the limits of the allowable range for three successive months, the customers' appliances must be readjusted in accordance with paragraph 19.4(18)"c."

c. Renewable natural gas (RNG). The heating value of gas supplied from an RNG facility is considered within the control of the RNG supplier. The average daily heating value of mixed gas in a distribution shall be at least 95 percent of that normally delivered by the pipeline supplier. RNG producers are responsible for ensuring the gas produced from the RNG facility is compatible to meet these heating requirements.

d. Peak shaving or other mixed gas. The heating value of gas in a distribution system that includes gas from LP or LNG peak shaving facilities, or gas from a source other than a pipeline supplier, is considered within the control of the utility. The average daily heating value of mixed gas shall be at least 95 percent of that normally delivered by the pipeline supplier. All mixed gas shall have a specific gravity of less than 1.000, and heating value shall not be so high as to cause improper operation of properly adjusted customer equipment.

e. Heating value determination and records. Unless acceptable heating value information is available for all periods from other sources, including the pipeline supplier, utilities will have a method by which the heating value of the gas in a distribution system can be accurately determined. The type, accuracy, operation, and location of equipment, and the accuracy of computation methods, shall be in accordance with accepted industry practices and equipment manufacturer's recommendations, subject to review by the commission.

19.7(7) Interruptions of service.

a. Each utility shall make reasonable efforts to avoid interruptions of service, but when interruptions occur, service shall be reestablished within the shortest time practicable, consistent with safety. Records will be maintained for not less than two years of interruptions of service required to be reported pursuant to subrule 19.16(1). Utilities will periodically review these records to determine steps to be taken to prevent recurrence.

b. Planned interruptions shall be made at a time that will not cause unreasonable inconvenience to customers. Interruptions shall be preceded by adequate notice to those who will be affected.

199—19.8(476) Safety.

19.8(1) *Acceptable standards.* As criteria of accepted good safety practice, the commission will use the applicable provisions of the standards incorporated by reference in subrule 19.5(2).

19.8(2) *Protective measures.* Utilities will exercise reasonable care to reduce hazards inherent in connection with utility service to which its employees, its customers, and the general public may be subjected and shall adopt and execute a safety program designed to protect the public, fitted to the size and type of its operations. Utilities will give reasonable assistance to the commission in the investigation of the cause of accidents and in the determination of suitable means of preventing accidents and will maintain a summary of all reportable accidents arising from its operations.

19.8(3) *Turning on gas.* Each utility upon the installation of a meter and turning on gas or the act of turning on gas alone shall take the necessary steps to assure itself that there exists no flow of gas through the meter, which is a warning that the customer's piping or appliances are not safe for gas turn on (Ref: Sec. 8.2.3 and Annex D, ANSI Z223.1/NFPA 54-2018).

19.8(4) *Gas leaks.* A report of a gas leak shall be considered an emergency requiring immediate attention.

19.8(5) *Odorization.* Any gas distributed to customers through gas mains or gas services or used for domestic purposes in compressor plants, which does not naturally possess a distinctive odor to the extent that its presence in the atmosphere is readily detectable at all gas concentrations of one-fifth of the lower explosive limit and above, shall have an odorant added to it to make it so detectable. Odorization is not necessary, however, for such gas as is delivered for further processing or use where the odorant would serve no useful purpose as a warning agent. Utilities will test the gas to ensure the odor meets the standards of subrule 19.5(2). Prompt remedial action shall be taken if odorization levels do not meet the prescribed limits for detectability.

19.8(6) *Burial near electric lines.* Each pipeline will be protected from damage or introduction of current from an electrical fault by installing it with at least 12 inches of clearance from buried electrical conductors or by other means if the clearance is not possible.

199—19.9(476) Purchased gas adjustment (PGA).

19.9(1) *PGA clause.* Pursuant to Iowa Code section 476.6(11), PGAs shall be computed separately for each customer classification or grouping previously approved by the commission and will use the same unit of measure as the utility's tariffed rates. PGAs shall be calculated using factors filed in annual or periodic filings according to the following formula:

$$PGA = \frac{(C \times Rc) + (D \times Rd) + (Z \times Rz) + Rb + E}{S}$$

PGA is the purchased gas adjustment per unit.

S is the anticipated yearly gas commodity sales volume for each customer classification or grouping.

C is the volume of applicable commodity purchased for each customer classification or grouping required to meet sales, S, plus the expected lost and unaccounted for volumes.

Rc is the weighted average of applicable commodity prices or rates, including appropriate hedging tools costs, to be in effect September 1 corresponding to purchases C.

D is the total volume of applicable entitlement reservation purchases required to meet sales, S, for each customer classification or grouping.

Rd is the weighted average of applicable entitlement reservation charges to be in effect September 1 corresponding to purchases D.

Z is the total quantity of applicable storage service purchases required to meet sales, S, for each customer classification or grouping.

Rz is the weighted average of applicable storage service rates to be in effect September 1 corresponding to purchases Z.

Rb is the adjusted amount necessary to obtain the anticipated balance for the remaining PGA year calculated by taking the anticipated PGA balance divided by the forecasted volumes, including storage, for one or more months of the remaining PGA year.

E is the per unit overcollection or undercollection adjustment as calculated under subrule 19.9(6).

The components of the formula shall be determined as follows for each customer classification or grouping:

a. The actual sales volumes S for the prior 12-month period ending May 31, with the necessary degree-day adjustments, and further adjustments approved by the commission.

Unless a utility receives prior commission approval to use another methodology, a utility shall use the same weather normalization methodology used in its prior approved PGA and rate case. The source of the heating degree days (HDDs) used in the utility's weather normalization calculation shall be the state climatologist of Iowa.

b. The annual expected lost and unaccounted for factors shall be calculated by determining the actual difference between sales and purchase volumes for the 12 months ending May 31 or from the current annual IG-1 filing, but in no case will this factor be less than 0.

c. The purchases C, D, and Z as necessary to comply with subrule 19.9(1).

d. The PGAs shall be adjusted prospectively to reflect the final decision issued by the commission in a periodic review proceeding.

19.9(2) *Annual PGA filing.* Each rate-regulated utility shall file on or before August 1 of each year, for the commission's approval, a PGA for the 12-month period beginning September 1 of that year.

The annual filing shall restate each factor of the formula stated in subrule 19.9(1).

The annual filing shall be based on customer classifications and groupings previously approved by the commission unless new classifications or groupings are proposed.

The annual filing shall include all worksheets and detailed supporting data used to determine the PGA volumes and factors, along with an explanation of the calculations for each factor. Information already on file with the commission may be incorporated by reference in the filing.

19.9(3) *Periodic changes to PGA clause.* Periodic PGA filings shall be based on the PGA customer classifications and groupings previously approved by the commission. Changes in the customer classification and grouping on file are not automatic and require prior approval by the commission.

Periodic filings shall include all worksheets and detailed supporting data used to determine the amount of the adjustment.

Changes in factor S or C may not be made in periodic purchased gas filings. A change in factor D or Z may be made in periodic filings and will be deemed approved if it conforms to the annual purchased gas filing or if it conforms to the principles set out in subrule 19.9(5).

Utilities shall automatically implement all PGA changes that result from changes in Rc, Rd, or Rz and will concurrently notify the commission with adequate information to calculate and support the change. The PGA shall be calculated separately for each customer classification or grouping.

Unless otherwise ordered by the commission, a rate-regulated utility's PGA rate factors shall be adjusted as purchased gas costs change and shall recover from the customers only the actual costs of purchased gas and other currently incurred charges associated with the delivery, inventory, or reservation of natural gas. Such periodic changes shall become effective with usage on or after the date of change.

19.9(4) *Factor Rb.* Each utility has the option of filing an Rb calculation with its October-January PGA filings but shall file an Rb calculation with its February filing and subsequent monthly filings in the PGA year. If the anticipated PGA balance represents costs in excess of revenues, factor Rb shall be assigned a positive value; if the anticipated balance represents revenues in excess of costs, factor Rb shall be assigned a negative value.

19.9(5) *Allocations of changes in contract pipeline transportation capacity obligations.* Any change in contractual pipeline transportation capacity obligations to transportation or storage service

providers serving Iowa shall be reported to the commission within 30 days of receipt. The change must be applied on a pro-rata basis to all customer classifications or groupings, unless another method has been approved by the commission. Where a change has been granted as a result of the utility's request based on the needs of specified customers, that change may be allocated to the specified customers. Where the commission has approved anticipated sales levels for one or more customer classifications or groupings, those levels may limit the pro-rata reduction for those classifications or groupings.

19.9(6) *Reconciliation of underbillings and overbillings.* The utility shall file with the commission on or before October 1 of each year a PGA reconciliation for the 12-month period that began on September 1 of the previous year. This reconciliation will be the actual net invoiced costs of purchased gas and appropriate financial hedging tools costs less the actual revenue billed through its PGA clause net of the prior year's reconciliation dollars for each customer classification or grouping. Actual net costs for purchased gas shall be the applicable invoice costs from all appropriate sources associated with the time period of usage.

Negative differences in the reconciliation are considered overbilling by the utility, and positive differences are considered underbilling. This reconciliation shall be filed with all worksheets and detailed supporting data for each particular PGA clause. Penalty purchases shall only be includable where the utility clearly demonstrates a net savings.

a. Annual reconciliation filings will include the following information concerning the hedging tools used by the utility:

(1) The volume of physical gas being hedged by the utility and the strategies used by the utility for hedging.

(2) The reason each hedging strategy was undertaken (e.g., to hedge storage gas, a floating price contract).

(3) A statement as to how each hedging strategy was consistent with the utility's natural gas procurement plan.

(4) An explanation as to why the utility believes each hedging strategy was in the best interest of general system customers.

(5) A detailed explanation of the instruments used to implement each hedging strategy (e.g., fixed-price purchases, future contracts, basis swaps, fixed-price swaps, call options, put options, option collars).

(6) The amount of all commissions paid and to whom those payments were made.

(7) The amount of money or other collateral held in margin accounts or provided to counterparties as credit support for hedging transactions.

(8) The amount of all other third-party administrative or contracting costs paid and to whom those costs were paid.

(9) The name of each hedging counterparty and the amount of money paid to or received from each counterparty with respect to hedging (e.g., option premiums, financial settlement of gains or losses).

(10) Detailed reports or schedules of each hedging strategy, including the following information for each hedging instrument entered into by the utility:

1. The type of hedging instrument.

2. The date on which the hedging instrument was entered into by the utility.

3. The name of the counterparty with whom the hedging instrument was entered into.

4. The notional quantity of natural gas associated with the hedging instrument.

5. The notional delivery period associated with the hedging instrument.

6. The total amount of gains or losses realized by the utility on the hedging instrument.

7. For each futures contract or fixed-price purchase or sale, the fixed price paid or received by the utility and the final settlement price for the futures contract.

8. For each swap contract, the fixed price or index price paid by the utility, the index price or fixed price received by the utility, and the final settlement price of each applicable index referenced in the swap contract.

9. For each option contract, the underlying futures contract or index price referenced in the option contract, the strike price for the option, the premium paid or received by the utility for the option, and the final settlement price for the futures contract or index price referenced in the option.

10. For any other hedging instruments, relevant economic terms, conditions, reference prices, and other factors to support calculations of gains or losses associated with such instruments.

11. For the total natural gas volumes hedged during the PGA year, the fully hedged price of gas and the price if the gas had not been hedged.

b. Underbillings will be collected through ten-month adjustments to the appropriate PGA. The underbilling generated from each PGA clause shall be divided by the anticipated sales volumes for the prospective ten-month period beginning November 1 (based upon the sales determination in subrule 19.9(1)).

The quotient, determined on the same basis as the utility's tariff rates, shall be added to the PGA for the prospective ten-month period beginning November 1.

c. Overbillings will be refunded to the customer classification or grouping from which they were generated. Overbillings will be divided by the annual cost of purchased gas subject to recovery for the 12-month period that began the prior September 1 for each PGA clause and applied as follows:

(1) If the net overbilling from the PGA reconciliation exceeds the applicable percentage of the annual cost of purchased gas subject to recovery for a specific customer classification or grouping, the utility will file a proposed refund plan that includes its interest calculations, its plan for refunding the overbilling either by bill credit or check, and the date it proposes to implement the refund. The minimum amount to be refunded by check is \$10. Interest shall be calculated on amounts exceeding the applicable percentage from the PGA year midpoint to the date of refunding. The interest rate shall be the dealer commercial paper rate (90-day, high-grade unsecured notes) quoted in the "Money Rates" section of the Wall Street Journal on the last working day of August of the current year.

(2) If the net overbilling from the PGA reconciliation does not exceed the applicable percentage of the annual cost of purchased gas subject to recovery for a specific customer classification or grouping, the utility may refund the overbilling by bill credit or check starting on the first day of billing in the November billing cycle of the current year, or the utility may refund the overbilling through ten-month adjustments to the particular PGA from which they were generated. The minimum amount to be refunded by check is \$10. This adjustment shall be determined by dividing the overcollection by the anticipated sales volume for the prospective ten-month period beginning November 1 as determined in subrule 19.9(1) for the applicable PGA clause. The quotient, determined on the same basis as the utility's tariff rates, shall be a reduction to that particular PGA for the prospective ten-month period beginning November 1.

(3) The overbilling percentage applicable to utilities serving fewer than 10,000 customers is 5 percent. For utilities serving 10,000 or more customers, the applicable percentage is 3 percent.

d. When a customer has reduced or terminated system supply service and is receiving transportation service, any liability for overcollections and undercollections shall be determined in accordance with the utility's gas transportation tariff.

19.9(7) Refunds related to gas costs charged through the PGA. The utility shall file a refund plan with the commission within 30 days of the receipt of any refund related to gas costs charged through the PGA.

a. Refunds will be provided to customers by bill credit or check in an amount equal to any refund, plus accrued interest, if the refund exceeds \$20 per average residential customer under the applicable customer classification or grouping. The utility may refund lesser amounts through the applicable customer classification or grouping or retain undistributed refund amounts in special refund retention accounts for each customer classification or grouping under the applicable PGA clause until such time as additional refund obligations or interest cause the average residential customer refund to exceed \$20. Any obligations remaining in the retention accounts on September 1 shall become a part of the annual PGA reconciliation.

b. The utility shall file with the refund plan the following information:

(1) A statement of reason for the refund.

- (2) The amount of the refund with support for the amount.
 - (3) The balance of the appropriate refund retention accounts.
 - (4) The amount due under each customer classification or grouping.
 - (5) The intended period of the refund distribution.
 - (6) The estimated interest accrued for each refund through the proposed refund period, with complete interest calculations and supporting data as determined in paragraph 19.9(7) “d.”
 - (7) The total amount to be refunded, the amount to be refunded per customer classification or grouping, and the refund per ccf or therm.
 - (8) The estimated interest accrued for each refund received and for each amount in the refund retention accounts through the date of the filing with the complete interest calculation and support as determined in paragraph 19.9(7) “d.”
 - (9) The total amount to be retained, the amount to be retained per customer classification or grouping, and the level per ccf or therm.
 - (10) The calculations demonstrating that the retained balance is less than \$10 per average residential customer with supporting schedules for all factors used.
- c. The refund to each customer will be determined by dividing the amount in the appropriate refund retention account, including interest, by the total ccf or therm of system gas consumed by affected customers during the period for which the refundable amounts are applicable and multiplying the quotient by the ccf or therms of system supply gas actually consumed by the customer during the appropriate period. The utility may use the last available 12-month period if the use of the actual period generating the refund is impractical. The utility shall file complete support documentation for all figures used.
 - d. The interest rate on refunds distributed under this subrule, compounded annually, shall be the dealer commercial paper rate (90-day, high-grade unsecured notes) quoted in the “Money Rates” section of the Wall Street Journal on the day the refund obligation vests. Interest shall accrue from the date the rate-regulated utility receives the refund or billing from the supplier or the midpoint of the first month of overcollection to the date the refund is distributed to customers.
 - e. The rate-regulated utility shall make a reasonable effort to forward refunds, by check, to eligible recipients who are no longer customers.
 - f. The minimum amount to be refunded by check is \$10.
- This rule is intended to implement Iowa Code section 476.6(11).

199—19.10(476) Periodic review of gas procurement practices.

19.10(1) *Procurement plan.* Pursuant to Iowa Code section 476.6(11), the commission shall periodically conduct a contested case proceeding for the purpose of evaluating the reasonableness and prudence of a rate-regulated public utility’s natural gas procurement and contracting practices. In the years in which the commission does not conduct a contested case proceeding, the commission may require the utilities to file certain information for the commission’s review. In years in which the commission conducts a full proceeding, a rate-regulated utility shall file prepared direct testimony and exhibits in support of a detailed 12-month plan and a three-year natural gas procurement plan. A utility’s procurement plan shall be organized as follows and include:

- a. An index of all documents and information filed in the plan and identification of the commission files in which documents incorporated by reference are located.
- b. All contracts and gas supply arrangements executed or in effect for obtaining gas and all supply arrangements planned for the future 12-month and three-year periods.
- c. A description of the utility’s natural gas forecasting, procurement, and contracting practices; available supply options; and other available services (e.g., storage services, balancing services).
- d. An exhibit detailing the utility’s current, 12-month, and three-year forecasts of total annual throughput by customer class, peak day demand, and anticipated reserve margin on a PGA-year basis.
- e. An organizational description of the officer or division responsible for gas procurement and a summary of operating procedures and policies for procuring and evaluating gas contracts.

f. A summary of the legal, regulatory, and commercial actions taken to minimize purchased gas costs.

g. Copies of all studies or investigation reports supporting the utility's testimony or materially considered by the utility in contracting decisions during the plan periods.

h. A complete list of all contracts in effect at the time of the procurement plan filing. The list shall include the contract term, the applicable service, and the contracted quantities.

i. A description of the supply options selected by the utility and an evaluation of the reasonableness and prudence of its contracting and procurement decisions. This evaluation should explain the relationship between forecast and procurement.

19.10(2) *Burden on the utility.* The utility has the burden to prove it is taking all reasonable actions to minimize its purchased gas costs.

19.10(3) *Disallowance of costs.* Purchased gas costs in excess of costs incurred under responsible and prudent policies and practices are disallowed. The PGA factor will be adjusted prospectively to reflect the disallowance.

19.10(4) *Executive summary.* On or before August 1 of each year, each natural gas utility shall file an executive summary and index of all standard and special contracts in effect for the purchase, sale or interchange of gas. The executive summary shall include the following information:

- a.* The contract number;
- b.* The start and end date;
- c.* The parties to the contract;
- d.* The total estimated dollar value of the contract;
- e.* A description of the type of service offered (including volumes and price).

This rule is intended to implement Iowa Code section 476.6(11).

199—19.11(476) Flexible rates.

19.11(1) *Purpose.* This rule is intended to allow gas utility companies to offer, at their option, incentive or discount rates to their sales and transportation customers.

19.11(2) *General criteria.*

a. Natural gas utility companies may offer discounts to individual customers, to selected groups of customers, or to an entire class of customers. However, discounted rates must be offered to all directly competing customers in the same service territory. Customers are direct competitors if they make the same end product (or offer the same service) for the same general group of customers. Customers that only produce component parts of the same end product are not directly competing customers.

b. In deciding whether to offer a specific discount, the utility shall evaluate the individual customer's, group's, or class's situation and perform a cost-benefit analysis before offering the discount.

c. Any discount offered should be such as to significantly affect the customer's or customers' decision to stay on the system or to increase consumption.

d. The consequences of offering the discount should be beneficial to all customers and to the utility. Other customers should not be at risk of loss as a result of these discounts; in addition, the offering of discounts shall in no way lead to subsidization of the discounted rates by other customers in the same or different classes.

19.11(3) *Tariffs.* If a company elects to offer flexible rates, the utility shall file for review and approval of tariff sheets specifying the general conditions for offering discounted rates. The tariff sheets shall include, at a minimum, the following criteria:

a. A cost-benefit analysis demonstrating that offering the discount will be more beneficial than not offering the discount.

b. The ceiling for all discounted rates shall be the approved rate on file for the customer's rate class.

c. The floor for the discount sales rates shall be equal to the cost of gas. Therefore, the maximum discount allowed under the sales or transportation tariffs is equal to the nongas costs of serving the customer.

d. No discount shall be offered for a period longer than five years unless the commission determines upon good cause shown that a longer period is warranted.

e. Discounts should not be offered if they will encourage deterioration in the load characteristics of the customer receiving the discount.

f. Customer charges may be discounted.

19.11(4) Reporting. Each natural gas utility electing to offer flexible rates shall file annual reports with the commission within 30 days of the end of each 12 months. Reports shall include the following information:

a. Section 1 of the report concerns discounts initiated in the last 12 months, which shall include:

- (1) The identity of the new customers (by account number, if necessary);
- (2) The value of the discount offered;
- (3) The cost-benefit analysis results;
- (4) The cost of alternate fuels available to the customer, if relevant;
- (5) The volume of gas sold to or transported for the customer in the preceding 12 months; and
- (6) A copy of all new or revised flexible-rate contracts executed between the utility and its customers.

b. Section 2 of the report relates to overall program evaluation. For all discounts currently being offered, the report shall include:

- (1) The identity of each customer (by account number, if necessary);
- (2) The total volume of gas sold or transported in the last 12 months to each customer at discounted rates, by month;
- (3) The volume of gas sold or transported to each customer in the same 12 months of the preceding year, by month;
- (4) The dollar value of the discount in the last 12 months to each customer, by month;
- (5) The dollar value of volumes sold or transported to each customer for each of the previous 12 months; and
- (6) If customer charges are discounted, the dollar value of the discount shall be reported separately.

c. Section 3 of the report concerns discounts denied or discounts terminated. For all customers specifically evaluated and denied or having a discount terminated in the last 12 months, the report shall include:

- (1) Customer identification (by account number, if necessary);
- (2) The volume of gas sold or transported in the last 12 months to each customer, by month;
- (3) The volume of gas sold or transported to each customer in the same 12 months of the preceding year, by month; and
- (4) The dollar value of volumes sold or transported to each customer for each of the past 12 months.

d. No report is required if the utility had no customers receiving a discount during the relevant period and had no customers that were evaluated for the discount and rejected during the relevant period.

19.11(5) Rate case treatment. In a rate case, 50 percent of any identifiable increase in net revenues will be used to reduce rates for all customers; the remaining 50 percent of the identifiable increase in net revenues may be kept by the utility. If there is a decrease in revenues due to the discount, the utility's test year revenues will be adjusted to remove the effects of the discount by assuming that all sales or transportation services or customer charges were made at full tariffed rates for the customer class. Determining the actual amount will be a factual determination to be made in the rate case.

199—19.12(476) Transportation service.

19.12(1) Purpose. This subrule requires gas distribution utility companies to transport natural gas owned by an end user on a nondiscriminatory basis, subject to the capacity limitations of the specific system. "System capacity" means the maximum flow of gas the relevant portion of the system is capable of handling. Capacity availability is determined using the total current firm gas flow, including both system and transportation gas.

19.12(2) *End user rights.* The end user purchasing transportation services from the utility shall have the following rights and be subject to the following conditions:

a. The end user has the right to receive, pursuant to agreement, 100 percent of the gas delivered by it or on its behalf to the transporting utility (adjusted for a reasonable volume of lost, unaccounted-for, and company-used gas).

b. The volumes that the end user is entitled to receive are subject to curtailment or interruption due to limitations in the system capacity of the transporting utility. Curtailment of the transportation volumes will take place according to the priority class, subdivision, or category that the end user would have been assigned if it were purchasing gas from the transporting utility.

c. During periods of curtailment or interruption, the end user is entitled to a credit equal to the difference between the volumes delivered to the utility and those received by the end user, adjusted for lost, unaccounted-for, and company-used gas.

d. The end user is responsible for all costs associated with any additional plant required for providing transportation services to the end user.

19.12(3) *Transportation service charges.* Transportation service shall be offered to at least the following classes:

a. Interruptible distribution service with system supply reserve.

b. Interruptible distribution service without system supply reserve.

c. Firm distribution service with system supply reserve.

d. Firm distribution service without system supply reserve.

19.12(4) *Transportation service charges and rates.* All rates and charges for transportation shall be based on the cost of providing the service.

a. "System supply reserve" service entitles the end user to return to the system service to the extent of the interstate pipeline capacity purchased. The charge will be at least equal to the administrative costs of monitoring the service, plus any other costs.

b. End users without system supply reserve service may only return to system service by paying an additional charge and are subject to the availability of adequate interstate pipeline capacity. An end user wishing to receive transportation service without system supply reserve must pay the utility for the discounted value of any contract between the utility and the end user remaining in effect at the time of beginning transportation service. The discounted values shall include all directly assignable and identifiable costs.

c. The utility may require a reconnection charge when an end user receiving transportation service without system supply reserve service requests to return to the system supply. The end user shall return to the system and receive service under the appropriate classification as determined by the utility.

d. The end user electing to receive transportation service shall pay reasonable rates for any use of the facilities, equipment, or services of the transporting utility.

19.12(5) *Reporting requirements.* A natural gas utility will provide a copy of information concerning transportation contracts upon request of the commission, commission staff, or the office of consumer advocate.

19.12(6) *Written notice of risks.* The utility must notify its large-volume users as defined in 19.13(1) contracting for transportation service in writing that unless the customer buys system supply reserve service from the utility, the utility is not obligated to supply gas to the customer. The notice must also advise the large-volume user of the nature of any identifiable penalties, any administrative or reconnection costs associated with purchasing available firm or interruptible gas, and how any available gas would be priced by the utility. The notice may be provided through a contract provision or separate written instrument. The large-volume user must acknowledge in writing that it has been made aware of the risks and accepts the risks.

199—19.13(476) Certification of competitive natural gas providers and aggregators.

19.13(1) *Definitions.* The following words and terms, when used in this rule, shall have the meanings indicated below:

“Large-volume user” means any end user whose usage exceeds 25,000 therms in any month or 100,000 therms in any consecutive 12-month period.

“Small-volume user” means any end user whose usage does not exceed 25,000 therms in any month and does not exceed 100,000 therms in any consecutive 12-month period.

“Vehicle fuel provider” or *“VFP”* means a competitive natural gas provider or aggregator as defined in Iowa Code section 476.86 that owns or operates facilities to sell natural gas as vehicle fuel to a retail end user.

19.13(2) *General requirement to obtain certificate.* A certified natural gas provider (CNGP) shall not provide competitive natural gas services to an Iowa retail end user without a certificate approved by the commission pursuant to Iowa Code section 476.87.

19.13(3) *Filing requirements and application process.*

a. Applications to provide service as a competitive natural gas provider pursuant to Iowa Code sections 476.86 and 476.87 shall contain information to reasonably demonstrate that the applicant possesses the managerial, technical, and financial capability sufficient to obtain and deliver the services the competitive natural gas provider or aggregator proposes to offer. Applications shall be filed pursuant to 199—Chapter 14. Application forms to provide competitive natural gas service to large-volume, small-volume, and VFPs can be accessed on the commission’s website, iuc.iowa.gov. All applications shall include, at a minimum, the following information:

(1) The legal name and all trade names under which the applicant will operate, a description of the business structure of the applicant, evidence of authority to do business in Iowa, and the applicant’s state of incorporation.

(2) Names, addresses, and telephone numbers of corporate officers responsible for the applicant’s operations in Iowa and a telephone number where the applicant can be contacted 24 hours a day.

(3) Identification of the states and jurisdictions in which the applicant or an affiliate is providing natural gas service.

(4) A commitment to comply with all the applicable conditions of certification contained in subrules 19.13(5) and 19.13(6) and acknowledgment that failure to comply with all the applicable conditions of certification may result in the revocation of the competitive natural gas provider’s certificate.

b. A request for confidential treatment of the information required to obtain a competitive natural gas provider certificate may be filed with the commission pursuant to the public information and inspection of records subrule in 199—Chapter 1.

c. An applicant shall notify the commission during the pendency of the certification request and after certification of any material change in the representations and commitments made in the application within 14 days of such change. Any new legal actions or formal complaints are considered material changes in the request.

19.13(4) *Deficiencies and commission determination.* Applications will be considered complete when all required items are submitted. Applicants will be notified of deficiencies and given 30 days to complete applications. Applications with deficiencies that are not cured within the 30-day period will be denied.

19.13(5) *Conditions of certification.* CNGPs shall comply with the conditions set out in this subrule. Failure to comply with the conditions of certification may result in revocation of the certificate.

a. *Unauthorized charges.* A CNGP shall not charge or attempt to collect any charges from end users for any competitive natural gas services or equipment used in providing competitive natural gas services not contracted for or otherwise agreed to by the end user.

b. *Notification of emergencies.* Upon receipt of information from an end user of the existence of an emergency situation with respect to delivery service, a CNGP shall immediately contact the appropriate public utility whose facilities may be involved. The CNGP shall also provide the end user with the emergency telephone number of the public utility.

c. *Reports to the commission.* Each CNGP shall file a report with the commission on April 1 of each year for the 12-month period ending December 31 of the previous year. The report shall be filed on forms provided by the commission, which can be accessed on the commission’s website, iuc.iowa.gov.

This information may be filed with a request for confidentiality, pursuant to the public information and inspection of records subrule in 199—Chapter 1. For each utility distribution system, the report shall include, at a minimum, total monthly and annual sales volumes, total monthly revenues, and total number of customers served each month as of December 31 of the applicable year.

19.13(6) *Additional conditions applicable to CNGPs providing service to small-volume end users.* All CNGPs when providing service to small-volume natural gas end users shall be subject to the following conditions in addition to those listed under subrule 19.13(5):

a. Customer deposits. Compliance with the following provisions shall apply to customers whose usage does not exceed 2,500 therms in any month or 10,000 therms in any consecutive 12-month period.

Customer deposits – subrule 19.4(3).

Interest on customer deposits – subrule 19.4(4).

Customer deposit records – subrule 19.4(5).

Customer's receipt for a deposit – subrule 19.4(6).

Deposit refund – subrule 19.4(7).

Unclaimed deposits – subrule 19.4(8).

b. Bills to end users. A CNGP shall include on bills to end users all the information listed in this paragraph. The bill may be sent to the customer electronically at the customer's option.

(1) The period of time for which the billing is applicable.

(2) The amount owed for current service, including an itemization of all charges.

(3) Any past-due amount owed.

(4) The last date for timely payment.

(5) The amount of penalty for any late payment.

(6) The location for or method of remitting payment.

(7) A toll-free telephone number for the end user to call for information and to make complaints regarding the CNGP.

(8) A toll-free telephone number for the end user to contact the CNGP in the event of an emergency.

(9) A toll-free telephone number for the end user to notify the public utility of an emergency regarding delivery service.

(10) The tariffed transportation charges and supplier refunds, where a combined bill is provided to the customer.

c. Disclosure. Each prospective end user must receive in writing, prior to initiation of service, all terms and conditions of service and all rights and responsibilities of the end user associated with the offered service. The information may be provided electronically, at the customer's option.

d. Notice of service termination. Notice shall be provided to the end user, the commission, and the public utility at least 12 calendar days prior to service termination. If the notice of service termination is rescinded, the CNGP must notify the public utility. CNGPs are prohibited from physically disconnecting the end user or threatening physical disconnection for any reason.

e. Transfer of accounts. CNGPs will not transfer the account of any end user to another supplier except with the consent of the end user and notice to the commission. This provision does not preclude a CNGP from transferring all or a portion of its accounts pursuant to a sale or transfer of all or a substantial portion of a CNGP's business in Iowa, provided that the transfer satisfies all of the following conditions:

(1) The transferee will serve the affected end users through a certified CNGP;

(2) The transferee will honor the transferor's contracts with the affected end users;

(3) The transferor provides written notice of the transfer to each affected end user prior to the transfer;

(4) Any affected end user is given 30 days to change supplier without penalty; and

(5) The transferor provides notice to the public utility of the effective date of the transfer.

f. Bond. The commission may require the applicant to file a bond or other demonstration of its financial capability to satisfy claims and expenses that can reasonably be anticipated to occur as part of operations under its certificate, including the failure to honor contractual commitments. In determining

the adequacy of the bond or demonstration, the commission shall consider the extent of the services to be offered, the size of the provider, and the size of the load to be served.

g. *Replacement cost for supply failure.* Each individual rate-regulated public utility shall file for the commission's review tariffs establishing replacement cost for supply failure. Replacement cost revenue will be credited to the rate-regulated public utility's system PGA.

199—19.14(476) Customer contribution fund.

19.14(1) *Applicability and purpose.* This rule applies to each gas public utility, as defined in Iowa Code sections 476.1 and 476.1B, and is intended to implement Iowa Code section 476.66.

19.14(2) *Notification.* Each utility shall notify all customers of the customer contribution fund at least twice a year. Upon commencement of service and at least once a year, the notice will be mailed or personally delivered to all customers, or provided by electronic means to those customers who have consented to receiving electronic notices. The other notice may be published in a local newspaper(s) of general circulation within the utility's service territory. A utility serving fewer than 6,000 customers may publish its semiannual notices locally in a free newspaper, utility newsletter, or shopper's guide instead of a newspaper. At a minimum, the notice shall include:

- a. A description of the availability and the purpose of the fund;
- b. A customer authorization form that includes a monthly billing option and any other methods of contribution.

19.14(3) *Methods of contribution.* Contributions will be provided as monthly pledges, as well as one-time or periodic contributions. A pledge will not be construed to be a binding contract between the utility and the pledgor. The pledge amount shall not be subject to delayed payment charges by the utility. Each utility may allow persons or organizations to contribute matching funds.

19.14(4) *Annual report.* On or before September 30 of each year, each utility shall file with the commission a report of all the customer contribution fund activity for the previous fiscal year beginning July 1 and ending June 30. The report shall be in a form provided by the commission and contain an accounting of the total revenues collected and all distributions of the fund. The utility shall report all utility expenses directly related to the customer contribution fund.

199—19.15(476) Reserve margin.

19.15(1) *Applicability.* All rate-regulated gas utility companies may maintain a reserve of contract services in excess of their maximum daily system demand requirement and recover the cost of the reserve from their customers through the PGA.

19.15(2) *Definitions.* The following definitions apply to the terms as used in this rule:

"Contract services" refers to the amount of firm gas delivery capacity or delivery services contracted for use by a utility to satisfy its maximum daily system demand requirement, including the planned delivery capacity of the utility-owned liquefied natural gas facilities but excluding the delivery capacity of propane storage facilities.

"Design day" means the maximum heating season forecast level of all firm sales customers' gas requirements during a 24-hour period beginning at 9 a.m. The design day forecast shall be the combined estimated gas requirements of all firm sales customers calculated by totaling the gas requirements of each customer classification or grouping. The estimated gas requirements for each customer classification or grouping will be determined based upon an evaluation of historic usage levels of customers in each customer classification or grouping, adjusted for reasonably anticipated colder-than-normal weather conditions and any other clearly identifiable factors that may contribute to the demand for gas by firm customers. The design day calculation shall be submitted for approval by the commission with the annual PGA filing required by subrule 19.9(2).

"Maximum daily system demand requirements" means the maximum daily gas demand requirement that the utility forecasts to occur on behalf of its system firm sales customers under peak (design day) weather conditions.

19.15(3) *Maximum daily system demand requirements of less than 25,000 Dth per day.* A reserve margin of 9 percent or less in excess of the maximum daily system demand requirements will be presumed reasonable.

19.15(4) *Maximum daily system demand requirements of more than 25,000 Dth per day.* A reserve margin of 5 percent or less in excess of the maximum daily system demand requirements will be presumed reasonable.

19.15(5) *Rebuttable presumption.* All contract services in excess of an amount needed to meet the maximum daily system demand requirements plus the reserve are presumed to be unjust and unreasonable unless a factual showing to the contrary is made during the periodic review of gas proceeding or in a proceeding specifically addressing the issue with an opportunity for an evidentiary hearing. All contract services less than an amount of the maximum daily system demand requirements plus the reserve are presumed to be just and reasonable unless a factual showing to the contrary can be made during the periodic review of gas proceeding or in a proceeding specifically addressing the issue with an opportunity for an evidentiary hearing.

19.15(6) *Allocation of cost of the reserve.* Fifty percent of the reserve cost shall be collected as a demand charge allocation to noncontractual firm customers. The remaining 50 percent shall be collected as a throughput charge on customers excluding transportation customers who have elected no system supply reserve.

199—19.16(476) Incident notification and reports.

19.16(1) *Notification.* Utilities will notify the commission immediately, or as soon as practical, of any incident involving the release of gas, failure of equipment, or interruption of facility operations, which results in any of the following:

- a. Any reportable incidents as defined in 49 CFR 191.3.
- b. An interruption of service to 50 or more customers.
- c. Evacuation of a school, hospital, health care facility, or event totaling 100 or more people.
- d. Rerouting of traffic or closing of a primary interstate highway by public emergency responders.
- e. National media attention.
- f. Fire or explosion.
- g. Any other incident considered significant by the utility.

19.16(2) *Reporting information.* The utility shall notify the commission by email, as soon as practical, of any reportable incident at dutyofficer@iuc.iowa.gov or, when email is not available, by calling the commission duty officer at 515.745.2332. The person sending the email or the caller shall leave a call-back number for a person who can provide the following information:

- a. The name of the utility, the name and telephone number of the person making the report, and the name and telephone number of a contact person knowledgeable about the incident.
- b. The location of the incident.
- c. The time of the incident.
- d. The number of deaths or personal injuries and the extent of those injuries, if any.
- e. An initial estimate of damages.
- f. The number of services interrupted.
- g. A summary of the significant information available to the utility regarding the probable cause of the incident and extent of damages.
- h. Any oral or written report required by the U.S. Department of Transportation, and the name of the person who made the oral report or prepared the written report.

19.16(3) *Written incident reports.* Within 30 days of the date of the incident, the utility shall file a written report with the commission that includes the information listed in subrule 19.16(2), the probable cause as determined by the utility, the number and cause of any deaths or personal injuries requiring in-patient hospitalization, and a detailed description of property damage and the amount of monetary damages. If significant additional information becomes available at a later date, the utility will timely file the information in a supplemental report. The utility will also provide the commission with copies of any

written reports concerning an incident or safety-related condition filed with or submitted to the U.S. Department of Transportation or the National Transportation Safety Board.

199—19.17(476) Capital infrastructure investment automatic adjustment mechanism.

19.17(1) *Eligible capital infrastructure investment.* A rate-regulated natural gas utility may file for commission approval of a capital infrastructure investment automatic adjustment mechanism to allow recovery of certain costs from customers. To be eligible for recovery through the capital infrastructure investment automatic adjustment mechanism, the costs shall either:

- a.* Meet the following criteria:
 - (1) The costs are beyond the direct control of management;
 - (2) The costs are subject to sudden, important change in level;
 - (3) The costs are an important factor in determining the total cost of capital infrastructure investment to serve customers; and
 - (4) The costs are readily, precisely, and continuously segregated in the accounts of the utility; or
- b.* Be for a capital infrastructure investment that:
 - (1) Does not serve to increase revenues by directly connecting the infrastructure replacement to new customers;
 - (2) Is in service but was not included in the gas utility's rate base in its most recent general rate case; and
 - (3) Replaces or modifies existing infrastructure required by state or local government action, to meet state or federal natural gas pipeline safety regulations, or to otherwise enhance safety as approved in advance by the commission. The utility shall make an annual filing with the commission to seek advance determination of projects that meet this criterion.

19.17(2) *Determination of recovery factor.* The utility may recover a rate of return and depreciation expense associated with eligible capital infrastructure investments described in subrule 19.17(1). The allowed rate of return will be the approved average cost of debt from the utility's most recent general gas or electric rate review proceeding before the commission. Depreciation expense shall be based upon the depreciation rates allowed by the commission in the utility's most recent general gas rate review proceeding before the commission.

19.17(3) *Recovery procedures.*

a. To recover capital infrastructure investment costs that meet the criteria in paragraph 19.17(1) "a" through an automatic adjustment mechanism, the utility will first obtain prior commission approval of the automatic adjustment mechanism. The utility will file the following information in support of the proposed automatic adjustment mechanism:

- (1) A description of the capital infrastructure investment and the costs that are proposed to be recovered through the automatic adjustment mechanism;
- (2) An explanation of why the costs of the capital infrastructure investment are beyond the control of the utility's management;
- (3) An exhibit that shows the changes in level of the costs of the capital infrastructure investment that are proposed to be recovered, both historical and projected;
- (4) An explanation of why these particular capital infrastructure investment costs are an important factor in determining the total cost of capital infrastructure investment to serve customers;
- (5) A description of proposed recovery procedures, if different from the procedures described in paragraph 19.17(3) "c"; and
- (6) The length of time that the automatic adjustment mechanism will be in place.

b. Recovery of capital infrastructure investment costs pursuant to paragraph 19.17(1) "b" may be made by the utility by filing a proposed tariff no later than April 1 of each year. Only one tariff filing to recover capital infrastructure investment costs shall be made in a 12-month period. The filing will include the following information in support of the proposed automatic adjustment rates:

- (1) Proof that the capital infrastructure investment is a project that was approved in advance by the commission as specified in subparagraph 19.17(1) "b"(3).
- (2) The location, description, and costs associated with the project.

(3) The cost of debt from the utility's most recent general gas or electric rate review proceeding before the commission and the applicable depreciation rates from the utility's most recent general gas rate review proceeding before the commission.

(4) The calculations showing the total costs that are eligible for recovery and the rates that are proposed to be implemented.

(5) Supporting documentation, including but not limited to work orders and journal entries, to the commission staff or the office of consumer advocate upon request.

c. The utility shall calculate the rates for the recovery of the capital infrastructure investment through the automatic adjustment mechanism over the 12-month period beginning from the effective date of the tariff unless otherwise ordered by the commission. The calculated rate shall include a reconciliation that reconciles the actual revenue recovered through the automatic adjustment mechanism with the costs of the eligible capital infrastructure investments proposed to be recovered over the previous collection period. Unless otherwise specified in an approved tariff, the capital infrastructure investment factor shall be recovered by a fixed monthly surcharge to customers, to be determined by totaling eligible investment costs for the prior calendar year, adjusted for the reconciliation amount, then dividing the total recovery amount among customer classes based upon the utility's most recent approved cost of service study, dividing the class recovery amounts by the number of months in the recovery period, and then dividing the assigned costs by the number of customers in each respective class. The recovery amount will be limited to annual depreciation plus a return on the undepreciated balance based on the cost of debt.

d. Recovery of a return on and return of capital infrastructure investment that is eligible for recovery pursuant to an automatic adjustment mechanism will continue until the effective date of temporary rates in a subsequent general rate proceeding or, if temporary rates are not implemented, until final rates approved by the commission in the utility's next general rate proceeding. To continue recovery, a utility shall file a proposed tariff each year. Once temporary or final rates are effective, the automatic adjustment mechanism will reset to zero. No more than five years of capital investment recovery will be allowed between general rate proceedings unless otherwise approved by the commission. A utility may continue recoveries allowed under this rule until the investments are fully depreciated or until the utility's next general rate proceeding.

These rules are intended to implement Iowa Code sections 476.1, 476.2, 476.6, 476.8, 476.20, 476.54, 476.66, 476.86, 476.87 and 546.7.

ARC 8798C

UTILITIES COMMISSION[199]

Notice of Intended Action

Proposing rulemaking related to distributed generation facilities and providing an opportunity for public comment

The Utilities Commission hereby proposes to rescind Chapter 45, "Electric Interconnection of Distributed Generation Facilities," Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 476.1, 476.8 and 476.58.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 476.1, 476.8 and 476.58 and Section 210 of the Public Utility Regulatory Policies Act of 1978 as amended by the Energy Policy Act of 2005.

Purpose and Summary

The rulemaking was commenced in accordance with Executive Order 10. The purpose of this proposed chapter is to update the rules for electric utilities that have distributed generation facilities seeking to interconnect to the utility's system.

The Commission issued an Order Approving Regulatory Analysis on October 17, 2024. The Commission issued an order commencing rulemaking on November 22, 2024. The order is available on the Commission's electronic filing system, efs.iowa.gov, under Docket No. RMU-2023-0045.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on June 12, 2024. A public hearing was held on the following date(s):

- July 18, 2024

The Commission accepted written comments from the Office of Consumer Advocate, a division of the Iowa Department of Justice; the Iowa Association of Electric Cooperatives; and MidAmerican Energy.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

No waiver provision is included in the proposed amendments because the Commission has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in Chapter 45.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Commission no later than 4:30 p.m. on February 11, 2025. Comments should be directed to:

IT Support
Iowa Utilities Commission
Phone: 515.725.7300
Email: ITSupport@iuc.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

March 6, 2025 9 to 11 a.m.	Commission Hearing Room 1375 East Court Avenue Des Moines, Iowa Via Zoom
March 20, 2025 9 to 11 a.m.	Commission Hearing Room 1375 East Court Avenue Des Moines, Iowa Via Zoom

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Commission and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 199—Chapter 45 and adopt the following new chapter in lieu thereof:

CHAPTER 45

ELECTRIC INTERCONNECTION OF DISTRIBUTED GENERATION FACILITIES

199—45.1(476) Definitions. Terms defined in the Public Utility Regulatory Policies Act of 1978 (PURPA), 16 U.S.C. 2601 et seq., in effect as of [effective date of chapter] will have the same meaning for purposes of these rules as the terms have under PURPA unless further defined in this chapter.

“Adverse system impact” means a negative effect that compromises the safety or reliability of the electric distribution system or materially affects the quality of electric service provided by the utility to other customers.

“AEP facility” means an AEP facility, as defined in 199—Chapter 15, used by an interconnection customer to generate electricity that operates in parallel with the electric distribution system. An AEP facility typically includes an electric generator and the interconnection equipment required to interconnect safely with the electric distribution system or local electric power system.

“Affected system” means an electric system not owned or operated by the utility reviewing the interconnection request that could suffer an adverse system impact from the proposed interconnection.

“Applicant” means a person (or entity) who has submitted an interconnection request to interconnect a distributed generation facility to a utility's electric distribution system.

“Area network” means a type of electric distribution system served by multiple transformers interconnected in an electrical network circuit, generally used in large, densely populated metropolitan areas.

“Certificate of Completion” means the Certificate of Completion form that contains information about the interconnection equipment to be used, its installation, and local inspections.

“CFR” means the Code of Federal Regulations, which contains the general administrative rules adopted by federal departments and agencies, in effect as of [effective date of chapter], unless a separate effective date is identified in a specific rule.

“Commissioning test” means a test applied to a distributed generation facility by the applicant after construction is completed to verify that the facility does not create adverse system impacts and performs to the submitted specifications. At a minimum, the scope of the commissioning tests performed will include the commissioning test specified in Institute of Electrical and Electronics Engineers Inc. (IEEE) Standard 1547, Section 11 “Test and Verification Requirements.”

“Distributed generation facility” means a qualifying facility, an AEP facility, or an energy storage facility.

“Distribution upgrade” means a required addition or modification to the electric distribution system to accommodate the interconnection of the distributed generation facility. Distribution upgrades do not include interconnection facilities.

“Electric distribution system” means the facilities and equipment owned and operated by the utility and used to transmit electricity to ultimate usage points, such as homes and industries, from interchanges with higher voltage transmission networks that transport bulk power over longer distances. The voltage levels at which electric distribution systems operate differ among areas but generally operate at less than

100 kilovolts of electricity. “Electric distribution system” has the same meaning as the term “Area EPS,” as defined in Section 3.1 of IEEE Standard 1547.

“*Fault current*” is the electrical current that flows through a circuit during an electrical fault condition. A fault condition occurs when one or more electrical conductors contact ground or each other. Types of faults include phase to ground, double-phase to ground, three-phase to ground, phase-to-phase, and three-phase. Often, a fault current is several times larger in magnitude than the current that normally flows through a circuit.

“*IEEE Standard 1547*” is the IEEE, 3 Park Avenue, New York, NY 10016-5997, Standard 1547 (2018), as amended on March 9, 2020, “Standard for Interconnection and Interoperability of Distributed Energy Resources and Associated Electric Power System Interfaces.”

“*IEEE Standard 1547.1*” is the IEEE Standard 1547.1 (2005) “Conformance Test Procedures for Equipment Interconnecting Distributed Resources with Electric Power Systems.”

“*Interconnection equipment*” means a group of components or an integrated system owned and operated by the interconnection customer that connects an electric generator with a local electric power system, as that term is defined in Section 3.1 of IEEE Standard 1547, or with the electric distribution system. Interconnection equipment is all interface equipment, including switchgear, protective devices, inverters, or other interface devices. Interconnection equipment may be installed as part of an integrated equipment package that includes a generator or other electric source.

“*Interconnection facilities*” means facilities and equipment required by the utility to accommodate the interconnection of a distributed generation facility. Collectively, interconnection facilities include all facilities and equipment between the distributed generation facility’s interconnection equipment and the point of interconnection, including any modifications, additions, or upgrades necessary to physically and electrically interconnect the distributed generation facility to the electric distribution system. Interconnection facilities are sole-use facilities and do not include distribution upgrades.

“*Interconnection request*” means an applicant’s request, in a form approved by the commission, for interconnection of a new distributed generation facility or to change the capacity or other operating characteristics of an existing distributed generation facility already interconnected with the electric distribution system.

“*Interconnection study*” is any study described in rule 199—45.11(476).

“*Lab-certified*” means a designation that the interconnection equipment meets the requirements set forth in rule 199—45.6(476).

“*Line section*” is that portion of an electric distribution system connected to an interconnection customer’s site, bounded by automatic sectionalizing devices or the end of the distribution line, or both.

“*Local electric power system*” means facilities that deliver electric power to a load that is contained entirely within a single premises or group of premises and has the same meaning as that term as defined in Section 3.1 of IEEE Standard 1547.

“*Nameplate capacity*” is the maximum rated output of a generator, prime mover, or other electric power production equipment under specific conditions designated by the manufacturer and is usually indicated on a nameplate physically attached to the power production equipment.

“*Nationally recognized testing laboratory*” or “*NRTL*” means a qualified private organization that meets the requirements of the Occupational Safety and Health Administration’s (OSHA’s) regulations. More information is contained in 29 CFR 1910.7 as amended through February 18, 2020.

“*Parallel operation*” or “*parallel*” means a distributed generation facility that is connected electrically to the electric distribution system for longer than 100 milliseconds continuously.

“*Point of interconnection*” has the same meaning as the term “point of common coupling” as defined in Section 3.1 of IEEE Standard 1547.

“*Primary line*” means an electric distribution system line operating at greater than 600 volts.

“*Qualifying facility*” means a cogeneration facility or a small power production facility that is a qualifying facility under 18 CFR Part 292, Subpart B, used by an interconnection customer to generate electricity that operates in parallel with the electric distribution system.

“*Radial distribution circuit*” means a circuit configuration in which independent feeders branch out radially from a common source of supply.

“Review order position” means, for each distribution circuit or line section, the order of a completed interconnection request relative to all other pending completed interconnection requests on that distribution circuit or line section. The review order position is established by the date that the utility receives the completed interconnection request.

“Scoping meeting” means a meeting between representatives of the applicant and utility conducted for the purpose of discussing interconnection issues and exchanging relevant information.

“Secondary line” means an electric distribution system line, or service line, operating at 600 volts or less.

“Shared transformer” means a transformer that supplies secondary voltage to more than one customer.

“Spot network” means a type of electric distribution system that uses two or more inter-tied transformers to supply an electrical network circuit and is generally used to supply power to a single customer or a small group of customers. “Spot network” has the same meaning as the term “spot network” as defined in Section 9 “DER on distribution secondary grid/area/street (grid) networks and spot networks” of IEEE Standard 1547.

“UL Standard 1741” means the standard titled “Inverters, Converters, Controllers, and Interconnection System Equipment for Use with Distributed Energy Resources,” January 28, 2010, edition, Underwriters Laboratories Inc., 333 Pfingsten Road, Northbrook, IL 60062-2096.

“Utility” means an electric utility that is subject to rate regulation by the Iowa utilities commission.

“Witness test” for lab-certified equipment means a verification either by an on-site observation or review of documents that the interconnection installation evaluation and the commissioning test required by IEEE Standard 1547, Section 11, have been adequately performed. For interconnection equipment that has not been lab-certified, the witness test also includes verification of the on-site design tests and production tests required by IEEE Standard 1547, Section 11. All verified tests are to be performed in accordance with the test procedures specified by IEEE Standard 1547.1.

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 Midcontinent Independent System Operator Inc. (MISO), the Southwest Power Pool (SPP), the Midwest Reliability Organization (MRO), or the SERC Reliability Corporation (SERC).

45.2(2) If the nameplate capacity of the facility is greater than 10 megavolt amps (MVA), the interconnection customer and the utility shall start with the Level 4 review process and agreements under rule 199—45.11(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 dispute process in rule 199—45.12(476).

199—45.3(476) Technical standards. The technical standard to be used in evaluating interconnection requests governed by this chapter is IEEE Standard 1547 unless otherwise noted.

45.3(1) Acceptable standards. The interconnection of distributed generation facilities and associated interconnection equipment to an electric utility system shall meet the applicable provisions of the publications listed below:

a. Standard for Interconnection and Interoperability of Distributed Energy Resources and Associated Electric Power System Interfaces, IEEE Standard 1547, in effect April 6, 2018. For guidance in applying IEEE Standard 1547, the utility may refer to:

(1) IEEE Recommended Practices and Requirements for Harmonic Control in Electrical Power Systems—IEEE Standard 519-2022, as approved May 13, 2022; and

(2) IEC/TR3 61000-3-7 Assessment of Emission Limits for Fluctuating Loads in MV and HV Power Systems, as published on March 4, 2024.

- b. Iowa Electrical Safety Code, as defined in 199—Chapter 25.
- c. National Electrical Code, ANSI/NFPA 70-2023, as amended through November 30, 2023.

45.3(2) *Interconnection facilities.*

a. A distributed generation facility placed in service after July 1, 2015, is required to have a disconnection device that is installed, owned, and maintained by the owner of the distributed generation facility and is easily visible and adjacent to an interconnection customer's electric meter at the facility. Disconnection devices are considered easily visible if the clearly identified container holding the disconnection device is within the line of sight of the meter, at a height of 30 inches to 72 inches above final grade. Disconnection devices are considered adjacent to the interconnection customer's electric meter: for a home or business, within 10 feet with nothing blocking access between the disconnection device and electric meter; or for large areas with multiple buildings that require electric service, within 30 feet with nothing blocking access between the disconnection device and electric meter. 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 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, clearly identify the presence and location of the disconnection device for the distributed generation facilities on the property; be made of material that is suitable for the environment; and 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.

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.

d. Distributed generation facilities with a design capacity of 100 kW or less must be equipped with automatic disconnection upon loss of electric utility-supplied voltage.

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.

45.3(3) *Access.* If a disconnection device is required, the operator of the distributed generation facility, the utility, and emergency personnel shall have access to the disconnection device at all times. For distributed generation facilities installed prior to July 1, 2015, an interconnection customer may elect to provide the utility with access to 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 disconnection device. In consultation with the customer, the utility will determine the location of the lockbox, which will 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 utility operating personnel for accessing the disconnection device. If the utility needs to isolate the distributed generation facility, the utility shall not be held liable for any damages resulting from the actions necessary to isolate the generation facility.

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 includes 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 will 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.

45.3(5) *Emergency disconnection.* In the event that an electric utility or its customers experience problems of a type that could be caused by the presence of alternating currents or voltages with a frequency higher than 60 Hertz, the utility shall be permitted to open and lock the interconnection switch pending a complete investigation of the problem. Where the utility believes the condition creates a hazard to the public or to property, the disconnection may be made without prior notice. However, the utility shall notify the operator of the distributed generation facility by written notice and, where possible, verbal notice as soon as practicable after the disconnections.

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 this rule, the electric utility may disconnect the applicant's distributed generation facility until the facility complies. 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 or 27.

45.3(8) *Reconnections.* If a customer's distributed generation facility or electric service is disconnected due to noncompliance with this rule, the customer shall be responsible for payment of any costs associated with reconnection once the facility is in compliance with the rules.

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; identify in the application if the applicants are representing a group of customers that are located in the same vicinity and whether the application requires a group interconnection study; and use the commission-approved interconnection request forms and agreements that are provided on the commission's website, iuc.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 development proposing rooftop solar on each premises or a multiturbine wind project. The name, telephone number, and email address of such contact employee or office shall be made available on the utility's website. 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 requires the inclusion of 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 email 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 on-site 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, bank, or 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.
- (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 because 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(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. The utilities shall not charge more than the fees as specified 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(4) Interconnection requests may be submitted electronically, if agreed to by the parties.

199—45.5(476) General requirements.

45.5(1) When an interconnection request for a distributed generation facility includes multiple energy production devices at a site for which the applicant seeks a single point of interconnection, the interconnection request shall be evaluated on the basis of the aggregate nameplate capacity of the multiple devices.

45.5(2) When an interconnection request is for an increase in capacity for an existing distributed generation facility, the interconnection request shall be evaluated on the basis of the new total nameplate capacity of the distributed generation facility.

45.5(3) The utility will provide a designated point of contact with contact information on the utility’s website. The point of contact will direct applicant questions concerning interconnection request submissions and the interconnection request process to knowledgeable individuals within the utility.

45.5(4) The information that the utility makes available to potential applicants can include previously existing utility studies that help applicants understand whether it is feasible to interconnect a distributed generation facility at a particular point on the utility’s electric distribution system. However, the utility is not required to provide the information to the extent that providing it violates security requirements or confidentiality agreements, or is contrary to state or federal law. In appropriate circumstances, the utility may require a confidentiality agreement prior to release of this information.

45.5(5) When an interconnection request is deemed complete by the utility, any modification that is not agreed to by the utility requires submission of a new interconnection request.

45.5(6) The applicant shall provide, upon utility request, proof of the applicant’s legal right to control the site(s) that 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;

d. The generator, other electric sources, and interface components being utilized are compatible with the interconnection equipment and are consistent with the testing and listing specified by the NRTL for this type of interconnection equipment.

45.6(2) Lab-certified interconnection equipment does not require further design testing or production testing, as specified by IEEE Standard 1547, Section 11, or additional interconnection equipment modification to meet the requirements for expedited review; however, the applicant shall conduct all commissioning tests or periodic testing as specified by IEEE Standard 1547, Section 11. The utility may conduct additional witness tests, but no more frequently than annually.

199—45.7(476) Determining the review level. A utility shall determine whether an interconnection request should be processed under the Level 1, 2, 3, or 4 procedures by using the following screens.

45.7(1) Level 1 procedures are used to evaluate all interconnection requests to connect a distributed generation facility when:

- a.* The applicant has filed a Level 1 application;
- b.* The distributed generation facility has a nameplate capacity rating of 20 kVA or less;
- c.* The distributed generation facility is inverter-based;
- d.* The customer interconnection equipment proposed for the distributed generation facility is lab-certified; and
- e.* The utility is not required to construct facilities to accommodate the distributed generation facility.

45.7(2) Level 2 procedures are used for evaluating interconnection requests when:

- a.* The applicant has filed a Level 2 application;
- 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.

Line Voltage	Level 2 Eligibility Regardless of Location	Level 2 Eligibility on a Mainline and < 2.5 Electrical Circuit Miles from Substation
< 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;

- c.* The interconnection equipment proposed for the distributed generation facility is lab-certified;
- d.* The proposed interconnection is to a radial distribution circuit or a spot network limited to serving one customer; and
- e.* The utility is not required to construct facilities to accommodate the distributed generation facility, other than minor modifications provided for in subrule 45.9(6).

45.7(3) Level 3 review procedures are used for evaluating interconnection requests to area networks and radial distribution circuits where power will not be exported based on the following criteria.

a. For interconnection requests to the load side of an area network, the following criteria shall be satisfied to qualify for a Level 3 expedited review:

- (1) The applicant has filed a Level 3 application;
- (2) The nameplate capacity rating of the distributed generation facility is 50 kVA or less;
- (3) The proposed distributed generation facility uses a lab-certified, inverter-based equipment package;
- (4) The distributed generation facility will use reverse power relays or other protection functions that prevent the export of power into the area network;
- (5) The aggregate of all generation on the area network does not exceed the lower of 5 percent of an area network's maximum load or 50 kVA; and

(6) The utility is not required to construct facilities to accommodate the distributed generation facility.

b. For interconnection requests to a radial distribution circuit, the following criteria shall be satisfied to qualify for a Level 3 expedited review:

- (1) The applicant has filed a Level 3 application;
- (2) The aggregated total of the nameplate capacity ratings of all of the generators on the circuit, including the proposed distributed generation facility, is 10 MVA or less;
- (3) The distributed generation facility will use reverse power relays or other protection functions that prevent power flow onto the electric distribution system;
- (4) The distributed generation facility is not served by a shared transformer; and
- (5) The utility is not required to construct facilities on its own system to accommodate the distributed generation facility.

45.7(4) Level 4 study review procedures are used for evaluating interconnection requests when:

- a.* The applicant has filed a Level 4 application;
- b.* The nameplate capacity rating of the small generation facility is 10 MVA or less; and
- c.* Not all of the interconnection equipment or distributed generation facilities being used for the application are lab-certified.

199—45.8(476) Level 1 expedited review. A utility shall use the Level 1 interconnection review procedures for an interconnection request that meets the requirements specified in subrule 45.7(1). A utility will not impose additional requirements on Level 1 reviews that are not specifically authorized under this rule or rule 199—45.3(476) unless the applicant agrees.

45.8(1) The utility shall evaluate the potential for adverse system impacts using the following screens, which shall be satisfied:

a. For interconnection of a proposed distributed generation facility to a radial distribution circuit, the total distributed generation connected to the distribution circuit, including the proposed distributed generation facility, will not exceed 15 percent of the maximum load normally supplied by the distribution circuit.

b. For interconnection within a spot network, the distributed generation facility must use a minimum import relay or other protective scheme that will ensure that power imported from the utility to the network will, during normal utility operations, remain above 1 percent of the network's maximum load over the past year, or will remain above a point reasonably set by the utility in good faith. At the utility's discretion, the requirement for minimum import relays or other protective schemes may be waived and alternative screening criteria may be applied.

c. When a proposed distributed generation facility is to be interconnected on a single-phase shared secondary line, the aggregate generation capacity on the shared secondary line, including the proposed distributed generation facility, does not exceed 20 kVA.

d. When a proposed distributed generation facility is single-phase and is to be interconnected on a center tap neutral of a 240-volt service, its addition will not create an imbalance between the two sides of the 240-volt service of more than 20 percent of the nameplate rating of the service transformer.

e. The utility is not required to construct facilities on its own system to accommodate the distributed generation facility's interconnection.

45.8(2) The Level 1 interconnection shall use the following procedures:

a. The applicant submits an interconnection request using the Level 1 Interconnection Request Application form and Distributed Generation Interconnection Agreement along with the Level 1 application fee.

b. Within seven business days after receipt of the interconnection request, the utility shall inform the applicant whether the interconnection request is complete. If the request is incomplete, the utility shall specify what information is missing and the applicant has ten business days after receiving notice from the utility to provide the missing information or the interconnection request shall be deemed withdrawn.

c. Within 15 business days after the utility notifies the applicant that its interconnection request is complete, the utility shall verify whether the distributed generation facility passes all the relevant Level 1 screens.

d. If the utility determines and demonstrates that a distributed generation facility does not pass all relevant Level 1 screens, the utility shall provide a letter to the applicant explaining the reasons that the facility did not pass the screens.

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 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 Certificate of Completion 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 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 in 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 used to determine the review order position for subsequent Level 2 to 4 applications, provided the applicant makes the request within 15 business days after being notified that the Level 1 interconnection request is denied.

199—45.9(476) Level 2 expedited review. A utility shall use the Level 2 review procedure for interconnection requests that meet the Level 2 criteria in subrule 45.7(2). A utility will not impose additional requirements for Level 2 reviews that are not specifically authorized under this rule or rule 199—45.3(476) or subrule 45.5(9) unless the applicant agrees.

45.9(1) The utility shall evaluate the potential for adverse system impacts using the following screens, which shall be satisfied:

a. For interconnection of a proposed distributed generation facility to a radial distribution circuit, the total distributed generation connected to the distribution circuit, including the proposed distributed generation facility, will not exceed 15 percent of the maximum load normally supplied by the distribution circuit.

b. For interconnection of a proposed distributed generation facility within a spot network, the proposed distributed generation facility must be inverter-based and use a minimum import relay or other protective scheme that will ensure that power imported from the utility to the network will, during normal utility operations, remain above 1 percent of the network's maximum load over the past year, or will remain above a point reasonably set by the utility in good faith. At the utility's discretion, the requirement for minimum import relays or other protective schemes may be waived and alternative screening criteria may be applied.

c. The proposed distributed generation facility, in aggregation with other generation on the distribution circuit, will not contribute more than 10 percent to the distribution circuit's maximum fault current at the point on the primary line nearest the point of interconnection.

d. Any proposed distributed generation facility, in aggregate with other generation on the distribution circuit, shall not cause any electric utility distribution devices to be exposed to fault currents

exceeding 90 percent of the electric utility distribution devices' short-circuit interrupting capability. Interconnection of a non-inverter-based distributed generation facility will not occur under Level 2 if equipment on the utility's distribution circuit is already exposed to fault currents of between 90 and 100 percent of the utility's equipment short-circuit interrupting capability. However, if fault currents exceed 100 percent of the utility's equipment short-circuit interrupting capability even without the distributed generation being interconnected, the utility shall replace the equipment at its own expense, and interconnection may proceed under Level 2.

e. When a customer-generator facility is to be connected to 3-phase, 3-wire primary utility distribution lines, a 3-phase or single-phase generator shall be connected phase-to-phase.

f. When a customer-generator facility is to be connected to 3-phase, 4-wire primary utility distribution lines, a 3-phase or single-phase generator shall be connected line-to-neutral and shall be grounded.

g. When the proposed distributed generation facility is to be interconnected on a single-phase shared secondary line, the aggregate generation capacity on the shared secondary line, including the proposed distributed generation facility, will not exceed 20 kVA.

h. When a proposed distributed generation facility is single-phase and is to be interconnected on a center tap neutral of a 240-volt service, its addition will not create an imbalance between the two sides of the 240-volt service of more than 20 percent of the nameplate rating of the service transformer.

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, will 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 MRO, the SERC, the MISO or the SPP.

j. Except as permitted by additional review in subrule 45.9(6), the utility shall not be required to construct any facilities on its own system to accommodate the distributed generation facility's interconnection.

45.9(2) The Level 2 interconnection shall use the following procedures:

a. The applicant submits an interconnection request using the Levels 2 to 4 Interconnection Request Application form along with the Level 2 application fee.

b. Within ten business days after receiving the interconnection request, the utility shall inform the applicant as to whether the interconnection request is complete. If the request is incomplete, the utility shall specify what materials are missing and the applicant has ten business days to provide the missing information or the interconnection request shall be deemed withdrawn.

c. After an interconnection request is deemed complete, the utility shall assign a review order position based upon the date that the interconnection request is determined to be complete. The utility shall then inform the applicant of its review order position.

d. If, after determining that the interconnection request is complete, the utility determines that it needs additional information to evaluate the distributed generation facility's adverse system impact, it shall request this information. The utility will not restart the review process or alter the applicant's review order position because it requires the additional information. The utility can extend the time to finish its evaluation only to the extent of the delay required for receipt of the additional information. If the additional information is not provided by the applicant within 15 business days, the interconnection request shall be deemed withdrawn.

e. Within 20 business days after the utility notifies the applicant it has received a completed interconnection request, the utility shall:

(1) Evaluate the interconnection request using the Level 2 screening criteria; and

(2) Provide the applicant with the utility's evaluation, including a written technical explanation. If a utility does not have a record of receipt of the interconnection request and the applicant can demonstrate that the original interconnection request was delivered, the utility shall complete the evaluation of the interconnection request within 20 business days after applicant's demonstration.

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 the facility fails one or more of the Level 2 screening criteria, the utility shall provide the applicant with the Levels 2 to 4 Distributed Generation Interconnection Agreement within three business days of the date the utility makes its determination.

45.9(4) Within 30 business days after the utility issues the 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 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 30-day period. The initial request for extension will 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 Levels 2 to 4 Distributed Generation Interconnection Agreement.

45.9(5) The 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;
- c.* The applicant provides the Certificate of Completion 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 Levels 2 to 4 Distributed Generation Interconnection Agreement.

45.9(6) 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 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 without causing adverse system impacts. 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 is responsible for the utility's actual costs for conducting the supplemental review. The applicant must pay any supplemental 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) Provide 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 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 IEEE Standard 1453-2022, as approved on June 16, 2022, or utility practice similar to IEEE Standard 1453; and

3. The harmonic levels meet IEEE Standard 519-2022, as approved on May 13, 2022, 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 the applicant’s interconnection request, the applicant 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 the utility’s 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 the utility notifies the applicant with the supplemental review results, that the interconnection request shall be evaluated under the Level 4 study process unless the applicant withdraws the applicant's interconnection request.

45.9(7) If the distributed generation facility is not approved under a Level 2 review, the utility shall provide the applicant with written notification explaining the utility's reasons for denying the interconnection request. The applicant may submit a new interconnection request for consideration under a Level 4 interconnection review. The review order position assigned to the Level 2 interconnection request shall be retained, provided that the request is made by the applicant within 15 business days after notification that the current interconnection request is denied.

199—45.10(476) Level 3 expedited review. A utility shall use the Level 3 expedited review procedure for an interconnection request that meets the criteria in subrule 45.7(3) or 45.7(4). A utility will not impose additional requirements for Level 3 reviews not specifically authorized under this rule or rule 199—45.3(476) unless the applicant agrees.

45.10(1) A Level 3 interconnection shall utilize the following procedures:

a. The applicant submits an interconnection request using the Levels 2 to 4 Interconnection Request Application form along with the Level 3 application fee.

b. Within ten business days after receiving the interconnection request, the utility shall inform the applicant as to whether the interconnection request is complete. If the request is incomplete, the utility shall specify what materials are missing and the applicant has ten business days to provide the missing information, or the interconnection request shall be deemed withdrawn.

c. After an interconnection request is deemed complete, the utility shall assign a review order position to it based upon the date the interconnection request is determined to be complete. The utility shall then inform the applicant of its review order position.

d. If, after determining that the interconnection request is complete, the utility determines that the utility needs additional information to evaluate the distributed generation facility's adverse system impact, the utility shall request this information. The utility will not restart the review process or alter the applicant's review order position because the utility requires the additional information. The utility can extend the time to finish its evaluation only to the extent the delay is required for receipt of the additional information. If this additional information is not provided by the applicant within 15 business days, the interconnection request shall be deemed withdrawn.

e. Interconnection requests meeting the requirements set forth in paragraph 45.7(3) "a" for nonexporting distributed generation facilities interconnecting to an area network are presumed to be appropriate for interconnection. The utility shall process the interconnection requests using the following procedures:

(1) The utility shall evaluate the interconnection request under Level 2 interconnection review procedures as set forth in subrule 45.9(1) except that the utility has 25 business days to evaluate the interconnection request against the screens to determine whether interconnecting the distributed generation facility to the utility's area network has any potential adverse system impacts.

(2) If the Level 2 screens for area networks identify potential adverse system impacts, the utility may determine at its sole discretion that it is inappropriate for the distributed generation facility to interconnect to the area network under Level 3 review, and the interconnection request is denied. The applicant may submit a new interconnection request for consideration under Level 4 procedures at the

review order position assigned to the Level 3 interconnection request, if the request is made within 15 business days after notification that the current application is denied.

f. For interconnection requests that meet the requirements of paragraph 45.7(3)“*b*” for nonexporting distributed generation facilities interconnecting to a radial distribution circuit, the utility shall evaluate the interconnection request under the Level 2 expedited review in subrule 45.9(1), except for the screen in paragraph 45.9(1)“*a*.”

45.10(2) For a distributed generation facility that satisfies the criteria in paragraph 45.10(1)“*e*” or “*f*,” the utility shall approve the interconnection request and provide the applicant with the Levels 2 to 4 Distributed Generation Interconnection Agreement within three business days of the date the utility makes its determination.

45.10(3) Within 30 business days after the utility issues the Levels 2 to 4 Distributed Generation Interconnection Agreement, the applicant will complete, sign, and return the agreement to the utility. If the applicant does not sign the agreement within 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 30-day period. An initial request for extension will 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 Levels 2 to 4 Distributed Generation Interconnection Agreement.

45.10(4) The 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 distributed generation facility;
- c.* The applicant provides the Certificate of Completion 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 Levels 2 to 4 Distributed Generation Interconnection Agreement.

45.10(5) If the distributed generation facility is not approved under a Level 3 review, the utility shall provide the applicant with written notification explaining the utility’s reasons for denying the interconnection request. The applicant may submit a new interconnection request for consideration under a Level 4 interconnection review. The review order position assigned to the Level 3 interconnection request shall be retained, provided that the request is made within 15 business days after notification that the current interconnection request is denied.

199—45.11(476) Level 4 review. A utility shall use the following Level 4 study review procedures for an interconnection request that meets the criteria in subrule 45.7(4).

45.11(1) The applicant submits an interconnection request using the Levels 2 to 4 Interconnection Request Application form along with the Level 4 application fee.

45.11(2) Within ten business days after receipt of an interconnection request, the utility shall notify the applicant whether the request is complete. When the interconnection request is not complete, the utility shall provide the applicant with a written list detailing the information required to complete the interconnection request. The applicant has ten business days to provide the required information or the interconnection request is considered withdrawn. The parties may agree to extend the time for receipt of the additional information. The interconnection request is deemed complete when the required information has been provided by the applicant, or the parties have agreed that the applicant may provide additional information at a later time.

45.11(3) After an interconnection request is deemed complete, the utility shall assign a review order position to it based upon the date the interconnection request is determined to be complete. When assigning a review order position, a utility may consider whether there are any other interconnection projects on the same distribution circuit. If there are other interconnection projects on the same distribution circuit, the utility may consider them together. If a utility assigns a review order position based on the existence of interconnection projects on the same distribution circuit, the utility shall notify the applicant of that fact when the utility assigns the review order position. The review order position of an interconnection request is used to determine the cost responsibility for the facilities necessary to

accommodate the interconnection. The utility shall notify the applicant as to the applicant's position in the review order. If the interconnection request is subsequently amended, the applicant shall receive a new review order position based on the date that the interconnection request was amended.

45.11(4) Level 4 study review procedures. After the interconnection request has been assigned to the review order, a Level 4 study review shall be conducted:

a. Waiver or combination of standard Level 4 study review procedures. By mutual agreement of the parties in writing, the scoping meeting, feasibility study, system impact study, or facilities study in paragraph 45.11(4) "*b*" may be waived or combined with other studies. Otherwise, the standard Level 4 study review procedures in paragraph 45.11(4) "*b*" shall apply.

b. Standard Level 4 study review procedures include:

(1) Scoping meeting. Unless waived or combined with other studies pursuant to paragraph 45.11(4) "*a*," a scoping meeting shall be held with the applicant on a mutually agreed-upon date and time, after the utility has notified the applicant that the Level 4 interconnection request is deemed complete, or after the applicant has requested that the applicant's interconnection request proceed under Level 4 review after failing the requirements of a Level 1, Level 2, or Level 3 review. The purpose of the meeting is to review the interconnection request, any existing studies relevant to the interconnection request, and the results of any Level 1, Level 2, or Level 3 screening criteria.

(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 Interconnection Feasibility Study Agreement 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. The utility shall provide the study agreement and information no later than ten business days after the following have occurred, as applicable:

- Receipt of a complete interconnection request; and
- The scoping meeting (if held).

3. If the applicant does not sign and return the study agreement with payment of the estimated costs of the study within 15 business days, the application shall be deemed withdrawn.

(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 Interconnection System Impact Study Agreement 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. The utility shall provide the study agreement and information no later than ten business days after the following have occurred, as applicable:

- Receipt of a complete interconnection request;
- The scoping meeting (if held); and
- Transmittal of the interconnection feasibility study (if performed).

3. If the applicant does not sign and return the study agreement with payment of the estimated costs of the study within 15 business days, the application shall be deemed withdrawn.

(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 Interconnection Facilities Study Agreement 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. The utility shall provide the study agreement and information no later than ten business days after the following have occurred, as applicable:

- Receipt of a complete interconnection request;
- The scoping meeting (if held);
- Transmittal of the interconnection feasibility study (if performed); and
- Transmittal of the interconnection system impact study (if performed).

3. If the applicant does not sign and return the study agreement with payment of the estimated costs of the study within 15 business days, the application shall be deemed withdrawn.

45.11(5) Interconnection feasibility study.

a. Unless waived or combined with other studies by agreement of the parties pursuant to paragraph 45.11(4) “*a*,” the interconnection feasibility study shall include any necessary analyses for the purpose of identifying potential adverse system impacts to the utility’s electric system that would result from the interconnection from among the following:

(1) Initial identification of any circuit breaker short circuit capability limits exceeded as a result of the interconnection;

(2) Initial identification of any thermal overload or voltage limit violations resulting from the interconnection; and

(3) Initial review of grounding requirements and system protection.

b. Before performing the study, the utility shall provide the applicant a description of the study and a nonbinding estimate of the cost to perform the study.

c. If an applicant requests that the interconnection feasibility study evaluate multiple potential points of interconnection, additional evaluations may be required that will be paid for by the applicant.

d. An interconnection system impact study is not required when the interconnection feasibility study concludes that there is no adverse system impact, or when the study identifies an adverse system impact, but the utility is able to identify a remedy without the need for an interconnection system impact study.

e. Either party can require that the Interconnection Feasibility Study Agreement be used. However, if both parties agree, an alternative form can be used.

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 interconnection impact study identifies and details the system impacts that interconnecting the distributed generation facility to the utility’s electric system has if there are no system modifications. The interconnection system impact study 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 interconnection system impact 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 interconnection feasibility 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;
- (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.

d. Either party can require that the Interconnection System Impact Study Agreement be used. However, if both parties agree, an alternative form can be used.

45.11(7) Interconnection facilities study. Unless waived or combined with other studies by agreement of the parties pursuant to paragraph 45.11(4) “a,” an interconnection facilities study shall be performed as follows:

a. Before performing the interconnection facilities 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.

b. The interconnection facilities study shall estimate the cost of the equipment, engineering, procurement and construction work, including overheads, needed to implement the conclusions of the interconnection feasibility study and the interconnection system impact study. The interconnection facilities study shall identify:

(1) The electrical switching configuration of the equipment, including transformer, switchgear, meters and other station equipment;

(2) The nature and estimated cost of the utility’s interconnection facilities and distribution upgrades necessary to accomplish the interconnection; and

(3) An estimate for the time required to complete the construction and installation of the interconnection facilities and distribution upgrades.

c. The utility may agree to permit an applicant to arrange separately for a third party to design and construct the required interconnection facilities. In such a case, when the applicant agrees to separately arrange for design and construction, and to comply with security and confidentiality requirements, the utility shall make all relevant information and required specifications available to the applicant to permit the applicant to obtain an independent design and cost estimate for the facilities, which shall be built in accordance with the utility’s specifications.

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 Levels 2 to 4 Distributed Generation Interconnection Agreement within three business days of the date the utility makes its determination.

e. In the event that distribution upgrades are identified in the interconnection system impact study that shall be added only in the event that customers with higher review order positions not yet interconnected eventually complete and interconnect the customers’ generation facilities, the applicant may elect to interconnect without paying the estimate for such upgrades at the time of the interconnection, provided that the applicant pays for such upgrades prior to commencement of construction of such upgrades to be completed by the time the customer with higher review order position is ready to interconnect. If the applicant does not pay for such upgrades at that time, the utility shall require the applicant to immediately disconnect the applicant’s distributed generation facility to accommodate the customer with higher review order position.

f. Either party can require that the Interconnection Facilities Study Agreement be used. However, if both parties agree, an alternative form can be used.

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 Levels 2 to 4 Distributed Generation Interconnection Agreement. If the interconnection request is denied, the utility shall provide the applicant with a written explanation as to the utility's reasons for denying interconnection. If denied, the interconnection request does not retain its position in the review order.

45.11(9) Within 30 business days after receipt of the 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 will 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 Levels 2 to 4 Distributed Generation Interconnection Agreement.

45.11(10) The Levels 2 to 4 Distributed Generation Interconnection Agreement is not final until:

- a. The requirements of the agreement are satisfied;
- b. The distributed generation facility is approved by electric code officials with jurisdiction over the interconnection;
- c. The applicant provides the Certificate of Completion 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 Levels 2 to 4 Distributed Generation Interconnection Agreement.

199—45.12(476) Disputes.

45.12(1) A party shall attempt to resolve all disputes regarding interconnection promptly and in a good-faith manner. A party shall provide prompt written notice of the existence of the dispute, including sufficient detail to identify the scope of the dispute, to the other party in order to attempt to resolve the dispute in a good-faith manner.

45.12(2) An informal meeting between the parties shall be held within ten business days after receipt of the written notice. Persons with decision-making authority from each party shall attend such meeting. In the event said dispute involves technical issues, persons with sufficient technical expertise and familiarity with the issue in dispute from each party shall also attend the informal meeting. If the parties agree, such a meeting may be conducted by teleconference.

45.12(3) Subsequent to the informal meeting referred to in subrule 45.12(2), a party may seek resolution of any disputes through the 199—Chapter 6 complaint procedures of the commission. Dispute resolution under these procedures will initially be conducted informally under rules 199—6.2(476) through 199—6.4(476) to reach resolution with minimal cost and delay. If any party is dissatisfied with the outcome of the informal process, the party may file a formal complaint with the commission under rule 199—6.5(476).

45.12(4) Pursuit of dispute resolution shall not affect an interconnection applicant with regard to consideration of an interconnection request or an interconnection applicant's position in the utility's interconnection review order.

199—45.13(476) Records and reports.

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:

- 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;

c. Whether the interconnection was approved, 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) Each utility shall file a report by May 1 of each year detailing the information required in subrule 45.13(1) for the previous calendar year.

45.13(3) Each utility shall retain copies of studies the utility performs to determine the feasibility of, system impacts of, or facilities required by the interconnection of any distributed generation facility. The utility shall provide the applicant copies of any studies performed in analyzing the applicant's interconnection request upon applicant request. However, a utility has no obligation to provide any future applicants any information regarding prior interconnection requests to the extent that providing the information would violate security requirements or confidentiality agreements, or is contrary to state or federal law. In appropriate circumstances, the utility may require a confidentiality agreement prior to release of this information.

These rules are intended to implement Iowa Code sections 476.1 and 476.8 and Section 211 of the Public Utilities Regulatory Policies Act of 1978 as amended by the Energy Policy Act of 2005.

ARC 8800C**EDUCATIONAL EXAMINERS BOARD[282]****Adopted and Filed****Rulemaking related to organization and operation**

The Educational Examiners Board hereby rescinds Chapter 1, “Organization and Operation,” Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 17A and section 256.146.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 17A and section 256.146.

Purpose and Summary

This chapter provides the organizational structure for the Board. The Board is removing duplicative statutory language and updating the Board’s organizational structure.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8282C**. A public hearing was held on the following date(s):

- November 20, 2024
- December 2, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on December 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 282—Chapter 1 and adopt the following **new** chapter in lieu thereof:

CHAPTER 1
ORGANIZATION AND OPERATION

282—1.1(256,17A) Board of educational examiners. The board was created by Iowa Code section 256.146 as the governing and policy-forming body for educational examiners.

1.1(1) Membership. The membership of the board is defined in Iowa Code section 256.147.

1.1(2) Compensation. All voting members receive compensation and reimbursement as provided in Iowa Code section 256.149.

1.1(3) Executive director. The appointment and compensation of the executive director are defined in Iowa Code section 256.149.

1.1(4) Meetings. The majority of the board's meetings are held at the Grimes State Office Building, 400 East 14th Street, Des Moines, Iowa 50319.

a. The board will biennially, at its regularly scheduled meeting in June, elect a chair from its membership to begin serving upon election.

b. The board will approve annual meeting dates by at least June 30.

c. The board may schedule special meetings called by the chair or upon request to the chair by seven members of the board or upon request of the executive director.

d. In order to be placed on the agenda, materials will be received at least two weeks prior to a scheduled board meeting. Materials from emergency or unusual circumstances may be added to the agenda with the chair's approval.

e. Persons in attendance at board meetings may be granted an opportunity to speak on an issue before the board at the discretion of the chair. The length and frequency of public comment will be at the discretion of the chair.

f. The board will govern its meetings in accordance with Iowa Code chapter 21 and its proceedings by Robert's Rules of Order, Revised.

282—1.2(256,17A) Information, submissions or requests. General inquiries regarding the board, requests for forms and other documents, and all other requests and submissions may be addressed to the Executive Director, Board of Educational Examiners, 701 East Court Avenue, Suite A, Des Moines, Iowa 50309.

These rules are intended to implement Iowa Code section 256.146 and chapter 17A.

ITEM 2. Rescind and reserve **282—Chapter 2.**

[Filed 12/24/24, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8801C

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Rulemaking related to agency procedures and petitions for rulemaking

The Educational Examiners Board hereby rescinds Chapters 2, “Agency Procedures and Petitions for Rule Making,” and adopts a new Chapter 2, “Agency Procedures and Petitions for Rulemaking,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 17A and section 256.146.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 17A and section 256.146.

Purpose and Summary

This chapter provides procedures for rulemaking. The Board is removing duplicative statutory language.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8283C**. A public hearing was held on the following date(s):

- November 20, 2024
- December 2, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on December 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 282—Chapter 2 and adopt the following **new** chapter in lieu thereof:

CHAPTER 2
AGENCY PROCEDURES AND PETITIONS FOR RULEMAKING

282—2.1(17A) Incorporation by reference. The Iowa board of educational examiners (board) incorporates by this reference all such matters in Iowa Code chapter 17A that deal with rulemaking or petitions for rulemaking.

282—2.2(17A) Contact information.

2.2(1) General. Petitions for rulemaking and inquiries about board rules and the rulemaking process may be directed to Legal Consultant, Iowa Board of Educational Examiners, 701 East Court Avenue, Suite A, Des Moines, Iowa 50309.

2.2(2) Comments on proposed rules. Any public comment on a notice of intended action or similar document may be directed to Legal Consultant, Iowa Board of Educational Examiners, 701 East Court Avenue, Suite A, Des Moines, Iowa 50309, or as directed in the notice of intended action or similar document.

2.2(3) Petitions for rulemaking. A petition for rulemaking that substantially conforms to the following form will be considered by the board:

BOARD OF EDUCATIONAL EXAMINERS	
Petition by (Name of Petitioner) for the Adoption/Amendment/ Repeal of (Cite rule involved).	}
	PETITION FOR RULEMAKING

282—2.3(17A) Electronic submissions. The board encourages electronic submissions of documents under this chapter, including documents bearing electronic signatures.

These rules are intended to implement Iowa Code section 256.146 and chapter 17A.

[Filed 12/24/24, effective 2/26/25]

[Published 1/22/25]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8802C

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Rulemaking related to declaratory orders

The Educational Examiners Board hereby rescinds Chapter 3, “Declaratory Orders,” Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 17A and section 256.146.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 17A and section 256.146.

Purpose and Summary

This chapter provides the process for declaratory orders. The Board is removing duplicative statutory language.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8284C**. A public hearing was held on the following date(s):

- November 20, 2024
- December 2, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on December 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 282—Chapter 3 and adopt the following **new** chapter in lieu thereof:

CHAPTER 3
DECLARATORY ORDERS

The board of educational examiners adopts, with the exceptions and amendments noted in rule 282—3.13(17A), the Uniform Rules on Agency Procedure relating to declaratory orders, which are published at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf on the general assembly's website.

282—3.13(17A) Additional information concerning declaratory orders. For purposes of the Uniform Rules on Agency Procedure relating to declaratory orders, the following amendments and exceptions apply:

1. In lieu of “(designate agency)” insert “Iowa board of educational examiners”.

2. In lieu of “(designate office)” insert “701 East Court Avenue, Des Moines, Iowa 50319”.
 3. In lieu of “_____ days (15 or less)” insert “15 days”.
 4. In lieu of “_____ days” insert “15 days”.
 5. In lieu of “(designate official by full title and address)” insert “Executive Director, Board of Educational Examiners, 701 East Court Avenue, Des Moines, Iowa 50319”.
 6. In lieu of “(specify office and address)” insert “Executive Director, Board of Educational Examiners, 701 East Court Avenue, Des Moines, Iowa 50319”.
- These rules are intended to implement Iowa Code chapter 17A.

[Filed 12/24/24, effective 2/26/25]

[Published 1/22/25]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8803C

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Rulemaking related to agency procedure for rulemaking

The Educational Examiners Board hereby rescinds Chapter 4, “Agency Procedure for Rule Making,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 256.146.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 17A.

Purpose and Summary

The Board is rescinding and reserving this chapter because the content from the chapter has been streamlined and moved to 282—Chapter 2.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8285C**. A public hearing was held on the following date(s):

- November 20, 2024
- December 2, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on December 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

This chapter is being rescinded.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **282—Chapter 4**.

[Filed 12/24/24, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8804C

EDUCATIONAL EXAMINERS BOARD[282]**Adopted and Filed****Rulemaking related to public records and fair information practices**

The Educational Examiners Board hereby rescinds Chapter 5, "Public Records and Fair Information Practices," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 22.11 and 256.146.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 22.11 and 256.146.

Purpose and Summary

This chapter provides procedures for public records. The Board is removing duplicative statutory language.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8286C**. A public hearing was held on the following date(s):

- November 20, 2024
- December 2, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on December 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 282—Chapter 5 and adopt the following **new** chapter in lieu thereof:

CHAPTER 5**PUBLIC RECORDS AND FAIR INFORMATION PRACTICES**

The board of educational examiners hereby adopts, with the following exceptions and amendments, the Uniform Rules of Agency Procedure relating to public records and fair information practices, which are published at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf on the general assembly's website.

282—5.9(22,256) Exceptions and additions.

5.9(1) Definition of “agency.” In lieu of the words “(official or body issuing these rules)”, insert “board of educational examiners”.

5.9(2) Request for access to record. In lieu of the words “(insert agency head)”, insert “office where the record is kept”. In lieu of the words “(insert agency name and address)”, insert “Board of Educational Examiners, 701 East Court Avenue, Suite A, Des Moines, Iowa 50309”.

5.9(3) Office hours. In lieu of the words “(insert customary office hours and, if agency does not have customary office hours of at least thirty hours per week, insert hours specified in Iowa Code section 22.4)”, insert “any time from 8 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays”.

5.9(4) Fees. Fees will be determined as provided in 281—Chapter 5.

5.9(5) Procedure by which additions, dissents, or objections may be entered into certain records. In lieu of the words “(designate office)”, insert “the office of the executive director of the board”.

282—5.10(22,256) Disclosures without the consent of the subject.

5.10(1) Records that are not confidential are routinely disclosed without the consent of the subject.

5.10(2) Records that are confidential will be disclosed outside of the board only with the consent of the subject of the record or in circumstances in which consent of the subject is not legally necessary.

282—5.11(22,256) Availability of records. Board records are open for public inspection and copying unless otherwise provided by rule or law. The board may have discretion to disclose some confidential records that are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may request permission to inspect records withheld from inspection under a statute that authorizes limited or discretionary disclosure as provided in rule X.4(17A,22). If the board initially determines that it will release these records, the board may, where appropriate, notify interested parties and withhold the records from inspection as provided in this chapter.

282—5.12(22,256) Personally identifiable information. This rule describes the nature and extent of personally identifiable information that is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in rule X.1(17A,22). For each record system, this rule describes the legal authority for the collection of that information, and indicates whether a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with that in another record system. The record systems maintained by the agency include:

5.12(1) Cases dismissed. These records contain data supplied by persons or parties filing complaints and responses with the board and contain personally identifiable information such as student name(s), teacher name, administrator name, addresses, disciplinary records, and investigatory reports. This information is collected pursuant to Iowa Code chapter 256 and this chapter and is stored electronically; most of the data are on an automated data processing system.

5.12(2) Cases decided. These records contain data supplied by persons or parties filing complaints and responses with the board and contain personally identifiable information such as student name(s), teacher name, administrator name, addresses, disciplinary records, and investigatory reports. This information is collected pursuant to Iowa Code chapter 256 and this chapter and is stored electronically; most of the data are on an automated data processing system.

5.12(3) Litigation files. These files or records contain information regarding litigation or anticipated litigation, which includes judicial and administrative proceedings. The records include briefs, depositions, docket sheets, documents, correspondence, attorney's notes, memoranda, research materials, witness information, investigation materials, information compiled under the direction of the attorney, and case management records. The files contain materials that are confidential as attorney work product and attorney-client communications. Some materials are confidential under other applicable provisions of law or because of a court order. Persons wishing copies of pleadings and other documents filed in litigation should obtain these from the clerk of the appropriate court that maintains the official copy.

282—5.13(22,256) Other groups of records. This rule describes groups of records maintained by the board other than record systems as defined in rule 282—5.1(17A,22). These records are routinely available to the public. However, the board's files of these records may contain confidential information, which will be addressed as provided in this chapter. The records listed may contain information about individuals.

5.13(1) Rulemaking. Rulemaking records may contain information about individuals making written or oral comments on proposed rules or proposing rules or rule amendments. This information is collected pursuant to Iowa Code sections 17A.3, 17A.4, and 17A.7. These records are stored electronically and not in an automated data processing system.

5.13(2) Board records. Records contain agendas, minutes, and materials presented to the board. Records concerning closed sessions are exempt from disclosure under Iowa Code section 21.5(5). Board records contain information about people who participate in meetings. This information is collected under the authority of Iowa Code section 21.3. Board records are not stored in an automated data processing system.

5.13(3) Publications. Publications include brochures, annual reports, video tapes, and other informational materials that describe various agency programs. Agency publications may contain

information about individuals, including agency staff or members of the board. This information is not stored in an automated data processing system.

5.13(4) *Statistical reports.* Periodic reports of agency decisions are available from the board. Statistical reports are not stored in an automated data processing system.

5.13(5) *Address lists/directories.* The names and mailing addresses of members of boards in other states, professional organizations, public press, and members of the general public evidencing interest in particular events of the agency are maintained in order to provide mailing labels for mass distribution of literature. This information is collected under the provisions of Iowa Code chapter 256.

5.13(6) *Case decisions and declaratory rulings.* All final orders, decisions and rulings are available for public inspection in accordance with Iowa Code section 17A.3. These records may contain personally identifiable information regarding individuals who are the subjects of the appeals or rulings. This information is collected pursuant to Iowa Code chapters 17A and 256 and this chapter and is not stored in an automated data processing system.

5.13(7) *Board budget records.* These records contain data used by the board to develop annual budgets. These records are stored electronically and not in an automated data processing system.

282—5.14(256) Consensual disclosure of confidential records.

5.14(1) *Consent to disclosure by a subject.* To the extent permitted by law, the subject may consent in writing to the board the disclosure of the subject's confidential records.

5.14(2) *Complaints to public officials.* A letter from a subject of a confidential record to a public official that seeks the official's intervention on behalf of the subject in a matter that involves the board may, to the extent permitted by law, be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

282—5.15(22,256) Applicability. This chapter does not:

5.15(1) Compel the board to create a record that does not otherwise exist.

5.15(2) Require the board to index or retrieve records that contain information about individuals by that person's name or other personal identifier.

5.15(3) Make available to the general public records that would otherwise not be available under Iowa Code chapter 22.

5.15(4) Govern the maintenance, disclosure or notification of or access to records in the possession of the board that are governed by the rules of another agency.

5.15(5) Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs, unless otherwise provided by law or agreement.

5.15(6) Make available records compiled by the board in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any individual or party subject to such litigation or proceedings is governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable rules of the board.

These rules are intended to implement Iowa Code section 22.11.

[Filed 12/24/24, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8805C

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Rulemaking related to waivers from administrative rules

The Educational Examiners Board hereby rescinds Chapter 6, “Waivers from Administrative Rules,” Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 17A and section 256.146.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 17A and section 256.146.

Purpose and Summary

This chapter provides procedures for waivers. The Board is removing duplicative statutory language.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8287C**. A public hearing was held on the following date(s):

- November 20, 2024
- December 2, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on December 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 282—Chapter 6 and adopt the following **new** chapter in lieu thereof:

CHAPTER 6
WAIVERS FROM ADMINISTRATIVE RULES

282—6.1(17A) Definitions. For purposes of this chapter:

“*Board*” means the board of educational examiners.

“*Waiver*” means the same as defined in Iowa Code section 17A.9A(5).

282—6.2(17A) General. The board may grant a waiver of any administrative rule if the waiver is consistent with Iowa Code section 17A.9A.

282—6.3(17A) Criteria for waiver. In response to a petition filed pursuant to this chapter, the board may in its sole discretion issue an order waiving in whole or in part the requirements of a rule if the board finds, based on clear and convincing evidence, that all of the factors listed in Iowa Code section 17A.9A(2) apply.

282—6.4(17A) Filing of petition. A petition for a waiver will be submitted to the board as follows:

6.4(1) *License, certificate, or authorization application.* If the petition relates to an application, the petition will be made in accordance with the filing requirements for the application in question.

6.4(2) *Contested cases.* If the petition relates to a pending contested case, the petition will be filed in the contested case proceeding using the caption of the contested case.

6.4(3) *Other.* If the petition does not relate to a license, certificate, or authorization application or a pending contested case, the petition may be submitted to the board’s executive director.

282—6.5(17A) Content of petition. A petition for waiver will include the following information where applicable and known to the requester:

6.5(1) The name, address, and telephone number of the person or entity for whom a waiver is being requested, and the case number of any related contested case.

6.5(2) A description and citation of the specific rule from which a waiver is requested.

6.5(3) The specific waiver requested, including the precise scope and duration.

6.5(4) The relevant facts that the petitioner believes would justify a waiver under the criteria described in Iowa Code section 17A.9A(2). This statement is to include a signed statement from the petitioner attesting to the accuracy of the facts provided in the petition and a statement of reasons that the petitioner believes will justify a waiver.

6.5(5) A history of any prior contacts between the board and the petitioner relating to the regulated activity, license, or authorization affected by the proposed waiver, including a description of each affected license or authorization held by the requester, any notices of violation, contested case hearings, or investigative reports relating to the regulated activity or license within the last five years.

6.5(6) Any information known to the requester regarding the board’s treatment of similar cases.

6.5(7) The name, address, and telephone number of any public agency or political subdivision that also regulates the activity in question or that might be affected by the grant of a waiver.

6.5(8) The name, address, and telephone number of any person or entity that would be adversely affected by the grant of a petition.

6.5(9) The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.

6.5(10) Signed releases of information authorizing persons with knowledge regarding the request to furnish the board with information relevant to the waiver.

282—6.6(17A) Additional information. Prior to issuing an order granting or denying a waiver, the board may request additional information from the petitioner relative to the petition and surrounding circumstances. If the petition was not filed in a contested case, the board may, on its own motion or at the petitioner’s request, schedule a telephonic or in-person meeting between the petitioner and the board’s executive director, a committee of the board, or a quorum of the board.

282—6.7(17A) Notice. The board will acknowledge a petition upon receipt and ensure that, within 30 days of the receipt of the petition, notice of the pendency of the petition and a concise summary of its contents have been provided to all persons to whom notice is necessary by any provision of law. In

addition, the board may give notice to other persons. To accomplish this notice provision, the board may require the petitioner to serve the notice on all persons to whom notice is required by any provision of law and provide a written statement to the board attesting that notice has been provided.

282—6.8(17A) Hearing procedures. The provisions of Iowa Code sections 17A.10 through 17A.18A regarding contested case hearings apply in three situations:

- 6.8(1)** To any petition for a waiver filed within a contested case,
- 6.8(2)** When provided by rule or order, or
- 6.8(3)** When required to do so by statute.

282—6.9(17A) Ruling. An order granting or denying a waiver will be in writing and will contain a reference to the particular person and rule or portion thereof to which the order pertains, a statement of the relevant facts and reasons upon which the action is based, and a description of the precise scope and operative period of any waiver issued.

6.9(1) General. The final decision on whether the circumstances justify the granting of a waiver is in the sole discretion of the board, based on the unique, individual circumstances set out in the petition.

6.9(2) Compliance with Iowa Code standards. The board applies the standards and burdens in Iowa Code section 17A.9A(3).

6.9(3) Administrative deadlines. When the rule from which a waiver is sought establishes administrative deadlines, the board will balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all similarly situated persons.

6.9(4) Time for ruling. The board will grant or deny a petition for a waiver as soon as practicable but, in any event, within 120 days of its receipt unless the petitioner agrees to a later date. However, if a petition is filed in a contested case, the board will grant or deny the petition no later than the time at which the final decision in that contested case is issued. Failure of the board to grant or deny a petition within the required time period is deemed a denial of that petition by the board. However, the board remains responsible for issuing an order denying a waiver.

6.9(5) Service of order. Within seven days of its issuance, any order issued under this chapter is to be transmitted to the petitioner or the person to whom the order pertains, and to any other person entitled to such notice by any provision of law.

282—6.10(17A) Public availability. The board will comply with the public availability and filing procedures of Iowa Code section 17A.9A(4).

282—6.11(17A) After issuance of a waiver.

6.11(1) Cancellation. A waiver issued pursuant to this chapter may be withdrawn, canceled or modified if, after appropriate notice and hearing, the board issues an order finding any of the following:

- a.* The petitioner or the person who was the subject of the waiver order withheld or misrepresented material facts relevant to the propriety or desirability of the waiver; or
- b.* The alternative means for ensuring that public health, safety and welfare will be adequately protected after issuance of the waiver order have been demonstrated to be insufficient; or
- c.* The subject of the waiver order has failed to comply with all conditions contained in the order.

6.11(2) Violations. A violation of conditions in the waiver approval is the equivalent of a violation of the particular rule for which the waiver is granted. As a result, the recipient of a waiver under this chapter who violates a condition of the waiver may be subject to the same remedies or penalties as a person who violates the rule at issue.

6.11(3) Defense. After the board issues an order granting a waiver, the order is a defense within its terms and the specific facts indicated therein for the person to whom the order pertains in any proceeding in which the rule in question is sought to be invoked.

6.11(4) Judicial review. Judicial review of the board's decision to grant or deny a waiver petition may be taken in accordance with Iowa Code chapter 17A.

These rules are intended to implement Iowa Code chapter 17A.

[Filed 12/24/24, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8806C

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Rulemaking related to proof of legal presence

The Educational Examiners Board hereby rescinds Chapter 7, "Proof of Legal Presence," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 256.146.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 8 U.S.C. §1621.

Purpose and Summary

This chapter provides procedures for applicants to provide proof of legal presence. The Board is removing duplicative federal statutory language.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8294C**. A public hearing was held on the following date(s):

- November 20, 2024
- December 2, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on December 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The

Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 282—Chapter 7 and adopt the following **new** chapter in lieu thereof:

CHAPTER 7
PROOF OF LEGAL PRESENCE

282—7.1(256) Purpose. This chapter outlines a uniform process for applicants and licensees of the board of educational examiners to establish proof of legal presence pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. §1621).

282—7.2(256) Applicability.

7.2(1) Applicants and licensees who are U.S. citizens or permanent resident aliens may be requested to produce evidence of their lawful presence in the United States as a condition of initial licensure or license renewal.

7.2(2) Applicants and licensees residing in the United States, other than those described in subrule 7.2(1), may be requested to provide evidence of lawful presence in the United States at the time of initial licensure and with every subsequent renewal.

7.2(3) Evidence will not be required by foreign national applicants or licensees who are not physically present in the United States.

282—7.3(256) Acceptable evidence. The board will accept as proof of lawful presence in the United States any acceptable document that establishes a U.S. place of birth or indicates U.S. citizenship or naturalization, or any documentation acceptable under the Immigration and Naturalization Act as amended to November 1, 2023, to establish alien status. Legible copies of documents will be accepted. Original documents will not be required unless a question arises concerning the documentation submitted.

These rules are intended to implement the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. §1621).

[Filed 12/24/24, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8807C

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Rulemaking related to debts to state or local governments

The Educational Examiners Board hereby rescinds Chapter 8, "Debts to State or Local Government —Noncompliance," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 272D and section 256.146.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 272D and section 256.146.

Purpose and Summary

This chapter provides procedures for licensees who have debts to state and local government. The Board is removing duplicative statutory language.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8296C**. A public hearing was held on the following date(s):

- November 20, 2024
- December 2, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on December 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 282—Chapter 8 and adopt the following **new** chapter in lieu thereof:

CHAPTER 8**DEBTS TO STATE OR LOCAL GOVERNMENT—NONCOMPLIANCE**

282—8.1(272D) Issuance or renewal of a license—denial. The board will deny the issuance or renewal of a license upon receipt of a certificate of noncompliance from the centralized collection unit of the department of revenue according to the procedures set forth in Iowa Code chapter 272D. In addition to the procedures contained in Iowa Code chapter 272D, the following will apply:

8.1(1) The notice required by Iowa Code chapter 272D will be served by restricted certified mail, return receipt requested, or by personal service in accordance with the Iowa Rules of Civil Procedure. Alternatively, the applicant or licensee may accept service personally or through authorized counsel.

8.1(2) The effective date of the denial of the issuance or renewal of a license, as specified in the notice required by Iowa Code chapter 272D, will be 60 days following service of the notice upon the applicant or licensee.

8.1(3) The board's administrator is authorized to prepare and serve the notice required by Iowa Code chapter 272D upon the applicant or licensee.

8.1(4) Applicants and licensees will keep the board informed of all court actions and all centralized collection unit actions taken under or in connection with Iowa Code chapter 272D and will provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code chapter 272D, court orders entered in such actions, and withdrawals of certificates of noncompliance by the centralized collection unit.

8.1(5) All board fees required for application, license renewal, or license reinstatement will be paid by applicants or licensees and all continuing education requirements will be met before a license will be issued, renewed, or reinstated after the board has denied the issuance or renewal of a license pursuant to Iowa Code chapter 272D.

8.1(6) In the event an applicant or licensee timely files a district court action following service of a board notice pursuant to Iowa Code chapter 272D, the board will continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of a license, the board will count the number of days before the action was filed and the number of days after the action was disposed of by the court.

8.1(7) The board will notify the applicant or licensee in writing through regular first-class mail, or such other means as the board deems appropriate in the circumstances, within ten days of the effective date of the denial of the issuance or renewal of a license and will similarly notify the applicant or licensee when the license is issued or renewed following the board's receipt of the certificate of noncompliance.

282—8.2(272D) Suspension or revocation of a license. The board will suspend or revoke a license upon receipt of a certificate of noncompliance from the centralized collection unit according to the procedures set forth in Iowa Code chapter 272D. In addition to the provisions contained in Iowa Code chapter 272D, the following will apply:

8.2(1) The notice required by Iowa Code chapter 272D will be served by restricted certified mail, return receipt requested, or by personal service in accordance with the Iowa Rules of Civil Procedure. Alternatively, the licensee may accept service personally or through authorized counsel.

8.2(2) The effective date of the suspension or revocation of a license, as specified in the notice required by Iowa Code chapter 272D, will be 60 days following service of the notice upon the licensee.

8.2(3) The board's administrator is authorized to prepare and serve the notice required by Iowa Code chapter 272D and is directed to notify the licensee that the license will be suspended unless the license is already suspended on other grounds. In the event a license is on suspension, the administrator will notify the licensee of the board's intention to continue the suspension.

8.2(4) Licensees will keep the board informed of all court actions and all centralized collection unit actions taken under or in connection with Iowa Code chapter 272D and will provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code chapter 272D, court orders entered in such actions, and withdrawals of certificates of noncompliance by the centralized collection unit.

8.2(5) All board fees required for license renewal or license reinstatement will be paid by licensees and all continuing education requirements will be met before a license will be renewed or reinstated after the board has suspended or revoked a license pursuant to Iowa Code chapter 272D.

8.2(6) In the event a licensee timely files a district court action following service of a board notice pursuant to Iowa Code chapter 272D, the board will continue with the intended action described in the

notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of the suspension or revocation of a license, the board will count the number of days before the action was filed and the number of days after the action was disposed of by the court.

8.2(7) The board will notify the licensee in writing through regular first-class mail, or such other means as the board deems appropriate in the circumstances, within ten days of the effective date of the suspension or revocation of a license and will similarly notify the licensee when the license is reinstated following the board's receipt of the certificate of noncompliance.

282—8.3(17A,22,272D) Sharing of information. Notwithstanding any statutory confidentiality provision, the board may share information with the centralized collection unit for the sole purpose of identifying applicants or licensees subject to enforcement under Iowa Code chapter 272D.

These rules are intended to implement Iowa Code chapter 272D.

[Filed 12/24/24, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8808C

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Rulemaking related to background checks and issuance

The Educational Examiners Board hereby adopts new Chapter 9, "Background Checks and Issuance," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 256.146, 256.152 and 272C.12.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 256.146, 256.152 and 272C.12.

Purpose and Summary

This chapter provides procedures for background checks and the issuance of licenses. The Board is centralizing this language into one chapter to eliminate redundancies.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8295C**. A public hearing was held on the following date(s):

- November 20, 2024
- December 2, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on December 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Adopt the following new 282—Chapter 9:

CHAPTER 9
BACKGROUND CHECKS AND ISSUANCE

282—9.1(256) Background checks. Licenses, authorizations, certificates, and statements of professional recognition are issued upon the filing of an application with the board of educational examiners and upon completion of the following:

9.1(1) National criminal history background check. An initial applicant will be required to complete fingerprinting for a national criminal history background check.

9.1(2) Division of criminal investigation background check. A division of criminal investigation (DCI) background check will be conducted on initial applicants.

9.1(3) Registries and records check. A check of the following registries and records will be conducted on initial applicants: the sex offender registry under Iowa Code section 692A.121, the central registry for child abuse information established under Iowa Code chapter 235A, the central registry for dependent adult abuse information maintained under Iowa Code chapter 235B, and the information in the Iowa court information system available to the general public.

282—9.2(256) Renewals. Every applicant for renewal or conversion is required to submit a completed application with the applicant's signature to facilitate a check of the sex offender registry information under Iowa Code section 692A.121, the central registry for child abuse information established under Iowa Code chapter 235A, the central registry for dependent adult abuse information maintained under Iowa Code chapter 235B, and the Iowa court information system.

282—9.3(256) Fees. Fees for all background check processes will be assessed to the applicant.

282—9.4(256) Temporary permits. The executive director may issue a temporary permit to an applicant after receipt of a fully completed application; determination that the applicant meets all applicable prerequisites for issuance of the license, certification, or authorization; and satisfactory

evaluation of the Iowa criminal history background check and registries and records check set forth in subrules 9.1(2) and 9.1(3). The temporary permit will expire upon issuance of the requested license, certification, or authorization or 90 days from the date of issuance of the permit, whichever occurs first, unless the temporary permit is extended upon a finding of good cause by the executive director.

282—9.5(256) Issue and expiration dates, corrections, and fraud.

9.5(1) *Issue and expiration dates on original license.* A license is valid only from and after the date of issuance. Licenses, authorizations, certificates, and statements of professional recognition will expire on the last day of the practitioner's birth month after the term of the license unless otherwise specified. If the expiration date is changed by rule, the change may be retroactive.

9.5(2) *Correcting licenses.* If a licensee notifies board staff of a typographical or clerical error on the license within 30 days of the date of the board's issuance of a license, a corrected license will be issued without charge to the licensee.

9.5(3) *Fraud in procurement or renewal of licenses.* Fraud in procurement or renewal of a license or falsifying records for licensure purposes will constitute grounds for filing a complaint with the board.

282—9.6(256) Degrees and coursework. Required degrees and college semester hour coursework will be earned through a college or university accredited by an institutional accrediting agency as recognized by the U.S. Department of Education. Licenses require the completion of a program that is approved for state licensure.

282—9.7(256) Reciprocity. Reciprocity will be granted pursuant to Iowa Code sections 256.152 and 272C.12. Endorsements will be granted based on comparable Iowa endorsements, and endorsement requirements may be waived in order to grant the most comparable endorsement.

These rules are intended to implement Iowa Code chapter 256.

[Filed 12/24/24, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8809C

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Rulemaking related to child support noncompliance

The Educational Examiners Board hereby rescinds Chapter 10, "Child Support Noncompliance," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 252J and section 256.146.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 252J and section 256.146.

Purpose and Summary

This chapter provides procedures for licensees with child support noncompliance. The Board is removing duplicative statutory language.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8288C**. A public hearing was held on the following date(s):

- November 20, 2024
- December 2, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on December 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 282—Chapter 10 and adopt the following **new** chapter in lieu thereof:

CHAPTER 10
CHILD SUPPORT NONCOMPLIANCE

282—10.1(256,252J) Issuance or renewal of a license—denial. The board will deny the issuance or renewal of a license upon the receipt of a certificate of noncompliance from the child support recovery unit of the department of health and human services according to the procedures in Iowa Code chapter 252J. In addition to the procedures set forth in Iowa Code chapter 252J, the following will apply:

10.1(1) The notice required by Iowa Code section 252J.8 will be served upon the applicant or licensee by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the applicant or licensee may accept service personally or through authorized counsel.

10.1(2) The effective date of the denial of the issuance or renewal of a license, as specified in the notice required by Iowa Code section 252J.8, will be 60 days following service of the notice upon the applicant or licensee.

10.1(3) The board's administrator is authorized to prepare and serve the notice required by Iowa Code section 252J.8 upon the applicant or licensee.

10.1(4) Applicants and licensees will keep the board informed of all court actions and all child support recovery unit actions taken under or in connection with Iowa Code chapter 252J and will provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

10.1(5) All board fees required for application, license renewal, or license reinstatement will be paid by applicants or licensees before a license will be issued, renewed, or reinstated after the board has denied the issuance or renewal of a license pursuant to Iowa Code chapter 252J.

10.1(6) In the event an applicant or licensee files a timely district court action following service of a board notice pursuant to Iowa Code sections 252J.8 and 252J.9, the board will continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of a license, the board will count the number of days before the action was filed and the number of days after the action was disposed of by the court.

10.1(7) The board will notify the applicant or licensee in writing through regular first-class mail, or such other means as the board determines to be appropriate in the circumstances, within ten days of the effective date of the denial of the issuance or renewal of a license, and will similarly notify the applicant or licensee if the license is issued or renewed following the board's receipt of a withdrawal of the certificate of noncompliance.

282—10.2(252J) Suspension or revocation of a license. The board will suspend or revoke a license upon the receipt of a certificate of noncompliance from the child support recovery unit of the department of health and human services according to the procedures set forth in Iowa Code chapter 252J. In addition to the procedures set forth in Iowa Code chapter 252J, the following will apply:

10.2(1) The notice required by Iowa Code section 252J.8 will be served upon the licensee by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the licensee may accept service personally or through authorized counsel.

10.2(2) The effective date of the suspension or revocation of a license, as specified in the notice required by Iowa Code section 252J.8, will be 60 days following service of the notice upon the licensee.

10.2(3) The board's administrator is authorized to prepare and serve the notice required by Iowa Code section 252J.8 and is directed to notify the licensee that the license will be suspended unless the license is already suspended on other grounds. In the event that the license is on suspension, the administrator will notify the licensee of the board's intention to continue the suspension.

10.2(4) The licensee will keep the board informed of all court actions and all child support recovery unit action taken under or in connection with Iowa Code chapter 252J and will provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

10.2(5) All board fees required for license renewal or license reinstatement will be paid by licensees before a license will be reinstated after the board has suspended or revoked a license pursuant to Iowa Code chapter 252J.

10.2(6) In the event a licensee files a district court action following service of a board notice pursuant to Iowa Code sections 252J.8 and 252J.9, the board will continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of the suspension or revocation, the board will count the number of days before the action was filed and the number of days after the action was disposed of by the court.

10.2(7) The board will notify the licensee in writing through regular first-class mail, or such other means as the board determines appropriate in the circumstances, within ten days of the effective date of

the suspension or revocation of a license, and will similarly notify the licensee if the license is reinstated following the board's receipt of a withdrawal of the certificate of noncompliance.

282—10.3(17A,22,252J) Sharing of information. Notwithstanding any statutory confidentiality provision, the board may share information with the child support recovery unit of the department of health and human services through manual or automated means for the sole purpose of identifying applicants or licensees subject to enforcement under Iowa Code chapter 252J or 598.

These rules are intended to implement Iowa Code chapter 252J.

[Filed 12/24/24, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8810C

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Rulemaking related to complaints, investigations, and contested case hearings

The Educational Examiners Board hereby rescinds Chapter 11, "Complaints, Investigations, Contested Case Hearings," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 256.160.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 256.160.

Purpose and Summary

This chapter provides procedures for complaints. The Board is removing duplicative statutory language.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8289C**. A public hearing was held on the following date(s):

- November 20, 2024
- December 2, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on December 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 282—Chapter 11 and adopt the following **new** chapter in lieu thereof:

CHAPTER 11

COMPLAINTS, INVESTIGATIONS, CONTESTED CASE HEARINGS

282—11.1(17A,256) Scope and applicability. This chapter applies to contested case proceedings conducted by the board of educational examiners.

282—11.2(17A) Definitions. Except where otherwise specifically defined by law:

“*Board*” means the board of educational examiners.

“*Complainant*” means any qualified party who files a complaint with the board.

“*Contested case*” means a proceeding defined by Iowa Code section 17A.2(5) and includes any matter defined as a no factual dispute contested case under Iowa Code section 17A.10A.

“*In-person hearing*” means an appeal hearing where the administrative law judge and appellant are physically present in the same location but witnesses are not required to be physically present.

“*Issuance*” means the date of mailing of a decision or order or date of delivery if service is by other means unless another date is specified in the order.

“*Party*” means each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party.

“*Presiding officer*” means an administrative law judge from the department of inspections, appeals, and licensing or the full board or a three-member panel of the board.

“*Proposed decision*” means the presiding officer's recommended findings of fact, conclusions of law, decision, and order in a contested case in which the full board did not preside.

“*Respondent*” means any individual who is charged in a complaint with violating the criteria of professional practices or the criteria of competent performance.

282—11.3(17A,256) Jurisdictional requirements.

11.3(1) The case must relate to alleged violation of the criteria of professional practices or the criteria of competent performance.

11.3(2) The magnitude of the alleged violation must be adequate to warrant a hearing by the board.

11.3(3) There must be sufficient evidence to support the complaint.

11.3(4) The complaint must be filed by a person who has personal knowledge of an alleged violation and must include a concise statement of facts that clearly and specifically apprises the respondent of the details of the allegation(s).

11.3(5) The complaint must be filed within three years of the occurrence of the conduct upon which it is based or discovery of the conduct by the complainant unless good cause can be shown for extension of this limitation or unless the conduct constitutes conduct described in Iowa Code section 256.160(1)“a”(1)(a).

11.3(6) The jurisdictional requirements must be met on the face of the complaint before the board may order an investigation of the allegation(s) of the complaint.

282—11.4(17A,256) Complaint.

11.4(1) *Who may initiate.* The following entities may initiate a complaint:

- a. Licensed practitioners.
- b. School human resource directors.
- c. Recognized educational entities or local or state professional organizations.
- d. Local boards of education.
- e. Parents or guardians of students involved in the alleged complaint.
- f. The executive director of the board of educational examiners if the following circumstances have been met:

(1) The executive director receives information that a practitioner:

1. Has been convicted of a felony criminal offense, or a misdemeanor criminal offense wherein the victim of the crime was 18 years of age or younger, and the executive director expressly determines within the complaint that the nature of the offense clearly and directly impacts the practitioner’s fitness or ability to retain the specific license(s) or authorization(s) that the practitioner holds; or
2. Has been the subject of a founded report of child abuse placed upon the central registry maintained by the department of health and human services pursuant to Iowa Code section 232.71D, and the executive director expressly determines within the complaint that the nature of the offense clearly and directly impacts the practitioner’s fitness or ability to retain the specific license(s) or authorization(s) that the practitioner holds; or
3. Has not met a reporting requirement stipulated by Iowa Code section 256.160, Iowa Code section 279.43, 281—subrule 102.11(2), 282—Chapter 11, or 282—Chapter 25; or
4. Has falsified a license or authorization issued by the board; or
5. Has submitted false information on a license or authorization application filed with the board; or
6. Does not hold the appropriate license for the assignment for which the practitioner is currently employed; or
7. Has assigned another practitioner to perform services for which the practitioner is not properly licensed; or
8. Has failed to comply with a board order as prohibited by 282—paragraph 25.3(7)“c”; and

(2) The executive director verifies the information or the alleged misconduct through review of official records maintained by the board, a court, the department of health and human services registry of founded child abuse reports, the practitioner licensing authority of another state, the department of education, the local school district, area education agency, or authorities in charge of the nonpublic school, or the executive director is presented with the falsified license; and

(3) No other complaint has been filed.

g. The department of transportation if the licensee named in the complaint holds a behind-the-wheel instructor’s certification issued by the department and the complaint relates to an incident or incidents arising during the course of driver’s education instruction.

h. An employee of the department of education who, while performing official duties, becomes aware of any alleged misconduct by an individual licensed under Iowa Code section 256.146.

11.4(2) *Form and content of the complaint.*

a. The complaint will be in writing and signed by at least one complainant who has personal knowledge of an alleged violation of the board’s rules or related state law or an authorized representative if the complainant is an organization. (An official form may be used. This form may be obtained from the board upon request, and a typed signature may be accepted.)

b. The complaint will show venue as “BEFORE THE BOARD OF EDUCATIONAL EXAMINERS” and will be captioned “COMPLAINT.”

c. The complaint will contain the following information:

- (1) The full name, address and telephone number of the complainant.
- (2) The full name, address and telephone number, if known, of the respondent.
- (3) A concise statement of the facts that clearly and specifically apprises the respondent of the details of the alleged violation of the criteria of professional practices or the criteria of competent performance and the relief sought by the complainant.
- (4) An explanation of the basis of the complainant’s personal knowledge of the facts underlying the complaint.

11.4(3) *Required copies—place and time of filing the complaint.*

a. A copy of the complaint will be filed with the board.

b. The complaint will be delivered personally, electronically, or by mail to the office of the board. The current office address is 701 East Court Avenue, Suite A, Des Moines, Iowa 50309.

11.4(4) *Amendment or withdrawal of complaint.* A complaint or any specification thereof may be amended or withdrawn by the complainant at any time unless the complaint was filed in accordance with the required reporting requirements set forth in Iowa Code sections 256.146, 260.160, and 279.73. The parties to a complaint may mutually agree to the resolution of the complaint prior to a finding of probable cause unless the complaint was filed in accordance with the required reporting requirements set forth in Iowa Code sections 256.146, 256.160, and 279.73. The resolution must be committed to a written agreement and filed with the board. The agreement is not subject to approval by the board but will be acknowledged by the board and may be incorporated into an order of the board.

11.4(5) *Respondent entitled to copy of the complaint.* Immediately upon the board’s determination that jurisdictional requirements have been met, the respondent will be provided a copy of the complaint or amended complaint and any supporting documents attached to the complaint at the time of filing.

11.4(6) *Voluntary surrender of license—agreement to accept lesser sanction.* A practitioner may voluntarily surrender the practitioner’s license or agree to accept a lesser sanction from the board prior to or after the filing of a complaint with the board without admitting the truth of the allegations of the complaint if a complaint is on file with the board. In order to voluntarily surrender a license or submit to a sanction, the practitioner must waive the right to hearing before the board and notify the board of the intent to surrender or accept sanction. The board may issue an order permanently revoking the practitioner’s license if it is surrendered, or implementing the agreed upon sanction. The board may decline to issue an agreed upon sanction if, in the board’s judgment, the agreed upon sanction is not appropriate for the circumstances of the case.

11.4(7) *Investigation of license reports.*

a. Reports received by the board from another state, territory or other jurisdiction concerning licenses or certificate revocation or suspension will be reviewed and investigated by the board in the same manner as is prescribed in these rules for the review and investigation of written complaints.

b. Failure to report a license revocation, suspension or other disciplinary action taken by licensing authority of another state, territory or jurisdiction within 30 days of the final action by such licensing authority will constitute cause for initiation of an investigation.

11.4(8) *Timely resolution of complaints.* Complaints filed with the board will be resolved within 180 days unless good cause can be shown for an extension of this limitation. The board will provide notice to the parties to a complaint prior to taking action to extend this time limitation upon its own motion.

11.4(9) *Confidentiality.* Confidentiality requirements are set forth in Iowa Code section 256.158. Records related to written complaints will be collected and retained and will be evaluated if a similar complaint has been filed against the same licensed practitioner. A finding of probable cause, a final written decision, and a finding of fact by the board in a disciplinary proceeding constitute a public record.

282—11.5(256) Investigation of complaints or license reports. The chairperson of the board or the chairperson's designee may request an investigator to investigate the complaint or report received by the board from another state, territory or other jurisdiction concerning license or certificate revocation or suspension pursuant to subrule 11.4(7); providing that the jurisdictional requirements have been met on the face of the complaint. The investigation will be limited to the allegations contained on the face of the complaint. The investigator may consult an assistant attorney general concerning the investigation or evidence produced from the investigation. Upon completion of the investigation, the investigator will prepare a report of the investigation for consideration by the board in determining whether probable cause exists.

282—11.6(256) Ruling on the initial inquiry. Upon review of the investigator's report, the board may take any of the following actions:

11.6(1) Reject the case. If a determination is made by the board to reject the case, the complaint will be returned to the complainant along with a statement specifying the reasons for rejection. A letter of explanation concerning the decision of the board will be sent to the respondent.

11.6(2) Require further inquiry. If determination is made by the board to order further inquiry, the complaint and recommendations by the investigator(s) will be returned to the investigator(s) along with a statement specifying the information deemed necessary.

11.6(3) Accept the case. If a determination is made by the board that probable cause exists to conclude that the criteria of professional practices or the criteria of competent performance have been violated, notice may be issued, pursuant to rule 282—11.7(17A,256), and a formal hearing may be conducted in accordance with rules 282—11.7(17A,256) through 282—11.21(17A,256) unless a voluntary waiver of hearing has been filed by the respondent pursuant to the provisions of subrule 11.4(6). In determining whether to issue a notice of hearing, the board may consider the following:

- a. Whether the alleged violation is of sufficient magnitude to warrant a hearing by the board.
- b. Whether there is sufficient evidence to support the complaint.
- c. Whether the alleged violation was an isolated incident.
- d. Whether adequate steps have been taken at the local level to ensure similar behavior does not occur in the future.

11.6(4) Release the investigative report. If the board finds probable cause of a violation, the investigative report will be available to the respondent upon request. Information contained within the report is confidential and may be used only in connection with the disciplinary proceedings before the board.

282—11.7(17A,256) Notice of hearing.

11.7(1) Delivery. Delivery of the notice of hearing constitutes the commencement of the contested case proceeding. Delivery may be executed by:

- a. Personal service as provided in the Iowa Rules of Civil Procedure; or
- b. Certified mail, return receipt requested; or
- c. Publication, as provided in the Iowa Rules of Civil Procedure.

11.7(2) Contents. The notice of hearing will contain the following information:

- a. A statement of the time, date, place, and nature of the hearing;
- b. A statement of the legal authority and jurisdiction under which the hearing is to be held;
- c. A reference to the particular sections of the statutes and rules involved;
- d. A short and plain statement of the matter asserted;
- e. Identification of all parties including the name, address and telephone numbers of counsel representing each of the parties where known;
- f. Reference to the procedural rules governing conduct of the contested case proceeding;
- g. Identification of the presiding officer, if known. If not known, a description of who will serve as presiding officer; and
- h. Notification of the time period in which a party may request, pursuant to Iowa Code section 17A.11 and rule 282—11.8(17A,256), that the presiding officer be an administrative law judge.

282—11.8(17A,256) Presiding officer.

11.8(1) Any party who wishes to request that the presiding officer assigned to render a proposed decision be an administrative law judge employed by the department of inspections, appeals, and licensing must file a written request within 20 days after service of a notice of hearing that identifies or describes the presiding officer as the board.

11.8(2) The board may deny the request only upon a finding that one or more of the following apply:

- a.* Neither the board nor any officer of the board under whose authority the contested case is to take place is a named party to the proceeding or a real party in interest to that proceeding.
- b.* There is a compelling need to expedite issuance of a final decision in order to protect the public health, safety, or welfare.
- c.* An administrative law judge with the qualifications identified in subrule 11.8(4) is unavailable to hear the case within a reasonable time.
- d.* The case involves significant policy issues of first impression that are inextricably intertwined with the factual issues presented.
- e.* The demeanor of the witnesses is likely to be dispositive in resolving the disputed factual issues.
- f.* Funds are unavailable to pay the costs of an administrative law judge and an interagency appeal.
- g.* The request was not timely filed.
- h.* The request is not consistent with a specified statute.

11.8(3) The board will issue a written ruling specifying the grounds for its decision within 20 days after a request for an administrative law judge is filed. If the ruling is contingent upon the availability of an administrative law judge with the qualifications identified in subrule 11.8(4), the parties will be notified at least ten days prior to hearing if a qualified administrative law judge will not be available.

11.8(4) An administrative law judge assigned to act as presiding officer in a contested case will have the following technical expertise unless waived by the board:

- a.* A Juris Doctor degree.
- b.* Additional criteria, which may be added by the board.

11.8(5) Except as provided otherwise by another provision of law, all rulings by an administrative law judge acting as presiding officer are subject to appeal to the board. A party must seek any available intra-agency appeal in order to exhaust adequate administrative remedies.

11.8(6) Unless otherwise provided by law, the board, when reviewing a proposed decision upon intra-agency appeal, will have the powers of and will comply with the provisions of this chapter that apply to presiding officers.

282—11.9(17A,256) Waiver of procedures. Unless otherwise precluded by law, the parties in a contested case proceeding may waive any provision of this chapter. However, the board in its discretion may refuse to give effect to such a waiver when it deems the waiver to be inconsistent with the public interest.

282—11.10(17A,256) Telephone or electronic proceedings. The presiding officer may resolve preliminary procedural motions by telephone or electronic conference in which all parties have an opportunity to participate. Other telephone or electronic proceedings may be held with the consent of all parties. The presiding officer will determine the location of the parties for telephone or electronic hearings. The convenience of the parties, as well as the nature of the case, will be considered when location is chosen.

282—11.11(17A,256) Disqualification.

11.11(1) A presiding officer or board member will withdraw from participation in the making of any proposed or final decision in a contested case if that person:

- a.* Has a personal bias or prejudice concerning a party or a representative of a party;
- b.* Has personally investigated, prosecuted or advocated in connection with that case, the specific controversy underlying that case, another pending factually related contested case, or a pending factually related controversy that may culminate in a contested case involving the same parties;

- c. Is subject to the authority, direction or discretion of any person who has personally investigated, prosecuted or advocated in connection with that contested case, the specific controversy underlying that contested case, or a pending factually related contested case or controversy involving the same parties;
- d. Has acted as counsel to any person who is a private party to that proceeding within the past two years;
- e. Has a personal financial interest in the outcome of the case or any other significant personal interest that could be substantially affected by the outcome of the case;
- f. Has a spouse or relative within the third degree of relationship that: (1) is a party to the case, or an officer, director or trustee of a party; (2) is a lawyer in the case; (3) is known to have an interest that could be substantially affected by the outcome of the case; or (4) is likely to be a material witness in the case; or
- g. Has any other legally sufficient cause to withdraw from participation in the decision making in that case.

11.11(2) The term “personally investigated” means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term “personally investigated” does not include general direction and supervision of assigned investigators, unsolicited receipt of information that is relayed to assigned investigators, review of another person’s investigative work product in the course of determining whether there is probable cause to initiate a proceeding, or exposure to factual information while performing other agency functions, including fact gathering for purposes other than investigation of the matter that culminates in a contested case. Factual information relevant to the merits of a contested case received by a person who later serves as presiding officer in that case will be disclosed if required by Iowa Code section 17A.17 and subrules 11.11(3) and 11.24(9).

11.11(3) In a situation where a presiding officer or board member knows of information that might reasonably be deemed to be a basis for disqualification and decides voluntary withdrawal is unnecessary, that person will submit the relevant information for the record by affidavit and will provide for the record a statement of the reasons for the determination that withdrawal is unnecessary.

11.11(4) If a party asserts disqualification on any appropriate ground, including those listed in subrule 11.11(1), the party will file a motion supported by an affidavit pursuant to Iowa Code section 17A.17(7). The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party.

If the presiding officer determines that disqualification is appropriate, the presiding officer or board member will withdraw. If the presiding officer determines that withdrawal is not required, the presiding officer will enter an order to that effect. A party asserting disqualification may seek an interlocutory appeal under rule 282—11.26(17A,256) and seek a stay under rule 282—11.30(17A,256).

282—11.12(17A,256) Consolidation—severance.

11.12(1) *Consolidation.* The presiding officer may consolidate any or all matters at issue in two or more contested case proceedings where: (a) the matters at issue involve common parties or common questions of fact or law; (b) consolidation would expedite and simplify consideration of the issues involved; and (c) consolidation would not adversely affect the rights of any of the parties to those proceedings.

11.12(2) *Severance.* The presiding officer may, for good cause shown, order any contested case proceedings or portions thereof severed.

282—11.13(17A,256) Pleadings.

11.13(1) Pleadings may be required by rule, by the notice of hearing, or by order of the presiding officer.

11.13(2) *Answer.* An answer will be filed within 20 days of service of the notice of hearing unless otherwise ordered. A party may move to dismiss or apply for a more definite and detailed statement when appropriate.

An answer will show on whose behalf it is filed and specifically admit, deny, or otherwise answer all material allegations of the notice of hearing to which it responds. It will state any facts deemed to show an affirmative defense and contain as many additional defenses as the pleader may claim.

An answer will state the name, address and telephone number of the person filing the answer, the person or entity on whose behalf it is filed, and the attorney representing that person, if any.

Any allegation in the notice of hearing not denied in the answer is considered admitted. The presiding officer may refuse to consider any defense not raised in the answer that could have been raised on the basis of facts known when the answer was filed if any party would be prejudiced.

11.13(3) Amendment. Notices of hearing and answers may be amended with the consent of the parties or in the discretion of the presiding officer who may impose terms or grant a continuance.

282—11.14(17A,256) Service and filing of pleadings and other papers.

11.14(1) *Service—when required.* Except where otherwise provided by law, every document filed in a contested case proceeding will be served upon each of the parties of record to the proceeding, simultaneously with their filing. Except for the original notice of hearing and an application for rehearing as provided in Iowa Code section 17A.16(2), the party filing a document is responsible for service on all parties.

11.14(2) *Service—how made.* Service upon a party represented by an attorney will be made upon the attorney unless otherwise ordered. Service is made by delivery or by mailing a copy to the person's last-known address. Service by mail is complete upon mailing, except where otherwise specifically provided by statute, rule, or order.

11.14(3) *Filing—when required.* After the notice of hearing, all documents in a contested case proceeding will be filed with the Board of Educational Examiners, 701 East Court Avenue, Suite A, Des Moines, Iowa 50309. All documents that are required to be served upon a party will be filed simultaneously with the board.

11.14(4) *Filing—when made.* Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the board, delivered to an established courier service for immediate delivery to that office, or mailed by first-class mail or state interoffice mail to that office, so long as there is proof of mailing.

11.14(5) *Proof of mailing.* Proof of mailing includes either a legible United States Postal Service postmark on the envelope, a certificate of service, a notarized affidavit, or a certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the (agency office and address) and to the names and addresses of the parties listed below by depositing the same in (a United States post office mailbox with correct postage properly affixed or state interoffice mail).

(Date)

(Signature)

282—11.15(17A,256) Discovery.

11.15(1) The following Iowa Rules of Civil Procedure applicable to discovery are available for use in contested cases: 1.1701, 1.507, 1.509, 1.510, 1.511 and 1.512.

11.15(2) A party may file a motion to compel or other motion related to discovery in accordance with this subrule. Any motion filed with the presiding officer relating to discovery shall allege that the moving party has previously made a good-faith attempt to resolve the discovery issues involved with the opposing party. Motions in regard to discovery shall be ruled upon by the presiding officer. Opposing parties shall be afforded the opportunity to respond within ten days of the filing of the motion unless the time is lengthened or shortened by the presiding officer. The presiding officer may rule on the basis of the written motion and any response or may order argument on the motion.

11.15(3) Evidence obtained in such discovery may be used in contested case proceedings if the evidence would otherwise be admissible in the contested case proceedings.

282—11.16(17A,256) Subpoenas.

11.16(1) Subpoenas. In connection with the investigation set forth in rule 282—11.5(256), the board is authorized by law to subpoena books, papers, records and any other evidence to help it determine whether it should institute a contested case proceeding (hearing). After service of the hearing notification contemplated by rule 282—11.7(17A,256), the following procedures are available to the parties in order to obtain relevant and material evidence:

a. Board subpoenas for books, papers, records, and other evidence will be issued to a party upon request. Such a request will be in writing. Application should be made to the board office specifying the evidence sought. Subpoenas for witnesses may also be obtained.

b. Evidence obtained by subpoena will be admissible at the hearing if it is otherwise admissible under rule 282—11.22(17A,256). In subpoena matters, the parties will honor the rules of privilege imposed by law.

c. The evidence outlined in Iowa Code section 17A.13(2) where applicable and relevant will be made available to a party upon request.

d. Except to the extent otherwise provided by law, parties are responsible for service of their own subpoenas and payment of witness fees and mileage expenses.

11.16(2) Motion to quash or modify. The presiding officer may quash or modify a subpoena for any lawful reason upon motion in accordance with the Iowa Rules of Civil Procedure. A motion to quash or modify a subpoena will be set for argument promptly.

282—11.17(17A,256) Motions.

11.17(1) No technical form for motions is required. However, prehearing motions must be in writing, state the grounds for relief, and state the relief sought.

11.17(2) Any party may file a written response to a motion within 15 days after the motion is served unless the time period is extended or shortened by rules of the agency or the presiding officer.

11.17(3) The presiding officer may schedule oral arguments on any motion.

11.17(4) Motions pertaining to the hearing, including motions for summary judgment, must be filed and served at least ten days prior to the date of hearing unless there is good cause for permitting later action or the time for such action is lengthened or shortened by rule of the agency or an order of the presiding officer.

282—11.18(17A,256) Prehearing conference.

11.18(1) Any party may request a prehearing conference. A written request for prehearing conference or an order for prehearing conference on the presiding officer's own motion will be filed not less than seven days prior to the hearing date. A prehearing conference will be conducted not less than three business days prior to the hearing date.

Written notice of the prehearing conference will be given by the presiding officer to all parties. For good cause, the presiding officer may permit variances from this rule.

11.18(2) Each party will bring to the prehearing conference:

a. A final list of the witnesses who the party anticipates will testify at hearing. Witnesses not listed may be excluded from testifying unless there was good cause for the failure to include their names; and

b. A final list of exhibits that the party anticipates will be introduced at hearing. Exhibits other than rebuttal exhibits that are not listed may be excluded from admission into evidence unless there was good cause for the failure to include them.

Witness or exhibit lists may be amended subsequent to the prehearing conference within the time limits established by the presiding officer at the prehearing conference. Any such amendments must be served on all parties.

11.18(3) In addition to the requirements of subrule 11.18(2), the parties at a prehearing conference may:

a. Enter into stipulations of law or fact;

b. Enter into stipulations on the admissibility of exhibits;

c. Identify matters that the parties intend to request be officially noticed;

- d. Enter into stipulations for waiver of any provision of law; and
- e. Consider any additional matters that will expedite the hearing.

11.18(4) Prehearing conferences will be conducted by telephone unless otherwise ordered. Parties will exchange and receive witness and exhibit lists in advance of a telephone prehearing conference.

282—11.19(17A,256) Continuances. A party has no automatic right to a continuance or delay of the board's hearing procedure or schedule. However, a party may request a continuance of the presiding officer no later than seven days prior to the date set for hearing. The presiding officer will have the power to grant continuances. Within seven days of the date set for hearing, no continuances will be granted except for extraordinary, extenuating or emergency circumstances. In these situations, the presiding officer will grant continuances after consultation, if needed, with the chairperson of the board, the executive director, or the attorney representing the board. A board member will not be contacted in person, by mail or by telephone by a party seeking a continuance.

282—11.20(17A,256) Intervention.

11.20(1) Motion. A motion for leave to intervene in a contested case proceeding will state the grounds for the proposed intervention, the position and interest of the proposed intervenor, and the possible impact of intervention on the proceeding. A proposed answer or petition in intervention will be attached to the motion. Any party may file a response within 14 days of service of the motion to intervene unless the time period is extended or shortened by the presiding officer.

11.20(2) When filed. Motion for leave to intervene will be filed as early in the proceeding as possible to avoid adverse impact on existing parties or the conduct of the proceeding. Unless otherwise ordered, a motion for leave to intervene will be filed before the prehearing conference, if any, or at least 20 days before the date scheduled for hearing. Any later motion must contain a statement of good cause for the failure to file in a timely manner. Unless inequitable or unjust, an intervenor will be bound by any agreement, arrangement, or other matter previously raised in the case. Requests by untimely intervenors for continuances that would delay the proceeding will ordinarily be denied.

11.20(3) Grounds for intervention. The movant will demonstrate that:

- a. Intervention would not unduly prolong the proceedings or otherwise prejudice the rights of existing parties;
- b. The movant is likely to be aggrieved or adversely affected by a final order in the proceeding; and
- c. The interests of the movant are not adequately represented by existing parties.

11.20(4) Effect of intervention. If appropriate, the presiding officer may order consolidation of the petitions and briefs of different parties whose interests are aligned with each other and limit the number of representatives allowed to participate actively in the proceedings. A person granted leave to intervene is a party to the proceeding. The order granting intervention may restrict the issues that may be raised by the intervenor or otherwise condition the intervenor's participation in the proceeding.

282—11.21(17A,256) Hearing procedures.

11.21(1) The presiding officer presides at the hearing and may rule on motions, require briefs, issue a proposed decision, and issue such orders and rulings as will ensure the orderly conduct of the proceedings. If the presiding officer is the board or a panel thereof, an administrative law judge from the department of inspections, appeals, and licensing may be designated to assist the board in conducting proceedings under this chapter. An administrative law judge so designated may rule upon motions and other procedural matters and assist the board in conducting the hearing.

11.21(2) All objections will be timely made and stated on the record.

11.21(3) Legal representation.

a. The respondent has a right to participate in all hearings or prehearing conferences and may be represented by an attorney or another person authorized by law.

b. The office of the attorney general or an attorney designated by the executive director will be responsible for prosecuting complaint allegations in all contested case proceedings before the board, except those cases in which the sole allegation involves the failure of a practitioner to fulfill contractual

obligations. The assistant attorney general or other designated attorney assigned to prosecute a contested case before the board will not represent the board or the complainant in that case but will represent the public interest.

c. In a case in which the sole allegation involves the failure of a practitioner to fulfill contractual obligations, the person who files the complaint with the board, or the complainant's designee, will represent the complainant during the contested case proceedings.

11.21(4) Subject to terms and conditions prescribed by the presiding officer, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and submit briefs and engage in oral argument.

11.21(5) The presiding officer will maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

11.21(6) Witnesses may be sequestered during the hearing.

11.21(7) The presiding officer will conduct the hearing in the following manner:

a. The presiding officer will give an opening statement briefly describing the nature of the proceedings;

b. The parties will be given an opportunity to present opening statements;

c. Parties will present their cases in the sequence determined by the presiding officer;

d. Each witness will be sworn or affirmed by the presiding officer or the court reporter and be subject to examination and cross-examination. The presiding officer may limit questioning in a manner consistent with law;

e. When all parties and witnesses have been heard, parties may be given the opportunity to present final arguments.

282—11.22(17A,256) Evidence.

11.22(1) The presiding officer will rule on admissibility of evidence and may, where appropriate, take official notice of facts in accordance with all applicable requirements of law.

11.22(2) Stipulation of facts is encouraged. The presiding officer may make a decision based on stipulated facts.

11.22(3) Evidence in the proceeding will be confined to the issues concerning allegations raised on the face of the complaint as to which the parties received notice prior to the hearing.

11.22(4) The party seeking admission of an exhibit must provide opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents should normally be provided to opposing parties.

All exhibits admitted into evidence will be appropriately marked and be made part of the record.

11.22(5) Any party may object to specific evidence or may request limits on the scope of any examination or cross-examination. Such an objection will be accompanied by a brief statement of the grounds upon which it is based. The objection, the ruling on the objection, and the reasons for the ruling will be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve a ruling until the written decision.

11.22(6) Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony will briefly summarize the testimony or, with permission of the presiding officer, present the testimony. If the excluded evidence consists of a document or exhibit, it will be marked as part of an offer of proof and inserted in the record.

282—11.23(17A,256) Default.

11.23(1) If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

11.23(2) Where appropriate and not contrary to law, any party may move for default against a party who has requested the contested case proceeding and has failed to file a required pleading or has failed to appear after proper service.

11.23(3) Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding become final agency action unless, within 15 days after the date of notification or mailing of the decision, a motion to vacate is filed and served on all parties or an appeal of a decision on the merits is timely initiated within the time provided by rule 282—11.28(17A,256). A motion to vacate must state all facts relied upon by the moving party that establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) must be attached to the motion.

11.23(4) The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate.

11.23(5) Properly substantiated and timely filed motions to vacate will be granted only for good cause shown. The burden of proof as to good cause is on the moving party. Adverse parties will have ten days to respond to a motion to vacate. Adverse parties will be allowed to conduct discovery as to the issue of good cause and to present evidence on the issue prior to a decision on the motion, if a request to do so is included in that party's response.

11.23(6) "Good cause" for purposes of this rule will have the same meaning as "good cause" for setting aside a default judgment under Iowa Rule of Civil Procedure 1.977.

11.23(7) A decision denying a motion to vacate is subject to further appeal within the time limit allowed for further appeal of a decision on the merits in the contested case proceeding. A decision granting a motion to vacate is subject to interlocutory appeal by the adverse party pursuant to rule 282—11.26(17A,256).

11.23(8) If a motion to vacate is granted and no timely interlocutory appeal has been taken, the presiding officer will issue another notice of hearing and the contested case will proceed accordingly.

11.23(9) A default decision may award any relief consistent with the request for relief made in the petition and embraced in its issues (but, unless the defaulting party has appeared, it cannot exceed the relief demanded).

11.23(10) A default decision may provide either that the default decision is to be stayed pending a timely motion to vacate or that the default decision is to take effect immediately, subject to a request for stay under rule 282—11.30(17A,256).

282—11.24(17A,256) Ex parte communication.

11.24(1) Prohibited communications. Unless required for the disposition of ex parte matters specifically authorized by statute, following issuance of the notice of hearing, there will be no communication, directly or indirectly, between the presiding officer and any party or representative of any party or any other person with a direct or indirect interest in such case in connection with any issue of fact or law in the case except upon notice and opportunity for all parties to participate. This does not prohibit persons jointly assigned such tasks from communicating with each other. Nothing in this provision is intended to preclude the presiding officer from communicating with members of the board or seeking the advice or help of persons other than those with a personal interest in, or those engaged in personally investigating as defined in subrule 11.11(2), prosecuting, or advocating in, either the case under consideration or a pending factually related case involving the same parties as long as those persons do not directly or indirectly communicate to the presiding officer any ex parte communications they have received of a type that the presiding officer would be prohibited from receiving or that furnish, augment, diminish, or modify the evidence in the record.

11.24(2) Prohibitions on ex parte communications commence with the issuance of the notice of hearing in a contested case and continue for as long as the case is pending.

11.24(3) Written, oral or other forms of communication are "ex parte" if made without notice and opportunity for all parties to participate.

11.24(4) To avoid prohibited ex parte communications, notice must be given in a manner reasonably calculated to give all parties a fair opportunity to participate. Notice of written communications will be provided in compliance with rule 282—11.13(17A,256) and may be supplemented by telephone, facsimile, electronic mail or other means of notification. Where permitted, oral communications may be initiated through conference telephone call including all parties or their representatives.

11.24(5) Board members acting as presiding officers may communicate with each other without notice or opportunity for parties to participate.

11.24(6) The executive director or other persons may be present in deliberations or otherwise advise the presiding officer without notice or opportunity for parties to participate as long as they are not disqualified from participating in the making of a proposed or final decision under any provision of law and they comply with subrule 11.24(1).

11.24(7) Communications with the presiding officer involving uncontested scheduling or procedural matters do not require notice or opportunity for parties to participate. Parties should notify other parties prior to initiating such contact with the presiding officer when feasible and will notify other parties when seeking to continue hearings or other deadlines pursuant to rule 282—11.19(17A,256).

11.24(8) Disclosure of prohibited communications. A presiding officer who receives a prohibited ex parte communication during the pendency of a contested case must initially determine if the effect of the communication is so prejudicial that the presiding officer should be disqualified. If the presiding officer determines that disqualification is warranted, a copy of any prohibited written communication, all written responses to the communication, a written summary stating the substance of any prohibited oral or other communication not available in written form for disclosure, all responses made, and the identity of each person from whom the presiding officer received a prohibited ex parte communication will be submitted for inclusion in the record under seal by protective order (or disclosed). If the presiding officer determines that disqualification is not warranted, such documents will be submitted for inclusion in the record and served on all parties. Any party desiring to rebut the prohibited communication must be allowed the opportunity to do so upon written request filed within ten days after notice of the communication.

11.24(9) Promptly after being assigned to serve as presiding officer at any stage in a contested case proceeding, a presiding officer will disclose to all parties material factual information received through ex parte communication prior to such assignment unless the factual information has already been or shortly will be disclosed pursuant to Iowa Code section 17A.13(2) or through discovery. Factual information contained in an investigative report or similar document need not be separately disclosed by the presiding officer as long as such documents have been or will shortly be provided to the parties.

11.24(10) The presiding officer may render a proposed or final decision imposing appropriate sanctions for violations of this rule including default, a decision against the offending party, censure, or suspension or revocation of the privilege to practice before the department. Violation of ex parte communication prohibitions by department personnel will be reported to (agency to designate person to whom violations should be reported) for possible sanctions including censure, suspension, dismissal, or other disciplinary action.

282—11.25(17A,256) Recording costs. Upon request, the board will provide a copy of the whole or any portion of the record at cost. The cost of preparing a copy of the record or of transcribing the hearing record will be paid by the requesting party.

Parties who request that a hearing be recorded by certified shorthand reporters rather than by electronic means will bear the cost of that recordation unless otherwise provided by law.

282—11.26(17A,256) Interlocutory appeals. Upon written request of a party or on its own motion, the board may review an interlocutory order of the presiding officer. In determining whether to do so, the board will weigh the extent to which its granting the interlocutory appeal would expedite final resolution of the case and the extent to which review of that interlocutory order by the board at the time it reviews the proposed decision of the presiding officer would provide an adequate remedy. Any request for

interlocutory review must be filed within 14 days of issuance of the challenged order but no later than the time for compliance with the order or the date of hearing, whichever is first.

282—11.27(17A,256) Final decision.

11.27(1) When the board presides over the reception of evidence at the hearing, its decision is a final decision.

11.27(2) When the board does not preside at the reception of evidence, the presiding officer will make a proposed decision. The proposed decision becomes the final decision of the board without further proceedings unless there is an appeal to, or review on motion of, the board within the time provided in rule 282—11.28(17A,256).

282—11.28(17A,256) Appeals and review.

11.28(1) *Appeal by party.* Any adversely affected party may appeal a proposed decision to the board within 30 days after issuance of the proposed decision.

11.28(2) *Review.* The board may initiate review of a proposed decision on its own motion at any time within 30 days following the issuance of such a decision.

11.28(3) *Notice of appeal.* An appeal of a proposed decision is initiated by filing a timely notice of appeal with the board. The notice of appeal must be signed by the appealing party or a representative of that party and contain a certificate of service. The notice will specify:

- a. The parties initiating the appeal;
- b. The proposed decision or order appealed from;
- c. The specific findings or conclusions to which exception is taken and any other exceptions to the decision or order;
- d. The relief sought;
- e. The grounds for relief.

11.28(4) *Requests to present additional evidence.* A party may request the taking of additional evidence only by establishing that the evidence is material, that good cause existed for the failure to present the evidence at the hearing, and that the party has not waived the right to present the evidence. A written request to present additional evidence must be filed with the notice of appeal or, by a nonappealing party, within 14 days of service of the notice of appeal. The board may remand a case to the presiding officer for further hearing or may itself preside at the taking of additional evidence.

11.28(5) *Scheduling.* The board will issue a schedule for consideration of the appeal.

11.28(6) *Briefs and arguments.* Unless otherwise ordered, within 20 days of the notice of appeal or order for review, each appealing party may file exceptions and briefs. Within 20 days thereafter, any party may file a responsive brief. Briefs will cite any applicable legal authority and specify relevant portions of the record in that proceeding. Written requests to present oral argument will be filed with the briefs.

The board may resolve the appeal on the briefs or provide an opportunity for oral argument. The board may shorten or extend the briefing period as appropriate.

282—11.29(17A,256) Applications for rehearing.

11.29(1) *By whom filed.* Any party to a contested case proceeding may file an application for rehearing from a final order.

11.29(2) *Content of application.* The application for rehearing will state on whose behalf it is filed, the specific grounds for rehearing, and the relief sought. In addition, the application will state whether the applicant desires reconsideration of all or part of the board decision on the existing record and whether, on the basis of the grounds enumerated in subrule 11.28(4), the applicant requests an opportunity to submit additional evidence.

11.29(3) *Time of filing.* The application will be filed with the board within 20 days after issuance of the final decision.

11.29(4) *Notice to other parties.* A copy of the application will be timely mailed by the applicant to all parties of record not joining therein. If the application does not contain a certificate of service, the board will serve copies on all parties.

11.29(5) *Disposition.* Any application for a rehearing will be deemed denied unless the board grants the application within 20 days after its filing.

282—11.30(17A,256) Stays of board actions.

11.30(1) *When available.*

a. Any party to a contested case proceeding may petition the board for a stay of an order issued in that proceeding or for other temporary remedies, pending review by the board. The petition will be filed with the notice of appeal and will state the reasons justifying a stay or other temporary remedy. The executive director may rule on the stay or authorize the presiding officer to do so.

b. Any party to a contested case proceeding may petition the board for a stay or other temporary remedies pending judicial review of all or part of that proceeding. The petition will state the reasons justifying a stay or other temporary remedy.

11.30(2) *When granted.* In determining whether to grant a stay, the executive director or presiding officer will consider the factors listed in Iowa Code section 17A.19(5).

11.30(3) *Vacation.* A stay may be vacated by the issuing authority upon application of the board or any other party.

282—11.31(17A,256) No factual dispute contested cases. If the parties agree that no dispute of material fact exists as to a matter that would be a contested case if such a dispute of fact existed, the parties may present all relevant admissible evidence either by stipulation or otherwise as agreed by the parties, without necessity for the production of evidence at an evidentiary hearing. If such agreement is reached, a jointly submitted schedule detailing the method and timetable for submission of the record, briefs and oral argument should be submitted to the presiding officer for approval as soon as practicable. If the parties cannot agree, any party may file and serve a motion for summary judgment pursuant to the rules governing such motions.

282—11.32(17A,256) Emergency adjudicative proceedings.

11.32(1) *Necessary emergency action.* To the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare, and consistent with the Constitution and other provisions of law, the board may issue a written order in compliance with Iowa Code section 17A.18 to suspend a license in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the board by emergency adjudicative order. Before issuing an emergency adjudicative order, the board will consider factors including, but not limited to, the following:

a. Whether there has been a sufficient factual investigation to ensure that the board is proceeding on the basis of reliable information;

b. Whether the specific circumstances that pose immediate danger to the public health, safety or welfare have been identified and determined to be continuing;

c. Whether the person required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety or welfare;

d. Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety or welfare; and

e. Whether the specific action contemplated by the board is necessary to avoid the immediate danger.

11.32(2) *Issuance of order.*

a. An emergency adjudicative order will contain findings of fact, conclusions of law, and policy reasons to justify the determination of an immediate danger in the board's decision to take immediate action.

b. The written emergency adjudicative order will be immediately delivered to persons who are required to comply with the order by utilizing one or more of the following procedures:

(1) Personal delivery;

(2) Certified mail, return receipt requested, to the last address on file with the board;

(3) Certified mail to the last address on file with the board;

(4) First-class mail to the last address on file with the board; or

(5) Fax. Fax may be used as the sole method of delivery if the person required to comply with the order has filed a written request that board orders be sent by fax and has provided a fax number for that purpose.

c. To the degree practicable, the board will select the procedure for providing written notice that best ensures prompt, reliable delivery.

11.32(3) *Oral notice.* Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order issues, the board will make reasonable immediate efforts to contact by telephone the persons who are required to comply with the order.

11.32(4) *Completion of proceedings.* After the issuance of an emergency adjudicative order, the board will proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.

Issuance of a written emergency adjudicative order will include notification of the date on which board proceedings are scheduled for completion. After issuance of an emergency adjudicative order, continuance of further board proceedings to a later date will be granted only in compelling circumstances upon application in writing.

282—11.33(256) Methods of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revoke a practitioner's license, certificate or authorization.
2. Suspend a practitioner's license, certificate or authorization until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period, a practitioner from engaging in specified practices, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
7. Issue a public letter of reprimand.
8. Order any other resolution appropriate to the circumstances of the case.
9. Impose fees as provided in Iowa Code section 256.146(22).

282—11.34(256) Reinstatement. Any person whose license, certificate or authorization to practice has been suspended may apply to the board for reinstatement in accordance with the terms and conditions of the order of the suspension.

11.34(1) All proceedings for reinstatement will be initiated by the respondent, who will file with the board an application for reinstatement. Such application will be docketed in the original case in which the license, certificate or authorization was suspended. All proceedings upon the application for reinstatement will be subject to the same rules of procedure as other cases before the board.

11.34(2) An application for reinstatement will allege facts that, if established, will be sufficient to enable the board to determine that the basis for the suspension of the respondent's license, certificate or authorization no longer exists and that it will be in the public interest for the license, certificate or authorization to be reinstated. The burden of proof to establish such facts will be on the respondent.

11.34(3) An order denying or granting reinstatement will be based upon a decision that incorporates findings of fact and conclusions of law. The board may grant reinstatement with or without conditions.

282—11.35(256) Application denial and appeal. The executive director is authorized by Iowa Code section 256.151 to grant or deny applications for licensure. If the executive director denies an application for a license, certificate, or authorization, the executive director will send to the applicant by regular first-class mail written notice identifying the factual and legal basis for denying the application.

11.35(1) *Mandatory grounds for license denial.* The executive director will deny an application based on the grounds set forth in Iowa Code section 256.146(13).

11.35(2) *Conviction of a crime and founded child abuse.*

a. Disqualifying criminal convictions. The board shall deny an application for licensure pursuant to Iowa Code section 256.146(13), regardless of whether the judgment of conviction or sentence was deferred.

b. Other criminal convictions and founded child abuse. When determining whether a person should be denied licensure based on the conviction of any other crime, including a felony, or a founded report of child abuse, the executive director and the board will consider the following:

- (1) The nature and seriousness of the crime or founded abuse in relation to the position sought;
- (2) The time elapsed since the crime or founded abuse was committed;
- (3) The degree of rehabilitation that has taken place since the crime or founded abuse was committed;
- (4) The likelihood that the person will commit the same crime or abuse again;
- (5) The number of criminal convictions or founded abuses committed; and
- (6) Such additional factors as may in a particular case demonstrate mitigating circumstances or heightened risk to public safety.

11.35(3) *Speech and intellectual freedom protections.* The board may deny a license to or revoke the license of a person upon the board's finding by a preponderance of evidence that the person knowingly and intentionally discriminated against a student in violation of Iowa Code section 261H.2(3) or 279.73.

11.35(4) *Fraudulent applications.* An application will be considered fraudulent pursuant to Iowa Code section 256.146(13) "b"(2) if it contains any false representation of a material fact or any omission of a material fact that should have been disclosed at the time of application for licensure or is submitted with a false or forged diploma, certificate, affidavit, identification, or other document material to the applicant's qualification for licensure or material to any of the grounds for denial set forth in Iowa Code section 256.146(13).

11.35(5) *Appeal procedure.*

a. An applicant who is aggrieved by the denial of an application for licensure and who desires to challenge the decision of the executive director must appeal the decision and request a hearing before the board within 30 calendar days of the date the notice of license denial is mailed. An appeal and request for hearing must be in writing and is deemed made on the date of the United States Postal Service nonmetered postmark or the date of personal service to the board office. The request for hearing will specify the factual or legal errors the applicant contends were made by the executive director, must identify any factual disputes upon which the applicant desires an evidentiary hearing, and may provide additional written information or documents in support of licensure. If a request for hearing is timely made, the executive director will promptly issue a notice of contested case hearing on the grounds asserted by the applicant.

b. The board, in its discretion, may act as presiding officer at the contested case hearing, may hold the hearing before a panel of three board members, or may request that an administrative law judge act as presiding officer. The applicant may request that an administrative law judge act as presiding officer and render a proposed decision pursuant to rule 282—11.8(17A,256). A proposed decision by a panel of board members or an administrative law judge is subject to appeal or review by the board pursuant to rule 282—11.28(17A,256).

c. Hearings concerning licensure denial will be conducted according to the contested case procedural rules in this chapter. Evidence supporting the denial of the license may be presented by an assistant attorney general. While each party will have the burden of establishing the affirmative of matters asserted, the applicant will have the ultimate burden of persuasion as to the applicant's qualification for licensure.

d. On appeal, the board may grant or deny the application for licensure. If the application for licensure is denied, the board will state the reason or reasons for the denial and may state conditions under which the application could be granted, if applicable.

11.35(6) *Judicial review.* Judicial review of a final order of the board denying licensure may be sought in accordance with the provisions of Iowa Code section 17A.19, which are applicable to judicial review of an agency's final decision in a contested case. In order to exhaust administrative remedies, an

applicant aggrieved by the executive director's denial of an application for licensure must timely appeal the adverse decision to the board.

282—11.36(256) Denial of renewal application. If the executive director denies an application to renew a license, certificate or authorization, a notice of hearing will be issued to commence a contested case proceeding. The executive director may deny a renewal application on the same grounds as those that apply to an application for licensure described in subrules 11.35(1) through 11.35(4).

11.36(1) Hearing procedure. Hearings on denial of an application to renew a license will be conducted according to the contested case procedural rules in this chapter. Evidence supporting the denial of the license may be presented by an assistant attorney general.

11.36(2) Judicial review. Judicial review of a final order of the board denying renewal of licensure may be sought in accordance with the provisions of Iowa Code section 17A.19, which are applicable to judicial review of an agency's final decision in a contested case.

11.36(3) Impact of denial of renewal application. Pursuant to Iowa Code section 17A.18(2), if the licensee has made timely and sufficient application for renewal, an existing license will not expire until the last day for seeking judicial review of the board's final order denying the application or a later date fixed by order of the board or reviewing court.

11.36(4) Timeliness of renewal application. Within the meaning of Iowa Code section 17A.18(2), a timely and sufficient renewal application will be:

- a. Received by the board on or before the date the license is set to expire or lapse;
- b. Signed by the licensee and certified as accurate if submitted electronically;
- c. Fully completed; and
- d. Accompanied by the proper fee. The fee will be deemed improper if the amount is incorrect, the fee was not included with the application, or the licensee's check is unsigned or returned for insufficient funds.

282—11.37(256) Required reports. Reports are required to be made pursuant to Iowa Code sections 256.146, 256.160, and 279.73.

282—11.38(256) Denial of application during a pending professional practices case. The executive director may deny an application for a license, authorization, certificate, or statement of recognition if the applicant is currently under investigation and probable cause has been determined by the board.

These rules are intended to implement Iowa Code chapters 17A and 256.

[Filed 12/24/24, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8811C

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Rulemaking related to fees

The Educational Examiners Board hereby rescinds Chapter 12, "Fees," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 256.155.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 256.155.

Purpose and Summary

This chapter provides procedures for required fees. The Board is required to cover all operating expenses through fees. The Board is removing duplicative statutory language.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8290C**. A public hearing was held on the following date(s):

- November 20, 2024
- December 2, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on December 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 282—Chapter 12 and adopt the following **new** chapter in lieu thereof:

CHAPTER 12**FEES**

282—12.1(256) Issuance fees. The fee for the issuance of a license, certificate, statement of professional recognition, or authorization will be \$85 unless otherwise specified below:

1. A paraeducator certificate will be \$40.
2. A behind-the-wheel authorization will be \$40.

3. The application fee will be waived for applicants who meet the requirements under 282—subrule 13.1(4).

282—12.2(256) Renewal fees. The fee for the renewal or extension of a license, certificate, statement of professional recognition, or authorization will be \$85 unless otherwise specified below:

1. The renewal of the paraeducator certificate will be \$40.
2. The renewal of the behind-the-wheel authorization will be \$40.
3. A one-year extension of a coaching authorization will be \$40.
4. A one-year extension of the temporary initial, initial teaching, or initial administrator license will be \$25 if the applicant needs additional time to meet the experience requirement and all standards have been met.
5. The fee for the renewal of a license, certificate, statement of professional recognition, or authorization for practitioners with a master's degree or higher who have ten or more years of experience in education will be \$50.
6. A Class E emergency extension license will be \$150.

282—12.3(256) Evaluation and endorsement fees.

1. The evaluation fee for applications from out-of-state or out-of-country institutions will be \$60.
2. The fee for adding an endorsement will be \$50. The fee for a transcript evaluation will be \$60.
3. The fee for adding an area of concentration to a paraeducator certificate will be \$25.

282—12.4(256) Duplicate fees. The fee for the printed issuance of a practitioner's license, a certificate, a statement of professional recognition, or an authorization will be \$15.

282—12.5(256) Late fees.

12.5(1) An additional fee of \$25 per calendar month, not to exceed \$150, will be imposed if an application is submitted after the date of expiration of a practitioner's license.

12.5(2) An additional fee of \$25 per calendar month, not to exceed \$150, will be imposed if the practitioner holds a valid Iowa license but does not hold an endorsement for the type of service for which the practitioner is employed.

12.5(3) An additional fee of \$100 per calendar month, not to exceed \$500, will be imposed if the practitioner does not hold a valid Iowa license or authorization. The fee will begin to be assessed on the first day of the school year for which the practitioner is employed until the practitioner submits a completed application packet for the appropriate license.

12.5(4) Waivers of late fees will be granted only upon a showing of extraordinary circumstances rendering imposition of the fee unreasonable.

282—12.6(256) Retention of incomplete applications.

12.6(1) *Timeline for complete application materials to be submitted.* Upon receipt of an incomplete application, the executive director or designee will send a letter of deficiencies to the applicant stipulating that complete application materials will be submitted to the board office within 45 days of the date the letter is received. If the materials are not received within that timeline, the application process will be closed. If the applicant submits information after the 45-day deadline, the application process requires submission of a complete set of application materials and fees, including late fees if applicable, for practicing with an expired license, without the proper endorsement, or without an Iowa board-issued license.

12.6(2) *Background check.* The background check fee is valid for one year. If a license is not issued within one year of a completed background check, the background check will be considered void.

12.6(3) *Request for additional time.* If the applicant is not able to submit the application materials by the deadline, the applicant may contact the executive director with a request for additional time. The executive director will review the request and provide a written decision either approving or denying the request.

282—12.7(256) Fees for processing complaints and conducting hearings.

12.7(1) *Administrator licensure sanction.* If an administrator is a respondent in a complaint for violation of the code of professional conduct and ethics and the final board action results in a sanction, the administrator will be required to pay the fees that were related to processing the complaint and conducting the hearing. Such fees may include a fee for personal service by a sheriff, a fee for legal notice when placed in a newspaper, a fee for transcription service or court reporter fee, and other fees assessed as costs by the board.

12.7(2) *Timeline for payment and board order.* Fees will be submitted to the board office within 45 days from the issuance of the letter outlining the required fees. Payment of fees may be imposed as a board order.

These rules are intended to implement Iowa Code chapter 256.

[Filed 12/24/24, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8812C

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Rulemaking related to teacher licenses and endorsements

The Educational Examiners Board hereby rescinds Chapter 13, "Issuance of Teacher Licenses and Endorsements," and adopts a new Chapter 13, "Teacher Licenses and Endorsements," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 256.146.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 256.146.

Purpose and Summary

This chapter provides procedures for the issuance of teacher licenses. The Board is removing duplicative statutory language.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8291C**. A public hearing was held on the following date(s):

- November 20, 2024
- December 2, 2024

No one attended the public hearings.

One comment was received suggesting a minor corrective change to the approval of non-Iowa dyslexia preparation from the Iowa Reading Research Center to the Iowa Department of Education. That change has been incorporated into subrule 13.10(18).

Adoption of Rulemaking

This rulemaking was adopted by the Board on December 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 282—Chapter 13 and adopt the following **new** chapter in lieu thereof:

CHAPTER 13
TEACHER LICENSES AND ENDORSEMENTS

282—13.1(256) Teacher licenses.

13.1(1) *Applicants from Iowa institutions.* An applicant will complete a minimum of a baccalaureate degree and all requirements to receive a recommendation for the specific license and endorsement(s) from the designated recommending official at the recognized institution where the preparation was completed.

13.1(2) *Applicants from non-Iowa institutions.*

a. Original application. An applicant from a non-Iowa institution applying for the applicant's first Iowa teaching license:

(1) Will meet the reciprocity requirements set forth in Iowa Code sections 256.152 and 272C.12. Endorsements will be granted based on comparable Iowa endorsements, and endorsement requirements may be waived in order to grant the most comparable endorsement.

(2) Will not be subject to any pending licensure disciplinary proceedings in any state or country.

b. Holders of an Iowa teaching license who applied under this rule prior to June 16, 2022, may submit a new application if the requirements in this subrule would have been met at the time of their initial application.

13.1(3) *Applicants from foreign institutions.* An applicant for initial licensure whose preparation was completed in a foreign institution will additionally obtain a course-by-course credential evaluation report completed by a board-approved provider showing the completion of a teacher preparation program in lieu of a valid or expired teaching license.

13.1(4) *Military veterans and spouses.*

a. *Definitions.*

"Military service" means honorably serving on federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1; in the military services of other states, as provided in

10 U.S.C. Section 101(c) (2021); or in the organized reserves of the United States, as provided in 10 U.S.C. Section 10101 (2006).

“*Veteran*” means an individual who meets the definition of “veteran” in Iowa Code section 35.1(2).

b. Application fee waived for veterans, spouses, or spouses of active duty military service members applying for a teaching license. To receive a waiver of the application fee for a teaching license, a veteran will provide a copy of the veteran’s DD 214. A spouse will provide a copy of the veteran spouse’s DD 214 or current military orders and the couple’s marriage license.

c. Military education, training, and service credit. An applicant under this rule may apply for credit for verified military education, training, or service toward any experience or educational requirement. The board of educational examiners will promptly determine whether the verified military education, training, or service will satisfy all or any part of the identified experience or educational requirement for licensure.

282—13.2(256) Initial license.

13.2(1) Temporary initial license. A temporary initial license valid for a minimum of two years with an expiration date of June 30 may be issued to an applicant who meets the requirements set forth in Iowa Code section 256.166 and rule 282—13.1(256).

13.2(2) Initial license. An initial license valid for a minimum of two years with an expiration date of June 30 may be issued to an applicant who meets the requirements set forth in rule 282—13.1(256).

282—13.3(256) Standard license. A standard license valid for five years may be issued to an applicant who meets the general requirements set forth in rule 282—13.1(256) and Iowa Code section 256.163.

282—13.4(256) Master educator license. A master educator license is valid for five years and may be issued to an applicant who:

1. Is the holder of or is eligible for a standard license as set out in rule 282—13.3(256), and
2. Provides verification of five years of successful teaching experience, and
3. Completes a master’s degree.

282—13.5(256) Teacher intern license.

13.5(1) Authorization. The teacher intern is authorized to teach within qualified endorsement areas approved by the board of educational examiners for teacher internships.

13.5(2) Term. The term of the teacher intern license will be one school year. This license is nonrenewable.

13.5(3) Teacher intern requirements. A teacher intern license and endorsement may be issued to an applicant who has been recommended by an institution with a state-approved intern program.

13.5(4) Teacher intern extension and experience.

a. A one-year extension of the teacher intern license may be issued upon application to an applicant who needs additional time to complete the internship program.

b. Teaching experience completed during the term of the teacher intern license or extension may be used toward the experience requirement for the standard teaching license.

282—13.6(256) International teacher exchange program license. A nonrenewable international exchange program license may be issued to an applicant under the following conditions:

1. The applicant has completed a teacher education program in another country.
2. The applicant is a participant in a teacher exchange program administered through the Iowa department of education, the U.S. Department of Education, or the U.S. Department of State.
3. Each exchange license will be limited to the area(s) and level(s) of instruction as determined by an analysis of the application and the credential evaluation report.
4. This license will not exceed one year unless the applicant can verify continued participation in the exchange program.

282—13.7(256) Substitute license.

13.7(1) *Substitute teacher requirements.* A substitute license may be issued to an individual who is eligible to hold a teaching license in Iowa.

13.7(2) *Validity.* A substitute license is valid for five years and for not more than 90 days of teaching in one assignment during any one school year.

13.7(3) *Authorization.* The holder of a substitute license may substitute teach in any position in which a regularly licensed teacher is employed except in the driver's education classroom. The holders of temporary initial, initial, standard, master educator, professional administrator, regional exchange, full career and technical education authorization, full native language teaching authorization, full content specialist authorization, professional service license, and permanent professional licenses may substitute on the same basis as the holder of a substitute license while the regular license is in effect. The executive director may grant permission for a substitute to serve outside of a substitute's regular authority or past the day limitation under unique circumstances.

282—13.8(256) Permanent professional certificates. Effective October 1, 1988, the permanent professional certificate will no longer be issued. Any permanent professional certificate issued prior to October 1, 1988, will continue in force with the endorsements and approvals appearing thereon unless revoked or suspended for cause. If a permanent professional certificate is revoked and if the holder is able at a later date to overcome or remediate the reasons for the revocation, the holder may apply for the appropriate new class of license set forth in this chapter.

282—13.9(256) Requirements for preschool and elementary endorsements.

13.9(1) *Teacher—prekindergarten-kindergarten.*

a. Authorization. The holder of this endorsement is authorized to teach at the prekindergarten-kindergarten level. Applicants for this endorsement will also hold the teacher—elementary classroom endorsement set forth in this rule or the early childhood special education endorsement set forth in 282—subrule 14.1(1).

b. Content. A minimum of 18 semester hours to include the following:

(1) Child development and learning to include young children's characteristics and needs, with an emphasis on cognitive, language, physical, social, and emotional development, both typical and atypical; the multiple interacting influences on early development; and the creation of environments that are healthy, respectful, supportive, and challenging for each and every child.

(2) Building family and community relationships to include understanding that successful early childhood education depends upon reciprocal and respectful partnerships with families, communities, and agencies; that these partnerships have complex and diverse characteristics; and that all families should be involved in their children's development and learning.

(3) Assessment in early childhood to include child observation, documentation, and data collection; the development of appropriate goals; the benefits and uses of assessment for curriculum and instructional strategies; the use of technology when appropriate for assessment and adaptations; and building assessment partnerships with families to positively influence the development of each child.

(4) Developmentally effective approaches to include understanding how positive relationships and supportive interactions are the foundation of working with young children and families; knowing and understanding a wide array of developmentally appropriate approaches, including play and creativity, instructional strategies, and tools to connect with children and families; and reflecting on the teacher's own practice to promote positive outcomes for each child.

(5) Content knowledge to build a meaningful curriculum through the use of academic disciplines, including language and literacy, the arts (music, drama, dance, and visual arts), mathematics, science, social studies, physical activity, and health, for designing, implementing, and evaluating inquiry-based experiences that promote positive development and learning for each child.

(6) Collaboration and professionalism to include involvement in the early childhood field, knowledge about ethical and early childhood professional standards, engagement in continuous

collaborative learning to inform practice, reflective and critical perspectives on early childhood education, and informed advocacy for young children and the profession.

(7) Field experiences and opportunities to observe and practice in a variety of early childhood settings, which include, at a minimum, 40 hours of observation and practice in a variety of preschool settings such as urban, rural, socioeconomic status, cultural diversity, program types, and program sponsorship.

(8) Historical, philosophical, and social foundations of early childhood education.

(9) Student teaching in a prekindergarten setting.

13.9(2) Teacher—kindergarten through grade six. The holder of this endorsement is authorized to teach in kindergarten and grades one through six.

a. Growth and development. Child growth and development with emphasis on the emotional, physical and mental characteristics of elementary age children unless completed as part of the professional education core.

b. Content. At least nine semester hours in literacy development, which will include:

(1) Content:

1. Oral and written communication development; and linguistics, including phonology and phonological awareness, sound-symbol association, syllable types, morphology, syntax and semantics, and the relationship of these components to typical and atypical reading development and reading instruction;

2. Phonemic awareness;

3. Word identification, including phonics and orthography;

4. Fluency;

5. Vocabulary;

6. Comprehension;

7. Writing mechanics;

8. Writing conventions;

9. Writing process;

10. Children's literature.

(2) Methods:

1. Assessment, diagnosis and evaluation of student learning in literacy, including the knowledge of the signs and symptoms of dyslexia and other reading difficulties;

2. Integration of the language arts (to include reading, writing, speaking, viewing, and listening);

3. Integration of technology in teaching and student learning in literacy;

4. Current best-practice, research-based strategies and instructional technology for designing and delivering effective instruction, including appropriate interventions, groupings, remediation, assistive technology, and classroom accommodations for all students including students with dyslexia and other difficulties;

5. Classroom management as it applies to literacy methods;

6. Pre-student teaching clinical experience in teaching literacy.

c. At least nine semester hours in mathematics, which will include:

(1) Content:

1. Numbers and operations;

2. Algebra/number patterns;

3. Geometry;

4. Measurement;

5. Data analysis/probability.

(2) Methods:

1. Assessment, diagnosis and evaluation of student learning in mathematics;

2. Current best-practice, research-based instructional methods in mathematical processes (to include problem-solving; reasoning; communication; the ability to recognize, make and apply connections; integration of manipulatives; the ability to construct and to apply multiple connected representations; and the application of content to real-world experiences);

3. Integration of technology in teaching and student learning in mathematics;
4. Classroom management as it applies to mathematics methods;
5. Pre-student teaching clinical experience in teaching mathematics.
- d. At least nine semester hours in social sciences, which will include:
 - (1) Content:
 1. History;
 2. Geography;
 3. Political science/civic literacy;
 4. Economics;
 5. Behavioral sciences.
 - (2) Methods:
 1. Current best-practice, research-based approaches to the teaching and learning of social sciences;
 2. Integration of technology in teaching and student learning in social sciences;
 3. Classroom management as it applies to social science methods.
- e. At least nine semester hours in science, which will include:
 - (1) Content:
 1. Physical science;
 2. Earth/space science;
 3. Life science.
 - (2) Methods:
 1. Current best-practice, research-based methods of inquiry-based teaching and learning of science;
 2. Integration of technology in teaching and student learning in science;
 3. Classroom management as it applies to science methods.
- f. At least three semester hours to include all of the following:
 - (1) Methods of teaching elementary physical education, health, and wellness;
 - (2) Methods of teaching visual arts for the elementary classroom;
 - (3) Methods of teaching performance arts for the elementary classroom.
- g. Pre-student teaching field experience in at least two different grade levels to include one primary and one intermediate placement.
- h. A field of specialization in a single discipline or a formal interdisciplinary program of at least 12 semester hours.
- i. Student teaching in an elementary general education classroom.

282—13.10(256) Requirements for content area endorsements. Content methods courses that cover the specific endorsement area and grade levels are required in addition to the content coursework listed below.

13.10(1) Agriculture. 5-12. Completion of 24 semester credit hours in agriculture and agriculture education to include:

- a. Foundations of vocational and career education.
- b. Planning and implementing courses and curriculum.
- c. Methods and techniques of instruction to include evaluation of programs and students.
- d. Coordination of cooperative education programs.
- e. Coursework in each of the following areas and at least three semester credit hours in five of the following areas:
 - (1) Agribusiness systems.
 - (2) Power, structural, and technical systems.
 - (3) Plant systems.
 - (4) Animal systems.
 - (5) Natural resources systems.
 - (6) Environmental service systems.
 - (7) Food products and processing systems.

13.10(2) *American Sign Language.* K-12. Completion of 18 semester hours of coursework in American Sign Language to include second-language acquisition, sociology of the deaf and hard-of-hearing community, linguistic structure of American Sign Language, language teaching methodology specific to American Sign Language, teaching the culture of deaf and hard-of-hearing people, and assessment of students in an American Sign Language program.

13.10(3) *Art.* K-8 and 5-12. Completion of 24 semester hours in art to include coursework in art history, studio art, and two- and three-dimensional art.

13.10(4) *Athletic coach.* K-12. An applicant for the coaching endorsement will hold a teaching license with a teaching endorsement and complete the following requirements:

- a. One semester hour in the structure and function of the human body in relation to physical activity, and
- b. One semester hour in human growth and development of children and youth as related to physical activity, and
- c. Two semester hours in athletic conditioning, care and prevention of injuries and first aid as related to physical activity, and
- d. One semester hour in the theory of coaching interscholastic athletics, and
- e. Concussion training approved by the Iowa High School Athletic Association or Iowa Girls High School Athletic Union, and
- f. A current certificate of CPR training from an approved provider.

13.10(5) *Business—all.* 5-12. Completion of 30 semester hours in business to include 6 semester hours in accounting; 3 semester hours in business law to include contract law; 3 semester hours in computer and technical applications in business; 6 semester hours in marketing to include consumer studies; 3 semester hours in management; 6 semester hours in economics; 3 semester hours in business communications to include formatting, language usage, and oral presentation; and coursework in entrepreneurship and financial literacy.

13.10(6) *Computer science.* K-8 and 5-12. Applicants will hold a valid Iowa teaching license with at least one additional teaching endorsement.

a. *Content.* A minimum of 12 semester hours of computer science to include coursework in the following:

- (1) Data representation and abstraction to include primitive data types, static and dynamic data structures, and data types and stores.
- (2) Designing, developing, testing and refining algorithms to include proficiency in two or more programming paradigms.
- (3) Systems and networks to include operating systems, networks, mobile devices, and machine-level data representation.

b. *Methods course.* A computer science methods course to include the following:

- (1) Curriculum development including recognizing and defining real-world computational problems; computing concepts and constructs; developing and using abstractions; creating, testing, and refining computational artifacts; and problem-solving strategies in computer science.
- (2) Project-based methodologies that support active and authentic learning, fostering an inclusive computing culture, collaborative groupings, and opportunities for creative and innovative thinking.
- (3) Communication about computing including multiple forms of media.
- (4) Digital citizenship including the social, legal, ethical, safe and effective use of computer hardware, software, peripherals, and networks.

c. *Computer science specialist.* If the coursework requirements in this rule are met and the applicant achieves a minimum of 24 semester hours of computer science content, a computer science specialist endorsement will be granted and the additional teaching endorsement will not be required.

13.10(7) *Career and technical education (CTE) information technology.* 5-12. Applicants will hold a valid Iowa teaching license with at least one other teaching endorsement.

a. *Content.* Applicants will meet the coursework requirements for a computer science endorsement.

b. *CTE methods.*

- (1) A minimum of six semester hours of career and technical curriculum and methods to include:
 1. Foundations of career and technical education.
 2. Methods of career and technical education.
 3. Evaluation and assessment of career and technical programs.
- (2) The CTE methods coursework is not required if the educator holds another career and technical endorsement.

13.10(8) *Driver education.* 5-12. Completion of nine semester hours in driver education to include coursework in accident prevention that includes drug and alcohol abuse, vehicle safety, and behind-the-wheel driving.

13.10(9) *Engineering.* 5-12.

- a. Completion of 24 semester hours in engineering coursework.
- b. Methods and strategies of STEM instruction or methods of teaching science or mathematics.

13.10(10) *English/language arts.*

a. *K-8.* Completion of 24 semester hours in English and language arts to include coursework in oral communication, written communication, language development, literacy, children's literature, creative drama or oral interpretation of literature, and American literature.

b. *5-12.* Completion of 24 semester hours in English to include coursework in oral communication, written communication, language development, literacy, American literature, world literature, and adolescent literature.

c. *5-12 English language arts—all.* Completion of 40 semester hours in English to include coursework in oral communication, written communication, language development, literacy, American literature, world literature, adolescent literature, creative voice, argumentation and debate, journalism, and mass media production.

d. *5-12 journalism.* Completion of 15 semester hours in journalism to include coursework in writing, editing, production and visual communications.

e. *K-8 speech communication/theater.* Completion of 20 semester hours in speech communication/theatre to include coursework in speech communication, creative drama or theatre, and oral interpretation.

f. *5-12 speech communication/theater.* Completion of 24 semester hours in speech communication/theatre to include coursework in speech communication, oral interpretation, creative drama or theatre, argumentation and debate, and mass media communication.

13.10(11) *English language learning (ELL).* K-12.

a. *Authorization.* The holder of this endorsement is authorized to teach English language learning in kindergarten and grades 1 through 12.

b. *Content.* Completion of 18 semester hours of coursework in English language learning to include the following:

- (1) Knowledge of pedagogy to include the following:
 1. Methods and curriculum to include the following:
 - Bilingual and ELL methods.
 - Literacy in native and second language.
 - Methods for subject matter content.
 - Adaptation and modification of curriculum.
 2. Assessment to include language proficiency and academic content.
- (2) Knowledge of linguistics to include the following:
 1. Psycholinguistics and sociolinguistics.
 2. Language acquisition and proficiency to include the following:
 - Knowledge of first and second language proficiency.
 - Knowledge of first and second language acquisition.
 - Language to include structure and grammar of English.
- (3) Knowledge of cultural and linguistic diversity to include the following:
 1. History.
 2. Theory, models, and research.

3. Policy and legislation.
- (4) Current issues with transient populations.

13.10(12) *Family and consumer sciences—general.* 5-12. Completion of 24 semester hours in family and consumer sciences to include coursework in lifespan development, parenting and child development education, family studies, consumer resource management, textiles or apparel design and merchandising, housing, foods and nutrition, and foundations of career and technical education as related to family and consumer sciences.

13.10(13) *Health.* K-8 and 5-12. Completion of 24 semester hours, or 18 semester hours if the applicant holds a physical education or family and consumer science endorsement, in health to include coursework in public or community health, personal wellness, substance abuse, family life education, mental/emotional health, and human nutrition. A current certificate of CPR training is required in addition to the coursework requirements.

13.10(14) *Industrial technology.* 5-12. Completion of 24 semester hours in industrial technology to include coursework in manufacturing, construction, energy and power, graphic communications and transportation. Coursework is required in each area including at least 6 semester hours in three different areas.

13.10(15) *Librarian—school teacher.* K-8, 5-12, or PK-12.

a. Content. Completion of 24 semester hours in school library coursework to include the following:

(1) Literacy and reading. This requirement includes the following competencies at the elementary level for K-8 and secondary level for 5-12:

1. Practitioners collaborate with other teachers to integrate developmentally appropriate literature in multiple formats to support literacy for youth.
2. Practitioners demonstrate knowledge of resources and strategies to foster leisure reading and model personal enjoyment of reading, based on familiarity with selection tools and current trends in literature for youth.
3. Practitioners understand how to develop a collection of reading and informational materials in print and digital formats that supports the diverse developmental, cultural, social and linguistic needs of all learners and their communities.
4. Practitioners model and teach reading comprehension strategies to create meaning from text for youth.

(2) Information and knowledge. This requirement includes the following competencies:

1. Practitioners teach multiple strategies to locate, analyze, evaluate, and ethically use information in the context of inquiry-based learning.
 2. Practitioners advocate for flexible and open access to library resources, both physical and virtual.
 3. Practitioners uphold and promote the legal and ethical codes of their profession, including privacy, confidentiality, freedom and equity of access to information.
 4. Practitioners use skills and knowledge to assess reference sources, services, and tools in order to mediate between information needs and resources to assist learners in determining what they need.
 5. Practitioners model and facilitate authentic learning with current and emerging digital tools for locating, analyzing, evaluating and ethically using information resources to support research, learning, creating, and communicating in a digital society.
 6. Practitioners demonstrate knowledge of creative and innovative uses of technologies to engage students and facilitate higher-level thinking.
 7. Practitioners develop an articulated information literacy curriculum grounded in research related to the information search process.
 8. Practitioners understand the process of collecting, interpreting, and using data to develop new knowledge to improve the school library program.
 9. Practitioners employ the methods of research in library and information science.
- (3) Program administration and leadership. This requirement includes the following competencies:

1. Practitioners evaluate and select print, nonprint, and digital resources using professional selection tools and evaluation criteria to develop and manage a quality collection designed to meet the diverse curricular, personal, and professional needs of the educational community.

2. Practitioners demonstrate knowledge necessary to organize the library collections according to current standard library cataloging and classification principles.

3. Practitioners develop policies and procedures to support ethical use of information, intellectual freedom, selection and reconsideration of library materials, and the privacy of users of all ages.

4. Practitioners develop strategies for working with regular classroom teachers, support services personnel, paraprofessionals, and other individuals involved in the educational program.

5. Practitioners demonstrate knowledge of best practices related to planning, budgeting (including alternative funding), organizing, and evaluating human and information resources and facilities to ensure equitable access.

6. Practitioners understand strategic planning to ensure that the school library program addresses the needs of diverse communities.

7. Practitioners advocate for school library and information programs, resources, and services among stakeholders.

8. Practitioners promote initiatives and partnerships to further the mission and goals of the school library program.

(4) **Practicum.** This requirement includes the following competencies at the elementary level for K-8 and secondary level for 5-12:

1. Practitioners apply knowledge of learning styles, stages of human growth and development, and cultural influences of learning at the elementary or secondary levels.

2. Practitioners implement the principles of effective teaching and learning that contribute to an active, inquiry-based approach to learning in a digital environment at the elementary or secondary levels.

3. Practitioners understand the teacher librarian role in curriculum development and the school improvement process at the elementary or secondary levels.

4. Practitioners collaborate to integrate information literacy and emerging technologies into content area curricula.

13.10(16) Literacy—reading. K-8 and 5-12. Completion of 24 semester hours in reading to include all of the following requirements:

a. Foundations of reading. This requirement includes the following competencies:

- (1) The practitioner demonstrates knowledge of the psychological, sociocultural, motivational, and linguistic foundations of reading and writing processes and instruction.

- (2) The practitioner demonstrates knowledge of a range of research pertaining to reading, writing, and learning, including the analysis of scientifically based reading research, and knowledge of histories of reading. The range of research encompasses research traditions from the fields of the social sciences and other paradigms appropriate for informing practice and also definitions of reading difficulties including but not limited to dyslexia.

- (3) The practitioner demonstrates knowledge of the major components of reading, such as comprehension, vocabulary, word identification, fluency, phonics, and phonemic awareness, and effectively integrates curricular standards with student interests, motivation, and background knowledge.

b. Reading curriculum and instruction. This requirement includes the following competencies:

- (1) The practitioner demonstrates knowledge of designing and implementing an integrated, comprehensive, and balanced curriculum that addresses the major components of reading and contains a wide range of texts, including but not limited to narrative, expository, and poetry, and including traditional print, digital, and online resources.

- (2) The practitioner uses knowledge of a range of research-based strategies and instructional technology for designing and delivering effective instruction, including appropriate interventions, remediation, assistive technology, and classroom accommodations for students with dyslexia and other difficulties.

- (3) The practitioner demonstrates knowledge of grouping students, selecting materials appropriate for learners with diverse abilities at various stages of reading and writing development, differentiating

instruction to meet the unique needs of all learners, including students with dyslexia, offering sufficient opportunities for students to practice reading skills, and providing frequent and specific instructional feedback to guide students' learning.

(4) The practitioner demonstrates knowledge of designing instruction to meet the needs of diverse populations, including populations in urban, suburban, and rural settings, as well as for students from various cultural and linguistic backgrounds.

(5) The practitioner demonstrates knowledge of creating a literate physical environment that is low risk, supports students as agents of their own learning, and supports a positive socio-emotional impact for students to identify as readers.

c. Reading assessment, diagnosis and evaluation. This requirement includes the following competencies:

(1) The practitioner understands types of reading and writing assessments and their purposes, strengths, and limitations.

(2) The practitioner demonstrates knowledge of selecting and developing appropriate assessment instruments, procedures, and practices that range from individual to group and from formal to informal to alternative for the identification, screening, and diagnosis of all students' reading proficiencies and needs including knowledge of the signs and symptoms of dyslexia and other reading difficulties.

(3) The practitioner demonstrates knowledge of assessment data analysis to inform, plan, measure, progress monitor, and revise instruction for all students and to communicate the outcomes of ongoing assessments to all stakeholders.

(4) The practitioner demonstrates awareness of policies and procedures related to special programs, including Title I.

d. Reading in the content areas. This requirement includes the following competencies:

(1) The practitioner demonstrates knowledge of morphology and the etymology of words, along with text structure and the dimensions of content area vocabulary and comprehension, including literal, interpretive, critical, and evaluative.

(2) The practitioner demonstrates an understanding of reading theory, reading knowledge, and a variety of research-based strategies and approaches to provide effective literacy instruction into content areas.

(3) The practitioner demonstrates knowledge of integrating literacy instruction into content areas for all students, including but not limited to students with disabilities, students who are at risk of academic failure, students who have been identified as gifted and talented, students who have limited English language proficiency, and students with dyslexia, whether or not such students have been identified as children requiring special education under Iowa Code chapter 256B.

e. Language development. This requirement includes the following competency: The practitioner uses knowledge of oral language development, linguistics including phonology and phonological awareness, sound-symbol association, syllable types, morphology, syntax and semantics and the relationship of these components to typical and atypical reading development and reading instruction, cognitive academic language development, oral and written language proficiency (including second language development), acquisition of reading skills, and the variations related to cultural and linguistic diversity to provide effective instruction in reading and writing.

f. Oral communication instruction. This requirement includes the following competencies:

(1) The practitioner has knowledge of the unique needs and backgrounds of students with language differences and delays.

(2) The practitioner uses effective strategies for facilitating the learning of language for academic purposes by all learners.

g. Written communication instruction. This requirement includes the following competency: The practitioner uses knowledge of reading-writing-speaking connections; the writing process to include structures of language and grammar; the stages of spelling development; the different types of writing, such as narrative, expressive, persuasive, informational, and descriptive; and the connections between oral and written language development to effectively teach writing as communication.

h. Children's fiction and nonfiction (K-8 only) or adolescent or young adult fiction and nonfiction (5-12 only). This requirement includes the following competency: The practitioner uses knowledge of children's literature (K-8) or adolescent or young adult literature (5-12) for:

- (1) Modeling the reading and writing of varied genres, including fiction and nonfiction; technology- and media-based information; and nonprint materials;
- (2) Motivating through the use of texts at multiple levels, representing broad interests, and reflecting varied cultures, linguistic backgrounds, and perspectives; and
- (3) Matching text complexities to the proficiencies and needs of readers.

i. Practicum. This requirement includes the following competencies:

- (1) The practitioner works with appropriately licensed professionals who observe, evaluate, and provide feedback on the practitioner's knowledge, dispositions, and performance of the teaching of reading and writing.
- (2) The practitioner effectively uses reading and writing strategies, materials, and assessments based upon appropriate reading and writing research and works with colleagues and families in the support of children's reading and writing development.

13.10(17) Literacy—reading specialist. K-12. The applicant will have met the requirements for the standard license and a K-8 or 5-12 reading endorsement and will present evidence of at least three years of experience that included the teaching of reading as a significant part of the responsibility.

a. Authorization. The holder of this endorsement is authorized to serve as a reading specialist in kindergarten and grades 1 through 12.

b. Program requirements. Degree—master's.

c. Content. Completion of a sequence of courses and experiences, which may have been a part of, or in addition to, the degree requirements. This sequence is to be at least 24 semester hours to include the following:

(1) Foundations of reading. The reading specialist will understand the historical, theoretical, and evidence-based foundations of reading and writing processes and instruction and will be able to interpret these findings to model exemplary instructional methods for students with typical and atypical literacy development and effectively develop and lead professional development.

(2) Curriculum and instruction. The reading specialist will use instructional approaches, materials, and an integrated, comprehensive, balanced curriculum to support student learning in reading and writing including the following:

1. Work collaboratively with teachers to develop a literacy curriculum that has vertical and horizontal alignment K-12 and that uses instructional approaches supported by literature and research for the following areas: print, phonemic awareness, phonics, fluency, comprehension, vocabulary, writing, critical thinking, and motivation.

2. Support classroom teachers to implement and adapt in-depth instructional approaches, including but not limited to approaches to improve decoding, comprehension, and information retention, to meet the language-proficiency needs of English language learners and the needs of students with reading difficulties or reading disabilities, including appropriate interventions, remediation, assistive technology, and classroom accommodations for students with dyslexia and other difficulties within or outside the regular classroom.

3. Demonstrate a knowledge of a wide variety of quality traditional print, digital, and online resources and support classroom teachers in building and using a quality, accessible classroom library and materials collection that meets the specific needs and abilities of all learners.

4. Provide support for curriculum and instruction through modeling, coteaching, observing, planning, reviewing literacy data, and providing resources.

(3) Assessment, diagnosis, and evaluation. The reading specialist will use a variety of assessment tools and practices to plan and evaluate effective reading and writing instruction including the following:

1. Demonstrate an understanding of the literature and research related to assessments and their purposes, including the strengths and limitations of assessments, and assessment tools for screening, diagnosis, progress monitoring, and measuring outcomes; demonstrate an understanding of the signs and

symptoms of reading difficulties including but not limited to dyslexia; and also demonstrate an understanding of district and state assessments, proficiency standards and student benchmarks.

2. Select, administer, and interpret assessments for specific purposes, including collaboration with teachers in the analysis of data, and leading schoolwide or districtwide scale analyses to select assessment tools that provide a systemic framework for assessing reading, writing, and language growth of all students, including those with reading difficulties and reading disabilities including but not limited to students with dyslexia and English language learners.

3. Use assessment information to plan and evaluate instruction, including multiple data sources for analysis and instructional planning, for examining the effectiveness of specific intervention practices and students' responses to interventions including appropriate interventions, remediation, assistive technology, and classroom accommodations for students with dyslexia and other difficulties, and to plan professional development initiatives.

4. Communicate assessment results and implications to a variety of audiences.

(4) Administration and supervision of reading programs. The reading specialist will:

1. Demonstrate foundational knowledge of adult learning theories and related research about organizational change, professional development, and school culture.

2. Demonstrate the practical application of literacy leadership including planning, developing, supervising, and evaluating literacy programs at all levels.

3. Demonstrate knowledge of supervising an overall reading program, including but not limited to staffing; budgetary practices; planning, preparing, and selecting materials; subsystems; special provisions; and evaluating teacher performance.

4. Participate in, design, facilitate, lead, and evaluate effective and differentiated professional development programs to effectively implement literacy instruction.

5. Demonstrate an understanding of local, state, and national policies that affect reading and writing instruction.

6. Promote effective communication and collaboration among stakeholders, including parents and guardians, teachers, administrators, policymakers, and community members, and advocate for change when necessary to promote effective literacy instruction.

(5) Educational research, measurement and evaluation. The reading specialist will effectively utilize existing research and learn to conduct new research to continuously improve the design and implementation of a comprehensive reading system.

(6) Psychology of language and reading. The reading specialist will understand the highly complex processes by which children learn to speak, read, and write, including language acquisition, linguistics including phonology and phonological awareness, sound-symbol association, syllable types, morphology, syntax and semantics and the relationship of these components to typical and atypical reading development and reading instruction, ranges of individual differences, reading difficulties and reading disabilities, including but not limited to dyslexia, and the importance of the role of diversity in learning to read and write.

(7) Practicum in reading leadership. The reading specialist will participate in elementary and secondary practicum experiences with licensed teachers who are serving in leadership roles in the area of reading.

13.10(18) Literacy—dyslexia specialist. K-12. The applicant will have met the requirements for the standard license and have completed at least three years of postbaccalaureate teaching experience in a K-12 setting. Applicants who have achieved dyslexia certification in another state may apply for a certification review through the Iowa department of education.

a. *Authorization.* The holder of this endorsement is authorized to serve as a dyslexia specialist in kindergarten and grades 1 through 12.

b. *Content.* Completion of 18 semester hours in dyslexia strategies to include the following:

(1) Knowledge of dyslexia. The dyslexia specialist will have knowledge of dyslexia and:

1. Understand the tenets of the International Dyslexia Association's definition of dyslexia, including the neurobiological nature and cognitive-linguistic correlates.

2. Identify distinguishing characteristics of dyslexia and commonly co-occurring disorders, including dysgraphia, dyscalculia, attention deficit hyperactivity disorder, expressive language disorders, receptive language disorders, and others.

3. Recognize that dyslexia may present differently along a continuum of severity and impact depending upon age, grade, and compensatory factors.

4. Understand federal and state laws that pertain to dyslexia, including use of the word “dyslexia” within school settings and documentation.

5. Understand common misconceptions regarding characteristics of and interventions for dyslexia.

(2) Psychology of language and reading. The dyslexia specialist will understand the highly complex processes by which children learn to speak, read, and write, including language acquisition, linguistics, and the structure of written language, including phonological processing, phonics, orthography, morphology, syntax, and semantics, as well as the relationship of these components to typical and atypical reading and writing development and instruction for students with dyslexia.

(3) Curriculum and instruction. The dyslexia specialist will use appropriate instructional approaches and materials including preparation in more than one curriculum as well as integrated, comprehensive, explicit, and systematic literacy instruction to support student learning in reading and writing, including the following:

1. Instruction utilizing multisensory and multimodal strategies (visual, auditory, kinesthetic, and tactile), systematic and cumulative instruction, direct instruction, diagnostic and prescriptive teaching, as well as synthetic and analytic instruction.

2. Instructional approaches supported by the science of reading for the following areas: phonological processing, phonics, fluency, comprehension, vocabulary, spelling, and writing.

3. Creation of a dyslexia-friendly learning environment (within or outside the regular classroom) utilizing evidence-based accommodations and modifications to meet the needs of students with dyslexia, including appropriate interventions, remediation, assistive technology, and classroom accommodations for students with dyslexia.

4. Use of data to determine effectiveness of the instruction and curriculum along with student responsiveness to it.

(4) Assessment, diagnosis, and evaluation. The dyslexia specialist will be confident using a variety of formal assessment tools and practices to evaluate students’ reading and writing abilities in a variety of domains. The dyslexia specialist will:

1. Demonstrate an understanding of the literature and research related to assessments and their purposes (including the strengths and limitations of assessments) and assessment tools for screening, diagnosis, progress monitoring, and measuring outcomes.

2. Demonstrate an understanding of the signs and symptoms of reading difficulties, including but not limited to dyslexia, and also demonstrate an understanding of norms and student benchmarks.

3. Select, administer, and interpret assessments for specific purposes, including screening students at risk for dyslexia and identifying students who display a profile of dyslexia, and:

- Understand the features of standardized norm-referenced assessments.
- Understand the importance of selecting reliable and valid assessments to evaluate typical and atypical reading development.

● Interpret various scores derived from standardized norm-referenced and criterion-referenced assessments.

4. Use assessment information to plan and evaluate instruction, including appropriate interventions, remediation, assistive technology, and classroom accommodations for students with dyslexia and other difficulties. This will include the use of multiple data sources for analysis, instructional planning, examining the effectiveness of specific intervention practices, and examining students’ responses to interventions.

5. Communicate assessment results and implications to a variety of audiences, including staff, parents, and students.

6. Understand appropriate IEP goals and Section 504 plans for students who display characteristics of dyslexia.

(5) Practicum in dyslexia. The dyslexia specialist will participate in elementary and secondary practicum experiences with instructors who have experience with and are currently serving students who display characteristics of dyslexia. The practicum will include:

1. Supervised administration of norm-referenced literacy assessments.
2. Practice composing a report of literacy assessment results that will include interpretation of the results and instructional recommendations.
3. Supervised delivery of systematic, explicit, and multisensory intervention for students with characteristics of dyslexia.
4. Practice composing a report of students' response to intervention.

13.10(19) Mathematics.

a. K-8. Completion of 24 semester hours in mathematics to include coursework in algebra, geometry, number theory, measurement, computer programming, and probability and statistics.

b. 5-12.

(1) Completion of 24 semester hours in mathematics to include a linear algebra or an abstract (modern) algebra course, a geometry course, a two-course sequence in calculus, a computer programming course, a probability and statistics course, and coursework in discrete mathematics.

(2) For holders of the 5-12 physics or 5-12 all science endorsement, completion of 17 semester hours in mathematics to include a geometry course, a two-course sequence in calculus, a probability and statistics course, and coursework in discrete mathematics.

c. 5-8 algebra for high school credit. Hold a K-8 mathematics, middle school mathematics, K-8 STEM, or 5-8 STEM endorsement and complete a course titled college algebra or a higher algebra course.

d. 5-12 mathematics—basic. Completion of 24 semester hours in mathematics, which will minimally include a course titled college algebra or a higher algebra course, a geometry course, a computer programming course, and a probability and statistics course.

13.10(20) Middle school language arts, mathematics, science, social studies.

a. Middle school pedagogy. A minimum of nine semester hours in the following:

- (1) Coursework in the growth and development of the middle school age child.
- (2) Coursework in middle school design, curriculum, instruction, and assessment.
- (3) Coursework in middle school literacy strategies including incorporating literacy in the curriculum.

b. Concentration areas. Two or more of the following concentration areas are required:

- (1) For 5-8 language arts, 12 semester hours in language arts to include coursework in composition, language usage, speech, young adult literature, and literature across cultures.
- (2) For 5-8 mathematics, 12 semester hours in mathematics to include coursework in algebra.
- (3) For 5-8 science, 12 semester hours in science to include coursework in life science, earth science, and physical science.
- (4) For 5-8 social studies, 12 semester hours to include coursework in United States history, world history, government and geography.

13.10(21) Multioccupations. 5-12. Completion of any 5-12 endorsement and coursework in foundations of career and technical education and coordination of cooperative programs. Holders of the career and technical authorization are eligible to apply to add this endorsement.

13.10(22) Music. K-8 and 5-12. Completion of 24 semester hours in music to include coursework in music theory (at least two courses), music history (at least two courses), applied music, a methods course in each of the following: general, choral, and instrumental music, and for the 5-12 endorsement only, coursework in conducting.

13.10(23) Physical education.

a. K-8. Completion of 24 semester hours in physical education to include coursework in human anatomy, human physiology, movement education, adaptive physical education, personal wellness, human growth and development of children related to physical education, and first aid and emergency care. A current certificate of CPR training is required in addition to the coursework requirements.

b. 5-12. Completion of 24 semester hours in physical education to include coursework in human anatomy, kinesiology, human physiology, human growth and development related to maturational and motor learning, adaptive physical education, curriculum and administration of physical education, personal wellness, and first aid and emergency care. A current certificate of CPR training is required in addition to the coursework requirements.

13.10(24) Professional school counselor. K-8 and 5-12.

a. *Program requirements.* Master's degree from an accredited institution of higher education.

b. *Content.* Completion of a sequence of courses and experiences that may have been a part of, or in addition to, the degree requirements to include the following:

(1) Nature and needs of individuals at all developmental levels.

1. Develop strategies for facilitating development through the transition from childhood to adolescence and from adolescence to young adulthood.

2. Apply knowledge of learning and personality development to assist students in developing their full potential.

(2) Social and cultural foundations.

1. Demonstrate awareness of and sensitivity to the unique social, cultural, and economic circumstances of students and their racial/ethnic, gender, age, physical, and learning differences.

2. Demonstrate sensitivity to the nature and the functioning of the student within the family, school and community contexts.

3. Demonstrate the counseling and consultation skills needed to facilitate informed and appropriate action in response to the needs of students.

(3) Fostering of relationships.

1. Employ effective counseling and consultation skills with students, parents, colleagues, administrators, and others.

2. Communicate effectively with parents, colleagues, students and administrators.

3. Counsel students in the areas of personal, social, academic, and career development.

4. Assist families in helping their children address the personal, social, and emotional concerns and problems that may impede educational progress.

5. Implement developmentally appropriate counseling interventions with children and adolescents.

6. Demonstrate the ability to negotiate and move individuals and groups toward consensus or conflict resolution or both.

7. Refer students for specialized help when appropriate.

8. Value the well-being of the students as paramount in the counseling relationship.

(4) Group work.

1. Implement developmentally appropriate interventions involving group dynamics, counseling theories, group counseling methods and skills, and other group work approaches.

2. Apply knowledge of group counseling in implementing appropriate group processes for elementary, middle school, and secondary students.

(5) Career development, education, and postsecondary planning.

1. Assist students in the assessment of their individual strengths, weaknesses, and differences, including those that relate to academic achievement and future plans.

2. Apply knowledge of career assessment and career choice programs.

3. Implement occupational and educational placement, follow-up and evaluation.

4. Develop a counseling network and provide resources for use by students in personalizing the exploration of postsecondary educational opportunities.

(6) Assessment and evaluation.

1. Demonstrate individual and group approaches to assessment and evaluation.

2. Demonstrate an understanding of the proper administration and uses of standardized tests.

3. Apply knowledge of test administration, scoring, and measurement concerns.

4. Apply evaluation procedures for monitoring student achievement.

5. Apply assessment information in program design and program modifications to address students' needs.

6. Apply knowledge of legal and ethical issues related to assessment and student records.
- (7) Professional orientation.
 1. Apply knowledge of history, roles, organizational structures, ethics, standards, and credentialing.
 2. Maintain a high level of professional knowledge and skills.
 3. Apply knowledge of professional and ethical standards to the practice of school counseling.
 4. Articulate the professional school counselor role to school personnel, parents, community, and students.
- (8) School counseling skills.
 1. Design, implement, and evaluate a comprehensive, developmental school counseling program.
 2. Implement and evaluate specific strategies designed to meet program goals and objectives.
 3. Consult and coordinate efforts with resource persons, specialists, businesses, and agencies outside the school to promote program objectives.
 4. Provide information appropriate to the particular educational transition and assist students in understanding the relationship that their curricular experiences and academic achievements will have on subsequent educational opportunities.
 5. Assist parents and families in order to provide a supportive environment in which students can become effective learners and achieve success in pursuit of appropriate educational goals.
 6. Provide training, orientation, and consultation assistance to faculty, administrators, staff, and school officials to assist them in responding to the social, emotional, and educational development of all students.
 7. Collaborate with teachers, administrators, and other educators in ensuring that appropriate educational experiences are provided that allow all students to achieve success.
 8. Assist in the process of identifying and addressing the needs of the exceptional student.
 9. Apply knowledge of legal and ethical issues related to child abuse and mandatory reporting.
 10. Advocate for the educational needs of students and work to ensure that these needs are addressed at every level of the school experience.
 11. Promote use of school counseling and educational and career planning activities and programs involving the total school community to provide a positive school climate.
- (9) Classroom management.
 1. Apply effective classroom management strategies as demonstrated in delivery of classroom and large group school counseling curriculum.
 2. Consult with teachers and parents about effective classroom management and behavior management strategies.
- (10) Curriculum.
 1. Write classroom lessons including objectives, learning activities, and discussion questions.
 2. Utilize various methods of evaluating what students have learned in classroom lessons.
 3. Demonstrate competency in conducting classroom and other large group activities, utilizing an effective lesson plan design, engaging students in the learning process, and employing age-appropriate classroom management strategies.
 4. Design a classroom unit of developmentally appropriate learning experiences.
 5. Demonstrate knowledge in writing standards and benchmarks for curriculum.
- (11) Learning theory.
 1. Identify and consult with teachers about how to create a positive learning environment utilizing such factors as effective classroom management strategies, building a sense of community in the classroom, and cooperative learning experiences.
 2. Identify and consult with teachers regarding teaching strategies designed to motivate students using small group learning activities, experiential learning activities, student mentoring programs, and shared decision-making opportunities.
 3. Demonstrate knowledge of child and adolescent development and identify developmentally appropriate teaching and learning strategies.

(12) Teaching and counseling practicum. The candidate will complete a preservice supervised practicum of a minimum of 100 hours, and at least 40 of these hours will be direct service. Candidates will complete a supervised internship for a minimum of 600 hours, and at least 240 of these hours will be direct service. For candidates seeking both the K-8 and 5-12 professional school counselor endorsements, a minimum of 100 hours of the practicum or internship experiences listed above will be completed at each of the desired endorsement levels.

13.10(25) Science.

a. *Science—basic.* K-8. Completion of at least 24 semester hours in science to include 12 hours in physical sciences, 6 hours in biology, and 6 hours in earth/space sciences.

b. *Biological science.* 5-12. Completion of 24 semester hours in biological science or 30 semester hours in the broad area of science to include 15 semester hours in biological science.

c. *Chemistry.* 5-12. Completion of 24 semester hours in chemistry or 30 semester hours in the broad area of science to include 15 semester hours in chemistry.

d. *Earth science.* 5-12. Completion of 24 semester hours in earth science or 30 semester hours in the broad area of science to include 15 semester hours in earth science.

e. *Physics.*

(1) 5-12. Completion of 24 semester hours in physics or 30 semester hours in the broad area of science to include 15 semester hours in physics.

(2) For holders of the mathematics 5-12 endorsement, completion of:

1. 12 credits of physics to include coursework in mechanics, electricity, and magnetism; and

2. A methods class that includes inquiry-based instruction, resource management, and laboratory safety.

(3) For holders of the chemistry 5-12 endorsement, completion of 12 credits of physics to include coursework in mechanics, electricity, and magnetism.

f. *Basic science.* 5-12. Completion of 24 semester hours of credit in science to include 6 semester hours in earth and space science, 6 semester hours in life science/biological science, 6 semester hours in physics/physical science, and 6 semester hours of credit in chemistry.

g. *All science.* 5-12. Completion of 36 semester hours in science to include 9 semester hours in earth and space science, 9 semester hours in life science/biological science, 9 semester hours in physics/physical science, and 9 semester hours of credit in chemistry.

13.10(26) STEM. K-8 and 5-8. For 5-8 STEM, be the holder of a 5-12 science, mathematics, or industrial technology endorsement or 5-8 middle school mathematics or science endorsement.

a. *Content.*

1. Completion of 12 semester hours of college-level science.

2. Completion of 12 semester hours of college-level math (or the completion of Calculus I) to include coursework in computer programming.

3. Completion of a minimum of three semester hours of coursework in content or pedagogy of engineering and technological design that includes engineering design processes or programming logic and problem-solving models and that may be met through either of the following:

- Engineering and technological design courses for education majors;
- Technology or engineering content coursework.

4. Completion of a minimum of six semester hours of required coursework in STEM curriculum and methods to include the following essential concepts and skills:

- Comparing and contrasting the nature and goals of each of the STEM disciplines;
- Promoting learning through purposeful, authentic, real-world connections;
- Integration of content and context of each of the STEM disciplines;
- Interdisciplinary/transdisciplinary approaches to teaching (including but not limited to problem-based learning and project-based learning);
- Curriculum and standards mapping;
- Engaging subject-matter experts (including but not limited to colleagues, parents, higher education faculty/students, business partners, and informal education agencies) in STEM experiences in and out of the classroom;

- Assessment of integrative learning approaches;
- Information literacy skills in STEM;
- Processes of science and scientific inquiry;
- Mathematical problem-solving models;
- Communicating to a variety of audiences;
- Classroom management in project-based classrooms;
- Instructional strategies for the inclusive classroom;
- Computational thinking;
- Mathematical and technological modeling.

5. Completion of a STEM field experience of a minimum of 30 contact hours that may be met through the following:

- Completing a STEM research experience;
- Participating in a STEM internship at a STEM business or informal education organization; or
- Leading a STEM extracurricular activity.

b. STEM specialist K-12.

(1) Authorization. The holder of this endorsement is authorized to serve as a STEM specialist in kindergarten and grades 1 through 12.

(2) Program requirements.

1. The applicant will have met the requirements for a standard Iowa teaching license and a teaching endorsement in mathematics, science, engineering, industrial technology, or agriculture.

2. The applicant will hold a master's degree in math, science, engineering or technology or another area with at least 12 hours of college-level science and at least 12 hours of college-level math (or completion of Calculus I) to include coursework in computer programming.

(3) Content. Completion of the engineering and STEM coursework required for the K-8 or 5-8 STEM endorsement, three additional semester hours in STEM leadership, and an internship/externship professional experience or prior professional experience in STEM for a minimum of 90 contact hours.

13.10(27) *Social sciences.*

a. American government. 5-12. Completion of 24 semester hours in American government or 30 semester hours in the broad area of social sciences to include 15 semester hours in American government.

b. American history. 5-12. Completion of 24 semester hours in American history or 30 semester hours in the broad area of social sciences to include 15 semester hours in American history.

c. Anthropology. 5-12. Completion of 24 semester hours in anthropology or 30 semester hours in the broad area of social sciences to include 15 semester hours in anthropology.

d. Economics. 5-12. Completion of 24 semester hours in economics or 30 semester hours in the broad area of social sciences to include 15 semester hours in economics or 30 semester hours in the broad area of business to include 15 semester hours in economics.

e. Geography. 5-12. Completion of 24 semester hours in geography or 30 semester hours in the broad area of social sciences to include 15 semester hours in geography.

f. History. K-8. Completion of 24 semester hours in history to include at least 9 semester hours in American history and 9 semester hours in world history.

g. Psychology. 5-12. Completion of 24 semester hours in psychology or 30 semester hours in the broad area of social sciences to include 15 semester hours in psychology.

h. Social studies. K-8. Completion of 24 semester hours in social studies, to include coursework from at least three of these areas: history, sociology, economics, American government, psychology and geography.

i. Sociology. 5-12. Completion of 24 semester hours in sociology or 30 semester hours in the broad area of social sciences to include 15 semester hours in sociology.

j. World history. 5-12. Completion of 24 semester hours in world history or 30 semester hours in the broad area of social sciences to include 15 semester hours in world history.

k. All social sciences. 5-12. Completion of 51 semester hours in the social sciences to include 9 semester hours in each of American and world history, 9 semester hours in government, 6 semester hours

in sociology, 6 semester hours in psychology other than educational psychology, 6 semester hours in geography, and 6 semester hours in economics.

l. Social sciences—basic. 5-12. Completion of 27 semester hours to include 9 semester hours in each of American history, world history, and American government. Holders of the 5-12 social sciences—basic endorsement may add the following endorsements with six semester hours per endorsement area: 5-12 economics, 5-12 geography, 5-12 psychology, or 5-12 sociology.

13.10(28) *Talented and gifted.* Completion of 12 semester hours of coursework include the following:

- (1) Psychology of the gifted.
 1. Social needs.
 2. Emotional needs.
- (2) Programming for the gifted.
 1. Prekindergarten-12 identification.
 2. Differentiation strategies.
 3. Collaborative teaching skills.
 4. Program goals and performance measures.
 5. Program evaluation.
- (3) Practicum experience in gifted programs.

13.10(29) *World language.* K-8 and 5-12. Completion of 24 semester hours in each world language for which endorsement is sought.

These rules are intended to implement Iowa Code chapter 256.

[Filed 12/24/24, effective 2/26/25]

[Published 1/22/25]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8813C

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Rulemaking related to special education endorsements

The Educational Examiners Board hereby rescinds Chapter 14, “Special Education Endorsements,” Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 256.146.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 256.146.

Purpose and Summary

This chapter provides procedures for the issuance of special education endorsements. The Board is removing duplicative statutory language.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8292C**. A public hearing was held on the following date(s):

- November 20, 2024
- December 2, 2024

No one attended the public hearings.

Nineteen public comments were received suggesting to add dyslexia and structured literacy requirements to special education endorsements. Based on these public comments, one change from the Notice has been made in rule 282—14.1(256) to incorporate this language.

Adoption of Rulemaking

This rulemaking was adopted by the Board on December 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 282—Chapter 14 and adopt the following **new** chapter in lieu thereof:

CHAPTER 14 SPECIAL EDUCATION ENDORSEMENTS

282—14.1(256) Special education instructional endorsements. Twenty-four semester hours in special education are required for each endorsement in this rule unless otherwise stated, including evidence-based reading instruction; direct and explicit literacy strategies; systematic and sequential approaches to teaching phonemic awareness, phonics, vocabulary, fluency, and text comprehension; and effective strategies for dyslexia.

14.1(1) *Early childhood—special education.*

a. Foundations of special education. The philosophical, historical and legal bases for special education, including the definitions and etiologies of individuals with disabilities, exceptional child, and including individuals from culturally and linguistically diverse backgrounds.

b. Characteristics of learners. Preparation that includes an overview of current trends in educational programming and theories of child development, both typical and atypical; the identification of pre-, peri-, and postnatal development and factors that affect children's development and learning. Identification of specific disabilities, including the etiology, characteristics, and classification of common disabilities in young children. Application of the knowledge of cultural and linguistic diversity and the significant sociocultural context for the development of and learning in young children.

c. Assessment, diagnosis and evaluation. Legal provisions, regulations and guidelines regarding unbiased assessment and use of psychometric instruments and instructional assessment measures with individuals with disabilities. Application of assessment results to individualized program development and management, and the relationship between assessment and placement decisions. Knowledge of any specialized strategies such as functional behavioral assessment and any specialized terminology used in the assessment of various disabling conditions. Assess children's cognitive, social-emotional, communication, motor, adaptive, and aesthetic development; select, adapt, and administer assessment instruments and procedures for specific sensory and motor disabilities.

d. Methods and strategies. Methods and strategies that include numerous models to plan and implement appropriate curricular and instructional practices based on knowledge of individual children, the family, the community, and curricular goals and content. Select intervention curricula and methods for children with specific disabilities including motor, sensory, health, communication, social-emotional and cognitive disabilities. Implement developmentally and functionally appropriate individual and group activities using a variety of formats; develop and implement an integrated curriculum that focuses on special education children from birth to age six, and incorporate information and strategies from multiple disciplines in the design of intervention strategies. Curricula for the development of cognitive, academic, social, language and functional life skills for individuals with exceptional learning needs, and related instructional and remedial methods and techniques, including appropriate assistive technology. This preparation will include alternatives for teaching skills and strategies to individuals with disabilities who differ in degree and nature of disability, and the integration of appropriate age- and ability-level academic instruction.

e. Managing student behavior and social interaction skills. Preparation in individual behavioral management; behavioral change strategies; and classroom management theories, methods, and techniques for individuals with exceptional learning needs. Theories of behavior problems in individuals with disabilities and the use of nonaversive techniques for the purpose of controlling targeted behavior and maintaining attention of individuals with disabilities. Design, implement, and evaluate instructional programs that enhance an individual's social participation in family, school, and community activities.

f. Communication and collaborative partnerships. Awareness of the sources of unique services, networks, and organizations for individuals with disabilities including transitional support. Knowledge of family systems, family dynamics, parent rights, advocacy, multicultural issues, and communication to invite and appreciate many different forms of parent involvement. Strategies for working with regular classroom teachers, support services personnel, paraprofessionals, and other individuals involved in the educational program. Knowledge of the collaborative and consultative roles of special education teachers in the integration of individuals with disabilities into the general curriculum and classroom.

g. Student teaching. Student teaching in a PK-K special education program.

14.1(2) Teacher—birth through grade three, inclusive settings.

a. *Authorization.* The holder of this endorsement is authorized to teach children from birth through grade three in inclusive settings.

b. *Content.*

(1) Promoting child development and learning and individual learning differences.

1. Understand the nature of child growth and development for infants and toddlers (birth through age two), preprimary (age three through age five) and primary school children (age six through age eight), both typical and atypical, in areas of cognition, language development, physical motor, social-emotional, mental health, aesthetics, and adaptive behavior and how these impact development and learning in the first years of life, including the etiology, characteristics, and classifications of common disabilities in infants and young children and specific implications for development and learning.

2. Recognize that children are best understood in the contexts of family, culture and society and that cultural and linguistic diversity, stress, risk factors, biological and environmental factors, family strengths, and trauma influence development and learning at all stages, including pre-, peri-, and postnatal development and learning. Communicate the importance of responsive care to a child's development of identity and sense of self.

3. Use developmental knowledge to create learning environments and classroom procedures that promote positive social interaction, active engagement, high expectations for learning, mutual respect, and self-regulation through individually appropriate expectations and positive guidance techniques for each child to meet the child's optimum potential regardless of proficiency. Implement and evaluate preventative and reductive strategies to address challenging behaviors. Use motivational and instructional interventions to teach individuals with exceptionalities how to adapt to different environments. Know how to intervene safely and appropriately with individuals in crisis.

4. Use both child-initiated and teacher-facilitated instructional methods, including strategies such as small- and large-group projects, play, systematic instruction, group discussion and cooperative decision making. Organize space, time, materials, peers, and adults to maximize progress in natural and structured environments. Embed learning opportunities in everyday routines, relationships, activities, and places. Understand the impact of social and physical environments on development and learning.

5. Engage in intentional practices and implement learning experiences that value diversity and demonstrate understanding that bias and discrimination impact development. Understand how language, culture, and family background influence and support the learning of each child.

(2) Building family and community relationships.

1. Build family and community relationships to include understanding that successful early childhood education depends upon reciprocal and respectful partnerships with families, communities, and agencies; that these partnerships have complex and diverse characteristics; and that all families should be involved in their children's development and learning.

2. Understand diverse family and community characteristics and how language, culture, and family background influence and support children's learning, and apply that knowledge to develop, implement, and evaluate learning experience and strategies that respect and reflect the diversity of children and their families.

3. Understand how to apply theories and knowledge of dynamic roles and relationships within and between families, schools, and communities. Recognize how to adapt consistently to the expressed and observed strengths and needs of the family, including two-way communication, and how to support families' choices and priorities in the development of goals and intervention strategies.

4. Understand how to coordinate with all (caregivers, professionals, and agencies) who provide care and learning opportunities for each child by developing a community of support for children and families through interagency collaboration to include agreements, referrals, and consultation.

(3) Observing, documenting, and assessing to support young children and families.

1. Use technically sound formal and informal assessments that minimize bias and evaluation results to adapt and guide instruction. Demonstrate a range of appropriate assessment and evaluation strategies (e.g., family interview, observation, documentation, assessment instrument) to support individual strengths, interests, and needs.

2. Design curricula, assessments, and teaching and intervention strategies that align with learner and program goals, including the development of individualized family service plans (IFSPs) and individualized education plans (IEPs). Assist families in identifying resources, priorities, and concerns in relation to the child's development. Understand and utilize assessment partnerships with families and with professional colleagues to build effective learning environments. Understand the role of the families in the assessment process and support the choices they make (e.g., observer, participant). Participate as a team member to integrate assessment results in the development and implementation of individualized plans.

3. Understand and utilize observation, documentation, and other appropriate assessment tools and approaches, including the use of technology in documentation, assessment and data collection. Implement authentic assessment based on observation of spontaneous play. Demonstrate knowledge of alignment of assessment with curriculum, content standards, and local, state, and federal requirements. Assess progress in the developmental domains, play, and temperament.

4. Understand and utilize responsible assessments to promote positive outcomes for each child, including the use of assistive technology for children with disabilities. Use a variety of materials and contexts to maintain the interest of infants and young children in the assessment process.

5. Implement current educational, legal, and ethical guidelines when using assessment practices to support children's individual strengths, interests, and needs (e.g., cultural, linguistic, ability diversity).

(4) Using developmentally and individually effective approaches to connect with children and families.

1. Understand positive relationships and supportive interactions as the foundation of the teacher's work with young children. Reflect on the teacher's own practice to promote positive outcomes for each child and family.

2. Develop, implement, and evaluate individualized plans, including IFSPs and IEPs, as a team leader with families and other professionals. Demonstrate appropriate and effective supports for children and families transitioning into and out of programs or classrooms. Seek and use additional resources and agencies outside the program/school when needed to effectively facilitate the learning and social/emotional development of each child.

3. Plan, develop, implement, and evaluate integrated learning experiences for home-, center- and school-based environments for infants, toddlers, preprimary and primary children, their families, and other care providers based on knowledge of individual children, the family, and the community. Select, develop, and evaluate developmentally and functionally appropriate materials, equipment, and environments. Develop adaptations and accommodations for infants, toddlers, preprimary children, and primary children to meet their individual needs. Use a broad repertoire of developmentally and individually appropriate teaching/learning approaches and effective strategies and tools for early education, including appropriate uses of technology. Facilitate child-initiated development and learning.

4. Consider an individual's abilities, interests, learning environments, and cultural and linguistic factors in the selection, development, and adaptation of learning experiences for individuals with exceptionalities. Use teacher-scaffolded and -initiated instruction to complement child-initiated learning. Link development, learning experiences, and instruction to promote educational transitions. Use individual and group guidance and problem-solving techniques to develop supportive relationships with and among children. Use strategies to teach social skills and conflict resolution.

5. Implement basic health, nutrition, and safety management procedures, including the design of physically and psychologically safe and healthy indoor and outdoor environments to promote development and learning. Recognize signs of emotional distress, physical and mental abuse and neglect in young children and understand mandatory reporting procedures. Demonstrate proficiency in infant-child cardiopulmonary resuscitation, emergency procedures and first aid.

6. Understand principles of administration, organization, and operation of programs for children from birth to age eight and their families, including staff and program development, supervision, evaluation of staff, and continuing improvement of programs and services. Employ adult learning principles in consulting with and training family members and service providers.

7. Demonstrate the ability to collaborate with general educators and other colleagues to create safe, inclusive, culturally responsive learning environments to engage individuals with exceptionalities and diverse abilities in meaningful learning activities and social interactions.

(5) Using content knowledge to build a meaningful curriculum.

1. Develop and implement appropriate current research-supported learning experiences with a focus on the developmental domains, play, temperament, language and literacy to include first (home) and second language acquisition, mathematics, science, the arts (music, visual art, and drama), physical activity, health and safety, social studies, social skills, higher-thinking skills, and developmentally and individually appropriate methodology. Methods courses for teaching students in kindergarten through grade three are required for the following areas: literacy, mathematics, social studies, science, physical education and wellness, and visual and performing arts.

2. Use the Iowa Early Learning Standards and the Iowa core with information from ongoing child observations and assessments to plan, implement, and evaluate appropriate instruction that improves academic and developmental progress of each child, including those with IFSPs/IEPs.

3. Understand the central concepts, structures of the discipline, and tools of inquiry of content areas taught, and demonstrate the ability to organize this knowledge, integrate cross-disciplinary skills, and develop meaningful learning progressions for individuals with exceptionalities (diverse abilities).

4. Modify general and specialized curricula to make them accessible to individuals with exceptionalities (diverse abilities). Develop adaptations and accommodations for infants, toddlers, preprimary children, and primary children to meet their individual needs.

(6) Professional responsibilities.

1. Demonstrate awareness of early childhood program criteria, including the following: National Association for the Education of Young Children (NAEYC), Iowa Early Learning Standards, Head Start Performance Standards, and Iowa Quality Preschool Program Standards (IQPPS).

2. Collaborate with supervisors, mentors, and colleagues to enhance professional growth within and across disciplines to inform practice, including the use of data for decision making, and understand how to design and implement a professional development plan based on student achievement; self, peer, and supervisory evaluations; and recommended practices.

3. Understand the significance of lifelong learning and participate in professional activities and learning communities. Participate in activities of professional organizations relevant to early childhood regular education, special education, and early intervention.

4. Use relevant national and state professional guidelines (national, state, or local), state curriculum standards, and current trends for content and outcomes and to inform and improve practices for young children and their families.

5. Adhere to state and national professional and ethical principles, practices, and codes.

6. Advocate for developmentally and individually appropriate practice, demonstrate awareness of issues that affect the lives of each child, and demonstrate necessary communication skills.

7. Understand historical, philosophical and foundational knowledge and how current issues and the legal bases of services influence professional practice in early childhood, early intervention, early childhood special education, and general and regular education in the K-3 age groups. Understand trends and issues in early childhood education, early childhood special education, and early intervention.

8. Provide guidance and direction to paraeducators, tutors, and volunteers.

(7) Early childhood field experiences.

1. Pre-student teaching field experiences, which will comprise a minimum of 100 clock hours, to include at least 20 hours of working with each age group (infants and toddlers, preprimary, and primary).

2. Experiences working in at least three settings that offer early childhood education, such as approved child care centers and registered child development homes, school-based preschool, community agencies, or home visiting programs.

3. Experiences working with children who have a range of abilities and disabilities and who reflect diverse family systems and other differentiating factors, such as urban and rural, socioeconomic status, and cultural and linguistic diversity.

4. Completion of supervised student teaching experience in at least two different settings including registered child development homes, home visiting programs, state-accredited child care centers, or classrooms that include children both with and without disabilities in two of three age levels: infant and toddler, preprimary, and primary.

14.1(3) *Instructional strategist I: mild and moderate.*

a. K-8.

(1) Foundations of special education. The philosophical, historical and legal bases for special education, including the definitions and etiologies of individuals with disabilities, exceptional child, and including individuals from culturally and linguistically diverse backgrounds.

(2) Characteristics of learners. Preparation that includes various etiologies of mild and moderate disabilities, an overview of current trends in educational programming for mild and moderate disabilities, educational alternatives and related services, and the importance of the multidisciplinary team in providing more appropriate educational programming, and includes the general developmental, academic, social, career and functional characteristics of individuals with mild and moderate disabilities as the characteristics relate to levels of instructional support required, and the psychological and social-emotional characteristics of individuals with mild and moderate disabilities.

(3) Assessment, diagnosis and evaluation. Legal provisions, regulations and guidelines regarding unbiased assessment and use of psychometric instruments and instructional assessment measures with

individuals with disabilities. Application of assessment results to individualized program development and management, and the relationship between assessment and placement decisions. Knowledge of any specialized strategies such as functional behavioral assessment and any specialized terminology used in the assessment of various disabling conditions.

(4) Methods and strategies. Methods and strategies that include numerous models for providing curricular and instructional methodologies utilized in the education of the mildly and moderately disabled, and sources of curriculum materials for individuals with disabilities. Curricula for the development of cognitive, academic, social, language and functional life skills for individuals with exceptional learning needs, and related instructional and remedial methods and techniques, including appropriate assistive technology. The focus of these experiences is for students at the K-8 level. This preparation will include alternatives for teaching skills and strategies to individuals with disabilities who differ in degree and nature of disability, and the integration of appropriate age- and ability-level academic instruction. Elementary curriculum methods and materials to include strategies and remediation in literacy, language arts, and mathematics.

(5) Managing student behavior and social interaction skills. Preparation in individual behavioral management, behavioral change strategies, and classroom management theories, methods, and techniques for individuals with exceptional learning needs. Theories of behavior problems in individuals with disabilities and the use of nonaversive techniques for the purpose of controlling targeted behavior and maintaining attention of individuals with disabilities. Design, implement, and evaluate instructional programs that enhance an individual's social participation in family, school, and community activities.

(6) Communication and collaborative partnerships. Awareness of the sources of unique services, networks, and organizations for individuals with disabilities including transitional support. Knowledge of family systems, family dynamics, parent rights, advocacy, multicultural issues, and communication to invite and appreciate many different forms of parent involvement. Strategies for working with regular classroom teachers, support services personnel, paraprofessionals, and other individuals involved in the educational program. Knowledge of the collaborative and consultative roles of special education teachers in the integration of individuals with disabilities into the general curriculum and classroom.

(7) Student teaching. Student teaching in a K-8 mild and moderate special education program.

b. 5-12.

(1) Foundations of special education. The philosophical, historical and legal bases for special education, including the definitions and etiologies of individuals with disabilities, exceptional child, and including individuals from culturally and linguistically diverse backgrounds.

(2) Characteristics of learners. Preparation that includes various etiologies of mild and moderate disabilities, an overview of current trends in educational programming for mild and moderate disabilities, educational alternatives and related services, and the importance of the multidisciplinary team in providing more appropriate educational programming, and includes the general developmental, academic, social, career and functional characteristics of individuals with mild and moderate disabilities as the characteristics relate to levels of instructional support required, and the psychological and social-emotional characteristics of individuals with mild and moderate disabilities.

(3) Assessment, diagnosis and evaluation. Legal provisions, regulations and guidelines regarding unbiased assessment and use of psychometric instruments and instructional assessment measures with individuals with disabilities. Application of assessment results to individualized program development and management, and the relationship between assessment and placement decisions. Knowledge of any specialized strategies such as functional behavioral assessment and any specialized terminology used in the assessment of various disabling conditions.

(4) Methods and strategies. Methods and strategies that include numerous models for providing curricular and instructional methodologies utilized in the education of the mildly and moderately disabled, and sources of curriculum materials for individuals with disabilities. Curricula for the development of cognitive, academic, social, language and functional life skills for individuals with exceptional learning needs, and related instructional and remedial methods and techniques, including appropriate assistive technology. This preparation will include alternatives for teaching skills and strategies to individuals with disabilities who differ in degree and nature of disability, and the integration

of appropriate age- and ability-level academic instruction. Secondary curriculum methods and material to include strategies and remediation in literacy, language arts, and mathematics.

(5) Managing student behavior and social interaction skills. Preparation in individual behavioral management, behavioral change strategies, and classroom management theories, methods, and techniques for individuals with exceptional learning needs. Theories of behavior problems in individuals with disabilities and the use of nonaversive techniques for the purpose of controlling targeted behavior and maintaining attention of individuals with disabilities. Design, implement, and evaluate instructional programs that enhance an individual's social participation in family, school, and community activities.

(6) Communication and collaborative partnerships. Awareness of the sources of unique services, networks, and organizations for individuals with disabilities including transitional support. Knowledge of family systems, family dynamics, parent rights, advocacy, multicultural issues, and communication to invite and appreciate many different forms of parent involvement. Strategies for working with regular classroom teachers, support services personnel, paraprofessionals, and other individuals involved in the educational program. Knowledge of the collaborative and consultative roles of special education teachers in the integration of individuals with disabilities into the general curriculum and classroom.

(7) Transitional collaboration. Sources of services, organizations, and networks for individuals with mild and moderate disabilities, including career, vocational and transitional support to postschool settings with maximum opportunities for decision making and full participation in the community.

(8) Student teaching. Student teaching in a 5-12 mild and moderate special education program.

14.1(4) *Instructional strategist II: behavior disorders/learning disabilities.* The applicant will complete the following requirements:

a. Foundations of special education. The philosophical, historical and legal bases for special education, including the definitions and etiologies of individuals with disabilities, exceptional child, and including individuals from culturally and linguistically diverse backgrounds.

b. Characteristics of learners. Preparation that includes various etiologies of behavior disorders and learning disabilities, an overview of current trends in educational programming for students with behavior disorders and learning disabilities, educational alternatives and related services, and the importance of the multidisciplinary team in providing more appropriate educational programming from age 5 to age 21. Preparation in the social, emotional and behavioral characteristics of individuals with behavior disorders and learning disabilities including the impact of such characteristics on classroom learning as well as associated domains such as social functioning and at-risk behaviors that may lead to involvement with the juvenile justice or mental health system. Preparation in the psychological and social-emotional characteristics of individuals with behavior disorders and learning disabilities will include the major social characteristics of individuals with behavior disorders and the effects of dysfunctional behavior on learning, and the social and emotional aspects of individuals with learning disabilities including social imperceptiveness and juvenile delinquency. Physical development, physical disability and health impairments as they relate to the development and behavior of students with behavior disorders and the medical factors influencing individuals with learning disabilities, including intelligence, perception, memory and language development.

c. Assessment, diagnosis and evaluation. Legal provisions, regulations and guidelines regarding unbiased assessment and use of psychometric instruments and instructional assessment measures with individuals with disabilities. Application of assessment results to individualized program development and management, and the relationship between assessment and placement decisions. Knowledge of any specialized strategies such as functional behavioral assessment and any specialized terminology used in the assessment of various disabling conditions.

d. Methods and strategies. Methods and strategies that include numerous models for providing curricular and instructional methodologies utilized in the education of behavior and learning disabled students, and sources of curriculum materials for individuals with disabilities. Curricula for the development of cognitive, academic, social, language and functional life skills for individuals with exceptional learning needs, and related instructional and remedial methods and techniques, including appropriate assistive technology. This preparation will include alternatives for teaching skills and

strategies to individuals with disabilities who differ in degree and nature of disability, and the integration of appropriate age- and ability-level academic instruction.

e. Managing student behavior and social interaction skills. Preparation in individual behavioral management, behavioral change strategies, and classroom management theories, methods, and techniques for individuals with exceptional learning needs. Theories of behavior problems in individuals with disabilities and the use of nonaversive techniques for the purpose of controlling targeted behavior and maintaining attention of individuals with disabilities. Design, implement, and evaluate instructional programs that enhance an individual's social participation in family, school, and community activities.

f. Communication and collaborative partnerships. Awareness of the sources of unique services, networks, and organizations for individuals with disabilities including transitional support. Knowledge of family systems, family dynamics, parent rights, advocacy, multicultural issues, and communication to invite and appreciate many different forms of parent involvement. Strategies for working with regular classroom teachers, support services personnel, paraprofessionals, and other individuals involved in the educational program. Knowledge of the collaborative and consultative roles of special education teachers in the integration of individuals with disabilities into the general curriculum and classroom.

g. Transitional collaboration. Sources of services, organizations, and networks for individuals with behavior and learning disabilities, including career, vocational and transitional support to postschool settings with maximum opportunities for decision making and full participation in the community.

h. Student teaching. Student teaching in programs across the age levels of this endorsement. If the student teaching program has a unique age-level emphasis (e.g., K-8 or 5-12), there will be planned activities that incorporate interactive experiences at the other age level.

14.1(5) *Instructional strategist II: intellectual disabilities.* The applicant will complete the following requirements:

a. Foundations of special education. The philosophical, historical and legal bases for special education, including the definitions and etiologies of individuals with disabilities, exceptional child, and including individuals from culturally and linguistically diverse backgrounds.

b. Characteristics of learners. Preparation that includes various etiologies of intellectual disabilities, an overview of current trends in educational programming for students with intellectual disabilities, educational alternatives and related services, and the importance of the multidisciplinary team in providing more appropriate educational programming from age 5 to age 21. Preparation will also provide for an overview of the general developmental, academic, social, career and functional characteristics of individuals with intellectual disabilities as the characteristics relate to levels of instructional support required. This preparation will include the causes and theories of intellectual disabilities and implications and preventions; the psychological characteristics of students with intellectual and developmental disabilities, including cognition, perception, memory, and language development; medical complications and implications for student support needs, including seizure management, tube feeding, catheterization and CPR; and the medical aspects of intellectual disabilities and their implications for learning. The social-emotional aspects of intellectual disabilities, including adaptive behavior, social competence, social isolation and learned helplessness.

c. Assessment, diagnosis and evaluation. Legal provisions, regulations and guidelines regarding unbiased assessment and use of psychometric instruments and instructional assessment measures with individuals with disabilities. Application of assessment results to individualized program development and management, and the relationship between assessment and placement decisions. Knowledge of any specialized strategies such as functional behavioral assessment and any specialized terminology used in the assessment of various disabling conditions.

d. Methods and strategies. Methods and strategies that include numerous models for providing curricular and instructional methodologies utilized in the education of intellectually disabled students, and sources of curriculum materials for individuals with disabilities. Curricula for the development of cognitive, academic, social, language and functional life skills for individuals with exceptional learning needs, and related instructional and remedial methods and techniques. The focus of these experiences is for students at all levels from age 5 to age 21. This preparation will include alternatives for teaching skills and strategies to individuals with disabilities who differ in degree and nature of disability, and the

integration of appropriate age- and ability-level academic instruction. Proficiency in adapting age-appropriate curriculum to facilitate instruction within the general education setting, to include partial participation of students in tasks, skills facilitation, collaboration, and support from peers with and without disabilities; the ability to select and use augmentative and alternative communications methods and systems. An understanding of the impact of speech-language development on behavior and social interactions. Approaches to create positive learning environments for individuals with special needs and approaches to utilize assistive devices for individuals with special needs. The design and implementation of age-appropriate instruction based on the adaptive skills of students with intellectual disabilities; integrate selected related services into the instructional day of students with intellectual disabilities. Knowledge of culturally responsive functional life skills relevant to independence in the community, personal living, and employment. Use of appropriate physical management techniques including positioning, handling, lifting, relaxation, and range of motion and the use and maintenance of orthotic, prosthetic, and adaptive equipment effectively.

e. Managing student behavior and social interaction skills. Preparation in individual behavioral management, behavioral change strategies, and classroom management theories, methods, and techniques for individuals with exceptional learning needs. Theories of behavior problems in individuals with intellectual disabilities and the use of nonaversive techniques for the purpose of controlling targeted behavior and maintaining attention of individuals with disabilities. Design, implement, and evaluate instructional programs that enhance an individual's social participation in family, school, and community activities.

f. Communication and collaborative partnerships. Awareness of the sources of unique services, networks, and organizations for individuals with disabilities including transitional support. Knowledge of family systems, family dynamics, parent rights, advocacy, multicultural issues, and communication to invite and appreciate many different forms of parent involvement. Strategies for working with regular classroom teachers, support services personnel, paraprofessionals, and other individuals involved in the educational program. Knowledge of the collaborative and consultative roles of special education teachers in the integration of individuals with disabilities into the general curriculum and classroom.

g. Transitional collaboration. Sources of services, organizations, and networks for individuals with intellectual disabilities, including career, vocational and transitional support to postschool settings with maximum opportunities for decision making and full participation in the community.

h. Student teaching. Student teaching in programs across the age levels of this endorsement. If the student teaching program has a unique age-level emphasis (e.g., K-8 or 5-12), there will be planned activities that incorporate interactive experiences at the other age level.

14.1(6) *K-12 instructional strategist I and II: all.* This endorsement authorizes instruction for students in K-12 mild and moderate instructional special education programs, students with behavior disorders and learning disabilities, and students with intellectual disabilities, from age 5 to age 21. The applicant will complete the following requirements:

a. Foundations of special education. The philosophical, historical and legal bases for special education, including the definitions and etiologies of individuals with disabilities, exceptional child, and including individuals from culturally and linguistically diverse backgrounds. A review of special education law, including progress monitoring, data collection, and individualized education plans.

b. Characteristics of learners. Preparation that includes various etiologies of disabilities, an overview of current trends in educational programming for students with disabilities, educational alternatives and related services, and the importance of the multidisciplinary team in providing more appropriate educational programming from age 5 to age 21. This preparation will include the psychological characteristics of students with disabilities, including classroom learning, cognition, perception, memory, and language development; medical complications including seizure management, tube feeding, catheterization and CPR; the social-emotional aspects of disabilities including adaptive behavior, social competence, social isolation, and learned helplessness; and the social and emotional aspects including dysfunctional behaviors, mental health issues, at-risk behaviors, social imperceptiveness, and juvenile justice.

c. Assessment, diagnosis and evaluation. Legal provisions, regulations and guidelines regarding unbiased assessment and use of psychometric instruments and instructional assessment measures with individuals with disabilities. Application of assessment results to individualized program development and management and the relationship between assessment and placement decisions. Knowledge of any specialized strategies such as functional behavioral assessment and any specialized terminology used in the assessment of various disabling conditions. A review of special education law, including progress monitoring, data collection, and individualized education plans.

d. Methods and strategies. Methods and strategies that include numerous models for providing curricular and instructional methodologies utilized in the education of individuals with disabilities. Curricula for the development of cognitive, academic, social, language and functional life skills for individuals with exceptional learning needs, and related instructional and remedial methods and techniques, including appropriate assistive technology. The focus of these experiences is for students at all levels from age 5 to age 21. This preparation will include alternatives for teaching skills and strategies to individuals with disabilities who differ in degree and nature of disability, and the integration of appropriate age- and ability-level academic instruction. Proficiency in adapting age-appropriate curriculum to facilitate instruction within the general education setting, to include partial participation of students in tasks, skills facilitation, collaboration, and support from peers with and without disabilities; the ability to select and use augmentative and alternative communications methods and systems. An understanding of the impact of speech-language development on behavior and social interactions. Approaches to create positive learning environments for individuals with special needs and approaches to utilize assistive devices for individuals with special needs. The design and implementation of age-appropriate instruction based on the adaptive skills of students with disabilities; integrate selected related services into the instructional day of students with disabilities. Knowledge of culturally responsive functional life skills relevant to independence in the community, personal living, and employment. Use of appropriate physical management techniques including positioning, handling, lifting, relaxation, and range of motion and the use and maintenance of orthotic, prosthetic, and adaptive equipment effectively. Elementary and secondary curriculum methods and material to include strategies and remediation in literacy, language arts, and mathematics.

e. Managing student behavior and social interaction skills. Preparation in individual behavioral management, behavioral change strategies, and classroom management theories, methods, and techniques for individuals with exceptional learning needs. Theories of behavior problems in individuals with intellectual disabilities and the use of nonaversive techniques for the purpose of controlling targeted behavior and maintaining attention of individuals with disabilities. Design, implement, and evaluate instructional programs that enhance an individual's social participation in family, school, and community activities.

f. Communication and collaborative partnerships. Awareness of the sources of unique services, networks, and organizations for individuals with disabilities including transitional support. Knowledge of family systems, family dynamics, parent rights, advocacy, multicultural issues, and communication to invite and appreciate many different forms of parent involvement. Strategies for working with regular classroom teachers, support services personnel, paraprofessionals, and other individuals involved in the educational program. Knowledge of the collaborative and consultative roles of special education teachers in the integration of individuals with disabilities into the general curriculum and classroom.

g. Transitional collaboration. Sources of services, organizations, and networks for individuals with all disabilities, including career, vocational and transitional support to postschool settings with maximum opportunities for decision making and full participation in the community.

h. Student teaching. Student teaching in special education programs across the age levels of this endorsement.

14.1(7) Deaf or hard of hearing endorsement. The applicant will complete the following requirements:

a. Foundations of special education. The philosophical, historical and legal bases for special education, including the definitions and etiologies of individuals with disabilities, and including individuals from culturally and linguistically diverse backgrounds.

b. Characteristics of learners. Preparation that includes various etiologies of hearing loss, an overview of current trends in educational programming for students with hearing loss and educational alternatives and related services, and the importance of the multidisciplinary team in providing more appropriate educational programming from birth to age 21. Preparation in the social, emotional and behavioral characteristics of individuals with hearing loss, including the impact of such characteristics on classroom learning. Knowledge of the anatomy and physiology of the hearing mechanism and knowledge of the development of secondary senses when a hearing disorder is present, effect of hearing loss on learning experiences, psychological aspects of hearing loss, and effects of medications on the hearing system. Preparation in the psychological and social-emotional characteristics of individuals with hearing loss to include the major social characteristics of individuals with hearing loss and the effects of this disability on learning, and the social and emotional aspects of individuals with hearing loss. Physical development and potential health implications as they relate to the development and behavior of students with hearing loss. Components of linguistic and nonlinguistic communication used by individuals who are deaf or hard of hearing and communication modes used by and with individuals who are deaf or hard of hearing, including current theories of language development in individuals who are deaf or hard of hearing.

c. Assessment, diagnosis and evaluation. Legal provisions, regulations and guidelines regarding unbiased assessment and use of psychometric instruments and instructional assessment measures with individuals with disabilities, including necessary alternative assessment techniques arising out of the nature of the disability and medical reports and other related diagnostic information. Application of assessment results to individualized program development and management, and the relationship between assessment and placement decisions. Knowledge of any specialized strategies such as functional behavioral assessment and any specialized terminology used in the assessment of various disabling conditions.

d. Methods and strategies. Methods and strategies that include numerous models for providing curricular and instructional methodologies utilized in the education of students who are deaf or hard of hearing and sources of specialized materials for individuals who are deaf or hard of hearing. These strategies will include knowledge of teaching academic subjects and language and speech to students who are deaf or hard of hearing and have knowledge of American Sign Language. Curricula for the development of cognitive, academic, social, language and functional life skills for individuals who are deaf or hard of hearing, and related instructional and remedial methods and techniques, including appropriate assistive technology. The focus of these experiences is for students at all levels from birth to age 21. This preparation will include alternatives for teaching skills and strategies to individuals who are deaf or hard of hearing who differ in degree and nature of disability and the integration of appropriate age- and ability-level academic instruction. Strategies for teaching technology skills and other instructional aids for students who are deaf or hard of hearing.

e. Managing student behavior and social interaction skills. Preparation in individual behavioral management, behavioral change strategies, and classroom management theories, methods, and techniques for individuals with exceptional learning needs. Theories of behavior problems in individuals with disabilities and the use of nonaversive techniques for the purpose of controlling targeted behavior and maintaining attention of individuals with disabilities. Design, implement, and evaluate instructional programs that enhance an individual's social participation in family, school, and community activities.

f. Communication and collaborative partnerships. Awareness of the sources of unique services, networks, and organizations for individuals with disabilities, including transitional support. Knowledge of family systems, family dynamics, parent rights, advocacy, multicultural issues, and communication to invite and appreciate many different forms of parent involvement. Strategies for working with regular classroom teachers, support services personnel, paraprofessionals, and other individuals involved in the educational program. Knowledge of the collaborative and consultative roles of special education teachers in the integration of individuals with disabilities into the general curriculum and classroom.

g. Transitional collaboration. Sources of services, organizations, and networks for individuals who are deaf or hard of hearing, including career, vocational and transitional support to postschool settings with maximum opportunities for decision making and full participation in the community.

h. Student teaching. Student teaching in programs across the age levels of this endorsement. If the student teaching program has a unique age-level emphasis (e.g., K-8 or 5-12), there will be planned activities that incorporate interactive experiences at the other age level.

14.1(8) *Visually disabled endorsement.* The applicant will complete the following requirements:

a. Foundations of special education. The philosophical, historical and legal bases for special education, including the definitions and etiologies of individuals with disabilities, and including individuals from culturally and linguistically diverse backgrounds.

b. Characteristics of learners. Preparation that includes various etiologies of visual impairment, an overview of current trends in educational programming for students with visual disabilities and educational alternatives and related services, and the importance of the multidisciplinary team in providing more appropriate educational programming from birth to age 21. Preparation in the social, emotional and behavioral characteristics of individuals with visual disabilities, including the impact of such characteristics on classroom learning. Development of the human visual system, development of secondary senses when vision is impaired, effect of visual disability on development, impact of visual disability on learning and experiences, psychological aspects of visual disability, and effects of medications on the visual system. Preparation in the psychological and social-emotional characteristics of individuals with visual disabilities to include the major social characteristics of individuals with visual disabilities and the effects of this disability on learning, and the social and emotional aspects of individuals with visual disabilities. Physical development and potential health impairments as they relate to the development and behavior of students with visual disabilities.

c. Assessment, diagnosis and evaluation. Legal provisions, regulations and guidelines regarding unbiased assessment and use of psychometric instruments and instructional assessment measures with individuals with disabilities, including necessary alternative assessment techniques arising out of the nature of the disability and medical reports and other related diagnostic information. Application of assessment results to individualized program development and management, and the relationship between assessment and placement decisions. Knowledge of any specialized strategies such as functional behavioral assessment and any specialized terminology used in the assessment of various disabling conditions.

d. Methods and strategies. Methods and strategies that include numerous models for providing curricular and instructional methodologies utilized in the education of visually disabled students and sources of curriculum materials for individuals with disabilities. These strategies will include knowledge of teaching Braille reading and writing, the skill in teaching handwriting and signature writing to individuals with low vision or who are blind, listening and compensatory auditory skills and typing and keyboarding skills. Curricula for the development of cognitive, academic, social, language and functional life skills for individuals with visual disabilities, and related instructional and remedial methods and techniques, including appropriate assistive technology. The focus of these experiences is for students at all levels from birth to age 21. This preparation will include alternatives for teaching skills and strategies to individuals with visual disabilities who differ in degree and nature of disability, and the integration of appropriate age- and ability-level academic instruction. Strategies for teaching technology skills, other instructional aids for visually disabled students, strategies for teaching organization and study skills, tactual and perceptual skills, adapted physical and recreational skills and strategies for promoting self-advocacy in individuals with visual disabilities and for structured pre-cane orientation and mobility assessment and instruction.

e. Managing student behavior and social interaction skills. Preparation in individual behavioral management, behavioral change strategies, and classroom management theories, methods, and techniques for individuals with exceptional learning needs. Theories of behavior problems in individuals with disabilities and the use of nonaversive techniques for the purpose of controlling targeted behavior and maintaining attention of individuals with disabilities. Design, implement, and evaluate instructional programs that enhance an individual's social participation in family, school, and community activities.

f. Communication and collaborative partnerships. Awareness of the sources of unique services, networks, and organizations for individuals with disabilities, including transitional support. Knowledge of family systems, family dynamics, parent rights, advocacy, multicultural issues, and communication to

invite and appreciate many different forms of parent involvement. Strategies for working with regular classroom teachers, support services personnel, paraprofessionals, and other individuals involved in the educational program. Knowledge of the collaborative and consultative roles of special education teachers in the integration of individuals with disabilities into the general curriculum and classroom.

g. Transitional collaboration. Sources of services, organizations, and networks for individuals with visual disabilities, including career, vocational and transitional support to postschool settings with maximum opportunities for decision making and full participation in the community.

h. Student teaching. Student teaching in programs across the age levels of this endorsement. If the student teaching program has a unique age-level emphasis (e.g., K-8 or 5-12), there will be planned activities that incorporate interactive experiences at the other age level.

282—14.2(256) Special education support personnel.

14.2(1) *Special education consultant.* Applicants who desire to serve as consultants serving deaf or hard-of-hearing or visually disabled students will hold the respective special education instructional endorsement. Applicants will meet the following requirements:

a. Master's degree and an Iowa teaching license with an endorsement in at least one special education instructional area.

b. A minimum of eight graduate semester hours to include the following:

(1) Curriculum development design.

(2) Consultation process in special or regular education:

1. Examination, analysis, and application of a methodological model for consulting with teachers and other adults involved in the educational program.

2. Interpersonal relations, interaction patterns, interpersonal influence, and communication skills.

(3) Skills required for conducting a needs assessment, delivering staff in-service needs, and evaluating in-service sessions.

c. Four years of successful teaching experience, two of which will be in special education.

14.2(2) *Supervisor of special education—instructional.* The early childhood—special education supervisor endorsement allows the individual to provide services to programs with pupils below the age of seven. The supervisor of special education—instructional endorsement (K-12) allows the individual to provide services to programs with pupils from age 5 to age 21. Applicants will meet the following requirements:

a. An applicant will hold a master's degree.

(1) Option 1. Master's in special education.

(2) Option 2. Master's in another area of education plus 30 graduate semester hours in special education (instructional). These hours may have been part of, or in addition to, the degree requirements.

b. An applicant will meet the requirements for or hold the consultant endorsement.

c. A minimum of 16 graduate semester hours to include the following:

(1) Coursework requirements specified for special education consultant.

(2) Current issues in special education administration including school law/special education law.

(3) School personnel administration.

(4) Program evaluation.

(5) Educational leadership.

(6) Administration and supervision of special education.

(7) Practicum: special education administration. This requirement may be waived based on two years of experience as a special education administrator.

(8) Evaluator approval component.

d. An applicant will have two years of consultant/supervisor/coordinator/head teacher or equivalent experience in special education.

e. The supervisor for early childhood—special education will meet the requirements for that endorsement. The K-12 supervisor will meet the requirements for one special education teaching endorsement to include instructional grade levels K-8 and 5-12.

14.2(3) *Work experience coordinator.* The holder of this endorsement is authorized to provide support service as a work experience coordinator to secondary school programs, grades 5-12. Applicants will meet the following requirements:

a. Coursework to include the following:

(1) A course in career-vocational programming for special education students (if not included in the program for 5-12 endorsement).

(2) A course in coordination of cooperative occupational education programs.

(3) A course in career-vocational assessment and guidance for those with disabilities.

b. An applicant will hold a special education endorsement—grades 5-12.

These rules are intended to implement Iowa Code chapter 256.

[Filed 12/24/24, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8814C

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Rulemaking related to special education support personnel authorizations

The Educational Examiners Board hereby rescinds Chapter 15, "Special Education Support Personnel Authorizations," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 256.146.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 256.146.

Purpose and Summary

The Board is rescinding and reserving this chapter since the content from the chapter has been streamlined and moved to 282—Chapter 14.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8301C**. A public hearing was held on the following date(s):

- November 20, 2024
- December 2, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on December 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **282—Chapter 15**.

[Filed 12/24/24, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8815C

EDUCATIONAL EXAMINERS BOARD[282]**Adopted and Filed****Rulemaking related to statements of professional recognition**

The Educational Examiners Board hereby rescinds Chapter 16, "Statements of Professional Recognition (SPR)," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 256.146.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 256.146.

Purpose and Summary

This chapter provides procedures for the issuance of statements of professional recognition. The Board is removing duplicative statutory language.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8293C**. A public hearing was held on the following date(s):

- November 20, 2024
- December 2, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on December 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 282—Chapter 16 and adopt the following new chapter in lieu thereof:

CHAPTER 16

STATEMENTS OF PROFESSIONAL RECOGNITION (SPR)

282—16.1(256) Statements of professional recognition (SPR).

16.1(1) SPR. The following statements of professional recognition may be obtained by first obtaining licensure from the department of inspections, appeals, and licensing and do not permit service as a teacher:

- a. School audiologist.
- b. Speech-language pathologist.
- c. School nurse.
- d. School occupational therapist.
- e. School physical therapist.
- f. School social worker.
- g. School behavior analyst.
- h. Mental health professional.

16.1(2) Validity. The SPR is valid for five years. Applicants will also maintain their license from the department of inspections, appeals, and licensing during the term of the SPR, and this valid license will be required for the issuance and renewal of the SPR.

16.1(3) Temporary authorization. A temporary SPR may be issued for one school year if the license from the department of inspections, appeals, and licensing is temporary.

16.1(4) Request for SPR. The employer will submit a letter requesting that the SPR be issued.

282—16.2(256) School audiologist. The holder of this SPR is authorized to serve as a school audiologist to pupils from birth to age 21 who are deaf or hard of hearing. The person is required to obtain a professional service license or SPR from the board of educational examiners.

282—16.3(256) Speech-language pathologist. The holder of this SPR is authorized to serve as a speech-language pathologist to pupils from birth to age 21. The person is required to obtain a professional service license or SPR from the board of educational examiners.

282—16.4(256) School nurse. The holder of this SPR is authorized to promote the health and safety of the students, including providing medical treatment as allowed under the authority granted by virtue of holding a license from the department of inspections, appeals, and licensing. Applicants will also pass the registered nurse examination.

282—16.5(256) School occupational therapist. The holder of this SPR can serve as a school occupational therapist to pupils from birth to age 21 who have physical impairments.

282—16.6(256) School physical therapist. The holder of this SPR can serve as a school physical therapist to pupils from birth to age 21 who have physical impairments.

282—16.7(256) School social worker. The holder of this SPR is authorized to serve as a school social worker to pupils from birth to age 21 and will hold a licensed independent social worker (LISW) or licensed master social worker (LMSW) license.

282—16.8(256) School behavior analyst. The holder of this SPR can serve as a school behavior analyst to pupils from birth to age 21.

282—16.9(256) Mental health professional. A mental health professional pursuant to Iowa Code section 228.1 will obtain an SPR from the board of educational examiners to be employed by or provide services to an accredited public or private school. The holder of this authorization can serve as a mental health professional to pupils from birth to age 21. Social workers will instead obtain the professional service license or SPR specific to school social work, which includes the authorization to provide mental health services to an accredited public or private school or area education agency.

These rules are intended to implement Iowa Code chapter 256.

[Filed 12/24/24, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8816C

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Rulemaking related to administrator licenses and endorsements

The Educational Examiners Board hereby rescinds Chapter 18, "Issuance of Administrator Licenses and Endorsements," and adopts a new Chapter 18, "Administrator Licenses and Endorsements," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 256.146.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 256.146.

Purpose and Summary

This chapter provides procedures for the issuance of administrator licenses. The Board is removing duplicative statutory language.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8307C**. A public hearing was held on the following date(s):

- November 20, 2024
- December 2, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on December 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 282—Chapter 18 and adopt the following **new** chapter in lieu thereof:

CHAPTER 18
ADMINISTRATOR LICENSES AND ENDORSEMENTS

282—18.1(256) Administrator licenses.

18.1(1) *Applicants from Iowa institutions.* The applicant will complete all degree and coursework requirements to receive a recommendation for the specific license and endorsement(s) from the designated recommending official at the recognized institution where the preparation was completed.

18.1(2) *Applicants from non-Iowa institutions.*

a. Original application. An applicant from a non-Iowa institution applying for the applicant's first Iowa administrator license:

(1) Will meet the requirements set forth in Iowa Code sections 256.152 and 272C.12. Endorsements will be granted based on comparable Iowa endorsements, and endorsement requirements may be waived in order to grant the most comparable endorsement.

(2) Will not be subject to any pending disciplinary proceedings in any state or country.

b. Holders of an Iowa administrator license who applied under this rule prior to June 16, 2022, may submit a new application if the requirements in this subrule would have been met at the time of their initial application.

282—18.2(256) Initial administrator license. An initial license valid for a minimum of one year with an expiration date of June 30 may be issued to an applicant who meets the general requirements set forth in rule 282—18.1(256).

282—18.3(256) Professional administrator license. A professional administrator license valid for five years may be issued to an applicant who does all of the following:

18.3(1) Completes the requirements in rule 282—18.1(256).

18.3(2) Successfully meets each standard pursuant to rule 281—83.10(284A).

18.3(3) Completes one year of administrative experience in an Iowa public school and completes the administrator mentoring program while holding an administrator license, or successfully completes two years of administrative experience in a nonpublic or out-of-state school setting.

282—18.4(256) Area and grade levels of administrator endorsements.

18.4(1) *PK-12 principal and PK-12 supervisor of special education.*

a. *Authorization.* The holder of this endorsement is authorized to serve as a principal of programs serving children from birth through grade 12, a supervisor of instructional special education programs for children from birth to the age of 21, and a supervisor of support for special education programs for children from birth to the age of 21.

b. *Program requirements.*

(1) Degree—master's.

(2) Content: Completion of a sequence of courses and experiences that may have been a part of, or in addition to, the degree requirements. Candidates who successfully complete a building-level educational leadership preparation program understand and demonstrate the capacity to promote the current and future success and well-being of each student and adult by applying the knowledge, skills, and commitments necessary to:

1. Collaboratively lead, design, and implement a school mission, vision, and process for continuous improvement that reflects a core set of values and priorities that include data use, technology, equity, diversity, digital citizenship, and community (Mission, Vision, and Improvement).

2. Advocate for ethical decisions and cultivate and enact professional norms (Ethics and Professional Norms).

3. Develop and maintain a supportive, equitable, culturally responsive, and inclusive school culture (Equity, Inclusiveness, and Cultural Responsiveness) to include meeting the needs of all learners, as well as ensuring teachers meet the needs of diverse learners, including:

- Students from diverse ethnic, racial and socioeconomic backgrounds.

- Students with disabilities, including preparation in developing and implementing individualized education programs and behavioral intervention plans, preparation for educating individuals in the least restrictive environment and identifying that environment, and strategies that address difficult and violent student behavior and improve academic engagement and achievement.

- Students who are struggling with literacy, including those with dyslexia.

- Students who are gifted and talented.

- English language learners.

- Students who may be at risk of not succeeding in school. This preparation will include classroom management addressing high-risk behaviors including but not limited to behaviors related to substance abuse.

4. Evaluate, develop, and implement coherent systems of curriculum, instruction, data systems, supports, and assessment (Learning and Instruction).

5. Strengthen student learning, support school improvement, and advocate for the needs of their school and community (Community and External Leadership).

6. Improve management, communication, technology, school-level governance, and operation systems to develop and improve data-informed and equitable school resource plans and to apply laws, policies, and regulations, including a dedicated course in current issues of special education administration (Operations and Management).

7. Build the school's professional capacity, engage staff in the development of a collaborative professional culture, and improve systems of staff supervision, evaluation, support, and professional learning, including the completion of Iowa evaluator training (Building Professional Capacity).

8. Successfully complete an internship under the supervision of knowledgeable, expert practitioners that engages candidates in multiple and diverse school settings and provides candidates with coherent, authentic, and sustained opportunities to synthesize and apply the knowledge and skills pursuant to this rule in ways that approximate the full range of responsibilities required of building-level leaders and enable them to promote the current and future success and well-being of each student and adult in their school, including planned experiences in elementary and secondary administration with special education administration.

- c. *Other:* The applicant will have three years of experience at the early childhood through grade 12 level while holding a valid teaching license or professional service license.

18.4(2) Reserved.

282—18.5(256) Superintendent/area education agency (AEA) administrator.

18.5(1) *Authorization.* The holder of this endorsement is authorized to serve as a superintendent from the prekindergarten level through grade 12 or as an AEA administrator. Note: This authorization does not permit general teaching, school service, or administration at any level except that level or area for which the practitioner holds the specific endorsement(s).

18.5(2) *Program requirements.*

- a. Degree—specialist (or its equivalent: a master's degree plus at least 30 semester hours of planned graduate study in administration beyond the master's degree).

- b. Content. Through completion of a sequence of courses and experiences, which may have been part of, or in addition to, the degree requirements, candidates who successfully complete a district-level educational leadership preparation program understand and demonstrate the capacity to promote the current and future success and well-being of each student and adult by applying the knowledge, skills, and commitments necessary to:

- (1) Collaboratively lead, design, and implement a district mission, vision, and process for continuous improvement that reflects a core set of values and priorities that include data use, technology, values, equity, diversity, digital citizenship, and community (District Mission, Vision, and Improvement).

- (2) Advocate for ethical decisions and cultivate professional norms and culture (Ethics and Professional Norms).

- (3) Develop and maintain a supportive, equitable, culturally responsive, and inclusive district culture (Equity, Inclusiveness, and Cultural Responsiveness) to include meeting the needs of all learners, as well as ensuring teachers meet the needs of diverse learners, including:

1. Students from diverse ethnic, racial and socioeconomic backgrounds.

2. Students with disabilities, including preparation in developing and implementing individualized education programs and behavioral intervention plans, preparation for educating individuals in the least restrictive environment and identifying that environment, and strategies that address difficult and violent student behavior and improve academic engagement and achievement.

3. Students who are struggling with literacy, including those with dyslexia.

4. Students who are gifted and talented.
5. English language learners.
6. Students who may be at risk of not succeeding in school. This preparation will include classroom management addressing high-risk behaviors, including but not limited to behaviors related to substance abuse.

(4) Evaluate, design, cultivate, and implement coherent systems of curriculum, instruction, data systems, supports, assessment, and instructional leadership (Learning and Instruction).

(5) Understand and engage families, communities, and other constituents in the work of schools and the district and to advocate for district, student, and community needs (Community and External Leadership).

(6) Develop, monitor, evaluate, and manage data-informed and equitable district systems for operations, resources, technology, and human capital management, including instructional and noninstructional district support services (Operations and Management).

(7) Cultivate relationships, lead collaborative decision making and governance, and represent and advocate for district needs in broader policy conversations (Policy, Governance, and Advocacy).

(8) Successfully complete an internship under the supervision of knowledgeable, expert practitioners that engages candidates in multiple and diverse district settings and provides candidates with coherent, authentic, and sustained opportunities to synthesize and apply the knowledge and skills identified in this rule in ways that approximate the full range of responsibilities required of district-level leaders and enable them to promote the current and future success and well-being of each student and adult in their district.

18.5(3) *Administrative experience.* The applicant will meet one of the following:

a. The applicant will have had three years of experience as a building principal while holding a valid license.

b. The applicant will have three years of administrative experience in any of the following areas: PK-12 regional education agency administrative experience, PK-12 state department of education administrative experience, PK-12 educational licensing board administrative experience or PK-12 building/district administrative experience while holding a valid Iowa administrator license.

c. The applicant will have six years of teaching and administrative experience, provided that at least two years are teaching experience and one year is administrative experience, all while holding a valid license.

282—18.6(256) Director of special education.

18.6(1) *Authorization.* The holder of this endorsement is authorized to serve as a director of special education.

18.6(2) *Program requirements.*

a. Degree—master's.

b. Endorsement. An applicant will hold or meet the requirements for one of the following:

(1) PK-12 principal and PK-12 supervisor of special education;

(2) Superintendent/AEA administrator;

(3) Supervisor of special education—instructional;

(4) Professional service administrator; or

(5) A letter of authorization for the special education supervisor issued prior to October 1, 1988.

c. Content. An applicant will have completed a sequence of courses and experiences of at least 15 additional semester hours to include the following:

(1) Knowledge of current issues in special education and administration, supervision, and evaluation of special education programs.

(2) Knowledge of special education school law and legislative and public policy issues affecting children and families including special education ethics.

(3) Mediation and conflict resolution in special education.

(4) Knowledge of the powers and duties of the director of special education pursuant to Iowa Code section 273.5.

(5) Practicum in administration, supervision, and evaluation of special education programs.

18.6(3) Other.

a. *Option 1: Instructional.* An applicant will hold a special education endorsement and have two years of teaching experience in special education or hold an administrator license with two years of experience in the administration of special education programs.

b. *Option 2: Support.* An applicant will meet the practitioner licensure requirements for one of the following endorsements and have three years of experience as a:

- (1) School audiologist;
- (2) School psychologist;
- (3) School social worker; or
- (4) Speech-language pathologist.

NOTE: An individual holding a statement of professional recognition is not eligible for the director of special education endorsement.

These rules are intended to implement Iowa Code chapter 256.

[Filed 12/24/24, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8817C

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Rulemaking related to evaluator endorsement and license

The Educational Examiners Board hereby rescinds Chapter 19, "Evaluator Endorsement and License," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 256.146 and 284.10.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 256.146 and 284.10.

Purpose and Summary

This chapter provides procedures for the issuance of evaluator licenses. The Board is removing duplicative statutory language.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8297C**. A public hearing was held on the following date(s):

- November 20, 2024
- December 2, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on December 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 282—Chapter 19 and adopt the following **new** chapter in lieu thereof:

CHAPTER 19
EVALUATOR ENDORSEMENT AND LICENSE

282—19.1(256) Evaluator endorsement and license. This endorsement or this license authorizes services as required by Iowa Code section 284.10.

282—19.2(256) Evaluator endorsement. To obtain this authorization as an endorsement on an administrator or evaluator license, an applicant will complete the requirements as specified in rule 281—83.4(284).

282—19.3(256) Evaluator license. Applicants may apply for the five-year evaluator license upon completion of the evaluator training required in Iowa Code section 284.10. An individual holding the evaluator license may convert this license to an endorsement on an administrator license. The fee for this conversion process will equal the fee for license renewal.

282—19.4(256) Holder of permanent professional certificate. The holder of the permanent professional certificate with an administrator endorsement will also hold a valid evaluator license if the person serves as an administrator who evaluates licensed personnel.

These rules are intended to implement Iowa Code chapters 256 and 284.

[Filed 12/24/24, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8818C**EDUCATIONAL EXAMINERS BOARD[282]****Adopted and Filed****Rulemaking related to renewals and extensions**

The Educational Examiners Board hereby rescinds Chapter 20, “Renewals,” and adopts a new Chapter 20, “Renewals and Extensions,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 256.146.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 256.146.

Purpose and Summary

This chapter provides procedures for renewing and extending licenses. The Board is removing duplicative statutory language.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8304C**. A public hearing was held on the following date(s):

- November 20, 2024
- December 2, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on December 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 282—Chapter 20 and adopt the following **new** chapter in lieu thereof:

CHAPTER 20
RENEWALS AND EXTENSIONS

282—20.1(256) Renewal of licenses, authorizations, certificates, and statements of professional recognition.

20.1(1) *Validity.* A renewed license is valid only from and after the date of issuance until the expiration date.

20.1(2) *Child abuse training.* Every renewal applicant will provide a valid certificate of child abuse training approved by the department of health and human services. A waiver of this requirement may apply under the following conditions with appropriate documentation of any of the following:

- a.* A person is engaged in active duty in the military service of this state or of the United States.
- b.* The application of this requirement would impose an undue hardship on the person for whom the waiver is requested.
- c.* A person is practicing a licensed profession outside this state.
- d.* A person is otherwise subject to circumstances that would preclude the person from satisfying the approved child abuse training in this state.

20.1(3) *Recency of credits for renewal.* If a license is renewed on or before the date of expiration, the credits for renewal are acceptable if earned during the term of the license. If a license is not renewed before the date of expiration, the credits for renewal will have been completed within the five-year period immediately preceding the date of application for the renewal.

20.1(4) *Timely renewal.* An application to renew may be submitted no earlier than one year before the license expires.

282—20.2(256) Renewal and extension requirements for the initial license.

20.2(1) *Initial license renewals.* The temporary initial teaching license, initial teaching license, initial professional service license, or initial administrator license may be renewed twice if the experience requirement for conversion has not been met. The second renewal will require proof of contracted employment that will lead to the full license.

20.2(2) *Initial license extensions.* A one-year extension may be granted if:

- a.* All standards have been met and the applicant needs one additional year to meet the experience requirement for the standard teaching license, professional service license, or professional administrator license.
- b.* The school district, after conducting a comprehensive evaluation, recommends and verifies that the temporary initial, initial teaching, or initial professional service license holder will participate in the mentoring program for a third year. No further extensions or renewals are available.

282—20.3(256) Renewal requirements for other license types.

20.3(1) *Approved renewal credit options.*

- a.* One credit may be earned for each semester hour of college credit completed related to education or any endorsement area.
- b.* Renewal credits may be earned for each licensure renewal course or activity completed as approved through guidelines established by the board of educational examiners.
- c.* Four credits may be earned for successful completion of the National Board for Professional Teaching Standards certification. This certification may be used one time for either the standard or master educator license. Four credits may also be earned for each National Board for Professional

Teaching Standards certification renewal and may be used toward the subsequent renewal of either the standard or master educator license.

d. One-half of the required renewal credits may be earned upon the successful completion of an individualized professional development plan as verified by the supervising licensed evaluator.

20.3(2) *Specific renewal requirements.*

a. The standard teaching license, career and technical authorization, content specialist authorization, native language teaching authorization, and orientation and mobility specialist authorization require six renewal credits.

b. The master educator license, professional service license, and professional administrator license require four renewal credits. For an applicant who also holds a specialist's or doctor's degree, two renewal credits are required. The professional administrator license renewal also requires verification of completion of an approved evaluator course.

c. The substitute license requires one renewal credit, or verification of 30 days of substitute teaching, or one year of classroom teaching, within the recency requirement.

d. The paraeducator certificate requires three renewal credits.

e. The substitute authorization requires two renewal credits.

f. The coaching authorization requires four approved renewal activities to include concussion training, mandatory reporter training for child abuse, a current certificate of CPR training, and one athletic rules meeting or one renewal credit.

g. The activities administrator authorization requires one of the following renewal options:

(1) Document attendance at one state IHSADA convention and one LTI course relating to the knowledge and understanding of professional ethics and legal responsibilities of activities administrators.

(2) Complete three LTI courses.

(3) Complete two semester hours of college credit or renewal credits.

h. The school business official authorization requires four renewal credits or the equivalent approved contact hours within the three-year licensure period.

i. The standard school administration manager requires three renewal credits or approved SAM trainings.

j. The iJAG authorization requires verification of iJAG training renewal.

k. The statement of professional recognition requires verification of the valid license from the other state licensing board.

l. The behind-the-wheel authorization and the work-based learning program supervisor authorization require verification of child abuse training only as stated in 282—subrule 20.1(2).

m. The evaluator license and charter school administrator authorization require verification of completion of an approved evaluator course.

20.3(3) *Advanced degree and ten years of experience.* Licensees who hold a master's degree or higher and who have at least ten years of PK-12 licensed experience may submit verification of the advanced degree and experience in lieu of renewal credits. The professional administrator license renewal also requires verification of completion of an approved evaluator course that is less than ten years old.

282—20.4(256) Extensions.

20.4(1) For licenses, authorizations, and certificates that require renewal credits, a one-year Class A extension may be issued if the applicant needs more time to complete the renewal requirements. Other authorizations may be extended with the approval of the executive director.

20.4(2) A final Class E emergency extension of a Class A or B license may be issued if the applicant provides transcripts of coursework completed during the term of the expired license and a program of study or registration for coursework to be completed during the term of the Class E emergency extension license.

20.4(3) An application to extend a coaching authorization will require verification of an approved concussion training course and no additional extensions will be granted.

282—20.5(256) Licensure renewal programs.**20.5(1)** *Application for licensure renewal program.*

a. The application will describe a minimum of ten planned licensure renewal credit courses or five administrator renewal credit courses per year at a minimum of 15 contact hours each that are evidence-based and model best practices in education.

b. The application will identify the criteria used in selecting faculty/instructors for the licensure renewal courses.

c. The application will provide survey results showing the professional development needs that will be met through the courses.

d. The application will identify a licensure renewal credit coordinator who will serve as a contact person, file required reports, provide records of credit and maintain these records for at least ten years.

e. Each approved licensure renewal program will be monitored by the board of educational examiners to determine the extent to which the program meets/continues to meet program standards and is moving toward the attainment of program objectives. This will include an annual report that will include an annotated description of the courses provided, evidence of the collaborative efforts used in developing the courses, evidence of the intended results of the courses, and the data for demonstrating progress toward the intended results.

20.5(2) *Eligible agencies/institutions.*

a. Area education agencies, school districts, and charter schools.

b. Accredited nonpublic schools.

c. Iowa educational professional organizations.

d. Iowa colleges and universities approved for teacher education.

e. Iowa community colleges.

These rules are intended to implement Iowa Code chapter 256.

[Filed 12/24/24, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8819C

EDUCATIONAL EXAMINERS BOARD[282]**Adopted and Filed****Rulemaking related to conditional endorsements**

The Educational Examiners Board hereby adopts a new Chapter 21, "Conditional Endorsements," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 256.146.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 256.146.

Purpose and Summary

This chapter provides procedures for the issuance of conditional licenses.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8298C**. A public hearing was held on the following date(s):

- November 20, 2024
- December 2, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on December 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Adopt the following new 282—Chapter 21:

CHAPTER 21

CONDITIONAL ENDORSEMENTS

282—21.1(256) Specific requirements for a Class B license. A Class B license, which is valid for two academic years and is nonrenewable, may be issued under the following conditions:

21.1(1) Endorsement in progress. The individual has a valid teaching license other than a teacher intern license, a professional administrator license, or a professional service license and is seeking to obtain another endorsement. A Class B license may be issued if requested by an employer and if the individual has completed at least one-half of the content requirements for a teaching or professional service license endorsement or 75 percent of the content requirements and experience requirement for an administrator endorsement. A Class B license may not be issued for the driver's education endorsement.

21.1(2) Program of study or transcripts. The applicant will submit a program of study or transcripts showing that the minimum coursework requirements have been met.

21.1(3) Expiration. The Class B license will expire on June 30 of the second academic year after issuance.

282—21.2(256) Request for executive director decision. If the minimum content requirements have not been met for the Class B license for a teaching endorsement, an executive director decision license may be issued for one academic year if requested by the employer and if the employer can demonstrate

that a candidate with the proper endorsement was not found after a diligent search. The executive director decision license may not be renewed or extended and will expire on June 30.

282—21.3(256) Adding, removing or reinstating an endorsement.

21.3(1) *Adding an endorsement.* To add an endorsement to an existing license, the applicant will follow one of these options:

a. Option 1. Receive the Iowa education institution's recommendation that the current approved program requirements or state minimum requirements for the endorsement have been met.

b. Option 2. Apply for a review of transcripts, out-of-state licensure, or approved assessment score reports by the board of educational examiners' staff to determine whether Iowa requirements have been met. Applicants will have achieved a C- grade or higher in the courses that will be considered for an endorsement. The methods course can be waived if the practitioner holds an endorsement in the same content area at a different level and teaches in the new content area successfully while holding a Class B license.

21.3(2) *Removal of an endorsement; reinstatement of removed endorsement.*

a. Removal of an endorsement. A practitioner may remove an endorsement from the practitioner's license as follows:

(1) To remove an endorsement, the practitioner will meet the following conditions:

1. A practitioner who holds a standard or master educator license is eligible to request removal of an endorsement from the license if the practitioner has not taught in the subject or assignment area of the endorsement in the five years prior to the request for removal of the endorsement, and

2. The practitioner will submit a notarized written application form furnished by the board of educational examiners to remove an endorsement at the time of licensure renewal (licensure renewal is limited to one calendar year prior to the expiration date of the current license), and

3. The application may be signed by the superintendent or designee in the district in which the practitioner is under contract. The superintendent's signature will serve as notification and acknowledgment of the practitioner's intent to remove an endorsement from the practitioner's license. The absence of the superintendent's or designee's signature does not impede the removal process.

(2) The endorsement will be removed from the license at the time of application.

(3) If a practitioner is not employed and submits an application, the provisions of this rule will not be required.

(4) If a practitioner submits an application that does not meet the criteria listed in this rule, the application will be rendered void and the practitioner will forfeit the processing fee.

(5) The executive director has the authority to approve or deny the request for removal. Any denial is subject to the appeal process set forth in rule 282—11.35(256).

b. Reinstatement of a removed endorsement.

(1) If the practitioner wants to add the removed endorsement at a future date, all coursework for the endorsement will have been completed within the five years preceding the application to add the endorsement.

(2) The practitioner will meet the current endorsement requirements upon application.

These rules are intended to implement Iowa Code chapter 256.

[Filed 12/24/24, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8820C

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Rulemaking related to limited authorizations

The Educational Examiners Board hereby rescinds Chapter 22, “Authorizations,” and adopts a new Chapter 22, “Limited Authorizations,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 256.146.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 256.146.

Purpose and Summary

This chapter provides procedures for the issuance of authorizations. The Board is removing duplicative statutory language.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8299C**. A public hearing was held on the following date(s):

- November 20, 2024
- December 2, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on December 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 282—Chapter 22 and adopt the following new chapter in lieu thereof:

CHAPTER 22
LIMITED AUTHORIZATIONS

282—22.1(256) Coaching authorization. A coaching authorization allows an individual to coach any sport in a middle school, junior high school, or high school.

22.1(1) Requirements. Applicants for the coaching authorization will have completed the following requirements:

a. Content requirements.

(1) Successful completion of the required coursework pursuant to Iowa Code section 256.165.
(2) Current certificate of concussion training approved by the Iowa high school athletic association or Iowa girls high school athletic union.

(3) Current certificate of CPR training from an approved provider.

b. Minimum age or diploma. Applicants will have attained a minimum age of 18 years. Applicants will also possess a high school diploma or equivalent, home school completion as verified by the executive director, or be 20 years of age or older.

22.1(2) Validity. The coaching authorization is valid for five years.

22.1(3) Transitional coaching authorization. Applicants for the transitional coaching authorization will meet the requirements pursuant to Iowa Code section 256.165.

282—22.2(256) Substitute authorization.

22.2(1) Requirements. Applicants for the substitute authorization will meet the requirements pursuant to Iowa Code section 256.165 and complete an approved substitute authorization workshop consisting of the following components and totaling a minimum of 15 clock hours:

a. Classroom management. This component includes an understanding of individual and group motivation and behavior to create a learning environment that encourages positive social interaction, active engagement in learning, and self-motivation.

b. Strategies for learning. This component includes understanding and using a variety of learning strategies to encourage students' development of critical thinking, problem solving, and performance skills.

c. Diversity. This component includes understanding how students differ in their approaches to learning and creating learning opportunities that are equitable and are adaptable to diverse learners.

d. Ethics. This component includes fostering relationships with parents, school colleagues, and organizations in the larger community to support students' learning and development and to be aware of the board's rules of professional practice and competent performance.

22.2(2) Validity. The substitute authorization is valid for five years.

282—22.3(256) Career and technical authorization.

22.3(1) Requirements for the initial career and technical authorization.

a. Applicants will meet one of the following qualifications:

(1) Have 6,000 hours of recent and relevant experience;
(2) Have 4,000 hours of recent and relevant experience if the applicant holds a baccalaureate degree;

(3) Have 3,000 hours of recent and relevant experience if the applicant holds an associate's degree in the teaching endorsement area sought, if such a degree is considered terminal for that field of instruction;

(4) Hold a baccalaureate or graduate degree or closely related degree in the teaching endorsement area sought; or

(5) Hold a baccalaureate degree in any area of study if at least 18 of the credit hours were completed in the teaching endorsement area sought.

For a career and technical cluster endorsement, an applicant will meet one of the above qualifications and have at least 2,000 hours of recent and relevant experience or nine semester hours each in two additional areas within the cluster endorsement. Combinations of experience and education may be approved by the executive director.

b. Recent and relevant experience will have been accrued within the ten years prior to the date of application. Experience that does not meet these criteria may be considered at the discretion of the

executive director. In subjects for which state registration, certification or licensure is required, the applicant will hold the appropriate license, registration or certificate before the initial career and technical secondary authorization or the career and technical secondary authorization will be issued.

c. During the term of the initial authorization, the applicant will complete board-approved training in the following:

- (1) Coursework in the methods and techniques of career and technical education.
- (2) Coursework in course and curriculum development.
- (3) Coursework in the measurement and evaluation of programs and students.
- (4) An approved human relations course.
- (5) Coursework in the instruction of exceptional learners to include the education of individuals with disabilities and the gifted and talented.
- (6) Ethics training.

d. The applicant will be assigned a mentor by the hiring school district.

22.3(2) *Validity—initial authorization.* The initial authorization is valid for three years.

22.3(3) *Requirements for the career and technical authorization.* The initial career and technical authorization may be converted to the career and technical authorization if the applicant completes the required coursework set forth in paragraph 22.3(1) “c.” This authorization is valid for five years.

282—22.4(256) Native language teacher authorization.

22.4(1) *Requirements for an initial native language teacher authorization.*

a. The applicant will have completed a baccalaureate degree or higher.

b. The applicant will provide a recommendation from a school administrator verifying that the school wishes to hire the applicant. Before the applicant is hired, the school administrator will verify that a diligent search was completed to hire a fully licensed teacher for the position.

c. The applicant will provide verification of successfully passing an approved language assessment by meeting the minimum score set by the department of education.

d. During the term of the initial authorization, the applicant will complete board-approved training in the following:

- (1) Methods of teaching a world language.
- (2) Coursework in human relations.
- (3) Coursework in the instruction of exceptional learners to include the education of individuals with disabilities and the gifted and talented.
- (4) Ethics training.

e. The applicant will be assigned a mentor by the hiring school district.

22.4(2) *Validity—initial authorization.* The initial authorization is valid for three years.

22.4(3) *Requirements for the native language teacher authorization.* The initial native language teaching authorization may be converted to the native language teaching authorization if the applicant completes the required coursework set forth in paragraph 22.4(1) “d.” This authorization is valid for five years.

282—22.5(256) Content specialist authorization.

22.5(1) *Requirements for the initial content specialist authorization.*

a. The applicant will have completed a master’s degree or higher in an endorsement area.

b. The applicant will provide a recommendation from a school administrator verifying that the school wishes to hire the applicant. Before the applicant is hired, the school administrator will verify that a diligent search was completed to hire a fully licensed teacher for the position.

c. During the term of the initial authorization, the applicant will complete board-approved training in the following:

- (1) Methods of teaching in the endorsement content area or areas.
- (2) Coursework in human relations.
- (3) Coursework in the instruction of exceptional learners to include the education of individuals with disabilities and the gifted and talented.

(4) Ethics training.

d. The applicant will be assigned a mentor by the hiring school district.

22.5(2) *Validity—initial authorization.* The initial authorization is valid for three years.

22.5(3) *Requirements for the content specialist authorization.* The initial content specialist authorization may be converted to the content specialist authorization if the applicant has completed the required coursework set forth in paragraph 22.5(1) “c.”

282—22.6(256) School business official authorization.

22.6(1) *Requirements for an initial school business official authorization.* Applicants for an initial school business official authorization will have completed the following requirements:

a. *Education.* Applicants will have a minimum of an associate’s degree in business or accounting or 60 semester hours of coursework in business or accounting, of which nine semester hours will be in accounting.

b. *Temporary school business official authorization.* If the applicant has not completed nine semester hours in accounting but has completed six or more semester hours in accounting, the applicant may be issued a temporary school business official authorization valid for one year, and an administrator will file a written request for an exception to the minimum content requirements on the basis of documented need and benefit to the district.

(1) If the nine semester hours of accounting are not completed within the time allowed, the applicant will not be eligible for the initial school business official authorization.

(2) If the applicant received a temporary school business official authorization, then the initial school business official authorization will not exceed one year.

22.6(2) *Requirements for a standard school business official authorization.*

a. Applicants will complete 9 semester hours or the equivalent (1 semester hour is equivalent to 15 contact hours) in an approved program in the following areas/competencies:

(1) Generally accepted accounting principle concepts: fund accounting, account codes, Uniform Financial Accounting.

(2) Accounting cycles: budgets, payroll/benefits, purchasing/inventory, cash, receipts, disbursements, financial reporting, investments.

(3) Technology: management of accounting systems, proficiency in understanding and use of systems technology and related programs.

(4) Regulatory: Uniform Administrative Procedures Manual, school policies and procedures, administrative procedures, public records law, records management, school law, employment law, construction and bidding law.

(5) Personal skills: effective communication and interpersonal skills, ethical conduct, information management, ability to analyze and evaluate, ability to recognize and safeguard confidential information, accurate and timely performance.

b. Applicants will demonstrate completion of or competency in the following:

(1) A board of educational examiners ethics program.

(2) A mentoring program as described in 281—Chapter 81.

(3) The promotion of the value of the school business official’s fiduciary responsibility to the taxpayer.

22.6(3) *Validity.* The initial school business official authorization is valid for two years. The standard school business official authorization is valid for three years.

282—22.7(256) School administration manager authorization.

22.7(1) *Application for authorization.* The following persons will obtain an authorization:

a. A Model 1 school administration manager (SAM): a person who is hired to be a full-time SAM and who is authorized to assume the responsibilities of a SAM;

b. A Model 2 SAM: a person whose position in the school is reconfigured to include the responsibilities of being a SAM and is authorized as a SAM; and

c. A Model 3 SAM: a person who is a secretary/administrative assistant and is also authorized as a SAM.

22.7(2) Responsibilities. A SAM authorization allows an individual to assist a school administrator in performing noninstructional, administrative-type duties.

22.7(3) Requirements for an initial SAM authorization. Applicants will hold a high school degree or general equivalency diploma. The application will also include verification of employment from a school administrator.

22.7(4) Requirements for a standard SAM authorization. The initial SAM authorization will be converted to the standard SAM authorization, provided the following requirements are met:

a. *Training.* A SAM will attend an approved training program at the onset of the individual's hire as a SAM. The training for SAMs is set forth in 281—subrule 82.7(2).

b. *Experience.* An applicant will complete one year of experience as a SAM in an Iowa school. The supervising administrator will verify this experience and the applicant's completion of the required competencies.

c. *Competencies.* Applicants will demonstrate completion of or competency in the following:

(1) Each SAM will demonstrate competence in technology appropriate to the SAM position. The SAM will:

1. Become proficient in the use of the approved time-tracking software tool;
2. Schedule the administrator's time using the approved software, update and reconcile the calendar daily, and attempt to pre-calendar the administrator at or above the administrator's goal; and
3. Regularly schedule, review, and reflect with the administrator on the graphs and data provided through the software.

(2) Each SAM will demonstrate appropriate personal skills. The SAM:

1. Is an effective communicator with all stakeholders, including but not limited to colleagues, community members, parents, and students;
2. Works effectively with employees, students, and stakeholders;
3. Maintains confidentiality when dealing with student, parent, and staff issues;
4. Clearly understands the administrator's philosophy of behavior expectations and consequences; and
5. Maintains an environment of mutual respect, rapport, and fairness.

22.7(5) Validity. The initial SAM authorization is valid for three years. The standard SAM authorization is valid for five years.

282—22.8(256) Activities administration authorization. An activities administration authorization allows an individual to administer any student activity program in a K-12 school setting.

22.8(1) Requirements. Applicants for the activities administration authorization will meet the following requirements:

a. *Degree.* A baccalaureate degree or higher related to athletics, physical education or a related field is required. Additional degree areas may be considered at the discretion of the executive director.

b. *Credit hours.* Applicants will complete credit hours or courses offered by the Leadership Training Institute (LTI) from the National Interscholastic Athletic Administrators Association in the following areas:

(1) Successful completion of 1 semester credit hour or LTI course relating to knowledge and understanding of risk management, Title IX, sexual harassment, hazing, Americans with Disabilities Act (ADA), and employment law as they pertain to the role of the activities administrator.

(2) Successful completion of 1 semester credit hour or LTI course relating to knowledge and understanding of activities administration foundations including philosophy, leadership, professional programs and activities administration principles, strategies and methods.

(3) Successful completion of 1 semester credit hour or LTI course relating to knowledge and understanding of the role of the activities director in supporting and developing sports medicine programs, management of athletic player equipment, concussion assessment and proper fitting of athletic protective equipment, and sports field safety.

(4) Successful completion of 1 semester credit hour or LTI course relating to knowledge and understanding of the techniques and theory of coaching concepts and strategies for interscholastic budget and concepts and strategies for interscholastic fundraising.

(5) Successful completion of 1 semester credit hour or LTI course, approved by the board, relating to the assessment and evaluation of interscholastic athletic programs and personnel, dealing with challenging personalities, and administration of professional growth programs for interscholastic personnel.

(6) Successful completion of concussion training approved by the Iowa high school athletic association or Iowa girls high school athletic union.

22.8(2) *Validity.* The activities administration authorization is valid for five years.

282—22.9(256) Charter school administrator authorization. The charter school administrator authorization is only valid for service or employment as a charter school administrator.

22.9(1) *Requirements for the initial charter school administrator authorization.*

a. The applicant will provide a recommendation from an Iowa charter school governing board verifying that the organization wishes to hire the applicant as a charter school administrator.

b. The applicant will provide verification of completion of child abuse training as stated in 282—subrule 20.1(2).

22.9(2) *Validity—initial authorization.* The initial charter school administrator authorization is valid for one year. No additional endorsement areas may be added to the initial charter school administrator authorization, with the exception of evaluator approval.

22.9(3) *Renewal.* The initial charter school administrator authorization may be renewed once.

22.9(4) *Conversion.* The initial charter school administrator authorization may be converted to a charter school administrator authorization if the applicant has met the following:

a. Completion of an approved code of professional conduct and ethics training. The training will be completed after the issuance of the initial authorization and no more than three years prior to the date of application.

b. Completion of an approved evaluator course.

c. Recommendation from an Iowa charter school governing board verifying that the organization wishes to retain the applicant as a charter school administrator.

22.9(5) *Requirements for the charter school administrator authorization.*

a. The charter school administrator authorization is valid for five years. No additional endorsement areas may be added to the charter school administrator authorization, with the exception of evaluator approval.

b. An applicant for this authorization will first meet the requirements for the initial charter school administrator authorization.

282—22.10(256) Iowa jobs for America's graduates (iJAG) authorization. The iJAG authorization allows individuals to teach iJAG coursework in grades 7-12.

22.10(1) *Requirements.*

a. The applicant will have completed a baccalaureate degree.

b. The applicant will have completed a board of educational examiners-approved iJAG training program consisting of the following components and totaling a minimum of 40 clock hours annually:

(1) Instructional methods. Develop skills to effectively deliver project-based instruction in the iJAG core competencies.

(2) Curriculum. Develop skills to effectively develop curriculum, projects and other educational opportunities consistent with the goals of iJAG.

(3) Measurement and evaluation of programs and students. Analyze student data, administer testing, and monitor the following: basic skills, individualized development plans, attendance, graduation requirements, and course enrollment.

(4) Code of ethics. Develop an understanding of how to foster relationships with parents, students, school colleagues, and organizations in the larger community to support students' learning and development and become aware of the board's rules of professional practice and code of ethics.

(5) Diversity training for educators. Develop an understanding of and sensitivity to the values, beliefs, lifestyles and attitudes of individuals and the diverse groups found in a pluralistic society, including preparation that contributes to the education of individuals with disabilities and the gifted and talented.

c. The applicant will provide a recommendation from an iJAG administrator verifying that the organization wishes to hire the applicant.

d. The applicant will be assigned a mentor by the hiring school district.

22.10(2) *Validity.* This authorization is valid for five years.

282—22.11(256) Work-based learning program supervisor authorization. The work-based learning program supervisor authorization is only valid for service or employment as a work-based learning program supervisor in grades 9-12.

22.11(1) *Requirements for the work-based learning program supervisor authorization.*

a. The applicant will provide verification of completion of the approved work-based learning program supervisor course pursuant to Iowa Code section 256.161.

b. The applicant will provide verification of completion of child abuse training as stated in 282—subrule 20.1(2).

22.11(2) *Validity.* The work-based learning program supervisor authorization is valid for five years.

22.11(3) *Temporary authorization.* A one-year temporary work-based learning program supervisor authorization may be issued to applicants who have met all other requirements with the exception of the work-based learning program supervisor course. This temporary authorization is nonrenewable and cannot be extended.

282—22.12(256) Orientation and mobility authorization. The holder of this authorization may teach pupils with a visual impairment, including those pupils who are deaf-blind.

22.12(1) *Initial orientation and mobility authorization.* An applicant will:

a. Hold a baccalaureate or master's degree from an approved state program in orientation and mobility or equivalent coursework.

b. Have completed an approved human relations component.

c. Have completed the exceptional learner program, which will include preparation that contributes to the education of students with disabilities and students who are gifted and talented.

d. Have completed a minimum of 21 semester credit hours in the following areas:

(1) Medical aspects of blindness and visual impairment, including sensory motor.

(2) Psychosocial aspects of blindness and visual impairment.

(3) Child development.

(4) Concept development.

(5) History of orientation and mobility.

(6) Foundations of orientation and mobility.

(7) Orientation and mobility instructional methods and assessments.

(8) Techniques of orientation and mobility.

(9) Research or evidence-based practices in orientation and mobility.

(10) Professional issues in orientation and mobility, including legal issues.

e. Have completed at least 350 hours of fieldwork and training under the supervision of the university program.

22.12(2) *Validity—initial authorization.* The initial authorization is valid for three years.

22.12(3) *Standard orientation and mobility license.* An applicant will:

a. Complete the requirements set forth in subrule 22.12(1).

b. Verify successful completion of a three-year probationary period.

22.12(4) Exception. An orientation and mobility specialist is not eligible for any administrator license in either general education or special education.

282—22.13(256) Approval of courses. Each institution of higher education, accredited Iowa school, or area education agency wishing to offer the semester credit or contact hours for the issuance or renewal of authorizations in this chapter will submit course descriptions for each offering to the board of educational examiners for approval. After initial approval, any changes by agencies or institutions in course offerings will be filed with the board of educational examiners.

282—22.14(256) Limited authorizations. Authorizations are limited in scope and do not equate to full teaching or administrator licensure. Conditional licenses may not be added to authorizations. Additional endorsement areas may not be added unless otherwise stated.

These rules are intended to implement Iowa Code chapter 256.

[Filed 12/24/24, effective 2/26/25]

[Published 1/22/25]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8821C

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Rulemaking related to behind-the-wheel driving instructor authorization

The Educational Examiners Board hereby rescinds Chapter 23, “Behind-the-Wheel Driving Instructor Authorization,” Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 321 and section 256.146.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 321 and section 256.146.

Purpose and Summary

This chapter provides procedures for the issuance of behind-the-wheel authorizations. The Board is removing duplicative statutory language.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8300C**. A public hearing was held on the following date(s):

- November 20, 2024
- December 2, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on December 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 282—Chapter 23 and adopt the following **new** chapter in lieu thereof:

CHAPTER 23
BEHIND-THE-WHEEL DRIVING INSTRUCTOR AUTHORIZATION

282—23.1(256,321) Requirements.

23.1(1) Applicants for the behind-the-wheel driving instructor authorization will meet the requirements set forth by the department of transportation pursuant to rule 761—634.6(321).

23.1(2) To be eligible to provide classroom instruction, holders of the behind-the-wheel driving instructor authorization will additionally hold a valid or expired initial, standard, exchange, or master educator license with a teaching endorsement for 5-12 driver and safety education.

282—23.2(256,321) Validity. The behind-the-wheel driving instructor authorization is valid for one year from the date of issuance. The behind-the-wheel driving instructor authorization is valid only if the holder continues to be qualified under subrule 23.1(1).

282—23.3(256,321) Approval of courses. Each institution of higher education, private college or university, community college, or area education agency wishing to offer the behind-the-wheel driving instructor authorization will submit course descriptions to the department of transportation for approval. After initial approval, any changes by agencies or institutions in course offerings will be filed with the department of transportation.

These rules are intended to implement Iowa Code chapters 256 and 321.

[Filed 12/24/24, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8822C**EDUCATIONAL EXAMINERS BOARD[282]****Adopted and Filed****Rulemaking related to paraeducator certificates**

The Educational Examiners Board hereby rescinds Chapter 24, “Paraeducator Certificates,” Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 256.157.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 256.157.

Purpose and Summary

This chapter provides procedures for the issuance of paraeducator certificates. The Board is removing duplicative statutory language.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8302C**. A public hearing was held on the following date(s):

- November 20, 2024
- December 2, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on December 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 282—Chapter 24 and adopt the following **new** chapter in lieu thereof:

CHAPTER 24
PARAEDUCATOR CERTIFICATES

282—24.1(256) Paraeducator certificates. An applicant for an initial paraeducator certificate who completes the paraeducator preparation program from a recognized Iowa paraeducator-approved program will have the recommendation from the designated certifying official at the recognized area education agency, local education agency, community college, or institution of higher education where the preparation was completed.

282—24.2(256) Prekindergarten through grade 12 paraeducator generalist certificate.

24.2(1) Applicants will possess a minimum of a high school diploma or a graduate equivalent diploma.

24.2(2) Applicants will have successfully completed at least 90 clock hours of training in the areas of behavior management, exceptional child and at-risk child behavior, collaboration skills, interpersonal relations skills, child and youth development, technology, and ethical responsibilities and behavior.

24.2(3) Applicants will have successfully completed the following list of competencies:

a. Foundations. Under the supervision of a licensed education professional, the paraeducator will:

- (1) Recognize the different developmental stages of students.
- (2) Believe every student can learn.
- (3) Recognize that each learner has unique learning needs that may require accommodations.
- (4) Demonstrate knowledge of the common core, including competence in reading, writing and math.

(5) Function in a manner that demonstrates a positive regard for the distinction between roles and responsibilities of paraeducators and other professionals, including respecting the teacher as supervisor and seeing the teacher as ultimately responsible for the education and behavior of the students.

b. Learning environment. Under the supervision of a licensed education professional, the paraeducator will:

- (1) Follow the prescribed health, safety, and emergency school and classroom policy and procedures.
- (2) Organize materials to support teaching and learning.
- (3) Facilitate the integration of students with diverse needs in various settings.
- (4) Assist with special health services, under the supervision of a licensed health care provider.
- (5) Promote a safe and positive learning environment.
- (6) Function in various instructional settings (e.g., large group, small group, tutoring).

c. Content and instruction. Under the supervision of a licensed education professional, the paraeducator will:

- (1) Assist with learning activities and opportunities to accomplish instructional objectives.
- (2) Support high expectations that are shared, clearly defined and appropriate.
- (3) Monitor progress and document and report objective observations that inform instructional decisions.
- (4) Effectively use verbal and nonverbal forms of communication with students.
- (5) Assist with the implementation and use of instructional and assistive technology.

d. Emotional and behavioral. Under the supervision of a licensed education professional, the paraeducator will:

(1) Assist in modeling and teaching specific appropriate behaviors, social skills, and procedures that facilitate safety and learning in various environments.

(2) Assist in the implementation of individualized behavior management plans.

(3) Document and report objective observations on student behaviors.

(4) Assist in modifying the learning environment to manage behavior and social skills.

(5) Recognize that there is a cause or reason for misbehavior and assist in determining the cause or reason.

(6) Recognize, address, and report bullying.

(7) Recognize and report atypical emotional behavior.

e. Professional relationships. Under the supervision of a licensed education professional, the paraeducator will:

(1) Demonstrate a commitment to work as an effective team member.

(2) Foster a professional and caring relationship with each student's family.

(3) Develop and maintain positive and professional relationships with students.

f. Ethical and professional practice. Under the supervision of a licensed education professional, the paraeducator will:

(1) Follow ethical practices for confidential information.

(2) Participate in ongoing professional development.

(3) Accept and apply constructive feedback.

(4) Abide by the Iowa code of ethics and professional practice rules of the board of educational examiners and rules of the department of education.

(5) Demonstrate the ability to separate personal issues from one's responsibilities in the workplace.

(6) Maintain a high level of competency and integrity.

(7) Share information regarding students' performance, behavior, or program with students' parents or guardians only as directed by the supervising teacher or educator.

(8) Be aware of personal biases and beliefs and refrain from discriminatory practices based on a student's disability, race, creed, color, religion, age, sex, sexual orientation, gender identity, disability, marital status, or national origin.

(9) Demonstrate ethical behavior when supporting students with graded activities, quizzes, and tests.

(10) Abide by Iowa law regarding the use of restraint and seclusion.

(11) Recognize that the paraeducator may not be given primary responsibility for the education of an individual student(s).

(12) Recognize that instructional decisions are made by the individualized education program (IEP) team for students with disabilities and that any changes to instruction, accommodations, supports, and services cannot be made outside the IEP team.

282—24.3(256) Paraeducator area of concentration. An area of concentration is not required but optional. Applicants will currently hold or have previously held an Iowa paraeducator generalist certificate. Applicants may complete one or more areas of concentration but will complete at least 45 clock hours in each area of concentration, with the exception of the substitute authorization.

24.3(1) Early childhood—prekindergarten through grade 3. The paraeducator will successfully complete the following list of competencies:

a. Foundations. Under the supervision of a licensed education professional, the paraeducator will:

(1) Know and understand young children's typical and atypical developmental stages and their needs at each stage.

(2) Recognize multiple influences on young children's development and learning.

(3) Recognize developmentally appropriate practices for interactions with and the education of young children.

b. Learning environment. Under the supervision of a licensed education professional, the paraeducator will:

(1) Describe the elements of environments that support children's learning and well-being.

(2) Demonstrate skills, strategies, and activities involving an individual child or small groups of children to reinforce instruction from a licensed teacher.

(3) Set up environments that are safe, inclusive, and responsive to children's developmental strengths, interests and needs.

c. Content and instruction. Under the supervision of a licensed education professional, the paraeducator will:

(1) Recognize effective strategies and techniques to stimulate cognitive, physical, social, emotional, and language development for each child in a developmentally appropriate way.

(2) Demonstrate knowledge and understanding of the Iowa Early Learning Standards by describing what young children know and do in order to provide experiences and interactions to promote learning.

(3) Gather information, as instructed by the classroom teacher, about an individual child's development, learning and behaviors, including observing, recording, and charting.

d. Emotional and behavioral competencies. Under the supervision of a licensed education professional, the paraeducator will:

(1) Gather information, as instructed by the classroom teacher, to identify children's skills and provide appropriate levels of support needed for the children to access, participate and engage in activities.

(2) Implement teacher-designed intervention plans to promote positive social relationships, interactions and behaviors that are age- and developmentally appropriate.

e. Professional relationships. Under the supervision of a licensed education professional, the paraeducator will:

(1) Demonstrate the ability to collaborate with an educational team to systematically and regularly exchange information to support problem solving, planning, and the implementing of instruction and individualized interventions.

(2) Demonstrate the ability to establish relationships with all children and their families that are respectful, supportive and sensitive.

(3) Demonstrate a collaborative relationship with the teacher to support children's learning.

(4) Demonstrate knowledge of community services and agencies available to assist families.

f. Ethical and professional practice. Under the supervision of a licensed education professional, the paraeducator will demonstrate knowledge of Iowa Early Learning Standards and the preschool program standards being implemented, which may include the Iowa Quality Preschool Program Standards, Head Start Program Performance Standards and National Association for the Education of Young Children (NAEYC) Program Standards and Accreditation Criteria.

24.3(2) Special needs—prekindergarten through grade 12. The paraeducator will successfully complete the following list of competencies:

a. Foundations. Under the supervision of a licensed education professional, the paraeducator will demonstrate an understanding of an IEP.

b. Learning environment. Under the supervision of a licensed education professional, the paraeducator will demonstrate an understanding of the value of serving children and youth with disabilities and special needs in inclusive settings.

c. Content and instruction. Under the supervision of a licensed education professional, the paraeducator will:

(1) Implement the activities assigned by a teacher to meet the goals and objectives in an IEP.

(2) Assist in academic subjects through use of lesson plans and instructional strategies developed by teachers and other professional support staff.

(3) Gather and maintain data about the performance of individual students and confer with special and general education practitioners about student schedules, instructional goals, progress, and performance.

(4) Operate computers and use assistive technology and adaptive equipment that will enable students with special needs to participate more fully in general education.

d. Emotional and behavioral. Under the supervision of a licensed education professional, the paraeducator will:

(1) Gather and maintain data about the behavior of individual students and confer with special and general education practitioners about student schedules, instructional goals, progress, and performance.

(2) Use appropriate instructional procedures and reinforcement techniques as specified in the IEP or by the behavior team.

e. Professional relationships. Under the supervision of a licensed education professional, the paraeducator will, if asked, participate as a member of the IEP team responsible for developing service plans and educational objectives.

24.3(3) *English as a second language—prekindergarten through grade 12.* The paraeducator will successfully complete the following list of competencies so that, under the direction and supervision of a qualified classroom teacher, the paraeducator will be able to:

a. Operate computers and use technology that will enable students to participate effectively in the classroom.

b. Work with the classroom teacher as collaborative partners.

c. Demonstrate knowledge of the role and use of primary language of instruction in accessing English for academic purposes.

d. Demonstrate knowledge of instructional methodologies for second language acquisition.

e. Communicate and work effectively with parents or guardians of English as a second language students in their primary language.

f. Demonstrate knowledge of appropriate translation and interpretation procedures.

24.3(4) *Career and transitional programs—grades 5 through 12.* The paraeducator will successfully complete the following list of competencies so that, under the direction and supervision of a qualified classroom teacher, the paraeducator will be able to:

a. Assist in the implementation of career and transitional programs.

b. Assist in the implementation of appropriate behavior management strategies for career and transitional students and those students who may have special needs.

c. Assist in the implementation of assigned performance and behavior assessments, including observation, recording, and charting for career and transitional students and those students who may have special needs.

d. Provide training at job sites using appropriate instructional interventions.

e. Participate in preemployment, employment, or transitional training in classrooms or at off-campus sites.

f. Communicate effectively with employers and employees at work sites and with personnel or members of the public in other transitional learning environments.

24.3(5) *School library media—prekindergarten through grade 12.* The school library media paraeducator will successfully complete the following list of competencies so that, under the direct supervision and direction of a qualified school library supervisor or school librarian, the paraeducator will be able to:

a. Be aware of, implement, and support the goals, objectives, and policies of the school library media program.

b. Assist the school library supervisor or school librarian in general operations, such as processing materials, circulating materials, performing clerical tasks, assisting students and staff, and working with volunteers and student helpers, and to understand the role of the paraeducator in the library setting in order to provide efficient, equitable, and effective library services.

c. Demonstrate knowledge of library technical services, including but not limited to cataloging, processing, acquisitions, routine library maintenance, automation and new technologies.

d. Be aware of and support the integration of literacy initiatives and content area standards (e.g., visual information and technology in support of the curriculum).

e. Be aware of the role school libraries play in improving student achievement, literacy, and lifelong learning.

f. Demonstrate an understanding of ethical issues related to school libraries, such as copyright, plagiarism, privacy, diversity, confidentiality, and freedom of speech.

- g. Assist in the daily operations of the school library program, such as shelving, working with volunteers and student helpers, inventory, materials repair and maintenance.
- h. Exhibit welcoming behaviors to all library patrons and visitors to encourage use of the library and its resources.
- i. Demonstrate knowledge of the school library collection and the availability of other resources that will meet individual student information or research needs.
- j. Demonstrate a general knowledge of basic technology skills and assist in troubleshooting basic hardware and software problems.

24.3(6) *Speech-language pathology (SLP)—prekindergarten through grade 12.* The SLP paraeducator will successfully complete the following list of competencies so that, under the direction and supervision of a qualified speech-language pathologist, the paraeducator will be able to:

- a. Understand the roles and responsibilities of the SLP paraeducator.
- b. Demonstrate a basic understanding of the four areas of communication, including articulation, language, fluency, and voice, and how they occur through typical development.
- c. Demonstrate an understanding of articulation/phonological disabilities.
- d. Demonstrate an understanding of language disabilities.
- e. Use appropriate instructional procedures and reinforcement techniques when working with children with articulation/phonological disabilities.
- f. Use appropriate instructional procedures and reinforcement techniques when working with children with language disabilities.
- g. Gather information as directed by the speech-language pathologist regarding the performance of children, including recording and charting responses.

24.3(7) *Vision impairments—prekindergarten through grade 12.* Under the direction and supervision of a qualified classroom teacher, the paraeducator will successfully complete the following list of competencies:

- a. Demonstrate knowledge of the impact of vision loss on learning and concept development for students who are blind or visually impaired.
 - (1) Demonstrate introductory knowledge of expanded core curriculum (ECC) and the ability to support ECC skills as directed by the supervising professional.
 - (2) Demonstrate introductory knowledge of functional vision assessments (FVA) and learning media assessments (LMA) of students who have vision impairments.
- b. Demonstrate knowledge of and skills in technology appropriate to the needs of students with vision impairments.
 - (1) Operate and use assistive technology that supports students who have vision impairments.
 - (2) Support and strengthen each student's capability to access and utilize assistive technology.
- c. Demonstrate introductory knowledge of instructional strategies unique to students who have vision impairments.
 - (1) Demonstrate the ability to adapt educational materials by using varied learning media as determined by student needs.
 - (2) Demonstrate an introductory knowledge of Braille in relation to identified or expressed student needs or both.
 - (3) Demonstrate introductory skills in operating transcription software and equipment.
- d. Demonstrate introductory knowledge of motor skills, movement, orientation, and mobility for students with vision impairments.
- e. Demonstrate knowledge of the role of paraeducators in student plans, including IEPs and individualized family service plans (IFSPs).
- f. Demonstrate knowledge about and skills in fostering independence, self-determination, social skills, self-advocacy, and appropriate behaviors for students with vision impairments.
- g. Demonstrate professionalism and ethical practices, including appropriate communication skills in relation to students with vision impairments and the students' service providers and families.

24.3(8) *Autism spectrum disorders.* Under the direction and supervision of a qualified classroom teacher, the paraeducator will successfully complete the following list of competencies:

- a. Foundations.* Under the supervision of a licensed education professional, the paraeducator will:
- (1) Demonstrate an understanding of the components of education plans (IEP, behavior intervention plan (BIP), functional behavioral analysis (FBA), and Section 504 Plan).
 - (2) Identify common characteristics of students with autism spectrum disorder (communication, social, restricted interest and behavior) and how these characteristics compare to those of typical children.
- b. Learning environment.* Under the supervision of a licensed education professional, the paraeducator will:
- (1) Assist in structuring the environment to meet the needs of students with autism spectrum disorder.
 - (2) Implement with integrity schedules and educational programs prescribed by the licensed teacher.
- c. Content and instruction.* Under the supervision of a licensed education professional, the paraeducator will:
- (1) Implement the educational, academic, and communication accommodations, adaptations, and supports assigned by a teacher.
 - (2) Provide opportunities for students with autism spectrum disorders to initiate and respond to large interactions and small interactions in academic settings.
 - (3) Provide opportunities for students with autism spectrum disorders to initiate, respond to, and participate in interactions in large groups and small groups in authentic situations.
 - (4) Gather and maintain data on student academic performance as directed by a licensed teacher.
 - (5) Assist educational staff in developing accommodations and adaptations and self-determination skills to increase student independence.
- d. Emotional and behavioral.* Under the supervision of a licensed education professional, the paraeducator will:
- (1) Understand and identify the function of a behavior (e.g., antecedents, behaviors, consequences).
 - (2) Collect data on student behavior and related environmental stimuli, based on the concepts of antecedents, behaviors and consequences.
 - (3) Implement antecedent strategies on student behavior as defined by the licensed educator.
 - (4) Reinforce and practice replacement behaviors as defined by the licensed educator.
 - (5) Respond to problem behaviors in a consistent manner as defined by the licensed educator.
 - (6) Gather and maintain data on student social and behavioral performance as directed by a licensed teacher.
- e. Professional relationships.* Under the supervision of a licensed education professional, the paraeducator will:
- (1) Demonstrate the ability to support the viewpoints and perspectives of students with autism and be empathetic to the students' learning styles.
 - (2) Respond to challenging behaviors in a respectful, empathetic manner.
- f. Ethical and professional practice.* Under the supervision of a licensed education professional, the paraeducator will:
- (1) Know and understand the expectations of confidentiality in regard to student information and social media usage.
 - (2) Know and understand the legal constructs of the IEP and the Individuals with Disabilities Education Act (IDEA).

24.3(9) Paraeducator substitute authorization. An individual who holds a paraeducator certificate and completes the substitute authorization requirements set forth in rule 282—22.2(256) but who does not meet the degree requirement in 282—subparagraph 22.2(1)“a”(2) is authorized to substitute only in the special education classroom in which the individual paraeducator is employed unless emergency permission is granted by the executive director or designee based on documented need provided by the employer. The employer will make a good-faith effort to employ a substitute teacher who is not a paraeducator before requesting such emergency permission. A school district employing a paraeducator

as a substitute pursuant to this subrule will compensate the person at the higher rate of either the school district's substitute pay per diem or the hourly pay to which the paraeducator is otherwise entitled.

282—24.4(256) Prekindergarten through grade 12 advanced paraeducator certificate. Applicants for the prekindergarten through grade 12 advanced paraeducator certificate will have met the following requirements:

24.4(1) Currently hold or have previously held an Iowa paraeducator generalist certificate.

24.4(2) Possess an associate's degree or have earned 62 semester hours of college coursework. Degrees and semester hour credits will be completed through a college or university accredited by an institutional accrediting agency as recognized by the U.S. Department of Education.

24.4(3) Complete a minimum of 2 semester hours of coursework involving at least 100 clock hours of a supervised practicum with children and youth. These 2 semester hours of practicum may be part of an associate's degree or part of the earned 62 semester hours of college coursework.

These rules are intended to implement Iowa Code chapter 256.

[Filed 12/24/24, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8823C

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Rulemaking related to code of professional conduct and ethics

The Educational Examiners Board hereby rescinds Chapter 25, "Code of Professional Conduct and Ethics," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 256.146.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 256.146.

Purpose and Summary

This chapter provides procedures for the issuance of teacher licenses. The Board is removing duplicative statutory language.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8303C**. A public hearing was held on the following date(s):

- November 20, 2024
- December 2, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on December 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 282—Chapter 25 and adopt the following **new** chapter in lieu thereof:

CHAPTER 25
CODE OF PROFESSIONAL CONDUCT AND ETHICS

282—25.1(256) Scope of standards. This code of professional conduct and ethics constitutes mandatory minimum standards of practice for all licensed practitioners as defined in Iowa Code chapter 256. The adherence to certain professional and ethical standards is essential to maintaining the integrity of the education profession.

282—25.2(256) Definitions. Except where otherwise specifically defined by law:

“Administrative and supervisory personnel” means any licensed employee such as a superintendent, associate superintendent, assistant superintendent, principal, associate principal, assistant principal, or other person who does not have as a primary duty the instruction of pupils in the schools.

“Board” means the board of educational examiners.

“Discipline” means the process of sanctioning a license, certificate, or authorization issued by the board.

“Ethics” means a set of principles governing the conduct of all persons governed by these rules.

“Fraud” means knowingly providing false information or representations on an application for licensure or employment, or knowingly providing false information or representations made in connection with the discharge of duties.

“License” means any license, certificate, or authorization granted by the board.

“Licensee” means any person holding a license, certificate, or authorization granted by the board.

“Practitioner” means an administrator, teacher, or other licensed professional, including an individual who holds a statement of professional recognition, who provides educational assistance to students.

“Responsibility” means a duty for which a person is accountable by virtue of licensure.

“Right” means a power, privilege, or immunity secured to a person by law.

“*Student*” means a person, regardless of age, enrolled in a prekindergarten through grade 12 school who is receiving direct or indirect assistance from a person licensed by the board.

“*Teacher*” means any person engaged in the instructional program for prekindergarten through grade 12 children, including a person engaged in teaching, administration, and supervision, and who is required by law to be licensed for the position held.

282—25.3(256) Standards of professional conduct and ethics. Licensees are required to abide by all federal, state, and local laws applicable to the fulfillment of professional obligations. Violation of federal, state, or local laws in the fulfillment of professional obligations constitutes unprofessional and unethical conduct that can result in disciplinary action by the board. In addition, it is hereby deemed unprofessional and unethical for any licensee to violate any of the following standards of professional conduct and ethics:

25.3(1) *Standard I—conviction of crimes, sexual or other immoral conduct with or toward a student, and child and dependent adult abuse.* Violation of this standard includes:

a. Fraud. Fraud means the same as defined in rule 282—25.2(256).

b. Criminal convictions. Criminal convictions include the commission of or conviction for a criminal offense as defined by Iowa law, provided that the offense is relevant to or affects teaching or administrative performance.

(1) Disqualifying criminal convictions. The board will deny an application for licensure and will revoke a previously issued license if the applicant or licensee has, on or after July 1, 2002, been convicted of, pled guilty to, or been found guilty of the following criminal offenses, regardless of whether the judgment of conviction or sentence was deferred:

1. Any of the following forcible felonies included in Iowa Code section 702.11: child endangerment, assault, murder, sexual abuse, or kidnapping;

2. Any of the following criminal sexual offenses, as provided in Iowa Code chapter 709, involving a child:

- First-, second- or third-degree sexual abuse committed on or with a person who is under the age of 18;

- Lascivious acts with a child;

- Assault with intent to commit sexual abuse;

- Indecent contact with a child;

- Sexual exploitation by a counselor;

- Lascivious conduct with a minor; or

- Sexual exploitation by a school employee;

3. Enticing a minor under Iowa Code section 710.10;

4. Human trafficking under Iowa Code section 710A.2;

5. Incest involving a child as prohibited by Iowa Code section 726.2;

6. Dissemination and exhibition of obscene material to minors as prohibited by Iowa Code section 728.2;

7. Telephone dissemination of obscene material to minors as prohibited by Iowa Code section 728.15;

8. Any offense specified in the laws of another jurisdiction, or any offense that may be prosecuted in a federal, military, or foreign court, that is comparable to an offense listed in subparagraph 25.3(1) “b”(1); or

9. Any offense under prior laws of this state or another jurisdiction, or any offense under prior law that was prosecuted in a federal, military, or foreign court, that is comparable to an offense listed in subparagraph 25.3(1) “b”(1).

(2) Other criminal convictions and founded child abuse. In determining whether a person should be denied a license or whether a licensee should be disciplined based upon any other criminal conviction, including a conviction for an offense listed in subparagraph 25.3(1) “b”(1) that occurred before July 1, 2002, or a founded report of abuse of a child, the board will consider:

1. The nature and seriousness of the crime or founded abuse in relation to the position sought;

2. The time elapsed since the crime or founded abuse was committed;
3. The degree of rehabilitation that has taken place since the crime or founded abuse was committed;
4. The likelihood that the person will commit the same crime or abuse again;
5. The number of criminal convictions or founded abuses committed; and
6. Such additional factors as may in a particular case demonstrate mitigating circumstances or heightened risk to public safety.

c. Sexual involvement or indecent contact with a student. Sexual involvement includes but is not limited to the following acts, whether consensual or nonconsensual: fondling or touching the inner thigh, groin, buttocks, anus or breasts of a student; permitting or causing to fondle or touch the practitioner's inner thigh, groin, buttocks, anus, or breasts; or the commission of any sex act as defined in Iowa Code section 702.17.

d. Sexual exploitation of a minor. Sexual exploitation includes the commission of or any conviction for an offense prohibited by Iowa Code section 728.12, Iowa Code chapter 709, or 18 U.S.C. §2252A(a)(5)(B) (2018).

e. Student abuse. Licensees will maintain professional relationships with all students, both inside and outside the classroom. The following acts or behavior constitute unethical conduct without regard to the existence of a criminal charge or conviction:

- (1) Committing any act of physical abuse of a student;
- (2) Committing any act of dependent adult abuse on a dependent adult student;
- (3) Committing or soliciting any sexual or otherwise indecent act with a student or any minor;
- (4) Soliciting, encouraging, or consummating any of the following:
 1. A sexual or physical relationship with a student;
 2. Grooming behavior toward a student; or
 3. An otherwise inappropriate relationship with a student;
- (5) Furnishing alcohol or illegal or unauthorized drugs or drug paraphernalia to any student or knowingly allowing a student to consume alcohol or illegal or unauthorized drugs in the presence of the licensee;
- (6) Failing to report any suspected act of child or dependent adult abuse as required by state law; or
- (7) Committing or soliciting any sexual conduct as described in Iowa Code section 709.15(3) or acts or behavior listed in subparagraph 25.3(1)“e”(4) toward any person who was a student within 90 days prior to any conduct alleged in the complaint, if that person was taught by the practitioner or was supervised by the practitioner in any school activity when that person was a student.

25.3(2) *Standard II—alcohol or drug abuse.* Violation of this standard includes:

a. Being on school premises or at a school-sponsored activity involving students while under the influence of, possessing, using, or consuming illegal or unauthorized drugs or abusing legal drugs.

b. Being on school premises or at a school-sponsored activity involving students while under the influence of, possessing, using, or consuming alcohol.

25.3(3) *Standard III—misrepresentation, falsification of information.* Violation of this standard includes:

a. Falsifying or deliberately misrepresenting or omitting material information regarding professional qualifications, criminal history, college credit, staff development credit, degrees, academic award, or employment history when applying for employment or licensure.

b. Falsifying or deliberately misrepresenting or omitting material information regarding compliance reports submitted to federal, state, and other governmental agencies.

c. Falsifying or deliberately misrepresenting or omitting material information submitted in the course of an official inquiry or investigation.

d. Falsifying any records or information submitted to the board in compliance with the license renewal requirements imposed under 282—Chapter 20.

e. Falsifying or deliberately misrepresenting or omitting material information regarding the evaluation of students or personnel, including improper administration of any standardized tests,

including but not limited to changing test answers, providing test answers, copying or teaching identified test items, or using inappropriate accommodations or modifications for such tests.

25.3(4) *Standard IV—misuse of public funds and property.* Violation of this standard includes:

a. Failing to properly account for funds collected that were entrusted to the practitioner in an educational context.

b. Converting public property or funds to the personal use of the practitioner.

c. Submitting fraudulent requests for reimbursement of expenses or for pay.

d. Combining public or school-related funds with personal funds.

e. Failing to use time or funds granted for the purpose for which they were intended.

25.3(5) *Standard V—violations of contractual obligations.*

a. Violation of this standard includes:

(1) Asking a practitioner to sign a written professional employment contract before the practitioner has been unconditionally released from a current contract, unless the practitioner provided notice to the practitioner's employing board as set forth in subparagraph 25.3(5) "b"(2).

(2) Abandoning a written professional employment contract without prior unconditional release by the employer.

(3) As an employer, executing a written professional employment contract with a practitioner that requires the performance of duties that the practitioner is not legally qualified to perform.

(4) As a practitioner, executing a written professional employment contract that requires the performance of duties that the practitioner is not legally qualified to perform.

b. In addressing complaints based upon contractual obligations, the board will consider factors beyond the practitioner's control. For purposes of enforcement of this standard, a practitioner will not be found to have abandoned an existing contract if:

(1) The practitioner obtained a release from the employing board before discontinuing services under the contract; or

(2) The practitioner provided notice to the employing board no later than the latest of the following dates:

1. The practitioner's last work day of the school year;

2. The date set for return of the contract as specified in statute; or

3. June 30.

25.3(6) *Standard VI—unethical practice toward other members of the profession, parents, students, and the community.* Violation of this standard includes:

a. Denying the student, without just cause, access to varying points of view.

b. Deliberately suppressing or distorting subject matter for which the educator bears responsibility.

c. Failing to make reasonable effort to protect the health and safety of the student or creating conditions harmful to student learning.

d. Conducting professional business in such a way that the practitioner repeatedly exposes students or other practitioners to unnecessary embarrassment or disparagement.

e. Engaging in any act of illegal discrimination, or otherwise denying a student or practitioner participation in the benefits of any program, on the grounds of race, creed, color, religion, age, sex, sexual orientation, gender identity, disability, marital status, or national origin.

f. Soliciting students or parents of students to purchase equipment, supplies, or services from the practitioner for the practitioner's personal advantage.

g. Accepting gifts from vendors or potential vendors where there may be the appearance of a or an actual conflict of interest.

h. Intentionally disclosing confidential information, including but not limited to unauthorized sharing of information concerning student academic or disciplinary records, health and medical information, assessment or testing results, or family income. Licensees will comply with state and federal laws and local school board policies relating to the confidentiality of student records unless disclosure is required or permitted by law.

i. Refusing to participate in a professional inquiry when requested by the board.

j. Aiding, assisting, or abetting an unlicensed person in the completion of acts for which licensure is required.

k. Failing to self-report to the board within 60 days any founded child abuse report or any conviction for a criminal offense listed in subparagraph 25.3(1)“b”(1) that requires revocation of the practitioner’s license.

l. Delegating tasks to unqualified personnel.

m. Failing to comply with federal, state, and local laws applicable to the fulfillment of professional obligations.

n. Allowing another person to use one’s practitioner license for any purpose.

o. Performing services beyond the authorized scope of practice for which the individual is licensed or prepared or performing services without holding a valid license.

p. Falsifying, forging, or altering a license issued by the board.

q. Failure of a practitioner holding a contract under Iowa Code section 279.13 to disclose to the school official responsible for determining assignments a teaching assignment for which the practitioner is not properly licensed.

r. Failure of a school official responsible for assigning licensed practitioners holding contracts under Iowa Code section 279.13 to adjust an assignment if the practitioner discloses to the official that the practitioner is not properly licensed for the assignment.

s. Failure of an administrator to protect the safety of staff and students.

t. Failure of an administrator to meet mandatory reporter obligations.

u. Refusal of the practitioner to implement provisions of an individualized education program or behavioral intervention plan.

v. Habitual nonparticipation in professional development by the practitioner.

25.3(7) *Standard VII—compliance with state law governing obligations to state or local governments, child support obligations, and board orders.* Violation of this standard includes:

a. Failing to comply with 282—Chapter 8 concerning payment of debts to state or local governments.

b. Failing to comply with 282—Chapter 10 concerning child support obligations.

c. Failing to comply with a board order.

25.3(8) *Standard VIII—incompetence.* Violation of this standard includes but is not limited to:

a. Willfully or repeatedly departing from or failing to conform to the minimum standards of acceptable and prevailing educational practice in the state of Iowa.

b. Willfully or repeatedly failing to practice with reasonable skill and safety.

These rules are intended to implement Iowa Code chapter 256.

[Filed 12/24/24, effective 2/26/25]

[Published 1/22/25]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8824C

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Rulemaking related to code of rights and responsibilities

The Educational Examiners Board hereby rescinds Chapter 26, “Code of Rights and Responsibilities,” Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 256.146.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 256.146.

Purpose and Summary

This chapter provides a code of rights and responsibilities. The Board is removing duplicative statutory language.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8305C**. A public hearing was held on the following date(s):

- November 20, 2024
- December 2, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on December 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 282—Chapter 26 and adopt the following **new** chapter in lieu thereof:

CHAPTER 26
CODE OF RIGHTS AND RESPONSIBILITIES

282—26.1(256) Purpose. The code of professional conduct and ethics in 282—Chapter 25 defines unprofessional and unethical conduct justifying disciplinary sanction. The board acknowledges that the discharge of professional obligations should occur in recognition of certain fundamental rights and responsibilities. Accordingly, the board recognizes the following rights and responsibilities of all educators licensed under Iowa Code chapter 256 and agrees that the exercise of these rights and

responsibilities may present mitigating facts and circumstances in the board's evaluation of allegations of unprofessional or unethical conduct.

282—26.2(256) Rights. Educators licensed under Iowa Code chapter 256 have the following rights:

1. The educator has a right to be licensed and endorsed under professional standards established and enforced by the board.
2. The educator has a right to refuse assignments for which the educator is not legally authorized, in terms of holding a valid Iowa license with the appropriate endorsement(s) or approval(s).
3. The educator has a right, subject to board and administrator authority, to exercise professional judgment in the evaluation, selection, and use of teaching methods and instructional materials appropriate to the needs, abilities, and background of each student.

282—26.3(256) Responsibilities. Educators licensed under Iowa Code chapter 256 have the following responsibilities:

1. The educator has a responsibility to maintain and improve the educator's professional competence.
 2. The educator has a responsibility to accept only those assignments for which the educator is legally authorized.
 3. The educator has a responsibility to provide conditions that are conducive to teaching and student learning.
 4. The educator will protect students from conditions harmful to learning or to health or safety.
 5. The educator will not, without just cause, restrain a student from independent action in the pursuit of learning and will not, without just cause, deny a student access to varying points of view.
 6. The educator will not use professional relationships with students for personal advantage.
 7. The educator will not discriminate against any student on the grounds of race, color, religion, age, sex, sexual orientation, gender identity, disability, marital status, or national origin.
 8. The educator will accord just and equitable treatment to all members of the profession.
 9. The educator will keep in confidence personally identifiable information regarding a student or the student's family members that has been obtained in the course of professional service, unless disclosure is required by law or is necessary for the personal safety of the student or others.
 10. The educator who has reasonable basis to believe that a student has been abused, as defined by law, will make all reports that are required by law and the Iowa Administrative Code and that are necessary to ensure the safety and well-being of the student.
 11. In the administration of discipline, the educator will treat all students with respect and in compliance with all policies of the school district served by the educator.
 12. The educator will provide accurate, truthful, and complete information to the board and to the local education system concerning all licensure transactions.
 13. The educator will not refuse to participate in a professional inquiry when requested by the board.
 14. The educator will not require or direct another educator to violate any provisions of the code of professional conduct and ethics or any rights of a student, parent, educator or citizen.
 15. The educator will not delegate assigned tasks to unqualified personnel.
- These rules are intended to implement Iowa Code section 256.146(1) "a. "

[Filed 12/24/24, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8825C**EDUCATIONAL EXAMINERS BOARD[282]****Adopted and Filed****Rulemaking related to issuance of professional service licenses**

The Educational Examiners Board hereby rescinds Chapter 27, “Issuance of Professional Service Licenses,” Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 256.146.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 256.146.

Purpose and Summary

This chapter provides procedures for the issuance of professional service licenses. The Board is removing duplicative statutory language.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8306C**. A public hearing was held on the following date(s):

- November 20, 2024
- December 2, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on December 13, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 282—Chapter 27 and adopt the following **new** chapter in lieu thereof:

CHAPTER 27
ISSUANCE OF PROFESSIONAL SERVICE LICENSES

282—27.1(256) Professional service license. A professional service license may be issued in the following areas but does not permit service as a teacher:

1. School counselor.
2. School psychologist.
3. Speech-language pathologist.
4. Supervisor of special education (support).
5. Director of special education of an area education agency.
6. School social worker.
7. School audiologist.

282—27.2(256) Requirements for a professional service license.

27.2(1) Initial professional service license. An initial professional service license valid for a minimum of two years with an expiration date of June 30 may be issued to an applicant for licensure who has a master's degree in a recognized professional educational service area set forth in rule 282—27.1(256) and who has completed a state-approved program for a professional service license endorsement.

27.2(2) Standard professional service license. A standard professional service license valid for five years may be issued to an applicant who meets the general requirements set forth in this rule and Iowa Code section 256.163.

27.2(3) School counseling Class G license. A nonrenewable Class G license valid for one year may be issued to an individual who is required to complete a school counseling practicum or internship in an approved program in preparation for the professional school counselor endorsement. The Class G license may be issued under the following limited conditions:

- a. Verification of a baccalaureate degree.
- b. Verification from the institution that the individual is admitted and enrolled in a school counseling program.
- c. Verification that the individual has completed at least 75 percent of the coursework and competencies required prior to the practicum or internship.

27.2(4) School psychologist one-year Class A license. A nonrenewable Class A license valid for one year may be issued to an individual who is required to complete an internship or thesis as an aspect of an approved program in preparation for the school psychologist endorsement. The one-year Class A license may be issued under the following limited conditions:

- a. Verification from the institution that the internship or thesis is a requirement for successful completion of the program.
- b. Verification that the employment situation will be satisfactory for the internship experience.
- c. Verification from the institution of the length of the approved and planned internship or the anticipated completion date of the thesis.
- d. Verification of the evaluation processes for successful completion of the internship or thesis.
- e. Verification that the internship or thesis is the only requirement remaining for successful completion of the approved program.

282—27.3(256) Specific requirements for professional service license endorsements.**27.3(1) Professional school counselor—K-8 and 5-12.***a. Program requirements.*

- (1) Master's degree from an accredited institution of higher education.
- (2) Completion of an approved human relations component.
- (3) Completion of an approved exceptional learner component.

b. Content. Completion of the competencies and coursework set forth in 282—subrule 13.10(24).**27.3(2) School psychologist—birth to age 21.**

a. Program requirements. An applicant will have completed a program of graduate study that is currently approved (or that was approved at the time of graduation) by the National Association of School Psychologists or the American Psychological Association, or be certified as a Nationally Certified School Psychologist by the National Association of School Psychologists, in preparation for service as a school psychologist through one of the following options:

- (1) Completion of a master's degree with sufficient graduate semester hours beyond a baccalaureate degree to total 60; or
- (2) Completion of a specialist's degree of at least 60 graduate semester hours with or without completion of a terminal master's degree program; or
- (3) Completion of a doctoral degree program of at least 60 graduate semester hours with or without completion of a terminal master's degree program or specialist's degree program.

b. Additional content.

- (1) Completion of an approved human relations component.
- (2) Completion of an approved exceptional learner component.

27.3(3) Speech-language pathologist—birth to age 21.*a. Program requirements.*

- (1) An applicant will hold a master's degree in speech pathology.
- (2) Content. An applicant will have completed the requirements in speech pathology and in the professional education sequence (i.e., 20 semester hours including student teaching/internship as a school speech-language pathologist). Courses in the following areas may be recognized for fulfilling the 20-hour sequence:

1. Curriculum courses (e.g., reading, methods, curriculum development).
2. Foundations (e.g., philosophy of education, foundations of education).
3. Educational measurements (e.g., school finance, tests and measurements, measures and evaluation of instruction).
4. Educational psychology (e.g., educational psychology, educational psychology measures, principles of behavior modification).
5. Courses in special education (e.g., introduction to special education, learning disabilities).
6. Child development courses (e.g., human growth and development, principles and theories of child development, history and theories of early childhood education).

NOTE: General education courses (e.g., introduction to psychology, sociology, history, literature, humanities) will not be credited toward fulfillment of the required 20 hours.

- (3) An applicant will have completed an approved human relations component.
- (4) An applicant will have completed an approved exceptional learner component.

b. A person may meet the requirements in this subrule or the requirements for a statement of professional recognition (SPR) in this area as set forth in 282—Chapter 16.

27.3(4) Professional service administrator. The holder of this endorsement is authorized to serve as a supervisor of special education support programs. However, an individual holding an SPR is not eligible for the professional service administrator endorsement.

a. Program requirements.

- (1) An applicant will hold a master's degree in preparation for school psychology, speech/language pathology, audiology (or education of students who are deaf or hard of hearing), or social work.
- (2) Content. The program will include a minimum of 16 graduate semester hours to specifically include the following:

1. Consultation process in special or regular education.
2. Current issues in special education administration including school law/special education law.
3. Program evaluation.
4. Educational leadership.
5. Administration and supervision of special education.
6. Practicum: Special education administration. This requirement may be waived based on two years of experience as a special education administrator.

7. School personnel administration.

8. Evaluator approval component.

b. Other: The applicant will:

- (1) Have four years of support service in a school setting with special education students in the specific discipline area desired.

- (2) Meet the practitioner licensure requirements of one of the following endorsements:

1. School audiologist (or deaf or hard of hearing at K-8 and 5-12).

2. School psychologist.

3. School social worker.

4. Speech-language pathologist.

27.3(5) School social worker—birth to age 21.

a. Program requirements. An applicant will hold a master's degree in social work from an accredited school of social work to include a minimum of 20 semester hours of coursework (including practicum experience) that demonstrates skills, knowledge, and competencies in the following areas:

- (1) Social work.

1. Assessment (e.g., social, emotional, behavioral, and familial).

2. Intervention (e.g., individual, group, and family counseling).

3. Related studies (e.g., community resource coordination, multidiscipline teaming, organizational behavior, and research).

- (2) Education.

1. General education (e.g., school law, foundations of education, methods, psychoeducational measurement, behavior management, child development).

2. Special education (e.g., exceptional children, psychoeducational measurement, behavior management, special education regulations, counseling school-age children).

- (3) Practicum experience. A practicum experience in a school setting under the supervision of an experienced school social work practitioner is required. The practicum will include experiences that lead to the development of professional identity and the disciplined use of self. These experiences will include assessment, direct services to children and families, consultation, staffing, community liaison and documentation. If a person has served two years as a school social worker, the practicum experience can be waived.

- (4) Completion of an approved human relations component.

- (5) Completion of an approved exceptional learner component.

b. A person may meet the requirements in this subrule or the requirements for an SPR in this area as set forth in 282—Chapter 16.

27.3(6) School audiologist—birth to age 21.

a. Program requirements.

- (1) An applicant will hold a master's degree in audiology.

- (2) Content. An applicant will complete the requirements in audiology and in the professional education sequence (i.e., 20 semester hours including student teaching/internship as a school audiologist). Courses in the following areas may be recognized for fulfilling the 20-hour sequence:

1. Curriculum courses (e.g., reading, methods, curriculum development).

2. Foundations (e.g., philosophy of education, foundations of education).

3. Educational measurements (e.g., school finance, tests and measurements, measures and evaluation of instruction).

4. Educational psychology (e.g., educational psychology, educational psychology measures, principles of behavior modification).

5. Courses in special education (e.g., introduction to special education, learning disabilities).

6. Child development courses (e.g., human growth and development, principles and theories of child development, history of early childhood education).

NOTE: General education courses (e.g., introduction to psychology, sociology, history, literature, humanities) will not be credited toward fulfillment of the required 20 hours.

(3) An applicant will have completed an approved human relations component.

(4) An applicant will have completed an approved exceptional learner component.

b. A person may meet the requirements in this subrule or the requirements for an SPR in this area as set forth in 282—Chapter 16.

These rules are intended to implement Iowa Code chapter 256.

[Filed 12/24/24, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8826C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rulemaking related to description of organization and procedures

The Labor Commissioner hereby rescinds Chapter 1, "Description of Organization and Procedures Before the Division," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 10A.206.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Executive Order 10.

Purpose and Summary

This rulemaking rescinds Chapter 1 in accordance with the goals and directives of Executive Order 10. This chapter is being rescinded because the former Labor Services Division has been restructured and realigned with other similarly functioning programs to better serve Iowans; was moved into the Department of Inspections, Appeals, and Licensing; and will be utilizing procedures applicable to the Department.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 27, 2024, as **ARC 8404C**. A public hearing was held on the following date(s):

- December 17, 2024
- December 19, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Commissioner on January 2, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Labor Services Division for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **875—Chapter 1**.

[Filed 1/2/25, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8827C

LABOR SERVICES DIVISION[875]**Adopted and Filed****Rulemaking related to amusement ride inspections**

The Labor Services Division hereby rescinds Chapter 61, "Administration of Iowa Code Chapter 88A," and adopts a new Chapter 61, "Amusement Ride Inspections," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 88A.3.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Executive Order 10.

Purpose and Summary

This rulemaking adopts a new Chapter 61 that requires amusement rides to be inspected. It describes inspection and revocation procedures. It requires amusement ride operators to contact the agency if there is a death or serious injury associated with the ride. It requires amusement ride operators to report breakdowns and substantial modifications of the ride.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 27, 2024, as **ARC 8372C**. A public hearing was held on the following date(s):

- December 17, 2024
- December 19, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Division on January 2, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 875—Chapter 61 and adopt the following **new** chapter in lieu thereof:

CHAPTER 61
AMUSEMENT RIDE INSPECTIONS

875—61.1(88A) Scope. 875—Chapters 61 through 63 do not apply to the following:

61.1(1) A water park or water park attraction, including but not limited to a water slide, wave action pool, and lazy river. This subrule does not apply to an amusement ride that propels patrons using a power source other than gravity even though water is present.

61.1(2) A live-animal ride.

61.1(3) A vessel inspected pursuant to Iowa Code chapter 462A.

61.1(4) An amusement structure in which the patrons navigate on their own power and the patrons do not ride, climb, or walk on a mechanical component.

61.1(5) A device that meets all of the following criteria:

- a. Was designed and built to be operated by a coin, card, or token;
- b. Was designed and built to be operated by the patron rather than an attendant;
- c. Operates on self-contained wiring that was installed by the manufacturer;

- d. Operates on less than 120 volts of electrical power; and
- e. Is within or is part of a structure subject to a state or local building code.

61.1(6) Playground equipment owned, maintained, and operated by any political subdivision of this state.

61.1(7) A concession booth, amusement device, or amusement ride that meets all of the following:

- a. Is owned and operated by a nonprofit organization or school; and
- b. Is located in a building subject to inspection by the state fire marshal or a local government.

61.1(8) Nonmechanized physical fitness and playground equipment unless a fee is charged to use the equipment.

61.1(9) Physical fitness equipment that does not meet the definition of “amusement device.”

61.1(10) A tramway used as a ski lift.

61.1(11) A scenic railway operating on standard-gauge rails.

61.1(12) A zip line or climbing wall located at a camp or retreat owned or operated by a nonprofit religious, educational or charitable institution or association.

875—61.2(88A) Definitions. The definitions in this rule apply to 875—Chapters 61 through 63.

“Air-supported structure” means an amusement device that employs a high-strength fabric or film that achieves its strength, shape and stability from internal air pressure provided by a mechanical device such as an air blower or fan.

“Amusement device” means a climbing wall utilizing an auto belay system; a bungee jump as defined in 875—Chapter 63; a device allowing a patron to jump on a trampoline while attached to one or more bungee cords; a dry slide; a mechanical bull; a zip line that does not allow the rider to touch the ground at all times; and an air-supported structure.

“ANSI” means the American National Standards Institute.

“ASTM” means the ASTM Standards on Amusement Rides and Devices published by ASTM International.

“Attendant” means a paid or volunteer person who controls patron restraints or the operation, starting, stopping, or speed of covered equipment.

“Carnival” means an enterprise offering amusement or entertainment to the public in, upon, or by means of amusement devices or rides or concession booths.

“Certificate of noncompliance” means:

1. A certificate of noncompliance issued by the child support recovery unit, department of health and human services, pursuant to Iowa Code chapter 252J; or
2. A certificate of noncompliance issued by the centralized collection unit, department of revenue, pursuant to Iowa Code chapter 272D.

“Concession booth” means a structure that is powered by electricity and offers amusements to the public at more than one fair or carnival, or at one fair or carnival for more than seven consecutive days. A structure or enclosure offering only goods, food or beverages, rather than amusements, is not a “concession booth.”

“Covered equipment” means an amusement ride, amusement device, concession booth or related electrical equipment that is covered by Iowa Code chapter 88A.

“Director” means the director of the department of inspections, appeals, and licensing or the director’s designee.

“Fair” means an enterprise principally devoted to the exhibition of products of agriculture or industry in connection with the operation of covered equipment.

“Inspector” means an authorized Iowa Code chapter 88A inspector of the department of inspections, appeals, and licensing.

“Major breakdown” means stoppage of operation from any cause that results in damage, failure, or breakage in a stress-bearing part of covered equipment.

“Major modification” means any change to the structure of or to an operational characteristic, capacity, classification, or mechanism of covered equipment. “Major modification” includes but is not

limited to changing the mode of transportation from non-wheeled to a truck or flat-bed mount or changing the mode of assembly or other operational functions from manual to mechanical or hydraulic.

“NFPA” means the National Fire Protection Association.

“Operator” means a person, or the agent of a person, who owns or controls or has the duty to control the operation of covered equipment at a carnival or fair. *“Operator”* includes an agency of the state or any of its political subdivisions. *“Operator”* includes a person who leases covered equipment and controls or has the duty to control its operation at a carnival or fair.

“Related electrical equipment” means a portable generator, blower, or other equipment necessary to the operation of an amusement ride, amusement device, or concession booth.

“Reportable incident” means an event described by one or more of the following:

1. Damage, failure or breakage of a stress-bearing part of an amusement ride or amusement device;
2. Cessation of covered equipment for more than 20 minutes with at least one rider aboard;
3. An occurrence that nearly resulted in personal injury; or
4. An occurrence that caused the operator to cease operations unexpectedly to avoid an injury or illness.

“Rope lay” means the length along the rope in which one strand makes a complete revolution around the rope.

“Special operation” means an unusual condition, interruption in operation, injury, emergency, or evacuation.

“Walkway” means a public passage through a carnival, fair, or park.

875—61.3(88A) Owner and operator requirements. No person may operate covered equipment at a carnival or fair unless the person holds a current application certificate and the covered equipment has passed an Iowa inspection. The director reserves the right to deny inspection for any application submitted less than 60 days prior to operation at the first event.

61.3(1) Application certificate. No later than 60 days before operation begins each calendar year, the operator of covered equipment will apply to the director for an application certificate. Applications may be submitted in November for continuous operations. Applications are made on a form provided by the director. Each of the following are submitted with the completed application certificate:

- a. The application fee;
- b. A certificate of insurance issued by an insurance company authorized to do business in Iowa. The certificate of insurance will:
 - (1) Certify a policy in the minimum amount of \$1 million for bodily injury, death, or property damage in any one occurrence;
 - (2) List the specific pieces of equipment that are covered and, if applicable, those that are not covered; and
 - (3) Include “Department of Inspections, Appeals, and Licensing—Amusements” as a certificate holder;
- c. The operator’s itinerary identifying the covered equipment to be operated and the dates and locations where each will be operated;
- d. Certification of compliance with applicable training and maintenance requirements;
- e. Separately for each bungee jump:
 - (1) A site operating manual;
 - (2) A report that is prepared and sealed by a professional engineer who is licensed in Iowa and that certifies that the design and construction of the equipment and structure are suitable for the intended use and conform to Iowa law, recognized engineering practices, procedures, standards and specifications;
 - (3) Site plan drawings depicting the preparation area, the jump space, the landing area, the recovery area and other features to be included in the approved operating site;
 - (4) Specifications of equipment and structures; and
 - (5) Depictions of the location, specifications, dimensions, and type of air bag, pool or body of water where the jumper will land.

61.3(2) *Changes to information submitted with application.* The operator will immediately notify the director of any changes to the operator's itinerary or information provided with the application.

61.3(3) *Personal injuries and deaths.*

a. The operator will immediately report by telephone any accident that results in death or medical care beyond first aid.

b. Within 48 hours after an operator is notified of a claim or report to the operator's insurance provider, the operator will submit a duplicate copy of the report or claim to the director.

c. The director may require that the scene of an accident be secured and not disturbed to any greater extent than necessary for removal of the deceased or injured person. If covered equipment is removed from service by the director, the covered equipment may be returned to service only upon the director's authorization.

61.3(4) *Major breakdown report.* The operator will report a major breakdown of covered equipment to the director immediately and provide a detailed report in writing within 48 hours. The director may order the covered equipment to be withheld from operation, and in such case, the director will conduct an immediate investigation. The covered equipment may be released for repair and operation only after the director's investigation is complete.

61.3(5) *Advance notice of major modification.* The operator will notify the director in writing at least ten days prior to a major modification and, if requested by the director, provide plans, diagrams, and ride analysis documentation consistent with ASTM F2291-15.

61.3(6) *Technical data.* If requested by the director, the operator will provide an English language version of the following:

a. Data concerning constant, reversible, or eccentric forces generated by acceleration, deceleration, wind, centrifugal action, or inertia.

b. Stress analysis and other data pertinent to the structural materials, design, structure, factors of safety or performance characteristics.

875—61.4(88A) Inspection requirements. Pursuant to Iowa Code chapter 88A, covered equipment must pass an inspection at least annually. Inspections shall be performed according to the rules set forth and standards adopted in 875—Chapters 61 through 63.

61.4(1) *Inspection types.* In addition to the inspections listed below, an inspection may be conducted by the director at any time. No person will operate covered equipment at a fair or carnival unless the covered equipment has passed an inspection in the current calendar year.

a. *Annual inspection by owner.* At the discretion of the director, the owner of an air-supported structure may be designated by the director to perform the annual inspection of the owner's air-supported structure, blower, and related electrical equipment. An owner designated pursuant to this paragraph will perform the inspection according to applicable standards. The owner will submit in the format required by the director an affidavit attesting to the performance of the inspection, correction of code violations, and other required information. A designation pursuant to this paragraph terminates on December 31 of the year of issuance.

b. *Annual inspection by an inspector.* Unless an inspection is waived pursuant to Iowa Code section 88A.13, or the inspection is performed by the owner pursuant to paragraph 61.4(1)"a," the director will inspect covered equipment prior to operation.

c. *Major modification inspection.* After covered equipment has undergone a major modification, the covered equipment must pass an inspection by the director before it is put back into use.

61.4(2) *Safety order.* If the inspector finds a code violation, the inspector will issue a safety order requiring that the condition be corrected. The deadline for correction of the code violation will be set forth in the safety order.

61.4(3) *Cessation order.* If the inspector identifies covered equipment that is hazardous or unsafe, the inspector will issue a cessation order that will be in effect until the director verifies it is corrected.

875—61.5(88A) Amusement inspection sticker requirements. Covered equipment shall not be operated without a current sticker.

61.5(1) After covered equipment has passed an annual inspection by the inspector, the inspector will affix an amusement inspection sticker to the equipment where it is readily accessible.

61.5(2) After the director receives satisfactory proof of inspection from an owner designated by the director pursuant to paragraph 61.4(1) “a,” the director will issue a certificate of compliance.

61.5(3) After covered equipment passes a major-modification inspection, a new amusement inspection sticker will be issued.

61.5(4) Before covered equipment is sold, the seller will remove the amusement inspection sticker. If a current amusement inspection sticker is no longer legible, the operator may request a replacement sticker.

875—61.6(88A,252J,272D) Termination, denial, suspension, or revocation of an operating permit.

61.6(1) All active application certificates terminate automatically on December 31 of the year of issuance.

61.6(2) The director may suspend or revoke an application certificate for any of the following reasons:

- a.* Negligence in the operation of covered equipment;
- b.* Repeated failure to perform or document proper daily inspections;
- c.* Misrepresentation of material information required as a part of the application certificate;
- d.* Failure to comply with a safety order or cessation order issued by the director;
- e.* Operation of covered equipment in disregard of public health, safety and welfare;
- f.* Termination of the required insurance coverage;
- g.* Failure to pay a liquidated debt owed to the director;
- h.* Receipt by the director of a certificate of noncompliance;
- i.* Failure of an operator to comply with the proper procedures;
- j.* Failure of an operator to provide an adequate number of properly trained and qualified attendants; or
- k.* Submission of a false affidavit of annual inspection by the owner of an air-supported structure.

61.6(3) The director may deny an application if the application packet is inadequate or for any reason set forth as grounds for suspension or revocation of an application certificate.

875—61.7(17A,88A,252J,272D) Procedures for revocation, suspension, or denial of an application certificate or amusement inspection sticker. The procedures set forth in this rule govern the revocation, suspension or denial of an application certificate or amusement inspection sticker.

61.7(1) In the event that immediate action is required due to imminent danger to the public health, safety or welfare, the following procedures shall apply:

- a.* The director will prepare a safety order describing the hazardous condition and give the operator, or the operator’s representative on site, a copy of the safety order.
- b.* The director will remove the amusement inspection sticker or stickers from covered equipment.
- c.* The director will proceed as quickly as feasible to give the operator an opportunity for a hearing as set forth in subrule 61.7(2).

61.7(2) In all other cases, the following procedures shall apply:

- a.* The director will serve a notice by restricted certified mail to the address listed on the application or by other service as permitted by Iowa Code chapter 17A.
- b.* The operator will have 20 days to file a written notice of contest with the director. If the operator does not file a written notice of contest within 20 days of receipt of the notice, the action stated in the notice is automatically effective.
- c.* Hearing procedures of the department of inspections, appeals, and licensing will govern.
- d.* Within five business days of final agency action revoking or suspending an application certificate, the operator shall forfeit the application certificate to the director.

These rules are intended to implement Iowa Code chapters 17A, 88A, 252J, and 272D.

[Filed 1/2/25, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8828C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rulemaking related to safety rules for amusement rides, amusement devices, and concession booths

The Labor Services Division hereby rescinds Chapter 62, "Safety Rules for Amusement Rides, Amusement Devices, and Concession Booths," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 88A.3.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Executive Order 10.

Purpose and Summary

This rulemaking adopts a new Chapter 62 that requires amusement rides to comply with safety rules about design, installation, maintenance, and operation.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 27, 2024, as **ARC 8373C**. A public hearing was held on the following date(s):

- December 17, 2024
- December 19, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Division on January 2, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 875—Chapter 62 and adopt the following **new** chapter in lieu thereof:

CHAPTER 62
SAFETY RULES FOR AMUSEMENT RIDES, AMUSEMENT DEVICES,
AND CONCESSION BOOTHS

875—62.1(88A) Scope. Rule 875—62.2(88A) applies to all covered equipment. The remaining rules of this chapter apply to all covered equipment, except a bungee jump covered by 875—Chapter 63.

875—62.2(88A) Other codes.

62.2(1) Nothing in 875—Chapters 61 through 63 provides an exemption, waiver, or variance from any otherwise applicable regulation or statute.

62.2(2) State fire marshal rules set forth in 661—Chapter 201 are adopted by reference.

875—62.3(88A) Site requirements.

62.3(1) Design. The grounds of a fair or carnival shall be designed according to the following criteria:

- a. Clearance around covered equipment will meet or exceed the manufacturer's recommendations.
- b. Clearance between covered equipment and a facility for cooking will be at least 10 feet.
- c. Walkways will be wide, unobstructed, and open at each end.
- d. Walkways through concession booth backyards and over water lines and electrical lines will be avoided.
- e. Intermingling of water lines and electrical lines will be avoided.
- f. Guy wires, braces and ropes used for support:
 - (1) Will not be placed in walkways or in the entrances or exits for covered equipment; and
 - (2) Will be clearly marked with streamers or other devices when located adjacent to walkways.
- g. Stakes will be covered.

62.3(2) Housekeeping. Adequate containers for refuse will be provided. Accumulations of trash will be removed promptly.

62.3(3) Lighting. Entrances and exits for covered equipment will be provided with at least 5 foot-candles of light measured at grade level. No less than 10 foot-candles of light will be provided at all work levels for assembly and disassembly of covered equipment.

62.3(4) Internal combustion engines. Internal combustion engines will be a minimum of 5 feet from an air-supported structure and will be guarded or fenced to prevent patron exposure or access. An internal combustion engine operated in an enclosed area will be provided with fresh-air intake and an exhaust discharge flue.

62.3(5) Flammable waste and materials. An operator will provide identified covered and labeled metal containers for flammable waste. The containers will be available to staff and attendants but will not be accessible to patrons.

62.3(6) *Storage of hazardous or flammable materials.* Storage of more than 50 gallons of fuel, other flammable material, or hazardous gas is not permitted in any area accessible to the public.

62.3(7) *Walking surfaces.* Entrances and exits for covered equipment will be adequate, unobstructed, and in accordance with the manufacturer's instructions. Hazards, such as protruding nails, splinters, holes, loose boards, debris, obstructions, and projections, are prohibited. Stairways, ramps and railings will be provided where patrons enter or exit covered equipment above or below grade.

62.3(8) *Fences.* Fences or other barriers will be maintained to prevent movement. Placement of fences will be consistent with the recommendations of the manufacturer. If the manufacturer's recommendation regarding fences is not available, fences will meet ASTM standards.

62.3(9) *Queue line.* Lines will be designed to meet or exceed manufacture specifications.

62.3(10) *Setup.* Operators will follow the manufacturer's instructions to ensure that covered equipment is level and stable. If the manufacturer's instructions are not available, the setup will meet ASTM standards.

875—62.4(88A) Design and manufacture of covered equipment. This rule sets forth requirements for the design and manufacture of all covered equipment, except a bungee jump covered by 875—Chapter 63.

62.4(1) *Codes adopted by reference.* ASTM F2374-10 applies to all air-supported structures notwithstanding the definition and use of the phrase "inflatable amusement device" in ASTM F2374-10.

a. All covered equipment. Equipment will comply with National Electric Code, NFPA 70-2014.

b. Tramways. All tramways subject to the rules of this chapter will be designed and tested in accordance with the ANSI B77.1 standard in effect at the time of installation.

c. New covered equipment. New covered equipment and covered equipment undergoing a major modification will be designed and tested in accordance with ANSI B77.1-2011 and ANSI B77.1A-2012 and ASTM F1159-15a, F1193-14, F1957-99(2011), F2007-12, F2137-15, F2291-15, F2374-10, F2375-09, F2376-13, F2460-11, F2959-14, and F2960-15, as applicable.

d. Existing covered equipment. Covered equipment manufactured before July 1, 2016, must comply with the applicable design criteria of subrule 62.4(2) through July 1, 2021. After July 1, 2021, covered equipment, except tramways, will meet the criteria for service-proven equipment set forth in ASTM F2291-15.

62.4(2) *Design criteria.* Structural materials and construction of covered equipment will conform to recognized engineering practices, procedures, standards and specifications. The design, materials and construction features will incorporate a safety factor of 5 or alternative safety factors recommended by the original manufacturer or by a professional engineer with credentials and experience acceptable to the director.

62.4(3) *Front openings and awnings.* Front openings and awnings will be stabilized with safety latches, safety pins, or other devices.

62.4(4) *Shooting galleries.* A shooting gallery will use only equipment, shells, pellets, and bullets designed for shooting galleries. Means will be provided to prevent turning the weapon away from the intended target.

62.4(5) *Flying objects.* Where flying objects, such as darts, balls, pellets, shot, and bullets, are a potential hazard:

a. Ricocheting will be prevented by absorbent wings or panels; and

b. Absorbing walls, sandbags, or other mechanisms will be installed along the bottom, back, and sides of the booth to protect passersby.

875—62.5(88A) Maintenance of covered equipment—requirements. An operator will conduct periodic inspections, repairs, tests, and maintenance as set forth in this rule and the manufacturer's recommendations, as applicable. An operator will make a written record of all inspections, maintenance, tests, and repairs of covered equipment, and the records will be available to the director.

62.5(1) *Nondestructive testing.* The operator will ensure that appropriate nondestructive testing (NDT) is conducted and that documentation is available for review. NDT will be performed at the following times:

- a. At intervals recommended by the manufacturer;
 - b. When required by the director due to a welded repair;
 - c. When required by the director due to a visual indication of a potentially hazardous condition;
- and
- d. When recommended by a bulletin prepared according to ASTM F1193-14.

62.5(2) *Wood components.* The operator will remove a sufficient amount of soil around piling or wood members embedded in dirt to check for deterioration. When a wood piling requires replacement, the operator will install a concrete pier. The top of the pier will be installed so that the attached wood member is not exposed to dirt or water accumulation.

875—62.6(88A) Operations—requirements. Operations conform to ANSI B77.1 and ANSI B77.1A-2012 and ASTM F770-15, F1957-99(2011), F2007-12, F2137-15, F2374-10, F2375-09, F2376-13, F2460-11, and F2959-14, as applicable. ASTM F2374-10 applies to all air-supported structures, notwithstanding the definition and use of the phrase “inflatable amusement device” in ASTM F2374-10. The director will enforce the minimum age requirements set forth below, rather than any minimum age requirement set forth in a code adopted by reference in this rule.

62.6(1) *Attendants.* The operator will provide a sufficient number of attendants in accordance with manufacturer specifications who will be recognizable by their uniforms. Covered equipment shall have continuous, direct supervision while in use by a patron.

- a. Each attendant of a concession booth, except a shooting gallery or dart game, will be at least 14 years of age. All other attendants will be at least 16 years of age.

- b. Each attendant will be trained according to ANSI B77.1 and ANSI B77.1A-2012 and ASTM F770-15, F2007-12, F2460-11, and F2959-14, as applicable. Training documentation will be available to the director.

- c. When the covered equipment is shut down, provision will be made to prevent unauthorized operation.

62.6(2) *Signal systems.* When an attendant does not have a clear view of the point where passengers are loaded or unloaded, signal systems will be provided and utilized for controlling, starting and stopping covered equipment.

62.6(3) *Overspeeding and overloading.* An attendant will not load covered equipment beyond its rated capacity nor operate the covered equipment at a speed other than that prescribed by the design engineer or manufacturer.

62.6(4) *Refueling.* Fuel tanks for internal combustion engines should be large enough to run without interruption during normal operating hours. Where it is impossible to provide tanks of proper capacity for a complete day’s operation, the covered equipment will be shut down and evacuated during refueling.

62.6(5) *Safety stop device.* After actuation of a safety stop device, the cause of the actuation will be determined and corrected before operation of covered equipment is resumed. No person will operate covered equipment if a safety stop device has been bypassed.

875—62.7(88A) Patrons.

62.7(1) *Emergency procedure.* Will meet or exceed manufacturer specifications. If manufacturer specifications are not available, the emergency procedure will meet ASTM standards.

62.7(2) *Medical and first aid.* The operator shall make available to patrons the same medical and first-aid provisions the operator is legally obligated to provide to employees.

62.7(3) *Evacuation plan.* Evacuation plans shall meet or exceed manufacturer specifications. If manufacturer specifications are not available, evacuation plans shall meet ASTM standards.

These rules are intended to implement Iowa Code chapter 88A.

[Filed 1/2/25, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8829C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rulemaking related to safety rules for bungee jumps

The Labor Services Division hereby rescinds Chapter 63, "Safety Rules for Bungee Jumps," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 88A.3.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Executive Order 10.

Purpose and Summary

This rulemaking adopts a new Chapter 63 that requires amusement ride operators to comply with safety requirements related to the design, operation and maintenance of bungee jumps.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 27, 2024, as **ARC 8374C**. A public hearing was held on the following date(s):

- December 17, 2024
- December 19, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Division on January 2, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The

Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 875—Chapter 63 and adopt the following **new** chapter in lieu thereof:

CHAPTER 63
SAFETY RULES FOR BUNGEE JUMPS

875—63.1(88A) Definitions.

"Air bag" means a device that cradles the body by using an air release breather system to dissipate the energy due to a fall, thereby allowing the jumper to land without an abrupt stop or bounce.

"Approved operating site" means the area, including the preparation area, the jump space, the landing area and the recovery area, reflected on the site plan drawings submitted to the director by the operator.

"Bungee catapulting" means the action by which a jumper is held on the ground while the bungee cord is stretched causing the jumper to fly up when the jumper is released.

"Bungee cord" means the elastic rope to which the jumper is attached.

"Bungee jump" means the covered amusement device. "Bungee jump" does not mean a device allowing a patron to jump on a trampoline while attached to one or more bungee cords.

"Bungee jumping" means the action by which a jumper free falls from a height and the jumper's descent is limited by attachment to the bungee cord.

"Bungee jump operation" means a site at which bungee jumping is conducted.

"Carabiner" means a shaped metal or alloy device used to connect sections of the jump rigging, equipment or safety gear.

"Cord" means a bungee cord.

"Dynamic load" means the load placed on the rigging and attachments by the initial free fall of the jumper and the bouncing movements of the jumper.

"Equipment" means each component that is utilized in a bungee jump operation, including devices used to raise, lower, and hold loads.

"Fence" means a structure designed and constructed to restrict people, animals and objects from entering the jump area.

"G-force" means acceleration felt as weight.

"Jump area" means the ground level area of the jump space.

"Jump direction" means the direction a jumper jumps when leaving the platform from the jump point. Jump direction is not affected by whether the jumper faces forward, backward or sideways.

"Jumper" means the person who, while attached to a bungee cord, falls or jumps from a platform or structure.

"Jump harness" means an assembly worn by a jumper and attached to a bungee cord.

"Jump height" means the distance from the jump point to the position on the ground where an object dropped from the jump point would impact in the absence of an air bag or other impediment.

"Jump master" means the person who is responsible for the bungee jump operation and who takes a jumper through the final stages to the actual jump or release.

"Jump point" means the location on the platform from which the jumper leaves the platform.

"Jump space" means the cylinder-shaped space with a center line extending downward from the jump point along the line of the jump height. The top of the jump space cylinder is at least 10 feet above the jump point. For jumps over land, the bottom of the jump space cylinder is the air bag. For jumps over water, the bottom of the jump space cylinder is the water surface. The distance from the jump point to

the bottom of the jump space must be the maximum system length plus at least 30 feet. The radius of the cylinder must be at least 70 percent of the jump height.

“Landing area” means the surface where the jumper lands. If a lifting device moves the jumper so that landing occurs away from the jump area, the area covered by the movement of the lifting device is considered part of the landing area.

“Loaded length” means the length of the bungee cord when the cord is extended to its fullest designed length.

“Lowering system” means manual or mechanical equipment capable of lowering a jumper to the designated landing area.

“Maximum system length” means the maximum extended length of a bungee cord system including all attachments.

“Mechanically powered lowering system” means a system that utilizes a machine, rather than a human or other power source, to lower the jumper to the landing area.

“Platform” means the apparatus that is attached to a structure and from which a jumper falls or jumps.

“Preparation area” means the area where the jumper is registered, weighed, notified of potential risks, and otherwise prepared for the jump.

“Recovery area” means the area next to the landing area where the jumper may recover from the jump before exiting the bungee jump operation site.

“Rigging system” means the bungee cord plus any combination of components that connect the jumper through the bungee cord to an attachment point on the structure, lifting device or platform.

“Rigging system attachment point” means a device on the structure, lifting device or platform to which the rigging system is connected.

“Safety line” means a line used to connect a safety harness or belt to an anchor point.

“Sandbagging” means the practice of loading excess weight to a jumper in order to gain extra momentum on the rebound.

“Site operating manual” means the document containing the procedures and forms for the operation of bungee jumping activities and equipment.

“Structure” means a tower or similar structure used for bungee jumping.

“Tandem jumping” means the practice of having two or more people harnessed together while they jump or fall simultaneously from the same jump platform.

875—63.2(88A) Prohibited activities. The following activities are prohibited:

1. Bungee catapulting where an overhead obstruction exists;
2. Sandbagging;
3. Tandem jumping; and
4. Jumping from a bridge, television tower, crane, grain bin, hot air balloon or any height not designed for the purpose of bungee jumping.

875—63.3(88A) Site requirements.

63.3(1) Storage. Adequate storage will be provided to protect equipment from physical, chemical and ultraviolet-ray damage. The storage area will be secured against unauthorized entry.

63.3(2) Communications. There will be:

- a. A public address system in operation during the hours of business.
- b. A radio communication link between the platform and the staff responsible for jumper registration, landing, and recovery.
- c. A means on site to communicate with local emergency responders.
- d. A clearly visible sign at the entrance to the operating site setting forth medical restrictions for jumpers, the minimum-age requirement of 18 years of age, and instructions for jumpers.

63.3(3) Wind meter. An anemometer will be installed in accordance with the manufacturer’s recommendations and in a location easily visible to the staff.

63.3(4) *Lighting.* Adequate lighting will be provided at a site that operates at any time during the period of one-half hour prior to sunset until one-half hour after sunrise. At a minimum, the lighting system will be capable of lighting the jump platform, the jump space and the landing area.

63.3(5) *Fences.* The operator will use fences in compliance with ASTM 2291-14, Part 14, to limit access to the site.

875—63.4(88A) Design requirements.

63.4(1) *Platform.* A platform shall:

- a. Be capable of supporting at least five times the rated capacity or maximum intended load of the platform. If the jump equipment is attached to the platform as distinct from the structure, the dynamic load factor is added to the rated capacity or maximum intended load;
- b. Be attached with devices and to a part of the structure that is able to support at least five times the weight of the platform plus the rated capacity or maximum intended load;
- c. Have a slip-resistant floor surface;
- d. Have safety harness anchor points that are designed and located to facilitate ease of movement on the platform;
- e. Have a permanent enclosure, separate from the jump point, to contain the jumper during preparations such as fitting the jumper with a jump harness;
- f. Be equipped with a gate across the jump point. The gate will open to the inside of the platform and will have a safety lock or restraining device to prevent accidental opening;
- g. Be permanently marked with the maximum capacity of the platform and the rated capacity or maximum intended load; and
- h. Be configured to ensure that a jumper will not come into contact with the supporting structure or tower during the jump.

63.4(2) *Lowering system.*

- a. The system for lowering the jumper to the landing area will be capable of supporting at least five times the rated capacity or maximum intended load of the system. The lowering system will be mechanically powered and will not be capable of free fall.
- b. There will be, under the control of site personnel and described in the site emergency plan, an alternative method for jumper recovery.

63.4(3) *Bungee cord specifications.*

- a. The bungee cords will be designed and tested to perform within the prescribed limits of stretch and load as stated in this subrule. The cord will be made from natural or synthetic rubber or rubber blend. The extended length of the cord will be consistent each time the same load is applied.
- b. The G-force on a jumper using a waist and chest harness will not exceed 4.5. The G-force on a jumper using an ankle harness will not exceed 3.5.
- c. The cord configuration's minimum breaking strength divided by the maximum dynamic load possible for a jumper will be equal to or greater than 5.
- d. The design, manufacturing and testing of the bungee cords will meet the following specifications:
 - (1) In a single-cord system, the binding will hold the cord threads in the designed positions. The binding will have the same characteristics as the cord itself. In a multiple-cord system, the cords will be bound together in a manner that prevents potential entanglement of the jumper. The binding will not damage or affect the performance of the cords.
 - (2) A load-versus-elongation curve will be used to calculate the maximum G-force and factor of safety of the lot of bungee cords tested. These test results will be readily available to the director upon request.
 - (3) The end connections will have a minimum safety factor of five times the maximum dynamic load for the bungee cord configuration. End connections will be of a size and shape to allow easy attachment to the jumper harnesses and to the rigging. On multiple-cord systems, each cord will meet its own independent end connection. On multiple-cord systems, end attachment points will be bound together in a protective sheath that allows the individual ends to move with respect to each other.

(4) The operator will ensure that the manufacturer of a bungee cord performs conclusive minimum break strength testing on a representative sample of all manufactured bungee cords. Construction of bungee cord samples will be consistent with the manufacturer's standard methods, including bungee cord loop end connections that meet the specifications in this rule. The tests will be performed or supervised by an independent certified testing authority or an independent licensed professional engineer. The testing authority will determine the ultimate tensile strength of each test specimen and use the lowest failure value recorded as the ultimate tensile strength value for the corresponding lot of bungee cords. The ultimate tensile strength is reached when the applied load reaches a maximum before failure. Test results will be readily available to the director upon request.

63.4(4) *Jump harness and hardware.*

- a. The harnesses, webbing, bindings, ropes and hardware will be capable of supporting at least five times the rated capacity or maximum intended load.
- b. A jumper will be secured to the bungee cord at two separate points on the jumper's body. The jump harness system will be one of the following:
 - (1) A full body harness with two different and separate attachment points.
 - (2) A waist harness used with a shoulder harness.
 - (3) An ankle harness system with a safety line to a waist harness or a full body harness.
- c. Harnesses will be available to fit the range of patron sizes accepted for jumping.
- d. Harnesses will be specifically designed and manufactured for mountaineering or bungee jumping.
- e. The load-supporting slings or webbing will be flat or tubular mountaineering webbing or its equivalent. Minimum breaking strength will be 6,000 pounds. Slings or webbings will be formed by sewing or will be tied properly with a water knot with taped ends.
- f. Carabiners will be the steel screw, gate type with a minimum breaking strength of 6,000 pounds. The carabiners will be designed and constructed using the standards for mountaineering gear.
- g. The ropes, pulleys and shackles used to raise, lower or hold the jumper will have a minimum breaking strength of 6,000 pounds. The pulleys will be compatible with the rope.
- h. The rigging system will be attached to at least two rigging system attachment points. Each rigging system attachment point will meet or exceed the following:
 - (1) Each rigging system attachment point will have a safety factor of 5 and will be capable of bearing a weight of at least 8,000 pounds.
 - (2) If a rigging system attachment point is made of wire rope, it will have swaged ends with thimble eyes.
 - (3) If a rigging system attachment point is made of webbing, it will be manufactured by a company that manufactures the devices for crane and rigging companies.

63.4(5) *Landing area, recovery area and jump area.*

a. A jump over land requires the use of an air bag certified by the manufacturer to be capable of protecting a body falling from the height of the jump point.

- (1) The minimum impact surface area of the air bag will be as follows:

Jump Height	Minimum Impact Surface Area
0 - 99 feet	20 feet by 25 feet
100 - 149 feet	23 feet by 35 feet
150 - 200 feet	25 feet by 40 feet

- (2) The air bag will be in position before jumper preparation begins on the platform.
- (3) Upon completion of a jump, the jumper will be lowered into the landing area.
- (4) The landing area will be free of spectators at all times.
- (5) The jump space will be free of equipment and people when a jumper is being prepared on the jump platform and until the jumper lands in the landing area.
- (6) A place for the jumper to sit and recover will be provided close to but outside the landing area.

- b. The following requirements apply where a body of water is used instead of an air bag:
 - (1) The size of the body of water will meet the requirements for the minimum impact surface area set forth in this subrule for air bags.
 - (2) The minimum water depth of the minimum impact surface area will be 10 feet.
 - (3) A vessel with at least two staff members will be positioned nearby to recover jumpers. The recovery vessel's crew will wear U.S. Coast Guard-approved life jackets. The recovery vessel will be equipped with U.S. Coast Guard-approved life jackets for jumpers and with rescue equipment.
 - (4) The jump area will be free of other vessels, floating or submerged objects, the public, and spectators. When the landing area is in open waters, it will be defined by the deployment of buoys. Signs of appropriate size stating "BUNGEE JUMPING—KEEP CLEAR" will be displayed.
- c. The following requirements apply where a pool of water is used instead of an air bag:
 - (1) The pool size will meet the requirements for the minimum impact surface area set forth in this subrule for air bags.
 - (2) The minimum water depth will be 10 feet.
 - (3) Rescue equipment will be available.
 - (4) Only the operators and participants of the bungee jump will be within the landing area.
 - (5) The landing area will be enclosed by a fence of adequate height and design to prevent persons other than operators and jumpers from entering.
 - (6) The pool will conform to any applicable requirements enforced by the department of public health.

875—63.5(88A) Maintenance requirements. The operator will follow the inspection and testing recommendations of the equipment manufacturers. When those recommendations conflict with the testing and inspection provisions of this rule, the provisions affording the higher degree of safety will be followed. Inspections, findings and corrective action will be recorded in the site log.

63.5(1) Tests and inspections by the operator.

- a. The jump rigging, harness, lowering system and safety gear will be regularly inspected and tested as set forth in the site operating manual.
- b. In accordance with the site operating manual, the ropes, webbing and bindings will be inspected visually and by feel for signs of wear, fraying or damage.
- c. The cord ends will be inspected as often as the manufacturer specifies or no less than daily for wear, slippage or other abnormalities.

63.5(2) *Replacement of rigging and equipment.*

- a. Hardware that displays surface damage will be replaced immediately.
- b. Hardware that has been subjected to an abnormal loading or impact against hard surfaces will be replaced immediately.
- c. Substandard equipment, rigging or personal protective equipment will be replaced immediately.
- d. Bungee cords will be replaced when they have been subjected to the maximum number of jumps recommended by the manufacturer, when they exhibit deterioration or damage, or when they do not react according to specifications. Retired bungee cords will be cut into lengths of not more than 75 inches. The attachment points will be retired when the cord is retired.

63.5(3) Replacement equipment. Replacement equipment will be stored in a secure area to prevent tampering or vandalism. Replacement equipment for the following will always be available on the approved operating site:

- Bungee cords;
- Rigging ropes;
- Binding and ankle straps for jumpers;
- Jump harnesses; and
- Lifelines and clips.

63.5(4) Identification of equipment.

- a. Each bungee cord will have its own permanent identification number.
- b. The form of identification may not damage or detract from the integrity of the material.

- c. The identification will be clearly visible to the operators during daily operations.
- d. The identification of each piece of equipment will be recorded in the site operating manual.

875—63.6(88A) Operations requirements.

63.6(1) *Site operating manual.* The operator will ensure that the site has an operating manual that includes the following elements:

- a. A site plan showing the fencing, the site furniture, the preparation area, the jump space, the jump area, the jump direction, the landing area and the recovery area.
- b. A site plan showing a profile of the site and defining the jump platform and its supporting structure, the maximum system length of the bungee cord, the jump space and the jump area.
- c. A complete description of each of the following:
 - (1) The system of operation;
 - (2) The components in the rigging system, including the manufacturer's specification or a laboratory test certificate of each component;
 - (3) All safety and rescue equipment;
 - (4) A job description for the personnel employed on the site and the minimum qualifications for each person;
 - (5) Emergency procedures for all foreseeable scenarios;
 - (6) Standard operating procedures for every person employed in processing the jumper;
 - (7) The procedure for reporting accidents and reportable incidents to the director;
 - (8) Equipment inspection procedures, including inspection recordkeeping;
 - (9) Maintenance procedures; and
 - (10) The method of verifying and recording each jump master's qualifications.

63.6(2) *Emergency provisions and procedures.*

- a. Each approved operating site will have a written emergency plan. The plan will be made available to any local emergency service responsible for providing emergency rescue service.
- b. At least one member of a bungee jump operation staff will have current first-aid and cardiopulmonary resuscitation certification and will complete an annual refresher course that includes evaluation of hands-on skills from the American Red Cross or equivalent.
- c. For a jump over water, the jump master and at least one landing assistant will have current lifeguarding certification from the American Red Cross or equivalent.
- d. Emergency lighting will be available in case of power failure at a site that operates at any time during the period of one-half hour prior to sunset until one-half hour after sunrise. The emergency lighting system will be capable of lighting the jump platform, the jump space and the landing area. The emergency lighting system will have its own power source.
- e. A backup means of communication will be available in case of a power failure.
- f. The jump master or operator will cease jumping operations if wind speed exceeds 25 miles per hour or thunder is audible.

63.6(3) *Minimum staff.*

- a. Prior to the opening of a bungee jump operation, the operator will train site personnel to be familiar with the boundaries of the jump space, the jump area, the site operating manual and the emergency plan.
- b. A bungee jump operation will have at least one jump master, one jump assistant, one landing assistant, and one registration assistant present at all times during which jumping is being conducted.
- c. The staff will be easily identifiable by their clothing.
- d. Staff will be briefed for each day's operations. This briefing will include assignment of the designated jump master.
- e. Each jump will be directly controlled by a jump master.

63.6(4) *Jump master.*

- a. A jump master will be at least 18 years of age, will have assisted at least 25 jumpers, and will have received a minimum of 30 hours of jump training.

b. A jump master will have a thorough knowledge of the bungee jump site, its equipment, operating manual, procedures, emergency plan and staff duties.

c. A jump master will:

- (1) With the jump assistant, escort the jumper from the preparation area to the jump point;
- (2) Select the appropriate bungee cord and adjust the rigging for each jump;
- (3) Brief each jumper on the procedures for jumping, landing, lowering and recovery;
- (4) Take the jumper through the final stages before the jump;
- (5) Securely attach to the platform rigging bar or to the rigging the top end of the bungee cords before preparing the jumper;
- (6) Be present at the jump point during each jump;
- (7) Close the platform gate while no jumper is present;
- (8) Direct the operation of the lowering system;
- (9) Train other bungee jump operation staff; and
- (10) Ensure that the procedures set out in the site operating manual are followed.

63.6(5) *Jump assistant.* The operator or jump master will designate at least one individual to act as a jump assistant. The jump assistant will:

- a. With the jump master, escort the jumper from the preparation area to the jump point;
- b. Assist the jump master in preparing the jumper;
- c. Assist in attaching the jumper to the harness and rigging;
- d. Perform check procedures;
- e. Operate the lowering system; and
- f. Assist in controlling the public.

63.6(6) *Landing assistant.* The operator or jump master will designate at least one individual to act as a landing assistant. The landing assistant's duties include the following:

- a. Assisting the jumper to the landing pad;
- b. Assisting the jumper to the recovery area;
- c. Overseeing the recovery of the jumper; and
- d. Assisting in controlling the public.

63.6(7) *Registration assistant.* The operator or jump master will designate at least one individual to act as a registration assistant at each bungee jump operation site. The registration assistant will:

- a. Register the jumper;
- b. Inform each jumper that there are medical conditions that could be adversely affected by bungee jumping and that prior to jumping, the jumper should consult with a physician for more specific information regarding the medical risks;
- c. Weigh the jumper and mark the jumper's weight on the jumper;
- d. Control the movement of the jumper to the jump platform; and
- e. Assist in controlling the public.

63.6(8) *Jumper restrictions.*

- a. The minimum age for jumping is 18 years of age.
- b. A person who is visibly intoxicated or who is otherwise impaired will not be allowed to jump.

63.6(9) *Jumper registration.* The operator will ensure that a jumper provides the following information on the operator's registration form:

- a. The jumper's contact information, including name, address, and telephone number.
- b. The jumper's age and weight.

63.6(10) *Equipment replacement.*

- a. Jumping will cease immediately when substandard equipment is identified.
- b. The operator will obtain from the bungee cord manufacturer a written verification of the maximum number of jumps for which a particular cord may be used. The written verification will be kept on site and will be available to the director.
- c. The operator will keep a current, written record of each bungee cord used at the site. The bungee cord records will be organized by permanent, unique identification number and will include the number of jumps for each cord by date. The bungee cord records will be available to the director.

63.6(11) *Jump space and jump area.*

a. Persons other than a jumper and objects other than the jumper's equipment will not be in the jump space at any time during jump operations.

b. Persons other than site personnel and objects other than air bags and similar safety devices will not be in the jump area at any time during jump operations.

c. The jump space and jump area will be identical to the jump space and jump area that the director approved.

d. The preparation area will be separate from the jump area.

These rules are intended to implement Iowa Code chapter 88A.

[Filed 1/2/25, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8830C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rulemaking related to elevator safety board petitions for rulemaking

The Labor Services Division hereby rescinds Chapter 67, "Elevator Safety Board Petitions for Rule Making," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 89A.3.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Executive Order 10.

Purpose and Summary

This rulemaking in accordance with Executive Order 10 rescinds Chapter 67 because procedures for rulemaking by the Elevator Safety Board will now be in a different chapter applicable to programs in the Department of Inspections, Appeals, and Licensing.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 27, 2024, as **ARC 8378C**. A public hearing was held on the following date(s):

- December 17, 2024
- December 18, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Division on January 2, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **875—Chapter 67**.

[Filed 1/2/25, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8831C

LABOR SERVICES DIVISION[875]**Adopted and Filed****Rulemaking related to declaratory orders**

The Labor Services Division hereby rescinds Chapter 68, "Declaratory Orders by the Elevator Safety Board," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 89A.3.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Executive Order 10.

Purpose and Summary

This rulemaking rescinds Chapter 68 in accordance with the goals and directives of Executive Order 10. This chapter is being rescinded because procedures for declaratory orders by the Elevator Safety Board will now be in a different chapter applicable to programs in the Department of Inspections, Appeals, and Licensing, where the Board is now located.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 27, 2024, as **ARC 8362C**. A public hearing was held on the following date(s):

- December 17, 2024
- December 18, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Division on January 2, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **875—Chapter 68**.

[Filed 1/2/25, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8832C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rulemaking related to public records and fair information practices

The Labor Services Division hereby rescinds Chapter 70, "Public Records and Fair Information Practices of the Elevator Safety Board," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 89A.3.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Executive Order 10.

Purpose and Summary

This rulemaking rescinds Chapter 70 in accordance with the goals and directives of Executive Order 10. This chapter is being rescinded because public records and fair information practices of the Elevator Safety Board will now be in a different chapter applicable to programs in the Department of Inspections, Appeals, and Licensing, where the Board is now located.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 27, 2024, as **ARC 8379C**. A public hearing was held on the following date(s):

- December 17, 2024
- December 18, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Division on January 2, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **875—Chapter 70**.

[Filed 1/2/25, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8833C**LABOR SERVICES DIVISION[875]****Adopted and Filed****Rulemaking related to construction contractor registration**

The Labor Services Division hereby rescinds Chapter 150, “Construction Contractor Registration,” Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 91C.1.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Executive Order 10.

Purpose and Summary

This rulemaking adopts a new Chapter 150 that requires the registration of construction contractors. The chapter provides procedures for applications, fees, investigations, and sanctions.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 27, 2024, as **ARC 8375C**. A public hearing was held on the following date(s):

- December 17, 2024
- December 19, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Division on January 2, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 875—Chapter 150 and adopt the following **new** chapter in lieu thereof:

CONSTRUCTION—REGISTRATION AND BONDING

CHAPTER 150

CONSTRUCTION CONTRACTOR REGISTRATION

875—150.1(91C) Scope. This chapter implements Iowa Code chapter 91C. The rules in this chapter apply to all construction contractors, except for a person who earns less than \$2,000 annually or who performs work or has work performed on the person's own property.

875—150.2(91C) Definitions.

"Construction" means new work, additions, alterations, reconstruction, installations, repairs and demolitions. Construction activities are generally administered or managed from a relatively fixed place of business, but the actual construction work is performed at one or more different sites that may be dispersed geographically. Examples of construction activities, adopted by reference, are in rule 871—23.82(96) for purposes of the Iowa employment security law.

"Contractor" means a person who engages in the business of construction as the term is defined in rule 871—23.82(96), for purposes of the Iowa employment security law, including subcontractors and special trade contractors.

"Department" means the department of inspections, appeals, and licensing.

"Director" means the director of the department of inspections, appeals, and licensing or the director's designee.

"File" means deliver to the department.

"Out-of-state contractor" means a contractor whose principal place of business is in another state, and who contracts to perform construction in this state.

"Principal place of business" means the state in which a substantial part of the contractor's business is transacted and from which the centralized supervision is exercised. Factors to be reviewed include:

1. State designated as home office on documents filed with governmental agencies.
2. State where payroll is prepared.
3. State where business transactions are performed.
4. State where officers, owners, or partners reside and work.
5. State in which bank accounts are located.
6. State in which fixed business property is located.
7. State where management decisions are made.

"Same phase of construction" means in the same type of construction operations or trade, such as but not limited to electrical work; masonry, stonework, tile setting and plastering; roofing; sheet metal work; excavation work; concrete work; glasswork; painting, paper hanging and decorating; plumbing, heating and air conditioning work; carpentry work; and miscellaneous special trade contractors.

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

875—150.3(91C) Registration required. Before performing any construction work in this state, a contractor shall be registered with the department. A joint venture is an independent entity and is registered independently.

875—150.4(91C) Application. A contractor that is covered by the license requirements of Iowa Code chapter 105 applies for a contractor registration number by using the application system of the Iowa plumbing and mechanical systems board. All other contractors file an application with the department on forms provided by the department. The application contains the applicable information and documents specified in this rule.

150.4(1) Name. The name of the contractor.

150.4(2) Place of business. The complete mailing address of the principal place of business of the contractor.

150.4(3) Telephone number. The business telephone number of the contractor.

150.4(4) Business classification. The type of business entity of the contractor (e.g., corporation, partnership, sole proprietorship, trust, etc.).

150.4(5) Ownership information.

a. If the contractor is a corporation, the name, address, telephone number, and position of each officer of the corporation.

b. If the contractor is other than a corporation, the name, address, and telephone number of each owner.

150.4(6) Workers' compensation coverage information.

a. A certificate of insurance from the insurer showing proof of workers' compensation insurance, the effective dates of coverage, and listing the department of inspections, appeals, and licensing as a certificate holder;

b. Employer's release from the insurance requirements under workers' compensation law form provided to self-insured employers by the commissioner of insurance under Iowa Code section 87.11; or

c. A statement that the contractor is not required to carry workers' compensation coverage.

150.4(7) Account number. The employer account number issued by the unemployment insurance services division of the workforce development department before the contractor applies for a contractor registration number.

150.4(8) Business description. A description of the business to include:

a. The employer's North American Industry Classification System (NAICS) code; or

b. The principal products and services provided.

150.4(9) Fee or fee exemption. A contractor who is eligible to register without paying a fee shall submit a completed fee exemption form. All other contractors must submit the nonrefundable fee as set forth below.

a. The standard fee is \$50 per year or \$150 for a three-year registration.

b. Contractors who apply for a contractor registration number through the Iowa plumbing and mechanical systems board must pay a fee that is prorated in accordance with the length of the registration period.

150.4(10) Social security number. The contractor, if a natural person, shall include the contractor's social security number.

150.4(11) Out-of-state contractor bond. An out-of-state contractor shall:

a. File a \$25,000 surety bond that is prepared using the bond form provided by the department, or

b. Provide a copy of a letter from the department of transportation stating that the contractor is prequalified to bid on projects for the department of transportation pursuant to Iowa Code section 314.1.

875—150.5(91C) Amendments to application.

150.5(1) A contractor shall report to the director any change in the information originally reported on or with the application within 15 working days of the change, except that the contractor shall notify the director of changes to workers' compensation coverage within ten days prior to any change in coverage.

150.5(2) After the time specified in subrule 150.5(1), with good cause shown, the director may determine that an amendment may be made to correct an application.

150.5(3) Amendments to applications are not permitted where a change occurs in the business classification, such as but not limited to a change from a sole proprietorship to a corporation.

875—150.6(91C) Fee.

150.6(1) *New applications.* A new application deposited in the U.S. mail must include the fee effective on the date the application is postmarked. A new application delivered in any other manner must include the fee effective on the date the application is received by the department.

150.6(2) *Renewal applications.* A timely renewal application shall include the fee effective on the expiration date of the contractor's expiring registration. An application for renewal deposited in the U.S. mail after the expiration date of the contractor's expiring registration shall include the fee effective on the date the application is postmarked. An application for renewal delivered to the department in a manner other than U.S. mail and after the expiration date of the contractor's expiring registration shall include the fee effective on the date the application is received by the department.

150.6(3) *Amendments to applications.* A fee is not required for a permissible amendment to an application.

875—150.7(91C) Registration number issuance. Within 30 days of receipt of a completed application, the director will issue to the contractor a registration number. The registration number will consist of the letter "C" followed by six unique digits.

875—150.8(91C) Workers' compensation insurance cancellation notifications.

150.8(1) *Insurance company coverage.* The department shall be notified by the insurance company carrying the contractor's workers' compensation insurance at the time of cancellation. The notice shall contain:

- a. The name of the insurance carrier;
- b. The name of the insured contractor; and
- c. The date the workers' compensation coverage cancellation is effective.

150.8(2) *Self-insured contractors.* The contractor shall notify the department ten days prior to any cessation in self-insurance.

150.8(3) *Noninsured contractors.* The contractor shall notify the department whenever the required notice is not posted or in any change in insurance status.

875—150.9(91C) Investigations and complaints.

150.9(1) *Investigations.* The conduct of the investigation will be such as to preclude unreasonable disruption of the operations of the work site. Investigations may be conducted without prior notice by correspondence, telephone conversations, or review of materials submitted to the department. At the initiation of an investigation at the contractor's establishment, the investigator shall present credentials, explain the nature and purpose of the investigation, and seek the consent of the owner, operator or agent in charge of the establishment. In the event the investigator is not permitted to fully conduct an investigation, the director may seek an administrative warrant.

150.9(2) *Complaints.* A complainant's name and other identifying information shall not be released if the complaint was included as a part of another complaint where the complainant's identity would be protected under other statutes or rules (e.g., a complaint filed under both Iowa Code chapters 88 and 91C).

875—150.10(91C) Citations/penalties and appeal hearings.

150.10(1) *Citations.* The director will issue a citation to a contractor where an investigation reveals the contractor has violated:

- a. The requirement that the contractor be registered;
- b. The requirement that the contractor's registration information be substantially complete and accurate; or
- c. The requirement that an out-of-state contractor file a bond with the department.

150.10(2) *Penalties.* If a citation is issued, the director shall notify the contractor by certified mail of the proposed administrative penalty, if any. The administrative penalties shall be not more than \$500 in the case of the first violation and not more than \$5,000 per violation in the case of a second or

subsequent violation. In proposing a penalty, due consideration will be given to knowledge of the alleged violation, knowledge of requirements of the law, and nature and extent of the alleged violation.

150.10(3) *Appeal.* The contractor has 15 working days within which to file a notice of contest of the citation or proposed penalty. The notice of contest is filed with the director who will forward it to the employment appeal board.

150.10(4) *Appeal procedures.* The rules of procedure of the employment appeal board shall apply to administrative hearings on citations and penalties.

875—150.11(91C) Revocation of registrations and appeal hearings.

150.11(1) *Reason for revocation.* The director shall seek revocation of a contractor's registration where an investigation reveals the contractor failed to meet the conditions of registration at the time of issuance or no longer meets the conditions.

150.11(2) *Notice of revocation.* The director shall serve a notice of intent to revoke on the contractor by personal service or by restricted certified mail to the address listed in the application or by other service as permitted in the Iowa Rules of Civil Procedure. The notice shall set the time for a fact-finding interview.

150.11(3) *Fact-finding interview.* The purpose of the fact-finding interview is to ensure the contractor is not in compliance before the registration is revoked. The contractor may notify the fact finder of a telephone number to use at least 24 hours before the fact-finding interview is scheduled to begin. Otherwise, the fact finder will call the number on file for the contractor. The fact-finding interview may be conducted via videoconference or in person if the fact finder and the contractor make arrangements in advance.

150.11(4) *Decision.* The director serves the decision of the fact-finding interview on the contractor by certified mail to the address listed on the application or to another address provided by the contractor. If the certified mail is returned unclaimed or undelivered, the director will serve the decision by other service as permitted in the Iowa Rules of Civil Procedure.

150.11(5) *Effective date of revocation.* Revocations are effective 21 days after certified mailing of the decision.

150.11(6) *Notice of contest.* The contractor has 15 working days from receipt of the decision to file a notice of contest. The notice of contest shall be filed with the director, who will forward it to the employment appeal board.

150.11(7) *Notice of contest procedures.* The rules of procedure of the employment appeal board apply to notices of contest.

150.11(8) *Effect of revocation.* A contractor whose registration is revoked may reapply for a new registration number if all requirements for registration eligibility are met.

150.11(9) *Relinquishing registration certificate.* A contractor shall return the original registration certificate to the department when a revocation or suspension becomes final.

875—150.12(91C) Concurrent actions. Actions under rules 875—150.10(91C) and 875—150.11(91C) may proceed at the same time against a contractor.

875—150.13(91C) Bond release.

150.13(1) *Notifications.* Prior to releasing a bond, the director will notify the department of revenue, the unemployment insurance services division of the workforce development department, and applicable state subdivisions of the intent to release the bond. The director shall provide ten days for the filing of objections to the release of the bond. The director may deem any failure to respond to the notice within the time provided as an approval of the release.

150.13(2) *Conditions for release.* A bond shall not be released until the contractor has made payment of all taxes, including contributions due under the unemployment compensation insurance system, penalties, interest, and fees, that may accrue to the state of Iowa or its subdivisions on account of the execution and performance of the contract or approval for the release is obtained from the appropriate agencies.

These rules are intended to implement Iowa Code chapter 91C.

[Filed 1/2/25, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8834C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rulemaking related to asbestos removal and encapsulation

The Labor Services Division hereby rescinds Chapter 155, "Asbestos Removal and Encapsulation," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 88B.3.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Executive Order 10.

Purpose and Summary

This rulemaking adopts a new Chapter 155 that requires permitting, training, and licensing of asbestos contractors and provides procedures for sanctions.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 27, 2024, as **ARC 8376C**. A public hearing was held on the following date(s):

- December 17, 2024
- December 19, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Division on January 2, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The

Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 875—Chapter 155 and adopt the following **new** chapter in lieu thereof:

CHAPTER 155
ASBESTOS REMOVAL AND ENCAPSULATION

875—155.1(88B) Definitions.

"Business entity" means a partnership, firm, association, corporation, sole proprietorship, or other business concern. A business entity that uses its own employees in removing or encapsulating asbestos for the purpose of renovating, maintaining or repairing its own facilities is not included.

"Contractor/supervisor" means a person who supervises workers on asbestos projects or a person who enters into contracts to perform asbestos projects and personally completes the work.

"Department" means the department of inspections, appeals, and licensing.

"Director" means the director of the department or the director's designee.

"Friable asbestos material" means any material containing more than 1 percent asbestos by weight and that can be crumbled, pulverized, or reduced to powder by hand pressure when dry.

"Inspector" means a person who inspects for asbestos-containing building materials in a school or a public or commercial building.

"License" means an authorization issued by the department permitting an individual to be employed as a worker, contractor/supervisor, inspector, management planner, or project designer.

"Management planner" means a person who prepares asbestos management plans for a school building.

"Permit" means an authorization issued by the department permitting a business entity to remove or encapsulate asbestos.

"Project designer" means a person who designs asbestos response or maintenance projects for a school or a public or commercial building.

"Worker" means a person who performs response or maintenance activities on one or more asbestos projects.

"Working days" means Monday through Friday including holidays that fall on Monday through Friday. The first working day shall be the date of actual delivery or the postmark date, whichever is earlier. However, documents with Saturday or Sunday postmark dates will be treated as though postmarked on the following Monday.

875—155.2(88B) Permit application procedures.

155.2(1) Application. To apply for or to renew a permit, a business entity shall complete and submit the form provided by the department. All requested applicable information and attachments must be provided. A \$500 nonrefundable application fee shall accompany each permit application.

155.2(2) Action on application. A new permit is valid for one year from the date of issuance. A renewal permit is valid for one year from the expiration date of the applicant's prior permit. A permit may be denied for the reasons set forth in rule 875—155.8(17A,88B,252J,272D) or if the application package is incomplete. Within 60 days of receiving a completed application package for a new permit, the department will issue a permit or deny the application. Within 30 days of receiving a completed application package for a permit renewal, the department will issue a permit or deny the application. Applications received after expiration of a prior permit will be considered applications for new permits rather than renewals.

875—155.3(88B) Other asbestos regulations. Regulation of encapsulation, removal and abatement procedures are found in 875—Chapters 10 and 26 and 567—Chapter 23. Nothing in this chapter provides an exemption, waiver, or variance from any otherwise applicable regulation or statute.

875—155.4(88B) Asbestos project records. The permittee shall keep a record of each asbestos project it performs and make the record available to the department at any reasonable time. Records required by this rule shall be kept for at least six years. These records include:

155.4(1) The name, address, and license number of the individual who supervised the asbestos project and of each employee or agent who worked on the project.

155.4(2) The location and a description of the project and the amount of asbestos material that was removed.

155.4(3) The start and completion dates of each instance of removal or encapsulation.

155.4(4) A summary of the procedures that were used to comply with all applicable standards.

155.4(5) The name and address of each asbestos disposal site where the asbestos-containing waste was deposited.

155.4(6) A receipt from the asbestos disposal site indicating the amount of asbestos and disposal date.

875—155.5(88B) Ten-day notices.

155.5(1) General. Permittees shall notify the department at least ten working days before an asbestos project begins. A project begins when site preparations for asbestos abatement, encapsulation, or removal begin; when asbestos abatement, encapsulation, or removal begins; or when any demolition begins, whichever is soonest. Legible electronic transmissions of ten-day notices in the proper format will be accepted. If work on the asbestos-removal project does not commence within 30 calendar days of the original start date identified in the ten-day notice given by permittees to the department, a revised ten-day notice shall be submitted to the department.

155.5(2) Emergency. When there is an immediate danger to life, health or property, the permittee may file the notice within five days after beginning the project. An explanation of the emergency must be included.

155.5(3) Format. The notice shall be submitted online or be on an 8½" by 11" sheet of paper and contain the following information:

a. The name, address, and telephone number of a contact person for the permittee performing the project.

b. The name, address, and telephone number of the project.

c. A description of the structure and work to be performed, including type and quantity of asbestos-containing material.

d. The scheduled dates of the project's start and end.

e. Designation of the asbestos disposal site.

f. The signature and printed name of the person who completed the form.

g. The shift or work schedule on which the project will be performed.

155.5(4) Disaster emergency proclamations. For structures that are both located in an area that is subject to a disaster emergency proclamation pursuant to Iowa Code section 29C.6 and damaged by circumstances related to those that caused the disaster emergency proclamation, the permittee shall file the notice described by this rule as early as possible, but not later than the working day following the initiation of the project. A description of the disaster and the disaster emergency proclamation shall be included in the notice.

875—155.6(88B) License application procedures.

155.6(1) Application form. Except as noted in this subrule, the applicant must complete and submit the entire form provided by the department with the necessary attachments. Respirator fit tests and medical examinations must have occurred within the past 12 months. Only worker and contractor/supervisor license applicants must submit the respiratory protection and physician's or physician assistant's certification forms.

155.6(2) *Training.* A certificate of appropriate training as established by the U.S. Environmental Protection Agency must accompany all applications. Applicants for a license must be trained by training providers other than themselves. Applicants who completed initial training under a prior set of applicable rules will not be required to take another initial training course if they complete all annual refresher courses.

155.6(3) *Photograph.* A photograph clearly showing the applicant's face shall accompany all license applications.

155.6(4) *Worker licenses.* All persons seeking a license as an asbestos abatement worker shall complete an initial four-day training course and thereafter complete an annual one-day asbestos abatement worker refresher training course. A nonrefundable fee of \$20 shall accompany the application.

155.6(5) *Contractor/supervisor licenses.* All persons seeking a license as an asbestos abatement contractor/supervisor shall complete an initial five-day training course and thereafter complete an annual one-day asbestos abatement contractor/supervisor refresher training course. A nonrefundable fee of \$50 shall accompany the application.

155.6(6) *Inspector licenses.* All persons seeking a license as an asbestos inspector shall complete an initial three-day training course and thereafter complete an annual one-half-day asbestos inspector refresher training course. A nonrefundable fee of \$20 shall accompany the application.

155.6(7) *Management planner licenses.* All persons seeking a license as an asbestos management planner shall complete an initial three-day inspector training course and an initial two-day management planning training course. Thereafter, an annual one-half-day asbestos inspector refresher training course plus an additional one-half-day course on management planning are required. A nonrefundable fee of \$20 shall accompany the application.

155.6(8) *Abatement project designer licenses.* All persons seeking a license as an asbestos abatement project designer shall complete an initial three-day abatement project designer training course. Thereafter, an annual one-day asbestos abatement project designer refresher training course is required. A nonrefundable fee of \$50 shall accompany the application.

155.6(9) *Action on application.* Within 30 days of receiving a completed application, the department will issue a license or deny the application. If a license is issued, it will expire one year from the date the training was completed. An application may be denied for the reasons set forth in rule 875—155.8(17A,88B,252J,272D) or if the application package is incomplete.

155.6(10) *License on job site.* While conducting asbestos work that requires a license, the license or a legible copy of the license shall be in the licensee's possession at the work site. However, if the department's website reflects that a license has been issued to a particular person, that person may perform work consistent with the type of license issued without the license or a copy of the license for up to 14 days from the issuance date.

155.6(11) *Disaster emergency proclamations.* For work on structures that are both located in an area that is subject to a disaster emergency proclamation pursuant to Iowa Code section 29C.6 and damaged by circumstances related to those that caused the disaster emergency proclamation, the director deems an individual to be licensed and authorized for asbestos abatement if all of the criteria in either paragraph 155.6(11) "a" or "b" are met:

a. The individual contractor, supervisor, or worker makes the following immediately available on the work site:

(1) A copy of a certificate for training that was provided within the past 12 months as established by the U.S. Environmental Protection Agency and that pertains to the work being performed;

(2) A copy of a physician's or physician assistant's statement indicating that a licensed physician or physician assistant has examined the individual within the past 12 months and approved the individual to work while wearing a respirator;

(3) For a worker wearing or intending to wear a tight-fitting respirator, documentation of a respirator fit test within the past 12 months;

(4) A valid, current asbestos license issued by another state that pertains to the type of work being performed; and

(5) A photo identification card; or

b. The individual working as a project designer, inspector, or management planner makes the following immediately available on the work site:

- (1) A copy of a certificate for training as established by the U.S. Environmental Protection Agency and that pertains to the work being performed;
- (2) A valid, current asbestos license issued by another state that pertains to the type of work being performed; and
- (3) A photo identification card.

875—155.7(88B) Duplicate permits and licenses. Duplicate original permits and licenses are available from the department for a \$10 fee.

875—155.8(17A,88B,252J,272D) Denial, suspension and revocation.

155.8(1) *Grounds.* In addition to the grounds in Iowa Code section 88B.8, the department may deny an application or suspend or revoke a permit or license when an investigation reasonably determines any of the following:

a. The department received a certificate of noncompliance from the centralized collection unit of the department of revenue or the child support recovery unit of the department of health and human services.

b. Penalties or other debts are owed by the applicant to the department and are 30 days or more in arrears.

155.8(2) *Relinquishing license or permit.* A licensee or permittee must return the original license or permit to the department when a revocation or suspension becomes final.

155.8(3) *Suspension period.* Unless ordered otherwise, a suspension lasts for 12 months.

875—155.9(17A,88B) Contested cases.

155.9(1) *Scope.* This rule applies to civil penalty assessments and to denials, revocations and suspensions of asbestos licenses and permits.

155.9(2) *Procedures.* The director shall serve a notice of intended action by restricted certified mail, return receipt requested, or by other service as permitted by Iowa Code section 17A.18. A notice of contest must be received by the director within 20 days after service of the notice of intended action. If a notice of contest is not timely filed, the action stated in the notice of intended action shall automatically be effective. Hearing procedures for asbestos contested cases are set forth in 875—Chapter 1, Division V. However, if a contested case is based on receipt by the department of a certificate of noncompliance, procedures outlined in Iowa Code chapter 252J or 272D apply.

These rules are intended to implement Iowa Code chapters 17A, 88B, 252J, and 272D.

[Filed 1/2/25, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8835C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rulemaking related to general requirements for athletic commission events

The Labor Commissioner hereby rescinds Chapter 169, "General Requirements for Athletic Events," and adopts a new Chapter 169, "General Requirements for Athletic Commission Events," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 90A.7.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Executive Order 10.

Purpose and Summary

This rulemaking adopts a new Chapter 169 that regulates professional boxing, mixed martial arts, and professional wrestling. It sets forth procedures for event licenses, promoter responsibilities, and conduct for participants.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 27, 2024, as **ARC 8377C**. A public hearing was held on the following date(s):

- December 17, 2024
- December 19, 2024

No one attended the public hearings. No public comments were received.

The requirement for a professional wrestling promoter to get a bond was inadvertently omitted from the proposed chapter. One change from the Notice has been made to include that requirement in subparagraph 169.5(1)“a”(5).

Adoption of Rulemaking

This rulemaking was adopted by the Commissioner on January 2, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Labor Services Division for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 875—Chapter 169 and adopt the following **new** chapter in lieu thereof:

ATHLETICS COMMISSIONER

CHAPTER 169
GENERAL REQUIREMENTS FOR ATHLETIC COMMISSION EVENTS

875—169.1(90A) Scope and application. Unless otherwise noted, this chapter applies to each event covered by Iowa Code chapter 90A.

875—169.2(92) Definitions. The following definitions apply to 875—Chapters 169 through 177:

“*Commissioner*” means the state commissioner of athletics, who is also the director of the department of inspections, appeals, and licensing, or the director’s designee.

“*Physician*” includes a physician assistant unless otherwise noted.

“*Professional wrestling*” is an exhibition in which the participants display their skills in a physical struggle against each other for entertainment and does not comprise a bona fide athletic contest or competition.

875—169.3(90A) Prohibited events. No promoter shall arrange or advertise:

- 169.3(1)** A match between persons of the opposite sex;
- 169.3(2)** A match between more than two contestants; or
- 169.3(3)** A match with a contestant who is younger than 18 years of age.

875—169.4(90A) Advance notice of event. A promoter shall submit advance notice of an event, other than a professional wrestling event, to the commissioner on the form provided by the commissioner at least 60 days prior to the event but not more than six months prior to the event. The advance notice includes:

- 169.4(1)** The date, time, type, and location of the event;
- 169.4(2)** The promoter’s name and contact information;
- 169.4(3)** One-half of the required event license fee;
- 169.4(4)** Whether the event is indoors or outdoors; and
- 169.4(5)** Other relevant information requested by the commissioner on the form.

875—169.5(90A) Event license. A promoter may hold a mixed martial arts match, professional boxing match, or wrestling match only if the commissioner has issued an event license.

169.5(1) Application. The promoter shall submit a completed application for a license on the form provided by the commissioner.

a. For a professional wrestling event, the application shall be submitted at least seven days prior to the event and include each of the following:

- (1) The promoter’s name, address, telephone number and other contact information as requested by the commissioner;
- (2) The event date, venue name, and venue address;
- (3) A nonrefundable \$100 event license fee;
- (4) The promoter’s signature; and
- (5) A bond as described in subparagraph 169.5(1)“*b*”(10).

b. For any other covered event, the application shall be submitted at least 60 days prior to the event and include each of the following:

- (1) The date, time, type, and location of the event;
- (2) The promoter’s name, address, and contact information;
- (3) One-half of the required event license fee;
- (4) A copy of the medical license of the ringside physician or physician assistant;
- (5) The date, time, and location for the weighing of the contestants;
- (6) The emergency medical services company, and the security company;
- (7) The name and contact information for the certified law enforcement officer who will attend the event;
- (8) The date, time, and location of the ringside physician’s or physician assistant’s examination of the contestants;

- (9) Certificates of insurance;
- (10) A bond in the sum of \$5,000, payable to the State of Iowa, conditioned upon the payment of the tax and penalties imposed by Iowa Code chapter 90A, unless the promoter has a current valid bond on file with the department;
- (11) The name and telephone number of the person designated to clean between rounds; and
- (12) Other information requested by the commissioner.

169.5(2) *Event license fees.* The nonrefundable event license fee is \$100 for a professional wrestling event and \$450 for all other covered events. A professional wrestling promoter shall submit the event license fee with the event license application at least 7 days prior to the event. For all other covered events, the promoter shall submit one-half of the event license fee with the advance notice of the event at least 60 days prior to the event, and one-half of the event license fee with the event license application at least 7 days prior to the event.

169.5(3) *Issuance.* The decision to issue an event license is solely within the discretion of the commissioner. The following factors will be considered by the commissioner when deciding whether to issue an event license:

- a. Date the promoter filed advance notice of event.
- b. The promoter's prior compliance with Iowa Code chapter 90A and applicable rules.
- c. Applications for conflicting events.
- d. Ability of the commissioner to provide staff.
- e. The promoter's history of canceling events.
- f. Anticipated tax revenue.
- g. Completeness of application package.
- h. Whether the event is indoors or outdoors.

169.5(4) *Revocation.* When the commissioner finds that failure to provide adequate security to maintain public safety requires emergency action, the commissioner may immediately suspend the event license, pending license revocation procedures pursuant to Iowa Code chapter 17A.

875—169.6(90A) Promoter responsibilities. The promoter of a professional wrestling event is responsible for subrules 169.6(1) through 169.6(6). All other promoters are responsible for each of the following:

- 169.6(1)** Ensure compliance with Iowa Code chapter 90A and applicable rules.
- 169.6(2)** Ensure that the referees are familiar with and enforce the rules.
- 169.6(3)** Be responsible for the conduct and attendance of all officials and participants.
- 169.6(4)** Ensure that adequate public safety is maintained at all events. Adequate personnel provided by a private security company and at least one certified law enforcement officer shall be furnished by the promoter.
- 169.6(5)** Ensure that a referee inspects the gloves, bandages, and body of each contestant for foreign substances that might be detrimental to an opponent.
- 169.6(6)** Ensure that contestants have closely trimmed fingernails.
- 169.6(7)** Provide officials and participants who are subject to approval by the commissioner.
- 169.6(8)** Be available to the commissioner throughout an event or identify a designee who will be:
 - a. Available to the commissioner throughout an event; and
 - b. Authorized by the promoter to address issues that may arise.
- 169.6(9)** Enter into a written contract with each contestant using the form furnished by the commissioner. Other adequate proof of acceptance of terms will be considered an agreement between a contestant, the contestant's manager and the promoter, pending the actual signing of the contract.
- 169.6(10)** Provide appropriate gloves.
- 169.6(11)** Provide and maintain a container with a solution able to clean bodily fluids from any part of the cage, cage enclosure, or floor.
- 169.6(12)** Ensure that an ambulance and ambulance service authorized at the EMT-B, EMT-I, EMT-P or paramedic specialist level are present at the event. A promoter is fully responsible for all charges assessed by the ambulance service related to the event except:

- a.* Charges covered by insurance.
- b.* Charges for services provided to persons other than participants and officials.

169.6(13) Ensure that contestants are wearing appropriate attire, gloves, and other necessary equipment.

169.6(14) Provide a suitable, clean, and private space for contestants to change clothes.

169.6(15) Submit to the ringside physician or physician assistant no later than at the time of the physicals test results showing that each contestant scheduled for the event tested negative for the human immunodeficiency, hepatitis B, and hepatitis C viruses within 12 months prior to the event. The contestant shall not participate and the physician or physician assistant shall notify the promoter that the contestant is prohibited from participating for medical reasons if any of the following occurs:

- a.* The promoter does not produce timely proof of testing;
- b.* The test results are positive;
- c.* The laboratory is not properly certified;
- d.* The test was performed more than 12 months prior to the event; or
- e.* The test results are otherwise deficient.

169.6(16) Obtain from a company authorized to do business in the state of Iowa \$10,000 of health insurance coverage on each contestant to provide for medical, surgical and hospital care for injuries sustained and illnesses contracted during the event. If there is a deductible, it shall not exceed \$1,500. If the contestant pays for covered care, the insurance proceeds shall be paid to the contestant or the contestant's beneficiaries as reimbursement for payment. In the event of a claim, payment of the deductible is the sole responsibility of the promoter.

169.6(17) Obtain from a company authorized to do business in the state of Iowa no less than \$10,000 of life insurance coverage on each contestant to cover death caused by injuries sustained or illnesses contracted during the event.

169.6(18) No later than the day of the event, ensure that each contestant makes available to the commissioner's representative suitable proof of age consisting of one of the following documents:

- a.* A certified birth certificate;
- b.* A passport;
- c.* A certified baptismal record;
- d.* A U.S. visa;
- e.* An identification card issued to the contestant by a governmental entity and that includes the contestant's photograph and birth date; or
- f.* A U.S. resident alien card.

169.6(19) Ensure that participants and officials behave in a professional manner at all times.

169.6(20) Ensure that participants and officials refrain from:

- a.* Fighting with anyone other than a scheduled opponent;
- b.* Fighting outside the ring;
- c.* Throwing objects; and
- d.* Making obscene gestures.

169.6(21) Establish through mixedmartialarts.com that no contestant on an amateur card has participated in a reported professional mixed martial arts match.

875—169.7(90A) Taxes. No later than 20 days after an event, a promoter shall file with the commissioner a report and pay all taxes due from the event. The report is submitted on the form provided by the commissioner and includes the promoter's business name, name of a contact for the promoter, date of the event, event license number, location of the event, each price for which tickets were offered or sold, number of tickets sold at each price, total gate receipts, and signatures of the licensee and the person who completed the report. The promoter shall submit with the report:

169.7(1) Proof of the number of tickets sold and the price of each ticket, which includes appropriate documentation from a ticketing service, if applicable.

169.7(2) Payment to the Iowa department of inspections, appeals, and licensing for the amount calculated using the report.

These rules are intended to implement Iowa Code chapter 90A.

[Filed 1/2/25, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8836C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rulemaking related to operations of advisory board

The Labor Commissioner hereby rescinds Chapter 170, "Operations of Advisory Board," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 90A.7.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Executive Order 10.

Purpose and Summary

This rulemaking rescinds Chapter 170 because the Advisory Board has not existed for many years and there is no anticipated need for the Advisory Board.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 27, 2024, as **ARC 8386C**. A public hearing was held on the following date(s):

- December 17, 2024
- December 19, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Commissioner on January 2, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Labor Services Division for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any

individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **875—Chapter 170**.

[Filed 1/2/25, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8837C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rulemaking related to grant applications and awards

The Labor Commissioner hereby rescinds Chapter 171, "Grant Applications and Awards," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 90A.10.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Executive Order 10.

Purpose and Summary

This rulemaking adopts a new Chapter 171 that requires an application process for the commissioner of athletics to award grants for amateur boxing.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 27, 2024, as **ARC 8387C**. A public hearing was held on the following date(s):

- December 17, 2024
- December 19, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Commissioner on January 2, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Labor Services Division for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 875—Chapter 171 and adopt the following **new** chapter in lieu thereof:

CHAPTER 171
GRANT APPLICATIONS AND AWARDS

875—171.1(90A) Scope. This chapter establishes rules of the commissioner of athletics (commissioner) for the distribution of revenues collected from a professional boxing event pursuant to Iowa Code section 90A.9.

875—171.2(90A) Application process.

171.2(1) The commissioner shall announce the opening of the application process by public notice.

171.2(2) All amateur boxing organizations seeking grant funds must submit an application to the commissioner on forms provided by the commissioner.

171.2(3) Contents. Each application shall contain:

a. A plan of action that details how the awarded funds will be spent and what results and benefits are expected. The action plan includes:

- (1) Grant goals, objectives, timeliness, responsible individuals, and evaluation.
- (2) Establishing an end result that is beneficial to the sport of amateur boxing.
- (3) Number of projected amateur boxing matches to be promoted by the applicant.

b. A budget detailing how the grant funds will be expended.

c. Assurances the applicant will comply with the conditions and procedures for grant administration.

d. A plan for evaluation.

e. Assurances the funds will not be used to retire preexisting financial obligations.

f. Assurances the applicant will comply with the conditions for financial management.

875—171.3(90A) Grant process.

171.3(1) The commissioner shall notify successful applicants and provide to each of them a contract for signature. This contract shall be signed by an official with authority to bind the applicant and be returned to the commissioner prior to the award of any funds under this program.

171.3(2) If the applicant and the commissioner are unable to successfully negotiate a contract, the commissioner may withdraw the award offer.

171.3(3) Applications shall be received by May 1 of each calendar year for an award the following fiscal year. Payment will be processed within 60 days of a grant award by the commissioner.

171.3(4) Grants are awarded for a 12-month period and may be renewed for a second year.

875—171.4(90A) Evaluation. The grantee shall cooperate with the commissioner and periodically provide requested information to determine how the goals and objectives of the project are being met.

These rules are intended to implement Iowa Code section 90A.7.

[Filed 1/2/25, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8838C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rulemaking related to professional wrestling

The Labor Commissioner hereby rescinds Chapter 172, "Professional Wrestling," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 90A.7.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Executive Order 10.

Purpose and Summary

This rulemaking adopts a new Chapter 172 that requires certain safety measures for professional wrestling events.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 27, 2024, as **ARC 8391C**. A public hearing was held on the following date(s):

- December 17, 2024
- December 19, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Commissioner on January 2, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Labor Services Division for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 875—Chapter 172 and adopt the following **new** chapter in lieu thereof:

CHAPTER 172
PROFESSIONAL WRESTLING

875—172.1(90A) General requirements. Applications for event licenses and promoter responsibilities for professional wrestling are in 875—Chapter 169.

875—172.2(90A) Separation of boxing and wrestling. No boxing bouts shall be permitted in any professional wrestling show, nor shall any wrestling bouts be permitted in any boxing show.

875—172.3(90A) Safety.

172.3(1) The promoter shall ensure that no one is permitted to wrestle who has any illness or disability that interferes with or prevents the participant from giving a full, complete and satisfactory exhibition of ability and skill, or endangers the wrestler's health or the health of the participant's opponent.

172.3(2) A promoter shall not permit participants to intentionally cut their own skin or the skin of another during the exhibition.

172.3(3) A promoter shall ensure that all areas in which wrestling takes place are matted, equipped, separated from spectators, and otherwise maintained in such a manner as necessary to assure a reasonable degree of safety to the participants and spectators.

172.3(4) In no event shall a participant be permitted to engage in any conduct endangering the health, safety, or well-being of any spectator.

172.3(5) A wrestler may not possess inherently dangerous accessories.
These rules are intended to implement Iowa Code chapter 90A.

[Filed 1/2/25, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8839C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rulemaking related to professional boxing

The Labor Commissioner hereby rescinds Chapter 173, "Professional Boxing," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 90A.7.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Executive Order 10.

Purpose and Summary

This rulemaking adopts a new Chapter 173 that regulates professional boxing by requiring certain conduct within contests, contest rules, equipment standards, personnel related to contests, and boxer registration.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 27, 2024, as **ARC 8385C**. A public hearing was held on the following date(s):

- December 17, 2024
- December 19, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Commissioner on January 2, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Labor Services Division for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 875—Chapter 173 and adopt the following **new** chapter in lieu thereof:

CHAPTER 173
PROFESSIONAL BOXING

875—173.1(90A) Limitation of rounds. Ten rounds is the maximum number of rounds for a boxing bout, except for a championship match that may not exceed 15 rounds. Three minutes of boxing will constitute a round, or, by special permission of the commissioner, two minutes. There will be a rest period of one minute between rounds.

875—173.2(90A) Weight restrictions. Permission must be received from the commissioner before a contestant will be permitted to box an opponent 18 pounds heavier than the boxer in the welterweight or middleweight classes or 6 pounds heavier than the boxer in or under the lightweight class.

875—173.3(90A) Injury. If a contestant claims to be injured during the bout, the referee shall stop the bout and request that the attending physician make an examination. If the physician decides that the contestant has been injured as the result of a foul, the physician shall advise the referee of the injury. If the physician is of the opinion that the injured contestant may be able to continue, the physician shall order a five-minute intermission, after which the physician shall make another examination and again advise the referee of the injured contestant's condition. It is the duty of the promoter to have an approved physician in attendance during the entire duration of all bouts.

875—173.4(90A) Knockdown. If a contestant falls due to fatigue or is knocked down by the opponent, the contestant shall be allowed ten seconds in which to rise unassisted. When a contestant falls, the opponent shall go to the farthest neutral corner and remain there during the ten-second count. The referee shall stop counting should the opponent fail to go to a neutral corner.

875—173.5(90A) Limitation on number of bouts. Any boxing contestant who has agreed to take part in a bout of five rounds or more is not permitted to participate in any other bout in Iowa or elsewhere five days prior to the date of the bout unless given permission by the commissioner.

875—173.6(90A) Contestants' arrival. All main event contestants shall be in the city or locale at least 24 hours before the scheduled time of the bout or contest. The promoter shall advise the commissioner of the arrival time. Any exception to this rule shall be approved by the commissioner.

875—173.7(90A) Persons allowed in the ring. No person other than the contestants and the referee may enter the ring during the bout, excepting the seconds between the rounds or the attending physician if asked by the referee to examine an injury to a contestant.

875—173.8(90A) Protection of hands. Only one roll of cotton gauze surgical bandage, not to exceed 2 inches in width and 10 yards in length, shall be used for the protection of each hand. Only one winding of surgeons' adhesive tape not more than 1½ inches in width may be placed directly on the hand to protect that part of the hand near the wrist. Said tape may cross the back of the hand twice, but not extend within 1 inch of the knuckles when the hand is clenched to make a fist.

875—173.9(90A) Scoring. Twenty points will be the maximum number to be scored in any round. The contestant winning the round will receive ten points and the opponent proportionately less. If the round is even, each contestant will receive ten points.

875—173.10(90A) Gloves. The gloves must not be twisted or manipulated in any way by the contestants or their handlers. If a glove breaks or a string becomes untied during the bout, the referee will instruct the timekeeper to take time out while the glove is being adjusted.

875—173.11(90A) Proper attire. Contestants must wear proper athletic attire. Athletic attire of opposing contestants shall be of contrasting colors. Male contestants shall wear a foul proof protective cup. Female contestants shall wear foul proof pelvic area protection and breast protection.

875—173.12(90A) Use of substances. Excessive use of cocoa butter, petroleum jelly, grease, ointments or strong-smelling liniment by a contestant in a bout will not be permitted.

875—173.13(90A) “Down.” A boxer will be deemed down when:

1. Any part of the boxer’s body other than the boxer’s feet is on the ring floor or while rising from a down position.
2. The boxer is hanging helplessly over the ring ropes, but then is not officially down until so pronounced by the referee, who may count the boxer out either on the ropes or on the floor.

875—173.14(90A) Foul. The following activities will be deemed a foul:

1. Hitting below the belt or after the bell has ended the round.
2. Hitting an opponent who is down or who is getting up after being down.
3. Holding an opponent or deliberately maintaining a clinch.
4. Holding an opponent with one hand and hitting with the other hand.
5. Butting with head or shoulders or using the knee.
6. Hitting with inside or butt of the hand, the wrist or the elbow and all backhand blows.
7. Hitting or “flicking” with the open glove or thumbing.
8. Wrestling or roughing at the ropes.
9. Purposely going down without being hit.
10. Striking deliberately at that part of the body over the kidneys.
11. Use of the pivot blow or rabbit punch.
12. Use of abusive or profane language.
13. Failure to obey the referee, or any physical actions that may injure a contestant, except by fair sportsmanlike boxing.

875—173.15(90A) Penalties. The referee will penalize a contestant who commits any foul by deducting points from the contestant’s score for the round in which the foul is committed. If, in the referee’s judgment, the foul is of a serious nature or intentionally inflicted, the referee may award the bout to the contestant who was fouled.

875—173.16(90A) Weight classes. Scale of weights:

	[Pounds]
Flyweight	112
Bantamweight	118
Featherweight	126
Lightweight	135
Welterweight	147
Middleweight	160
Light heavyweight	175
Heavyweight	Over 175

875—173.17(90A) Attendance of commissioner. At each boxing card, the commissioner or the commissioner’s designee shall be in attendance.

875—173.18(90A) Weighing of contestants. Contestants shall be weighed and examined on the day of the scheduled match by the attending ring physician, at a time and place as allowed by the commissioner. Preliminary boxers may be allowed to weigh in and be examined not later than one hour before the scheduled time of the first match on the card. All weigh-ins will be conducted with the boxer stripped.

875—173.19(90A) General requirements. The commissioner will not approve bout permits for bouts on Christmas Day. “Battles royal” or bouts in which more than two boxing contestants are to appear in the ring at the same time will not be approved. In programs where both amateur and professional contestants appear on the same card, there shall be no more than four amateur bouts of three rounds each. The amateur contests will be under the complete control and supervision of the United States of

America Amateur Boxing Federation authority. On each card containing amateur and professional contests, there shall be at least an equal or greater number of bouts of professional boxing. The amateur section of the card shall be held first with at least a 15-minute intermission between the amateur and professional events.

875—173.20(90A) Excessive coaching. Excessive coaching and other detracting activities by seconds, managers or trainers while the bouts are in progress are prohibited. Offenders will be warned and if the violation continues, the offending contestant may be charged with a foul and a loss of points.

875—173.21(90A) Abusive language. The use of foul or abusive language or mannerisms by any person associated with any bout will not be tolerated.

875—173.22 to 173.24 Reserved.

875—173.25(90A) Ring requirements. The ring is not less than 16 nor more than 22 feet square within the ropes, elevated 3½ feet above the floor and has suitable access by steps.

875—173.26(90A) Ring posts. The ring posts will be constructed of metal not more than 4 inches in diameter, extend from the floor of the building to the height of 58 inches above the ring floor and be fastened securely to the floor or to the other posts.

875—173.27(90A) Ropes. The ropes will be a minimum of 3 in number, extending in a triple line 18 inches, 35 inches and 52 inches from the floor of the ring; at least 1 inch in diameter; and wrapped in soft materials. The ropes may not be closer to the ring posts than 18 inches. If 4 ropes are used, they will be proportionately spaced.

875—173.28(90A) Ring floor. The ring floor will extend beyond the lower rope for a distance of at least 18 inches. The entire floor will be padded to the thickness of at least 1 inch with felt, corrugated paper, matting or other soft materials to be approved by the commissioner. A canvas covering stretched tightly and laced to the ring platform will cover the padding.

875—173.29(90A) Bell. A suitable bell or gong shall be provided and used.

875—173.30(90A) Gloves. Gloves shall not weigh less than 8 ounces for professional bouts and must be new for all main events and bouts of ten rounds or greater. All gloves shall be furnished by the promoter.

875—173.31(90A) Referee's duties. The referee is charged with the enforcement of all rules of the commissioner that apply to the performance and conduct of contestants and their seconds while in the ring.

875—173.32(90A) Chief second. Before starting each bout the referee shall ascertain the name of the chief second in each corner and will hold the chief second responsible for all conduct in the corner.

875—173.33(90A) Naming referee. The promoters will be permitted to name a referee subject to approval by the commissioner.

875—173.34(90A) Reasons for stopping bout. The referee shall stop a bout when the referee deems it advisable because of the physical condition of one or both of the contestants, when one of the contestants is clearly outclassed by an opponent, when the referee decides that the best effort is not being made by a contestant, or for any other reason the referee deems sufficient.

875—173.35(90A) Forfeit of purse. The referee has the power to declare forfeited all or any part of a contestant's purse whenever in the referee's judgment the contestant is not performing in good faith.

875—173.36(90A) Shaking hands. The contestants in all boxing bouts will be instructed by the referee to shake hands after the referee's final instructions and not to do so again until the start of the last scheduled round.

875—173.37(90A) Assessing fouls. The referee will instruct the judges to mark their scorecards accordingly when the referee has assessed a foul and deduct a point from one of the contestants.

875—173.38(90A) Delaying prohibited. The referee shall ensure that a bout is not delayed except to handle damaging fouls. A contestant who employs delay and avoiding tactics will be penalized in the scoring.

875—173.39(90A) Count. When a fallen contestant rises and falls again, without being hit again, the referee shall continue the original count rather than starting a new count.

875—173.40(90A) Intentional foul. In assessing fouls, the referee will weigh the cause as well as the act. A contestant who intentionally receives a foul will be penalized as if they committed the foul.

875—173.41(90A) Use of the ropes. The referee shall penalize a contestant who uses the ropes to gain advantage. The penalty is the deduction of points, and a warning to the contestant against continued use of the ropes to gain advantage.

875—173.42(90A) Attending ring physician. When a boxer has been injured seriously, knocked out or technically knocked out, the referee shall immediately summon the attending ring physician to aid the stricken boxer. Managers, handlers and seconds shall not attend to the stricken boxer, except at the request of the physician.

875—173.43(90A) Technical knockout. Except for championship fights of national recognition, the referee shall stop the fight after a fighter is knocked down three times in one round and declare the opponent a winner on a technical knockout (TKO).

875—173.44(90A) Timekeeper. The timekeeper shall provide a stopwatch and maintain an accurate time of all bouts. The timekeeper will keep an exact record of time taken out at the request of a referee for an examination of a contestant by the physician, replacing a glove or adjusting any equipment during a round. The timekeeper shall provide a whistle and sound the whistle ten seconds before the start of each round of boxing bouts. The timekeeper shall be impartial.

875—173.45(90A) Seconds. Unless special permission is given by the commissioner, there will not be more than two seconds. Before the start of the bout, each corner shall notify the referee of the name of the chief second.

875—173.46(90A) Requirements for seconds. Seconds shall not enter the ring until the timekeeper indicates the end of the round and they must leave at the sound of the timekeeper's whistle before the beginning of each round. If the chief second or anyone for whom the promoter is responsible, such as a manager, enters the ring before the bell ending the round has sounded, the fight shall be ended and the decision awarded to the opponent. Seconds shall not smoke in the ring or corners.

875—173.47 to 173.49 Reserved.

875—173.50(90A) Use of water. Seconds shall not throw or splash water upon a contestant. A wet sponge may be used between rounds to refresh the contestant. Excess water on the floor of the ring shall be wiped up immediately by the seconds. Water discharged from the mouth of a contestant shall be caught in a bucket.

875—173.51(90A) Stopping the fight. The throwing of a towel into the ring to indicate the defeat of a contestant will not be recognized by the referee. The fight will be stopped when the second or manager appears on the ring apron.

875—173.52(90A) Removing objects from ring. Before leaving the ring at the start of each round the seconds shall remove all obstructions, buckets, stools, bottles, towels and robes from the ring floor and ropes.

875—173.53(90A) Decision. Each judge shall reach a decision without conferring in any manner with any other official or person. Each judge will make out a scorecard in accordance with the rules governing boxing. At the end of the bout, the decision shall be written on the scorecard and the card shall be given to the commissioner or designee for verification who will then hand the cards to the referee who will then announce the decision. The winner is determined by the majority vote of the three judges, and each judge selects a choice based on the highest number of points.

875—173.54(90A) Boxer registration. The commissioner participates in the Association of Boxing Commissions (ABC) national boxer registration system that allows authorities from different states to share information concerning boxers. The issuance of a registration card to a boxer does not guarantee the right to participate in a match.

173.54(1) Application. A boxer applies for registration in the state where the boxer resides, unless the state where the boxer resides does not participate in the ABC registration system. A person applying for a new or renewal boxer registration completes, signs, and submits to the commission the ABC Boxer's Federal Identification Card Application.

173.54(2) Attachments. With the application, the applicant submits a \$25 fee, two 1" × 1.5" color photographs of the applicant's head, and a copy of a photo identification issued to the applicant by a governmental entity and containing the applicant's photograph and social security number or similar foreign identification number. The applicant must be recognizable in the photographs.

173.54(3) Expiration. The registration expires two years from the date of issuance.

173.54(4) Changes. The boxer shall notify the commission at the time any of the information on the form changes.

173.54(5) Denials. The commissioner may refuse to issue or renew a boxer registration for failure to complete an application package properly.

These rules are intended to implement Iowa Code chapter 90A.

[Filed 1/2/25, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8840C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rulemaking related to elimination tournaments

The Labor Commissioner hereby rescinds Chapter 174, "Elimination Tournaments," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 90A.7.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Executive Order 10.

Purpose and Summary

This rulemaking adopts a new Chapter 174 that regulates boxing tournaments in which participants may fight more than once during the event. It limits the length of bouts, requires certain protective equipment, provides rules for the bout, and governs the conduct of officials.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 27, 2024, as **ARC 8392C**. A public hearing was held on the following date(s):

- December 17, 2024
- December 19, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Commissioner on January 2, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Labor Services Division for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 875—Chapter 174 and adopt the following **new** chapter in lieu thereof:

CHAPTER 174
ELIMINATION TOURNAMENTS

875—174.1(90A) Purpose and scope. These rules apply to elimination tournaments, which are boxing matches where contestants box one another, two at a time, with one contestant eliminated from the tournament. The elimination continues with winners from the various bouts competing until only one contestant remains undefeated in the weight division. Elimination tournaments are governed by the rules

in 875—Chapter 173 and this chapter. Any conflicts between 875—Chapter 173 and this chapter will be resolved in favor of this chapter.

875—174.2(90A) Bouts, rounds and rest periods.

174.2(1) Each bout consists of no more than three rounds. Each round is two minutes in length. A rest period of 90 seconds shall be provided between rounds. No contestant shall be permitted to compete in more than three bouts in any 20-hour period.

174.2(2) In national elimination tournaments, when the ability and conditioning of the contestants are assured, the athletics commissioner may authorize two contestants to participate in a fourth bout that determines the championship, provided all bouts are comprised of three 90-second rounds. Under no circumstances will any participant be permitted to compete more minutes in any one 20-hour period than is authorized under the rule allowing three bouts consisting of three two-minute rounds as set forth in this rule.

875—174.3(90A) Required protective equipment.

174.3(1) *Hand protection.* Practice wraps (training hand wraps) may be used in lieu of compliance with 875—Chapter 173. Gloves weighing 16 ounces shall be worn by both contestants.

174.3(2) *Body protection.* All male contestants shall wear a foul proof protective cup. All female contestants shall wear foul proof pelvic area protection and breast protection.

174.3(3) *Head protection.* The promoter shall provide and the contestants shall wear protective headgear unless the contestant signs a waiver from it.

174.3(4) *Mouth protection.* A mouthpiece shall be worn by all contestants throughout the bout. If the mouthpiece is knocked from a contestant's mouth, it shall be replaced with no penalty. Any contestant who deliberately spits out a mouthpiece shall be cautioned the first time, the referee shall deduct one point from each judge's scorecard the second time and the contestant will be disqualified the third time. Before being replaced, the mouthpiece will be washed.

174.3(5) *Hair protection.* Where necessary, hair will be secured in a manner that it will not interfere with the vision or safety of either contestant.

875—174.4(90A) Weight restrictions. Permission must be received from the commissioner before any contestant will be permitted to box an opponent with a weight differential greater than the following:

Contestants	Weight Differential
Under 135 pounds	6 pounds
135-160 pounds	12 pounds
160-190 pounds	18 pounds
Over 190 pounds	No restriction

875—174.5(90A) Down. In determining a technical knockout (TKO) under 875—Chapter 173, a down includes a standing eight count where a contestant is still standing but is in a semiconscious state and cannot, in the opinion of the referee, continue the bout.

875—174.6(90A) Suspension. A contestant who suffers a knockout or where the referee stops a fight on a technical knockout (TKO) shall not be permitted to box in the state for a period of 30 days. Before being permitted to fight again, the contestant shall be examined by a physician or physician assistant approved by the commissioner.

875—174.7(90A) Training requirements. Each contestant will have been involved in conditioning for at least 30 days prior to competing in any elimination tournament. Conditioning means a combination of roadwork or jogging and usual training center conditioning exercises. The promoter shall obtain from each contestant prior to the physical examination a written declaration from the contestant, witnessed by at least one other person, that the contestant has met these training requirements.

875—174.8(90A) Judges. Three judges, each located on different sides of the ring, will separately score bouts. The referee will not be permitted to act as a judge in scoring a bout.

875—174.9(90A) Impartiality of timekeeper. The use of lights on each ring post to indicate the final seconds of a round shall not be considered as signals to interested parties. Corner lights may be used only if consistently activated throughout the elimination tournament and all contestants and officials are informed prior to the start of the tournament about the information conveyed by the round lights.

875—174.10(90A) Ringside. No person may sit or stand at ringside unless authorized by the commissioner.

These rules are intended to implement Iowa Code sections 90A.2 and 90A.5.

[Filed 1/2/25, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8841C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rulemaking related to amateur boxing

The Labor Commissioner hereby rescinds Chapter 175, "Amateur Boxing," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 90A.7.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Executive Order 10.

Purpose and Summary

This rulemaking rescinds Chapter 175 because any necessary oversight of amateur boxing is in Iowa Code chapter 90A.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 27, 2024, as **ARC 8393C**. A public hearing was held on the following date(s):

- December 17, 2024
- December 19, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Commissioner on January 2, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Labor Services Division for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **875—Chapter 175**.

[Filed 1/2/25, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8842C

LABOR SERVICES DIVISION[875]**Adopted and Filed****Rulemaking related to professional kickboxing**

The Labor Commissioner hereby rescinds Chapter 176, "Professional Kickboxing," Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 90A.7.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Executive Order 10.

Purpose and Summary

This rulemaking adopts a new Chapter 176 that primarily adopts GLORY kickboxing rules and describes the authority of the athletic commissioner.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 27, 2024, as **ARC 8390C**. A public hearing was held on the following date(s):

- December 17, 2024
- December 19, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Commissioner on January 2, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Labor Services Division for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 875—Chapter 176 and adopt the following **new** chapter in lieu thereof:

CHAPTER 176 PROFESSIONAL KICKBOXING

875—176.1(90A) Scope and purpose. Professional kickboxing is a contest within the scope of Iowa Code chapter 90A. The commissioner shall have final decision-making authority concerning the enforcement, implementation, and interpretation of the rules in this chapter.

875—176.2(90A) GLORY rules adopted by reference. The commissioner adopts by reference the kickboxing rules and regulations of GLORY Kickboxing as of January 1, 2023. The GLORY Kickboxing rules shall be used for all GLORY Kickboxing matches and events.

875—176.3(90A) Professional boxing rules followed. Professional kickboxing will conform to the rules in 875—Chapter 173 on:

1. Limitations on number of bouts;
2. Contestants' arrival; and
3. Attendance of commissioner.

875—176.4(90A) Additional provisions.

176.4(1) Officials. The designation of officials, referees, physicians, physician assistants, timekeepers, judges, kick counters, scorekeepers, contestants, seconds, and managers is subject to the approval of the commissioner or designee.

176.4(2) “Battles royal” or bouts in which more than two kickboxing contestants are to appear in the ring at the same time shall not be approved.

These rules are intended to implement Iowa Code chapter 90A.

[Filed 1/2/25, effective 2/26/25]

[Published 1/22/25]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8843C

LABOR SERVICES DIVISION[875]**Adopted and Filed****Rulemaking related to mixed martial arts**

The Labor Commissioner hereby rescinds Chapter 177, “Mixed Martial Arts,” Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 90A.7.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Executive Order 10.

Purpose and Summary

This rulemaking adopts a new Chapter 177 that requires certain conduct, contest rules, equipment standards and crowd safety for mixed martial arts. Chapter 177 also adds professional mixed martial artist registration consistent with professional boxer registration.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 27, 2024, as **ARC 8416C**. A public hearing was held on the following date(s):

- December 17, 2024
- December 19, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Commissioner on January 2, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Labor Services Division for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 875—Chapter 177 and adopt the following **new** chapter in lieu thereof:

CHAPTER 177
MIXED MARTIAL ARTS

875—177.1(90A) Definitions. The definitions contained in Iowa Code chapter 90A and the definitions in this rule apply to this chapter.

“Complimentary tickets,” as used in Iowa Code section 90A.9, means tickets that are sold for less than 50 percent of the minimum price available to the general public and tickets for which no fee is charged.

“Contestant” means a person who fights or is scheduled to fight in a match.

“Event” means a program or card of one or more matches covered by Iowa Code chapter 90A.

“Match” means a mixed martial arts match.

“Mixed martial arts” means a style of athletic contest that includes a combination of combative skills from different disciplines of the martial arts, including, without limitation, grappling, kicking and striking.

“MMA” means mixed martial arts.

875—177.2(90A) Equipment specifications.

177.2(1) Ring requirements.

a. Size. The cage will not be less than 16 nor more than 36 feet square.

b. Enclosure. The ring will be equipped with an enclosure to limit persons from being tossed from the ring. The enclosure will be at least 6 feet high. The enclosure will consist of supports and enclosing material. The supports will be constructed of rigid material not more than 4 inches in diameter. The supports will be fastened securely to the floor or to the other supports. The supports will be protected by padding to avoid injury to any contestants striking the supports. The enclosing material will have openings not to exceed 4 inches in any direction. The enclosing material will not be rigid and will deflect at least ½ inch when ten pounds of pressure are exerted upon any point. All sharp objects or protrusions will be protected with padding.

c. Height. The ring will not be elevated more than 3½ feet above the floor. Suitable steps for the use of contestants will be provided.

d. Ring floor. The ring floor will be padded to the thickness of at least 1 inch with insulite or other soft materials to be approved by the commissioner. A canvas covering stretched tightly and laced to the ring platform will cover the padding.

e. Ring approval. The promoter shall make the ring and ring enclosure system available in the state of Iowa for inspection by the commissioner at least ten days prior to any event. The specifications in this rule are general, and so actual inspection will be necessary to verify adequate contestant safety prior to the event. If the commissioner has previously inspected the ring used by the promoter, the commissioner may waive the ten-day advance inspection.

177.2(2) Bell. A suitable bell or gong shall be provided and used.

177.2(3) Time keeping. The timekeeper shall be provided with a stopwatch and whistle.

875—177.3(90A) Event requirements.

177.3(1) Officials. Officials consist of three judges, two referees, the physician, and the timekeeper.

177.3(2) Referee. The referee is charged with the enforcement of all rules of the commissioner that apply to the performance and conduct of contestants and their seconds while in the ring. The referee shall wear latex gloves at all times while in the ring.

177.3(3) Timekeeper. The timekeeper will keep an exact record of time taken out at the request of a referee for an examination of a contestant by the physician, replacing a glove or adjusting any equipment during a round. The timekeeper will notify contestants at the beginning and end of each round. The timekeeper shall be impartial.

177.3(4) Participants. The contestants, seconds and managers are subject to approval by the commissioner.

177.3(5) Scoring. Three judges will score each match by evaluating striking, grappling, control of the cage, aggressiveness, and defense. The significance and number of legal strikes shall receive the greatest weight. The number of legal takedowns and reversals shall receive the second greatest weight. Control of the cage shall receive the third greatest weight. Aggression shall receive the fourth greatest weight. Defense shall receive the least weight. The winner of a round shall always receive a score of 10. The score for each round shall be one of the following:

a. If the contestants were evenly matched and neither dominated the round, the score shall be 10-10.

b. If a contestant won a round by a close margin, the score shall be 10-9.

c. If a contestant overwhelmingly dominated a round, the score shall be 10-8.

d. If a contestant totally dominated a round, the score shall be 10-7.

177.3(6) Length of match. Each match shall consist of no more than three rounds with no more than five minutes per round. However, the commissioner may authorize experienced contestants to compete in up to five rounds of up to five minutes each. There shall be a one-minute rest period between rounds. An overtime round shall not be allowed.

177.3(7) Persons allowed in the cage. No person other than the two contestants and the referee shall enter the cage during the match. However, the physician may enter the cage to examine a contestant upon the request of the referee.

177.3(8) Seconds.

a. Unless special permission is granted by the commissioner, there shall be no more than two seconds. Before the start of the match, each corner shall notify the referee of the name of the chief second.

b. Seconds shall not enter the cage except as authorized by this paragraph. The chief second may enter the cage after the timekeeper indicates the end of the round, and the chief second must leave before the beginning of a round.

c. Before leaving the ring at the start of the round, the seconds shall remove all obstructions, buckets, stools, bottles, towels and robes from the ring floor and ring enclosure.

d. Seconds shall not smoke in the ring or corners.

e. Seconds shall wear latex gloves at all times while attending any contestant.

f. Seconds shall not throw or splash water upon a contestant. Excess water on the floor of the cage shall be wiped up immediately. Water discharged from the mouth of a contestant shall be caught in a bucket.

177.3(9) Decorum of officials and participants.

- a. Except as allowed in this subrule, a promoter, official, or participant shall not:
 - (1) Intentionally or recklessly strike or injure a person;
 - (2) Speak or act in a threatening manner toward a person; or
 - (3) Damage, destroy, or attempt to damage or destroy property.
- b. The commissioner may immediately suspend the promoter's license if the promoter does not comply with paragraph 177.3(9)"a" or if the promoter does not take appropriate action to curtail activities in violation of paragraph 177.3(9)"a" by an official or a participant.
- c. The commissioner may immediately suspend the authorization to participate in the event of an official or a participant who does not comply with paragraph 177.3(9)"a."
- d. A contestant is exempt from subparagraphs 177.3(9)"a"(1) and 177.3(9)"a"(2) while interacting with the contestant's opponent during a round. However, if the round is stopped by the physician or referee for a time out, subparagraphs 177.4(9)"a"(1) and 177.4(9)"a"(2) shall apply to a contestant.

875—177.4(90A) Contestants.

177.4(1) *Time between matches.* No contestant shall be permitted to compete if the contestant participated in a boxing, wrestling, kickboxing, judo, or mixed martial arts event within the previous five-day period.

177.4(2) *Age restrictions.* No contestant under the age of 18 years shall be permitted to participate in any event except by special permission of the commissioner.

177.4(3) *Proper attire.* Contestants must wear proper athletic attire. Athletic attire of opposing contestants shall be of contrasting colors.

177.4(4) *Body protection.* All male contestants shall wear a foul proof protective cup. All female contestants shall wear foul proof pelvic area protection and breast protection.

177.4(5) *Mouth protection.* Each contestant shall wear a mouthpiece throughout each match. If the mouthpiece is knocked from a contestant's mouth, it shall be washed and then replaced.

177.4(6) *Gloves.* Gloves shall be approved martial arts gloves. All gloves shall be approved by the commissioner.

177.4(7) *Hand protection.* Only one roll of cotton gauze surgical bandage, not to exceed 2 inches in width and 10 yards in length, shall be used for the protection of each hand. Only one winding of surgeons' adhesive tape, not more than 1½ inches in width, may be placed directly on the hand to protect that part of the hand near the wrist. The tape may cross the back of the hand twice, but shall not extend within 1 inch of the knuckles when the hand is clenched to make a fist. Practice wraps (training hand wraps) may be used in lieu of gauze and tape.

177.4(8) *Hair protection.* Where necessary, hair shall be secured in a manner that it will not interfere with the vision or safety of either contestant.

177.4(9) *Weighing contestants.*

a. The promoter shall arrange for each contestant to be weighed in Iowa during the 24-hour period prior to the event.

b. Accurate scales shall be furnished by the promoter.

c. An official who has been approved by the commissioner shall weigh each contestant and accurately record the contestant's name and weight and the date and time. The weight records shall be submitted to the commissioner on the date of the event.

d. All contestants scheduled for an event shall be weighed on the same date.

e. Contestants shall be weighed in the presence of their opponents and without shoes, clothes or equipment.

f. Unless both contestants weigh more than 205 pounds, there shall not be a weight difference of more than 20 pounds between opponents without the commissioner's consent.

g. No less than two weeks before the event, the promoter shall notify the commissioner when and where contestants will be weighed.

177.4(10) *Examination of contestants.* On the day of the event, at a time and place to be approved by the commissioner, the ringside physician shall conduct a rigorous physical examination to determine

the contestant's fitness to participate in an MMA match. A contestant deemed not fit by the physician shall not participate in the event.

875—177.5(90A) Procedural rules.

177.5(1) *Prohibited materials in ring.* Contestants shall not take anything not permitted or prohibited by these rules into the ring or pick up anything thrown into the ring and use the material or object in any way to gain an advantage over an opponent.

177.5(2) *Fouls.* As set forth in this subrule, the referee may penalize a contestant for fouls by disqualifying the contestant or by deducting points. The referee shall immediately determine if each foul is flagrant or accidental. "Flagrant" means the foul was intentional or reckless. "Accidental" means the foul was unintentional or incidental.

a. Disqualification. If the referee determines that the foul was flagrant and the contestant who was fouled is unable to continue due to an injury resulting from the foul, the contestant who committed the foul shall be disqualified.

b. Deduction of points. In determining the number of points to be deducted, the referee shall consider the nature and severity of the foul and its effect upon the opponent. As soon as practical after the foul, the referee shall notify the judges, contestants, and the commissioner of the number of points, if any, to be deducted from the score of the offender and whether the foul was flagrant or accidental. Points shall be deducted in the round in which the foul occurred.

c. Continuation of match. This paragraph governs how a match shall be continued if a foul that does not result in disqualification occurs.

(1) If a foul occurred but did not cause a serious injury, the referee may order the match to continue after a five-minute delay for recuperation. If subsequent fair blows aggravate the injury inflicted by a foul and the referee orders the contest stopped because of the injury, the outcome will be determined by scoring the completed rounds and the round during which the referee stopped the match.

(2) If an accidental foul results in a concussive impact to the head, if a contestant's chance of winning has been seriously jeopardized as a result of an accidental foul, or if a contestant is not able to continue the match due to an injury caused by an accidental foul, "no contest" will be declared or the winner will be determined based on points as set forth below.

1. "No contest" will be declared if:

- The foul occurs during the first two rounds of a match scheduled for three rounds or fewer.
- The foul occurs during the first three rounds of a match scheduled for four or five rounds.

2. The winner will be determined by scoring the completed rounds and the round during which the referee stopped the match if:

- The foul occurs during the third round of a match scheduled for three rounds.
- The foul occurs during the fourth or fifth round of a match scheduled for four or five rounds.

d. Prohibited acts. Each of the following actions is a foul:

- (1) Butting with the head.
- (2) Eye gouging of any kind.
- (3) Biting.
- (4) Hair pulling.
- (5) Fishhooking.
- (6) Groin attacks of any kind.
- (7) Putting a finger into any orifice, cut, or laceration on an opponent.
- (8) Small joint manipulation.
- (9) Striking to the spine or behind the ears.
- (10) Throat strikes of any kind, including, without limitation, grabbing the trachea.
- (11) Clawing, pinching or twisting the flesh.
- (12) Grabbing the clavicle.
- (13) Kicking the head of a grounded opponent.
- (14) Kneeing the head of a grounded opponent.
- (15) Stomping a grounded opponent.

- (16) Striking the kidney.
- (17) Dropping or slamming an opponent on an opponent's head or neck.
- (18) Throwing an opponent out of the cage or fenced area.
- (19) Holding the shorts or gloves of an opponent.
- (20) Spitting at an opponent.
- (21) Engaging in any unsportsmanlike conduct that causes an injury to an opponent.
- (22) Holding the ropes or the fence.
- (23) Using abusive language in the cage or fenced area.
- (24) Attacking an opponent during a break.
- (25) Attacking an opponent who is under the care of the referee.
- (26) Attacking an opponent after the bell has ended the round.
- (27) Flagrantly disregarding the instructions of the referee.
- (28) Timidity, including, without limitation, avoiding contact with an opponent, intentionally or consistently dropping the mouthpiece or faking an injury.
- (29) Interference by a second.
- (30) Throwing in the towel during competition.
- (31) Threatening or intentionally striking or injuring any person other than the contestant's opponent.

177.5(3) *Mouth protection ejected.* If the mouth protection is knocked from a contestant's mouth, it shall be replaced with no penalty.

177.5(4) *Spitting mouth protection.* The referee shall caution a contestant who deliberately spits out a mouthpiece the first time and disqualify the contestant the second time.

177.5(5) *Gloves.* The gloves shall not be damaged or manipulated in any way by the contestants or their handlers. If a glove breaks or becomes undone during a match, the referee will instruct the timekeeper to take time out while the glove is being adjusted or replaced.

177.5(6) *Injury.* If a contestant claims to be injured or when a contestant has been injured seriously or knocked out, the referee shall immediately stop the fight and summon the attending ring physician to make an examination of the stricken fighter. If the physician decides that the contestant has been injured, the physician shall advise the referee of the severity of the injury. If the physician is of the opinion the injured contestant may be able to continue, the physician shall order a five-minute intermission, after which the physician shall make another examination and again advise the referee of the injured contestant's condition. Managers, handlers and seconds shall not attend to the stricken fighter, except at the request of the physician.

875—177.6(90A) Decision. A professional match ends when:

177.6(1) A contestant submits.

177.6(2) The timekeeper indicates that time has expired in the final round of the match. The win will be awarded based on the judges' scores.

177.6(3) The referee stops the match.

177.6(4) The referee disqualifies a contestant for committing a foul pursuant to rule 875—177.5(90A).

177.6(5) A second or manager throws a towel into the cage to indicate the defeat of a contestant. The referee shall stop the match and award the win to the opponent.

177.6(6) A second or manager is in the cage when prohibited. The referee shall stop the match and award the win to the opponent.

875—177.7(90A) Forfeit of purse. The commissioner, in consultation with the referee, has the power to declare forfeited all or any part of a contestant's purse whenever in the commissioner's judgment the contestant was not performing in good faith.

875—177.8(90A) Professional fighter registration. Each professional MMA fighter residing in Iowa shall register with the commissioner consistent with 875—subrules 173.54(2) through 173.54(4).

These rules are intended to implement Iowa Code sections 90A.2 and 90A.5.

[Filed 1/2/25, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8844C

TREASURER OF STATE[781]

Adopted and Filed

Rulemaking related to unclaimed property

The Treasurer of State hereby amends Chapter 9, "Unclaimed Property," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 556.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 556.

Purpose and Summary

This rulemaking updates the rules regarding the reporting and claiming of unclaimed property. It provides additional guidance for the reporting of individual retirement accounts (IRAs), retirement accounts, and other tax-advantaged savings vehicles.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on July 10, 2024, as **ARC 8129C**. No public comments were received.

One change from the Notice has been made in subrule 9.12(2) to include additional clarity on how property held in a plan account described in Sections 529 and 529A of the Internal Revenue Code shall be reported.

Adoption of Rulemaking

This rulemaking was adopted by the Treasurer of State on December 1, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Treasurer of State for a waiver of the discretionary provisions, if any, pursuant to 781—Chapter 19.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The

Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind rule 781—9.3(556) and adopt the following new rule in lieu thereof:

781—9.3(556) Forms.

9.3(1) Appropriate forms must be completed on paper or online (whichever is applicable for the requested actions) to perform the actions listed below. Current forms are available online at www.greatiowatreasurehunt.com or as supplied by the state treasurer's office.

9.3(2) Forms required by the office include but are not limited to the following:

- a. Claim Form.
- b. Holder Reimbursement Form.
- c. Affidavit of Administration.

This rule is intended to implement Iowa Code chapter 556.

ITEM 2. Amend rule **781—9.4(556)**, definition of "Gift certificate," as follows:

"Gift certificate" means a merchandise certificate ~~or electronic gift card~~ conspicuously designated as a gift certificate ~~or electronic gift card~~ and generally purchased by a buyer for use by a person other than the buyer.

ITEM 3. Adopt the following new definitions of "Electronic authentication," "Gift card" and "Locator" in rule **781—9.4(556)**:

"Electronic authentication" means the use of an automated government or private sector database to confirm the identity of a claimant.

"Gift card" means an electronic gift card conspicuously designated as a gift card and generally purchased by a buyer for use by a person other than the buyer redeemable for goods or services from the issuing merchant or its affiliates.

"Locator" means a person hired or engaged to assist in the recovery of unclaimed property reported into the Act.

ITEM 4. Rescind the definitions of "Finder" and "Finder agreement" in rule **781—9.4(556)**.

ITEM 5. Amend subrule 9.5(3) as follows:

9.5(3) Except for unclaimed accounts ~~of less than \$50 at the time of reporting~~ reported pursuant to Iowa Code section 556.11(1), all dormancy fees assessed against an unclaimed account must be disclosed in the report of unclaimed property filed with the division.

ITEM 6. Amend rule 781—9.7(556) as follows:

781—9.7(556) Reporting of stocks—non-freely transferable and worthless securities. A holder is ~~not required to~~ shall not report or deliver to the division a security identified by the holder as a non-freely transferable security. Upon determination by the division or the holder that a security is no longer a non-freely transferable security, the security shall be subsequently reported and remitted on the next regular (annual) date prescribed for delivery of securities pursuant to the Act. The holder shall make a determination annually whether a security that has not been reported or delivered to the division on the basis that it is non-freely transferable is no longer non-freely transferable.

This rule is intended to implement Iowa Code section 556.5.

ITEM 7. Amend rule 781—9.8(556) as follows:

781—9.8(556) Reporting of individual retirement accounts (IRAs) and other retirement accounts.

9.8(1) The ~~Except as provided in subrule 9.8(2), the~~ reporting and delivery of property in an individual retirement account, defined contribution plan, defined benefit plan, or other account or plan that is qualified for tax deferral under the income tax laws of the United States shall be extended until three years after the earliest of the following has occurred:

- a. The date of unsuccessful distribution;
- b. The date of the required distribution, as stated in agreements governing the account; or
- c. The date specified in the income tax laws of the United States by which a distribution must occur in order ~~for the owner~~ to avoid a tax penalty, including where the owner has died.

9.8(2) The reporting and delivery of a property in a Roth IRA shall be extended until three years after the date specified in the income tax laws of the United States by which a distribution must occur in order to avoid a tax penalty following the death of the owner. In the absence of knowledge of the life status of a Roth IRA owner, the owner will be presumed to have died upon reaching 110 years of age.

9.8(2) 9.8(3) In reporting individual retirement accounts and other retirement accounts, holders shall include the name, address, relationship to the owner, and social security number of the account beneficiary, to the extent such information is known.

9.8(4) In reporting individual retirement accounts and other retirement accounts, holders shall comply with the Internal Revenue Service Revenue Ruling 2018-17 and all other applicable tax withholding and reporting requirements.

This rule is intended to implement Iowa Code section 556.7.

ITEM 8. Amend rule 781—9.12(556) as follows:

781—9.12(556) Reporting of tax-advantaged college savings accounts.

9.12(1) Property held in a plan account described in ~~Section~~ Sections 223, 529 and 529A of the Internal Revenue Code or held in ~~an a~~ a nonretirement account or plan that qualifies for tax deferral under the income tax laws of the United States is presumed abandoned if it is unclaimed by the owner three years from the later of:

a. The date a second item sent to the owner by first-class mail was returned as undeliverable by the United States Postal Service (USPS), unless a later mailing by first-class mail to the apparent owner was not returned as undeliverable or, for an apparent owner not receiving communications from the holder by first-class mail, the date of the last indication to the holder by the apparent owner of interest in the property; or

b. Thirty years have elapsed after the date the account was opened.

~~**9.12(1)**—The date a second item sent to the owner by first-class mail was returned as undeliverable by the United States Postal Service (USPS), unless a later mailing by first-class mail to the apparent owner was not returned as undeliverable or, for an apparent owner not receiving communications from the holder by first-class mail, the date of the last indication to the holder by the apparent owner of interest in the property; or~~

9.12(2) ~~Thirty years have elapsed after the date the account was opened.~~ Uncashed distribution checks issued from tax-advantaged accounts are reportable three years from the date the property became reportable pursuant to Iowa Code section 556.7. Uncashed distribution checks issued for a plan account described in Sections 529 and 529A of the Internal Revenue Code shall be reported in accordance with the IRS 1099-Q form issued at the time the distribution check was issued.

This rule is intended to implement Iowa Code section 556.7.

ITEM 9. Amend rule 781—9.13(556) as follows:

781—9.13(556) Reporting of unused gift certificate and gift card balances.

9.13(1) Except as provided in subrules 9.13(2) and 9.13(3), an unused balance on a gift certificate or gift card is reportable five years from the date of issuance of the gift certificate or gift card or last usage, whichever is later.

9.13(2) An unused balance on a gift certificate or gift card that is not redeemable for cash, which was issued prior to July 2, 2014, is reportable five years from the date of issuance of the gift certificate or gift card or last usage, whichever is later.

9.13(3) An unused balance on a gift certificate or gift card that is not redeemable for cash, which was issued after July 1, 2014, and is not subject to expiration or service fees, is not subject to reporting and delivery under Iowa Code chapter 556.

~~This rule is intended to implement Iowa Code section 556.9.~~

9.13(4) An unused balance on a gift certificate or gift card that is not redeemable for cash, which was issued after July 1, 2014, and is subject to expiration or service fees, is subject to reporting and delivery under Iowa Code chapter 556. A gift certificate or gift card is subject to expiration or service fees if the face of the gift certificate or gift card so indicates, regardless of whether the issuer of the gift certificate or gift card waives such expiration or fees.

This rule is intended to implement Iowa Code section 556.9.

ITEM 10. Amend rule 781—9.18(556) as follows:

781—9.18(556) Information required to be included in report.

9.18(1) Every ~~Holder Report Form~~ holder report form submitted to the division must include, to the extent such information is available to the holder, the following information:

a. to i. No change.

9.18(2) The division may determine that the information included in the ~~Holder Report Form~~ holder report form is nonconforming and may require that a holder revise its report in circumstances where the ~~Holder Report Form~~ holder report form:

a. to g. No change.

This rule is intended to implement Iowa Code section 556.11.

ITEM 11. Amend rule 781—9.19(556) as follows:

781—9.19(556) Early reporting of unclaimed property.

9.19(1) A holder may request permission to report and deliver property to the division before it is presumed abandoned by sending a written request to the division.

9.19(2) The request must identify the property to be reported and delivered and the reasons for requesting permission to report and deliver the property prior to the date it is presumed abandoned.

9.19(3) The division may, at its sole discretion, consent to early reporting and delivery according to terms and conditions prescribed by the division.

9.19(4) A retirement plan administrator or other responsible fiduciary terminating a retirement plan may, following a diligent search for missing participants, report and remit any unclaimed benefits contemporaneous with the termination of the plan and is neither required to wait for three years to elapse pursuant to Iowa Code section 556.7 nor obtain written permission from the division for early reporting.

This rule is intended to implement Iowa Code section 556.11.

ITEM 12. Amend rule **781—9.20(556)** as follows:

781—9.20(556) Owner notification and holder due diligence.

9.20(1) Holders shall exercise reasonable and necessary due diligence consistent with good business practice in attempting to reactivate dormant accounts and to locate owners of unclaimed property.

9.20(2) If a holder fails to perform due diligence as required by Iowa Code section 556.11(5), the treasurer may charge five dollars for each name and address account reported if 35 percent or more of the accounts are claimed within 24 months immediately following the filing of a holder report.

9.20(3) If a holder fails to ~~undertake~~ perform due diligence as required by Iowa Code section 556.11, the holder will not have met the good-faith reporting standard of Iowa Code section 556.14 and the division will not be obligated to defend the holder against any claim of liability.

This rule is intended to implement Iowa Code section 556.11.

ITEM 13. Rescind rule 781—9.21(556) and adopt the following **new** rule in lieu thereof:

781—9.21(556) Reporting aggregate amounts to the division. Holders may report in the aggregate property with a value under \$50, but holders are discouraged from doing so since it impedes the ability of the division to expeditiously pay claims. For this reason, holders are encouraged not to aggregate, regardless of item value. If a holder chooses to report in the aggregate, the holder shall be responsible to provide information required to verify and validate a claim made to aggregated properties.

This rule is intended to implement Iowa Code section 556.11.

ITEM 14. Amend rule 781—9.23(556) as follows:

781—9.23(556) Regulation of finders locators.

9.23(1) Pursuant to Iowa Code section 556.11(10), agreements or contracts between finders locators and owners to pay compensation to recover or assist in the recovery of abandoned property are unenforceable if made within 24 months of the date the property was received by the division. Additionally, if a holder is in possession of property that has been deemed abandoned but has not yet been timely reported and delivered to the division, an agreement to pay compensation to recover or assist in the recovery of such property is unenforceable. In no case shall the finder locator fees or compensation exceed 15 percent of the amount of the property subject to claim.

9.23(2) A claim form signed by a finder locator shall not be reviewed by the division. The apparent owner or owner's legal representative shall make direct contact with the division and sign the claim form. All communication regarding the claim will be sent to the claimant. A signed, dated and notarized copy of any original agreement or contract between a finder locator and an owner shall be included with the filing of any claim. Handwritten agreements ~~or contracts~~ will not be accepted. To be valid, the agreement must disclose the nature and value of the property and the name and address of the person in possession.

9.23(3) The division shall not release to a locator information deemed confidential pursuant to Iowa Code section 22.7(59), even where a claimant has authorized such release.

9.23(3) 9.23(4) Owner information Certain publicly releasable information about owners shall be reproduced at least annually in a format to be determined by the treasurer and shall be provided to anyone requesting the information ~~for~~. The treasurer may assess a fee of \$20 per copy. The fee shall be paid in the form of an official check or money order and made payable to the State of Iowa. All fees for owner information shall be received by the division before the owner information is made available.

This rule is intended to implement Iowa Code ~~section~~ sections 22.7(59) and 556.11.

ITEM 15. Amend subrule 9.24(1) as follows:

9.24(1) Except as stated in subrules 9.24(2) and 9.24(3), the contents of safe deposit boxes and other tangible property received by the division shall be held by the division for not less than one year, after which time the property may be sold, held, or destroyed.

a. No employee, person related to an employee of the Iowa treasurer of state living in the same household, or contractor that provided auction or appraisal services may directly or indirectly bid on safe deposit box contents or other tangible property offered for sale by the division.

b. For purposes of this subrule, "related to an employee" shall mean the employee's spouse, child, stepchild, grandchild, parent, stepparent, sibling, stepsibling, or spouse of any of the foregoing persons.

ITEM 16. Amend rule 781—9.25(556) as follows:

781—9.25(556) Filing of owner claims.

9.25(1) All claims for abandoned property shall be filed with the division on the division's claim form or through such other means or process as the division finds acceptable.

9.25(2) The claim form shall be completed in its entirety and must include the following information:

a. Social security number or Federal Tax Identification Number, or both, of every claimant;

b. Name, complete mailing address, telephone number and ~~e-mail~~ email address, if applicable, of every claimant;

c. Signature of claimant(s). ~~If the claim includes stock(s) or safe deposit box contents, the signature must be notarized.~~ The treasurer may set through policy a cash claim limit ~~which requires, stock estimated value, and safe deposit box contents that require~~ a signature to be notarized.

9.25(3) The treasurer shall consider any claim filed under the Act.

9.25(4) The treasurer may waive the filing of a claim form pursuant to Iowa Code section 556.19.
This rule is intended to implement Iowa Code section 556.19.

ITEM 17. Amend subrule 9.27(1) as follows:

9.27(1) A business may, in addition to providing other evidence of entitlement, be required to provide the following supporting documentation with its ~~claims, as applicable claim:~~

a. Proof, as deemed suitable by the division, that the person signing the claim form is an officer of the business and has the authority to conduct business on behalf of the entity, such as corporate resolution or other documentation deemed suitable by the treasurer.

b. Documentation setting forth the claimant's federal Employer Identification Number (EIN).

c. A copy of the claimant's biennial report as filed with the office of the secretary of state or a copy of a current corporate tax return.

ITEM 18. Amend rule 781—9.30(556) as follows:

781—9.30(556) Claims by holders for owner reimbursements. A holder may request payment from the division under the circumstances set forth below. Regardless of whether the holder is represented by a bona fide third party, the claim must be signed by an officer of the holder. A third party may not act on behalf of the holder to request payment from the division unless such third party provides evidence satisfactory to the division in its sole discretion that such third party is acting as the holder's bona fide representative through general power of attorney, court designation, or similar legal authority. The division may, in its sole discretion, establish a policy ~~which~~ that allows a transfer agent or a reporting agent to sign a holder reimbursement subject to meeting all the requirements set forth by the division under that policy. The establishment of such a policy shall not be construed as creating any right or entitlement of transfer or of reporting agents to sign holder reimbursements, and any such policy may be rescinded or modified at any time at the sole discretion of the division.

9.30(1) The holder has made payment to the apparent owner and filed proof of payment with the division for such a reclaimed asset. As a condition precedent to receiving reimbursement from the division, the holder shall assume liability for the reclaimed assets and indemnify and hold harmless the division from all future claims related to the reclaimed assets.

~~**9.30(2)** The holder directs the division to make payment directly to the rightful owner. The holder shall assume liability for the claimed asset and indemnify and hold harmless the division from all future claims related to the claimed asset.~~

~~**9.30(3)**~~ **9.30(2)** The holder reported the asset in error. As a condition for receiving reimbursement from the division, the holder shall assume liability for the reclaimed asset and indemnify and hold harmless the division from all future claims related to the reclaimed asset.

This rule is intended to implement Iowa Code section 556.19.

ITEM 19. Amend subrule 9.33(3) as follows:

9.33(3) For the purposes of the Act, a money or similar judgment against an apparent owner does not create an interest in the specific property held by the division on behalf of the apparent owner.

ITEM 20. Amend rule 781—9.34(556) as follows:

781—9.34(556) Approval of claims. Each claim submitted to the division is subject to the approval process outlined below. Claims ~~over with~~ a cash value of greater than \$5,000 ~~must be authenticated either electronically or through~~ undergo electronic authentication or undergo such other or additional approval process as may be determined by the division. The treasurer may enter into a contract with a

suitable third party that provides identity authentication. Claims over a cash value of \$5,000 must receive an additional level of approval from a division manager.

9.34(1) to 9.34(3) No change.

This rule is intended to implement Iowa Code section 556.19.

ITEM 21. Amend subrule 9.35(1) as follows:

9.35(1) Claims shall be paid as follows:

a. In the case of cash claims, final approval shall cause the claim to become part of the settlement process. The settlement file will be submitted to the department of administrative services for payment. State warrants will be mailed or may be obtained from the treasurer's office. At the treasurer's discretion, the division may electronically deliver funds to a claimant's financial institution account. Fees associated with the electronic delivery of funds may be assessed to the claimant.

b. In the case of a claim requiring the transfer of securities, final approval shall result in the division's sending a letter notification to a third-party agent responsible for the transfer of ownership of the stocks/mutual funds, instructing the agent to have ownership of the appropriate number of shares of the property reregistered in the name of the claimant.

ITEM 22. Adopt the following new subrules 9.37(5) to 9.37(8):

9.37(5) *Report of the examination findings and demand for delivery.* Upon completion of an examination, the division shall provide a written report reflecting the total unclaimed property reporting liability and, pursuant to the Act, any interest due on amounts due and owing for failure to report and deliver property due and payable for prior years. The division has the discretion to hold an audit exit conference with the holder to provide the written report.

9.37(6) *Informal conference.* During the course of an examination, the holder may request an informal conference within the division and its representatives.

9.37(7) *Delivery of examination findings by the holder.* The holder shall deliver to the division within 30 calendar days of issuance of a report of examination and demand for delivery any unclaimed property and interest due, if any, to the division.

9.37(8) *Examination closure letter.* Upon receipt of the examination report and delivery of unclaimed property resulting from the examination, the division or its agent shall issue an examination closure letter informing the holder that the examination is closed.

ITEM 23. Amend rule 781—9.38(556) as follows:

781—9.38(556) Estimation. The division may use estimation techniques where no holder records exist or the records are insufficient to determine the holder's obligation due pursuant to the Act.

~~**9.38(1)** *Report of the examination findings.* Upon completion of an examination, the division shall provide a written report reflecting the total unclaimed property reporting liability and, pursuant to the Act, any interest due on amounts due and owing for failure to report and deliver property due and payable for prior years. The division has the discretion to hold a conference with the holder to provide the written report.~~

~~**9.38(2)** *Delivery of examination findings by the holder.* The holder shall deliver to the division within 30 calendar days any unclaimed property and interest due to the division based upon the examination findings.~~

~~**9.38(3)** *Examination closure letter.* Upon receipt of the examination report and delivery of unclaimed property resulting from the examination, the division shall issue an examination closure letter informing the holder that the examination is closed.~~

This rule is intended to implement Iowa Code section 556.23.

ITEM 24. Renumber rules **781—9.42(556)** and **781—9.43(556)** as **781—9.43(556)** and **781—9.44(556)**.

ITEM 25. Adopt the following new rule 781—9.42(556):

781—9.42(556) Confidentiality of holder data. All information provided by a holder in the form of any report, record, claim, or other document submitted to the division or its agents, with the exception of the name and last-known address of a person appearing to be entitled to unclaimed property actually delivered to the division, shall be confidential and not subject to public release or disclosure.

This rule is intended to implement Iowa Code section 22.7(59).

ITEM 26. Amend renumbered rule 781—9.44(556) as follows:

781—9.44(556) Holder amnesty program. The division may offer a holder amnesty program in order to facilitate compliance by holders that have never reported unclaimed property or have not reported in the last three years. The treasurer may provide notification of an amnesty program via the treasurer's ~~Web site~~ website. The treasurer may waive interest and penalties for the amnesty program.

This rule is intended to implement Iowa Code chapter 556.

[Filed 1/2/25, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8845C

TREASURER OF STATE[781]

Adopted and Filed

Rulemaking related to Iowa educational savings plan trust

The Treasurer of State hereby amends Chapter 16, "Iowa Educational Savings Plan Trust," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 12D.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 12D as amended by 2024 Iowa Acts, House File 2667.

Purpose and Summary

This rulemaking makes updates necessary to conform with changes in state and federal law related to the administration and use of 529 savings accounts. In addition to updating definitions and the use of terms, the rulemaking updates the name of Iowa's direct-sold 529 product.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on July 10, 2024, as **ARC 8104C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Treasurer of State on January 1, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Treasurer of State for a waiver of the discretionary provisions, if any, pursuant to 781—Chapter 19.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Amend rule 781—16.2(12D) as follows:

781—16.2(12D) Definitions. In addition to the terms defined in Iowa Code section 12D.1, the following terms apply to this chapter:

“ABLE account” means an account as defined in Section 529A of the Internal Revenue Code.

“Account” means an account established and maintained under the Iowa educational savings plan trust for a beneficiary.

“Account balance” means the fair market value of an account.

“Account balance limit” means the amount determined periodically by the program administrator as necessary to provide for the qualified higher education expenses of a beneficiary in accordance with Section 529. The account balance limit shall apply to the total of all accounts in the plans for the benefit of a beneficiary.

“Account owner” means the ~~participant or other owner of an account~~ same as “participant” as defined in Iowa Code section 12D.1.

“Adjusted maximum annual amount” means the amount that ~~a participant~~ an account owner may annually contribute to an account for a beneficiary and deduct from Iowa income taxes pursuant to Iowa Code chapter 422.

“Beneficiary” means the individual designated as the beneficiary of an account.

~~“College savings Iowa” means the name and logo registered under Iowa law to represent the direct-sold plan under the Iowa educational savings plan trust.~~

“Contractor” means any party retained by the program administrator to assist in the day-to-day operations of a plan, including record-keeping, investment advisory and administrative services. The program administrator may delegate any responsibilities with respect to day-to-day operations of a plan to one or more contractors.

“Contribution” means an amount contributed to an account in accordance with the Internal Revenue Code, these rules and the applicable program description.

“Eligible educational institution” means an eligible educational institution as defined in Section 529.

~~“Iowa advisor 529 plan”~~ means the name and logo registered to represent the advisor-sold plan under the Iowa educational savings plan trust.

“Internal Revenue Code” means the Internal Revenue Code as effective on July 1, 2024.

"ISave 529" means the name and logo registered under Iowa law to represent the direct-sold plan under the Iowa educational savings plan trust.

"K-12 institution" means any elementary or secondary public, private, or religious school as defined in Section 529 of the Internal Revenue Code.

"Member of the family" means a member of the family as defined in Section 529, except that for a qualified rollover to a Section 529A an ABLE account, "member of the family" shall mean as defined in Section 529A of the Internal Revenue Code.

"Nonqualified withdrawal" means a withdrawal from an account that is not a qualified withdrawal or a qualified rollover.

"Participant" means the owner of an account.

"Participation agreement" means the form that the participant account owner submits to the plan to identify the participant account owner, beneficiary, plan, and other information that may be requested by the plan.

"Plan" means either (1) college savings Iowa ISave 529, (2) Iowa advisor IAdvisor 529 plan, or (3) any other college savings plan established by the program administrator under the Iowa educational savings plan trust.

"Program administrator" means the treasurer of state.

"Program description" means the description of each plan provided to participants account owners setting forth information with respect to the plan.

"Qualified higher education expenses" means qualified higher education expenses as defined in Section 529. Any reference to qualified higher education expenses includes a reference to expenses for tuition in connection with enrollment or attendance at an elementary or secondary public, private or religious school as defined in Section 529.

"Qualified rollover" means a distribution of amounts from a plan, which, within 60 days of such distribution, is transferred: (1) to another qualified tuition program for the benefit of the same beneficiary, provided that it has been at least 12 months from the date of a previous transfer to a qualified tuition program for that beneficiary; (2) to another qualified tuition program (or an account in another plan) for the benefit of a member of the family of the beneficiary; or (3) to a Section 529A an ABLE account for the beneficiary or member of the family of the beneficiary, subject to ABLE account contribution limits. "Qualified rollover" also means a distribution from a plan made in a direct transfer-to-trustee transfer to a Roth IRA in accordance with the rules under 529(c)(3)(E) of the Internal Revenue Code.

"Qualified withdrawal" means a withdrawal from an account used to pay qualified higher education expenses.

"Section 529" means Section 529 of the Internal Revenue Code.

"Successor participant account owner" means a successor to the ownership of an account designated as such in accordance with rule 781—16.10(12D) and the applicable program description.

ITEM 2. Amend rule 781—16.3(12D) as follows:

781—16.3(12D) Participation agreement and program description. The following material shall be used to administer the Iowa educational savings plan trust.

16.3(1) Each participant account owner shall submit a participation agreement in order to open an account. The participation agreement shall be signed and dated by the participant account owner to verify that the participant account owner agrees to the terms and conditions of the program. For online applications, participants the account owner must confirm that they have the account owner has read the terms and conditions prior to submitting the application.

16.3(2) Each plan will have a program description setting forth the terms of the plan and describing the investments, procedures and fees applicable to that plan. Each program description shall also set forth the privacy policy adopted by the program administrator for that plan. Persons interested in a plan should consult the program description. A program description may be changed at any time by the program administrator, and any such change may impact the rights of participants account owners and beneficiaries under the plan.

ITEM 3. Amend rule 781—16.4(12D) as follows:

781—16.4(12D) Forms.

16.4(1) Appropriate forms must be completed on paper, online or via telephone (whichever is applicable for the requested actions) to perform the actions listed below. Current forms are available online at ~~www.collegesavingsiowa.com~~ ISave529.com for ~~college-savings-Iowa~~ ISave 529 and at www.iowaadvisor529.com for the ~~Iowa-advisor~~ IAdvisor 529 plan. Actions ~~which~~ that require the completion of an appropriate form include the following:

- a. No change.
- b. Account changes.
 - (1) Update the ~~participant~~ account owner or beneficiary contact information.
 - (2) to (4) No change.
- c. to f. No change.

16.4(2) The contractor may from time to time provide additional forms for use by ~~participants~~ account owners and beneficiaries in connection with actions involving a plan and will make those forms available online and in paper format and may authorize substitute forms for a plan or a process in lieu of existing forms.

ITEM 4. Amend rule 781—16.5(12D) as follows:

781—16.5(12D) ~~Participant~~ Account owner eligibility. ~~Participants~~ Account owners must meet the following requirements:

16.5(1) The ~~participant~~ account owner must be an individual, individual's legal representative, trust, estate, or an organization described in Section 501(c)(3) of the Internal Revenue Code and exempt from taxation under Section 501(a) of the Internal Revenue Code.

16.5(2) An individual ~~participant~~ account owner must be at least 18 years old and a United States citizen or resident alien with a valid social security number or tax identification number.

16.5(3) ~~A participant~~ An account owner shall execute a participation agreement that specifies the plan selected by the ~~participant~~ account owner and the terms and conditions under which the ~~participant~~ account owner shall participate in the trust.

16.5(4) ~~A participant~~ An account owner shall, on signing a participation agreement, provide the plan with the ~~participant's~~ account owner's social security number or tax identification number and the other information required on the participant agreement.

16.5(5) ~~Participants which~~ Account owners that are trusts must submit evidence that the individual trustee is so authorized and agrees to the terms and conditions of the participation agreement and must provide the information requested by the program administrator. ~~Participants which~~ Account owners that are described in Section 501(c)(3) of the Internal Revenue Code must provide their tax identification number and any other information requested by the program administrator.

ITEM 5. Amend rule 781—16.6(12D) as follows:

781—16.6(12D) Beneficiary eligibility. A beneficiary of a participation agreement may be designated at any time after birth and assignment of a social security number. This rule establishes the eligibility criteria for a beneficiary.

16.6(1) No change.

16.6(2) ~~A participant~~ An account owner shall, on signing a participation agreement, provide the contractor a valid social security number for the beneficiary.

ITEM 6. Amend rule 781—16.7(12D) as follows:

781—16.7(12D) Program administrator rights and responsibilities.

16.7(1) The program administrator reserves the right to:

- a. No change.
- b. Freeze an account or suspend account services or do both upon the notification to the plan of the death of a ~~participant~~ an account owner until the plan receives required documentation in good order and

reasonably believes that it is lawful to transfer the account ownership to the successor ~~participant~~ account owner;

c. Redeem an account, without the ~~participant's~~ account owner's permission, in cases of threatening conduct or suspicious, fraudulent, or illegal activity; and

d. Reject a contribution for any reason, including contributions that the plan believes are not in the best interests of the plan, a portfolio, or the ~~participants~~ account owners.

16.7(2) The risk of market loss, tax implications, penalties, and any other expenses, as a result of such an account freeze, account redemption, or contribution rejection, will be solely the ~~participant's~~ account owner's responsibility.

16.7(3) The contractor will provide each ~~participant~~ account owner a fourth-quarter statement. In addition, the program administrator will provide each ~~participant~~ account owner that had an account with either contributions or withdrawals in the first, second, or third quarter with a quarterly statement for that account.

ITEM 7. Amend rule 781—16.8(12D) as follows:

781—16.8(12D) Contributions. Contributions are deductible in accordance with Iowa income tax laws and administrative rules of the department of revenue. Participation agreements shall be for the benefit of a specific beneficiary. This rule provides for implementation of this provision.

16.8(1) ~~Participants~~ Account owners are allowed to make contributions at any time during the calendar year provided that each contribution is made in accordance with the minimum contribution and other requirements set forth in the program description.

16.8(2) No change.

16.8(3) The program administrator shall determine the adjusted maximum annual amount that a ~~participant~~ an account owner may contribute and deduct from Iowa income taxes pursuant to Iowa Code chapter 422 on behalf of a beneficiary for the calendar year by applying the applicable inflation adjustment. The adjusted annual maximum amount shall be communicated to participants in the plans and to the public in any reasonable manner determined by the program administrator.

ITEM 8. Amend rule 781—16.9(12D) as follows:

781—16.9(12D) Substitution or change of beneficiary. Beneficiaries may be changed subject to the rules and regulations of the program administrator. This rule establishes the criteria for substituting one beneficiary for another. Beneficiary changes shall also be subject to the procedures set forth in the applicable program description.

16.9(1) No change.

16.9(2) A ~~participant~~ An account owner may request that a beneficiary be substituted by submitting the appropriate form to the contractor.

ITEM 9. Amend rule 781—16.10(12D) as follows:

781—16.10(12D) Change of ~~participant~~ or account owner. The ~~participant~~ account owner is the owner of the account and, as such, has the exclusive right to cancel the participation agreement or change the designated beneficiary in accordance with these rules and the applicable program description.

16.10(1) A ~~participant~~ An account owner may transfer the ~~participant's~~ account owner's current ownership rights in an account to another eligible individual, an individual's legal representative, a trust, an estate, or an organization described in Section 501(c)(3) of the Internal Revenue Code and exempt from taxation under Section 501(a) of the Internal Revenue Code or to a beneficiary. To do so, the ~~participant~~ account owner shall complete the appropriate form.

16.10(2) A ~~participant~~ An account owner may also designate a successor on the participation agreement. A ~~participant~~ An account owner may change the designated successor by completing the appropriate form. The designated successor shall succeed to the ownership of the account in the event of the death of the ~~participant~~ account owner. Upon the death of the ~~participant~~ account owner, the successor ~~participant~~ account owner must notify the plan by submitting a completed participant

agreement form and a certified copy of the death certificate. The change in ownership of the account will become effective for the successor ~~participant~~ account owner once this paperwork has been received and processed.

16.10(3) In the event ~~a participant or other~~ an account owner dies and has not designated a successor to the account, the following criteria will be used.

a. and *b.* No change.

16.10(4) The ~~participant~~ account owner may name a successor to the account even though the successor may already have established or may have plans to establish a plan account.

ITEM 10. Amend rule 781—16.11(12D) as follows:

781—16.11(12D) Qualified withdrawals. This rule establishes the procedures for the payment of qualified withdrawals.

16.11(1) The ~~participant~~ account owner must initiate a withdrawal for qualified or nonqualified withdrawals. The ~~participant~~ account owner must file the appropriate form with the contractor.

16.11(2) Qualified withdrawals will be paid in one of three ways once the form has been received by the contractor:

a. No change.

b. Directly to the ~~participant~~ account owner.

c. Directly to the beneficiary at eligible educational institutions only.

16.11(3) No change.

16.11(4) Each qualified withdrawal will be comprised partly of contributions and partly of earnings, based upon the same proportion that contributions and earnings comprise the ~~participant's~~ account owner's account at the time of the withdrawal.

16.11(5) Funds that are distributed to ~~a participant~~ an account owner pursuant to this rule shall be reported to the IRS on a 1099-Q in the tax year in which the withdrawal is made. The ~~participant~~ account owner will receive the 1099-Q for any withdrawal paid to the ~~participant~~ account owner. The beneficiary will receive the 1099-Q for any withdrawal paid to the beneficiary or institution of higher education. The individual receiving the 1099-Q must determine whether the withdrawal was qualified or nonqualified.

16.11(6) A ~~participant~~ Account owner may transfer any remaining balance in one account to an existing or new account for another designated beneficiary by completing a new participation agreement with the contractor.

16.11(7) No change.

ITEM 11. Amend rule 781—16.12(12D) as follows:

781—16.12(12D) Nonqualified withdrawals and cancellation. Iowa Code section 12D.5 provides that any ~~participant~~ account owner may cancel a participation agreement at will. This rule establishes the criteria for nonqualified withdrawals from an account or for the cancellation of a participation agreement.

16.12(1) A nonqualified withdrawal is one in which the funds are used for a purpose other than the payment of or reimbursement for qualified educational expenses. ~~A participant~~ An account owner may at any time make a nonqualified withdrawal of a portion of the amount in an account or cancel a participation agreement, without cause, by submitting to the contractor the appropriate form. A nonqualified withdrawal will be paid only to the ~~participant~~ account owner.

16.12(2) If the participation agreement is canceled, the ~~participant~~ account owner is entitled to the amount in the account, subject to any applicable fees and expenses. The balance shall be mailed or otherwise sent to the ~~participant~~ account owner after receipt by the contractor of the appropriate form.

16.12(3) Funds that are distributed to ~~a participant~~ an account owner in a nonqualified withdrawal pursuant to this rule shall be reported to the IRS on a 1099-Q in the tax year in which such withdrawal is made. The ~~participant~~ account owner will receive the 1099-Q for any nonqualified withdrawals. The individual receiving the 1099-Q must determine whether the withdrawal was qualified or nonqualified. Nonqualified withdrawals may be subject to state and federal taxes and penalties.

ITEM 12. Rescind rule 781—16.13(12D) and adopt the following new rule in lieu thereof:

781—16.13(12D) Qualified rollover. This rule establishes the procedures for the payment of a qualified rollover.

16.13(1) The account owner must initiate a rollover and must file the appropriate form with the contractor.

16.13(2) Qualified rollovers will be paid in one of the following ways once the form has been received by the contractor:

a. Directly to the account owner, provided that within 60 days of such distribution, the funds are recontributed from the account owner as described in paragraph 16.13(2) “*b*,” “*c*” or “*d*.”

b. Directly to another qualified tuition program for the benefit of the designated beneficiary.

c. Directly to another account designated beneficiary under a qualified tuition program who is a member of the family of the designated beneficiary with respect to which the distribution as made.

d. Before January 1, 2026, directly to an ABLE account of the designated beneficiary or a member of the family of the designated beneficiary.

e. Notwithstanding any of the foregoing, any qualified rollover to a Roth IRA under Section 529 must be paid in a direct trustee-to-trustee transfer to a Roth IRA maintained for the benefit of such designated beneficiary.

16.13(3) Rollovers to a Roth IRA with respect to a designated beneficiary for such taxable year and all prior taxable years may not exceed thresholds set out in Section 529.

16.13(4) Each qualified rollover will be comprised partly of contributions and partly of earnings, based upon the same proportion that contributions and earnings comprise the account owner’s account at the time of the rollover.

16.13(5) Funds that are distributed to an account owner pursuant to this rule shall be reported to the IRS on a 1099-Q in the tax year in which the rollover or withdrawal is made. The beneficiary will receive the 1099-Q for any withdrawal or rollover paid to the beneficiary. The individual receiving the 1099-Q must determine whether the rollover was qualified or nonqualified.

16.13(6) The Iowa state income tax treatment of a qualified rollover from an account shall be as set forth in Iowa Code chapter 422. A rollover that is not a qualified rollover shall be treated as a nonqualified withdrawal.

[Filed 1/2/25, effective 2/26/25]

[Published 1/22/25]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8846C

UTILITIES COMMISSION[199]

Adopted and Filed

Rulemaking related to service supplied by water, sanitary sewage, and storm water drainage utilities

The Utilities Commission hereby rescinds Chapter 21, “Service Supplied by Water, Sanitary Sewage, and Storm Water Drainage Utilities,” Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 17A.3, 474.5, 476.1 and 476.2.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 474.5, 476.1, 476.2 and 476.6.

Purpose and Summary

The purpose of this rulemaking is to comply with Executive Order 10. Chapter 21 establishes the Commission's rules regarding service supplied by water, sanitary sewage, and storm water drainage utilities. The Commission is rescinding and adopting a new version of the chapter with the removal of unnecessary and unneeded language and with the reduction of restrictive terms.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024, as **ARC 8229C**. A public hearing was held on the following date(s):

- October 24, 2024
- November 4, 2024

The public hearings were attended by the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, and Iowa-American Water Company (Iowa-American).

OCA and Iowa-American also filed written comments. Both entities suggested minor grammatical changes be made to the adopted version of the chapter.

After reviewing the oral and written comments submitted by OCA and Iowa-American, the Commission found the proposed changes to be appropriate and incorporated those changes into this rulemaking.

Adoption of Rulemaking

This rulemaking was adopted by the Commission on December 3, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

No waiver provision is included in the amendments because the Commission has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in this chapter.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 199—Chapter 21 and adopt the following **new** chapter in lieu thereof:

CHAPTER 21
SERVICE SUPPLIED BY WATER, SANITARY SEWAGE,
AND STORM WATER DRAINAGE UTILITIES

DIVISION I
GENERAL PROVISIONS

199—21.1(476) Application of rules.

21.1(1) Purpose. These rules establish standards of service to the public by utilities providing water by piped distribution systems and utilities providing sanitary sewage or storm water drainage disposal by piped collection systems that are subject to the jurisdiction of the Iowa utilities commission, and by providing standards for uniform practices by those utilities.

21.1(2) Utility. The term “utility” or “utilities,” when not more specifically described, means a water, sanitary sewage, or storm water drainage public utility as defined in Iowa Code section 476.1(2) “c” and “d.” The term does not include a county or an entity organized pursuant to Iowa Code chapter 28E, which is composed entirely of counties.

199—21.2(476) Records and reports for water, sanitary sewage, and storm water drainage utilities.

21.2(1) Tariffs. The utility shall maintain its tariff filing in a current status.

The rates and rules of all utilities subject to the rules in this chapter shall be filed with the commission in accordance with these rules.

a. Form and identification.

(1) The tariff shall conform to the following requirements:

1. Be on 8½- by 11-inch pages so as to result in a clear and permanent record.
2. Be filed electronically in compliance with 199—Chapter 14.
3. The first page is the title page, which will show the name of the utility, the type of utility service being provided, and the words “Iowa Utilities Commission.”

4. When a tariff is to be superseded or replaced in its entirety, the replacing tariff will show on the upper right corner of its title page that it is a revision of a tariff on file and the number being superseded or replaced.

5. When a tariff sheet in a tariff is revised, amended, or eliminated, the tariff sheet will indicate in the upper right corner the number of the revision to that tariff sheet.

6. Any tariff sheet modifications will be marked in the right margin with symbols as described below to indicate the place, nature, and extent of the change in text. The marked version will show all added language marked with underlined text and all deleted language with strike-through.

- (C)—Change in regulation.
- (D)—Discontinued rate or regulation.
- (I)—Increase in rate or new treatment resulting in increased rate.
- (L)—Changed text location.
- (N)—New rate, treatment, or regulation.
- (R)—Reduction in rate or new treatment resulting in reduction in rate.
- (T)—Change in text only.

7. All sheets except the title page will have the following information located at the upper left corner of the tariff sheet:

- Company name.
- Type of utility tariff.
- The words “Filed with commission.”

8. All sheets except the title page will have the following information located at the upper right corner of the tariff sheet:

- Tariff part identification, if any.
- Tariff sheet number, original or revised.

- Canceled tariff sheet number, original or revised.
9. All sheets except the title page will have the following information located at the lower left corner of the tariff sheet:
- The issued date.
 - The name of the person responsible for the issuance.
10. All sheets except the title page will have the following information located at the lower right corner of the tariff sheet:
- An effective date field.
 - Proposed effective date.
- (2) The issued date is the date the tariff or the revised sheet content was filed by the utility in the commission's electronic filing system.
- (3) The effective date is to be left blank by the utility and will be determined by the commission. The utility may propose an effective date in the cover letter or interpretation submitted with the tariff. In lieu of a proposed effective date, the utility can provide the date of the month the utility would like the tariff to become effective in the cover letter or interpretation.
- b. Content of tariffs.* A tariff filed with the commission shall contain a table of contents; rates, including all rates of utilities for service with indication for each rate of the type of service and the class of customers to which each rate applies as approved by the commission; prices per unit of service; number of units per billing period to which the prices apply; period of billing; minimum bill; method of measuring demands and consumptions, including method of calculating or estimating loads or minimums; and any special terms and conditions applicable. Any discount for prompt payment or penalty for late payment and the period during which the net amount may be paid will be specified and be in accordance with subrule 21.4(4).

21.2(2) *List of persons authorized to receive commission inquiries.* Each utility shall file with the commission in the annual report required by rule 199—23.1(476) a list of names, titles, addresses, and telephone numbers of persons authorized to receive, act upon, and respond to communications from the commission in connection with: (1) general management duties; (2) customer relations (complaints); (3) engineering operations; (4) meter tests and repairs, if meters are used; and (5) interruptions of service 24 hours a day. The contact information required by this subrule will be kept current.

DIVISION II
WATER UTILITIES

199—21.3(476) General water service requirements.

21.3(1) *Water service.*

a. Metered measurement of water. All water sold by a utility shall be on the basis of metered measurement except that the utility may at its option provide flat rate or estimated service for the following:

- (1) Temporary service where the water use can be readily estimated.
- (2) Public and private fire protection service.
- (3) Water used for street sprinkling and sewer flushing.
- (4) In unusual circumstances.

b. Separate metering for premises. Separate premises will be separately metered and billed. Submetering is not permitted.

21.3(2) *Temporary service.* When the utility renders temporary service to a customer, it may require that the customer bear all the costs of installing and removing the service in excess of any salvage realized.

21.3(3) *Water meter requirements.*

a. Water meter installation. Each water utility shall adopt a written standard method of meter installation, copies of which are available upon request. All meters will be set in place by the utility.

b. Records of water meters and associated metering devices. Each water utility shall maintain for each meter and associated metering device the following applicable data:

- (1) Meter identification.
 1. Manufacturer.
 2. Meter type, catalog number, and serial number.
 3. Meter capacity.
 4. Registration unit of measurement (gallons or cubic feet).
 5. Number of moving digits or dials on register.
 6. Number of fixed zeros on register.
 7. Pressure rating of the meter.
- (2) Meter location history.
 1. Dates of installation and removal from service.
 2. Location of installations.
 3. All customer names with readings and read out dates.

Remote register readings are to be maintained identical to readings of the meter register.

c. Registration devices for meters. Where remote meter reading is used, the customer will have a readable meter register at the meter.

d. Water meter readings.

(1) Water meter reading interval. Reading of all meters used for determining charges to customers will be scheduled at least quarterly. An effort will be made to read meters on corresponding days of each meter reading period. The meter reading date may be advanced or postponed no more than ten days without adjustment of the billing for the period.

(2) Customer water meter reading. The utility may permit the customer to supply the meter reading information by telephone, or electronically, provided a utility representative reads the meter at least once every 12 months and when there is a change of customer.

(3) Estimated bill. An estimated bill may be rendered in the event that access to a meter cannot be gained and a meter reading form left with the customer is not returned in time for the billing operation. Only in unusual cases will more than three consecutive estimated bills be rendered.

(4) When a customer is connected or disconnected, or the regular meter reading date is substantially revised causing a given billing period to be longer or shorter than usual, the bill will be prorated on a daily basis.

21.3(4) *Filing published meter and service installation rules.* A copy of the utility's current rules, if any, published or furnished by the utility for the use of engineers, architects, plumbing contractors, etc., covering meter and service installation will be filed with the commission upon request.

21.3(5) *Extensions to customers.*

a. Definitions. The following definitions apply to the terms used in this subrule:

"Advances for construction costs" means cash payments or surety bonds or an equivalent surety made to the utility by an applicant for an extension, portions of which may be refunded depending on any subsequent connections made to the extension. Cash payments, surety bonds, or equivalent sureties include a grossed-up amount for the income tax effect of such revenue.

"Agreed-upon attachment period" means a period of not less than 30 days nor more than one year mutually agreed upon by the utility and the applicant within which the customer will attach. If no time period is mutually agreed upon, the agreed-upon attachment period is deemed to be 30 days.

"Contribution in aid of construction" means a nonrefundable cash payment covering the costs of an extension that are in excess of utility-funded allowances. Cash payments will be grossed-up for the income tax effect of such revenue. The amount of tax is reduced by the present value of the tax benefits to be obtained by depreciating the property in determining the tax liability.

"Customer advance for construction record" means a separate record established and maintained by the utility, which includes by depositor:

1. The amount of advance for construction provided by the customer;
2. Whether the advance is by cash or surety bond or equivalent surety;
3. If by surety bond, all relevant information concerning the bond or equivalent surety;
4. The amount of refund, if any, to which the depositor is entitled;
5. The amount of refund, if any, that has been made to the customer;

6. The amount unrefunded; and
7. The construction project on which, or work order pursuant to which, the extension was installed.

"Estimated annual revenues" means an estimated calculation of annual revenue based upon the following factors, including but not limited to:

1. The size of the facility to be used by the customer;
2. The average annual amount of service required by the equipment; and
3. The average number of hours per day and days per year the equipment will be in use.

"Estimated construction costs" means an estimated calculation of construction costs using average costs in accordance with good engineering practices and based upon the following factors:

1. Amount of service required or desired by the customer requesting the extension;
2. Size, location, and characteristics of the extension, including all appurtenances; and
3. Whether the ground is frozen or whether other adverse conditions exist.

The average cost per foot is calculated utilizing the prior calendar year costs, to the extent such cost basis does not exceed the current costs using current construction cost methodologies, resources and material, and working conditions, divided by the total feet of extensions by size of pipe for the prior calendar year. In no event will estimated construction costs include costs associated with facilities built for the convenience of the utility.

"Extensions" means a distribution main extension.

"Similarly situated customer" means a customer whose annual consumption or service requirements, as defined by estimated annual revenue, are approximately the same as the annual consumption or service requirements of other customers.

b. Terms and conditions. The utility shall extend service to new customers under the following terms and conditions:

(1) The utility will provide all water plant additions at its cost and expense without requiring an advance for construction or contribution in aid of construction from customers or developers except in those unusual circumstances where extensive plant additions are required before the customer can be served or where the customer will not attach within the agreed-upon attachment period after completion of construction. In such instances, the utility will require, no more than 30 days prior to commencement of construction, the customer or developer to advance funds that are subject to refund as additional customers are attached. A contract between the utility and the customer that requires an advance by the customer to make plant additions will be available for commission inspection.

(2) Where the customer will attach within 30 days after completion of the distribution main extension, the following applies:

1. If the estimated construction cost to provide a distribution main extension is less than or equal to five times the estimated annual revenue calculated on the basis of similarly situated customers, the utility shall finance and make the extension without requiring an advance for construction.

2. If the estimated construction cost to provide a distribution main extension is greater than five times the estimated annual revenue calculated on the basis of similarly situated customers, the applicant for such an extension shall contract with the utility and deposit no more than 30 days prior to commencement of construction an advance for construction equal to the estimated construction cost less five times the estimated annual revenue to be produced by the customer.

(3) Where the customer will not attach within the agreed-upon attachment period after completion of the distribution main extension, the customer requesting the extension shall contract with the utility and deposit no more than 30 days prior to the commencement of construction an advance for construction equal to the estimated construction cost.

(4) Advance payments for plant additions or extensions are subject to refund for a ten-year period and may be made by cash, surety bond, or equivalent surety. In the event a surety bond or an equivalent surety is used, the bonded amount shall have added to it a surcharge equal to the annual interest rate paid by the utility on customer bill deposits times the bonded amount. The bond will be called by the utility at the end of one year or when the earned refunds are equal to the bonded amount, less the surcharge, whichever occurs first. If, upon termination of the surety bond, there are sufficient earned refunds to offset the amount of the surety bond, less the surcharge, the depositors shall provide the utility the

amount of the surcharge. If, upon termination of the surety bond, there are not sufficient earned refunds to offset the full amount of the surety bond, less the surcharge, the depositors shall provide the utility a cash deposit equal to the amount of the surety bond, less refunds accumulated during the bonded period, plus the surcharge, or the depositors may pay the interest on the previous year's bond and rebond the balance due to the utility for a second or third one-year period. Upon receipt of such cash deposit, the utility releases the surety bond. The cash deposit, less the surcharge, will be subject to refund by the utility for the remainder of the ten-year period.

c. Refunds. The utility will refund to the depositor, for a period of ten years from the date of the original advance, a pro rata share for each service attachment to the distribution main extension. The pro rata refund will be computed in the following manner:

(1) If the combined total of five times the estimated annual revenue for the depositor and each customer who has attached to the distribution main extension exceeds the total estimated construction cost to provide the extension, the entire amount of the advance provided by the depositor will be refunded to the depositor.

(2) If the combined total of five times the estimated annual revenue for the depositor and each customer who has attached to the distribution main extension is less than the total estimated construction cost to provide the extension, the amount to be refunded to the depositor will equal five times the estimated annual revenue of the customer attaching to the extension.

(3) In no event will the total amount to be refunded to a depositor exceed the amount of the advance for construction made by the depositor. Any amounts subject to refund will be paid by the utility without interest. At the expiration of the above-described ten-year period, the customer advance for construction record will be closed and the remaining balance credited to the respective plant account.

d. Extensions not required. Utilities do not need to make extensions as described in this subrule unless the extension will be of a permanent nature.

e. More favorable methods permitted. A utility may make a contract with a customer in a different manner, if the contract provides a more favorable method of extension to the customer, so long as no discrimination is practiced among customers or depositors.

f. Connections to utility-owned equipment. An individual, partnership, or company may construct its own extension; however, it will meet, at a minimum, the applicable portions of the standards in rule 199—21.5(476) and such other reasonable standards as the utility may employ in constructing extensions, so long as the standards do not mandate a particular supplier. All connections to the utility-owned equipment or facilities are to be made by the utility at the applicant's expense. At the time of attachment to the utility-owned equipment or facilities, the applicant will transfer ownership of the extension to the utility and the utility will book the original cost of construction of the extension as an advance for construction, and make refunds to the applicant in accordance with paragraph 21.3(5) "c." The utility will be responsible for the operation and maintenance of the extension after attachment.

g. Reimbursement of extension construction cost. If the utility requires the applicant to construct the extension to meet service requirements greater than those necessary to serve the applicant's service needs, the utility shall reimburse the applicant for the difference in cost between the extension specifications required by the utility and the extension specifications necessary to meet the applicant's service needs.

21.3(6) Water service connections. The utility will supervise the installation and maintenance of that portion of the water service pipe from its main to and including the customer's meter. A curb stop will be installed at a convenient place between the property line and the curb, and all services will include a curb stop and curb box or meter vault. In installations where meters are installed in meter vaults incorporating a built-in valve and are installed between the property line and curb, no separate curb stop and curb box are required.

21.3(7) Location of meters. Meters may be installed outside or inside as mutually agreed upon by the customer and the utility.

a. Outside meters. Meters installed out-of-doors shall be readily accessible for maintenance and reading, and so far as practicable, the location should be mutually acceptable to the customer and the

utility. The meter is to be installed so as to be unaffected by climatic conditions and reasonably secure from injury.

b. Inside meters. Meters installed inside the customer's building shall be located as near as possible to the point where the service pipe enters the building and at a point reasonably secure from injury and readily accessible for reading and testing. In cases of multiple buildings, such as two-family dwellings or apartment buildings, the meter(s) will be located within the premises served or in a common location accessible to the customers and the utility.

199—21.4(476) Customer relations for water service.

21.4(1) *Customer information.*

a. Each utility shall:

(1) Post a notice in a conspicuous place in each office of the utility where applications for service are received, informing the public that copies of the rates and rules relating to the service of the utility are available for public inspection. This notice will also be provided on the utility's website and supplied to the customer with service applications.

(2) Maintain up-to-date maps, plans, or records of its entire water system.

(3) Upon request, assist the customer or prospective customers in selecting the most economic rate schedule available for the proposed type of service.

(4) Upon request, inform the customer as to the method of reading meters and the method of computing the customer's bill.

(5) Notify customers affected by a change in rates or rate classification as directed in the commission's rules.

b. Inquiries for information or complaints to a utility will be resolved promptly and courteously. Employees who receive customer telephone calls and office visits shall be qualified and trained in screening and resolving complaints, to avoid a preliminary recitation of the entire complaint to employees without ability and authority to act. The employee will provide identification to the customer, which will enable the customer to reach that employee again if needed.

c. Each utility will notify its customers, by bill insert or notice on the bill form, of the address and telephone number where a utility representative qualified to assist in resolving the complaint can be reached. The utility will also include the following statement: "If (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Commission by calling 877.565.4450, by writing to 1375 E. Court Ave., Des Moines, IA 50319, or by email to customer@iuc.iowa.gov." This information will be provided no less than annually.

d. Any utility that does not use the standard statement described in this subrule will file its proposed statement in its tariff for approval. A utility that bills by postcard may place an advertisement in a local newspaper of general circulation or a customer newsletter instead of a mailing, as long as the advertisement is of a type size that is easily legible and conspicuous and contains the information set forth above.

21.4(2) *Customer deposits.*

a. Deposit required. Each utility may require from any customer or prospective customer a deposit intended to guarantee payment of bills for service.

b. Amount of deposit. The total deposit will not be less than \$5 nor more in amount than the maximum estimated charge for service for 90 days or as may reasonably be required by the utility in cases involving service for short periods or special occasions.

c. New or additional deposit. A new or additional deposit may be required from a customer when a deposit has been refunded or is found to be inadequate. Written notice is to be mailed advising the customer of any new or additional deposit requirement. The customer will have no less than 12 days from the date of mailing to comply. The utility does not need to provide written notice of a deposit required as a prerequisite for commencing initial service.

d. Customer's deposit receipt. The utility will issue a receipt of deposit to each customer from whom a deposit is received.

e. Interest on customer deposits. Interest will be paid by the utility to each customer required to make a deposit. Utilities will compute interest on customer deposits at 7.5 percent per annum, compounded annually. Interest for prior periods will be computed at the rate specified by the rule in effect for the period in question. Interest will be paid for the period beginning with the date of deposit to the date of refund or to the date that the deposit is applied to the customer's account, or to the date the customer's bill becomes permanently delinquent. The date of refund is that date on which the refund or the notice of deposit refund is forwarded to the customer's last-known address. The date a customer's bill becomes permanently delinquent is the most recent date the account is treated as uncollectible.

f. Deposit refund. The deposit shall be refunded after 12 consecutive months of prompt payment unless the utility has evidence to indicate that the deposit is necessary to ensure payment of bills for service. In any event, the deposit will be refunded upon termination of the customer's service.

g. Unclaimed deposits. The utility will make a reasonable effort to return each unclaimed deposit and accrued interest after the termination of the services for which the deposit was made. The utility will maintain a record of deposit information for at least two years or until such time as the deposit, together with accrued interest, escheats to the state pursuant to Iowa Code section 556.4 at which time the record and deposit, together with accrued interest, less any lawful deductions, will be sent to the state treasurer pursuant to Iowa Code section 556.13.

21.4(3) Customer bill forms. The utility will bill each customer as promptly as possible following the reading of the customer's meter. Each bill, including the customer's receipt, shall show:

a. The date and the reading of the meter at the beginning and at the end of the period or the period for which the bill is rendered.

b. The number of units metered, when applicable.

c. Identification of the applicable rates.

d. The gross and net amount of the bill.

e. The late payment charge and the latest date on which the bill may be paid without incurring a penalty.

f. A distinct marking to identify an estimated bill, when applicable.

21.4(4) Bill payment terms. The bill is considered rendered to the customer when deposited in the U.S. mail with postage prepaid, or sent via electronic delivery with customer consent. If delivery is by other than U.S. mail, the bill is considered rendered when delivered to the last-known address, including electronic addresses, of the party responsible for payment. The customer will have a minimum of 20 days between the rendering of a bill and the date by which the account becomes delinquent.

a. Late payment charge. A utility's late payment charge will not exceed 1.5 percent per month of the past due amount.

b. Charge forgiveness. Each account will be granted at least one complete forgiveness of a late payment charge each calendar year. The utility's rules will be definitive that on one monthly bill in each period of eligibility, the utility will accept the net amount of such bill as full payment for such month after expiration of the net payment period. The rules shall state how the customer is notified that the eligibility has been used.

When a residential customer cannot pay in full a delinquent bill for utility service or has an outstanding debt to the utility for residential utility service and is not in default of a payment agreement with the utility, a utility shall offer the customer an opportunity to enter into a reasonable payment agreement.

21.4(5) Customer records. The utility shall retain customer billing records for the length of time necessary to permit the utility to comply with subrule 21.4(6), but not less than three years.

21.4(6) Adjustment of bills. Bills that are incorrect due to meter or billing errors are to be adjusted as follows:

a. Fast meters. Whenever a meter in service is tested and found to have overregistered more than 2 percent, the utility shall adjust the customer's bill for the excess amount paid. The estimated amount of overcharge is to be based on the period the error first developed or occurred. If that period cannot be definitely determined, it will be assumed that the overregistration existed for a period equal to one-half the time since the meter was last tested, or one-half the time since the meter was installed unless

otherwise ordered by the commission. If the recalculated bill indicates that more than \$5 is due an existing customer, the full amount of the calculated difference between the amount paid and the recalculated amount shall be refunded to the customer. If a refund is due to a person no longer a customer of the utility, a notice will be mailed to the last-known address.

b. Nonregistering meters. Whenever a meter in service is found not to register, the utility may render an estimated bill.

c. Slow meters. Whenever a meter is found to be more than 2 percent slow, the utility may bill the customer for the amount the test indicates the customer has been undercharged for the period of inaccuracy, or a period as estimated in paragraph 21.4(6)“a” unless otherwise ordered by the commission.

d. Overcharges. When a customer has been overcharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the metering installation, or other similar reasons, the amount of the overcharge shall be adjusted, refunded, or credited to the customer. The time period for which the utility is required to adjust, refund, or credit the customer’s bill cannot exceed five years unless otherwise ordered by the commission.

e. Undercharges. When a customer has been undercharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the metering installation, or other similar reasons, the tariff may provide for billing the amount of the undercharge to the customer. The time period for which the utility may adjust for the undercharge need not exceed five years unless otherwise ordered by the commission. The maximum bill will not exceed the billing for like charges (e.g., usage-based, fixed, or service charges) in the 12 months preceding discovery of the error unless otherwise ordered by the commission.

21.4(7) Refusal or disconnection of service. Service may be refused or discontinued only for the reasons listed in paragraphs 21.4(7)“a” through “f” below. Unless otherwise stated, the customer shall be permitted at least 12 days following mailing of notice of disconnect in which to take necessary action before service is discontinued. When a person is refused service, the utility shall notify the person promptly of the reason for the refusal to serve and of the person’s right to file a complaint about the utility’s decision with the commission.

a. Without notice in the event of an emergency.

b. Without notice in the event of tampering with the equipment furnished and owned by the utility or obtaining water by fraudulent means.

c. For violation of or noncompliance with the utility’s rules on file with the commission.

d. For failure of the customer to permit the utility reasonable access to its equipment.

e. For nonpayment of bill, provided that the utility has: (1) made a reasonable attempt to effect collection; (2) given the customer written notice that the customer has at least 12 days, excluding Sundays and legal holidays, in which to make settlement of the account; and (3) given the customer the written statement of the customer’s rights and responsibilities to avoid a shutoff, as required by subrule 21.4(8). In the event there is dispute concerning a bill, the utility may require the customer to pay a sum of money equal to the amount of the undisputed portion of the bill pending resolution and thereby avoid discontinuance of service for nonpayment of the disputed bill for up to 45 days after the rendering of the bill. The 45 days will be extended if requested of the utility by the commission in the event the customer files a written complaint with the commission.

f. For failure to pay a debt owed to a city utility, city enterprise, combined city utility, or combined city enterprise for wastewater service or services of sewer systems, storm water drainage systems, or sewage treatment. Disconnection of water service pursuant to this paragraph will only be allowed if the governing body of a city utility, city enterprise, combined city utility, or combined city enterprise has entered into a written agreement with the utility that includes provisions:

(1) Requiring that a notice of disconnection of water service for failure to pay a debt owed to the city utility, city enterprise, combined city utility, or combined city enterprise for wastewater service or services of sewer systems, storm water drainage systems, or sewage treatment be made by the utility and allow the customer 12 days, excluding Sundays and legal holidays, after the mailing of the notice to take necessary action to satisfy the debt.

(2) Providing for prompt notice from the city utility, city enterprise, combined city utility, or combined city enterprise to the utility that the debt for wastewater service or services of sewer systems, storm water drainage systems, or sewage treatment has been satisfied and providing that, once notified of the payment of the debt, the utility shall reconnect water service to the customer as provided for in the utility's tariff.

(3) Requiring the city utility, city enterprise, combined city utility, or combined city enterprise, prior to contacting the utility for disconnection of water service to a customer, to have completed the disconnection notification procedures established in the tariffs or ordinances of the city utility, city enterprise, combined city utility, or combined city enterprise.

(4) Providing that the customer may be charged a fee for disconnection and reconnection of water service by the utility for failure of the customer to pay a debt owed to the city utility, city enterprise, combined city utility, or combined city enterprise for wastewater service or services of sewer systems, storm water drainage systems, or sewage treatment, that the fee be no greater than the rates or charges established for reconnection and disconnection of water service in the utility's tariffs approved by the commission, and that recovery of lost revenue by the utility as a result of disconnection of water service pursuant to this paragraph is not authorized under these rules.

21.4(8) *Statement of customer rights and responsibilities.* In addition to providing the written notice of disconnect required by subrule 21.4(7), a utility, prior to refusing water service due to nonpayment of a bill, will provide the customer a written statement of rights and responsibilities to avoid shutoff. Any utility that does not use the standard form set forth below will electronically submit its proposed form to the commission for approval. A utility that is preparing to disconnect water service due to nonpayment of a bill for sanitary sewage disposal service or storm water drainage service will replace the words "water service" in the form below with the words "sanitary sewage disposal service" or "storm water drainage service" as appropriate. The utility shall provide the customer with the written statement of customer rights and responsibilities at the same time it provides the customer the written notice of disconnect.

CUSTOMER RIGHTS AND RESPONSIBILITIES TO AVOID SHUTOFF OF WATER SERVICE FOR NONPAYMENT

1. What can I do if I receive a notice from the utility that says my water service will be shut off because I have a past due bill?

- a. Pay the bill in full;
- b. Enter into a reasonable payment plan with the utility (see #2 below); or
- c. Tell the utility if you think part of the amount shown on the bill is wrong. However, you must still pay the part of the bill you agree you owe the utility (see #3 below).

2. How do I go about making a reasonable payment plan? (Residential customers only)

- a. Contact the utility as soon as you know you cannot pay the amount you owe. If you cannot pay all the money you owe at one time, the utility may offer you a payment plan that spreads payments evenly over at least 6 months. The plan may be longer depending on your financial situation.
- b. If you have not made the payments you promised in a previous payment plan with the utility and still owe money, you may qualify for a second payment agreement under certain conditions. If you do not make the payments you promise, the utility may shut off your utility service on one day's notice unless all the money you owe the utility is paid or you enter into another payment agreement.

3. What should I do if I believe my bill is not correct?

You may dispute your utility bill. You must tell the utility that you dispute the bill. You must pay the part of the bill you think is correct. If you do this, the utility will not shut off your service for 45 days from the date the bill was mailed while you and the utility work out the dispute over the part of the bill you think is incorrect. You may ask the Iowa Utilities Commission for assistance in resolving the dispute. (See #6 below.)

4. When can the utility shut off my utility service because I have not paid my bill?

The utility will not shut off your service for up to 45 days from the rendering of the bill if you have notified the utility that you dispute a portion of your bill and you pay the part of the bill that you agree is

correct. The 45 days will be extended if requested of the utility by the Utilities Commission in the event you file a written complaint with the Utilities Commission.

5. How will I be told the utility is going to shut off my service?

You must be given a written notice at least 12 days before the utility service can be shut off for nonpayment.

6. If service is shut off, when will it be turned back on?

a. The utility will turn your service back on promptly if you pay the whole amount you owe or, in the event that you dispute a portion of the bill, you pay the portion of the bill that is not under dispute (see #2 above).

b. The utility may charge you a fee to turn your service back on. Those fees may be higher in the evening or on weekends, so you may ask that your service be turned on during normal utility business hours.

7. Is there any other help available besides my utility?

If the utility has not been able to help you with your problem, you may contact the Iowa Utilities Commission toll-free at 877.565.4450. You may also write the Iowa Utilities Commission at 1375 E. Court Ave., Des Moines, IA 50319, or by email at customer@iuc.iowa.gov. Low-income customers may also be eligible for free legal assistance from Iowa Legal Aid, and may contact Legal Aid at 800.532.1275.

21.4(9) Reconnection and charges. In all cases of discontinuance of service where the cause of discontinuance has been corrected, the utility will promptly restore service to the customer. The utility may make a reasonable charge applied uniformly for reconnection of service.

21.4(10) Insufficient reasons for denying service. The following do not constitute sufficient cause for refusal of service to a present or prospective customer:

a. Delinquency in payment for service by a previous occupant of the premises to be served.

b. Failure to pay the bill of another customer as guarantor thereof.

c. Failure to pay for a different type or class of utility service, except sanitary sewage disposal service or storm water drainage service. Disconnection of water service pursuant to the provisions of paragraph 21.4(7) "f" is not considered a different type or class of public utility service for purposes of subrule 21.4(10).

d. Delinquency in payment for service arising more than ten years prior, as measured from the most recent of the last date of service, the physical disconnection of service, or the last payment or promise of payment made by the customer.

21.4(11) Customer complaints. A "complaint" means any objection to the charge, facilities, or quality of service of a utility.

a. Each utility will investigate promptly and thoroughly and keep a record of all complaints received from its customers that will enable it to review its procedures and actions. The record shall show the name and address of the complainant, the date and nature of the complaint, and its disposition and the date resolved.

b. All complaints caused by a major service interruption shall be summarized in a single report.

c. A record of the original complaint shall be kept for a period of three years after final resolution of the complaint.

21.4(12) Payment agreement. A customer may enter into a reasonable payment agreement with the utility in the event of a past-due bill to avoid utility service shut off.

a. *Availability of a first payment agreement.* When a residential customer cannot pay in full a delinquent bill for utility service or has an outstanding debt to the utility for residential utility service and is not in default of a payment agreement with the utility, a utility shall offer the customer an opportunity to enter into a reasonable payment agreement.

b. *Reasonableness.* Whether a payment agreement is reasonable will be determined by considering the current household income, ability to pay, payment history including prior defaults on similar agreements, the size of the bill, the amount of time and the reasons why the bill has been outstanding, and any special circumstances creating extreme hardships within the household. The utility may require

the person to confirm financial difficulty with an acknowledgment from the department of health and human services or another agency.

c. Terms of payment agreements.

(1) First payment agreement. The utility shall offer the following conditions to customers who have received a disconnection notice or who have been previously disconnected and are not in default of a payment agreement:

1. For customers who received a disconnection notice or who have been disconnected less than 120 days and are not in default of a payment agreement, the utility is to offer an agreement with at least six even monthly payments. For customers who have been disconnected more than 120 days and are not in default of a payment agreement, the utility is to offer an agreement with at least six even monthly payments. Utilities will inform customers they may pay off the delinquency early without incurring any prepayment penalties.

2. The agreement shall also include provision for payment of the current account.

3. The utility may also require the customer to enter into a budget billing plan to pay the current bill.

4. When the customer makes the agreement in person, a signed copy of the agreement shall be provided to the customer.

5. The utility may offer the customer the option of making the agreement over the telephone or through electronic transmission.

6. When the customer makes the agreement over the telephone or through electronic transmission, the utility shall provide to the customer a written document reflecting the terms and conditions of the agreement within three days of the date the parties entered into the oral agreement or electronic agreement.

7. The document will be considered provided to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid, or sent via electronic delivery with customer consent. If delivery is by other than U.S. mail, the document is considered provided to the customer when delivered to the last-known address, including electronic addresses, of the person responsible for payment for the service.

8. The document shall state that unless the customer notifies the utility otherwise within ten days from the date the document is provided, it will be deemed that the customer accepts the terms as reflected in the written document. The document stating the terms and agreements shall include the address and a toll-free or collect telephone number where a qualified representative can be reached.

9. Once the first payment required by the agreement is made by the customer or on behalf of the customer, the oral or electronic agreement is deemed accepted by the customer.

10. Each customer entering into a first payment agreement shall be granted at least one late payment that is four days or less beyond the due date for payment, and the first payment agreement shall remain in effect.

11. The initial payment is due on the due date for the next regular bill.

(2) Second payment agreement. The utility shall offer a second payment agreement to a customer who is in default of a first payment agreement if the customer has made at least two consecutive full payments under the first payment agreement.

1. The second payment agreement shall be for a term at least as long as the term of the first payment agreement.

2. The customer shall pay for current service in addition to the monthly payments under the second payment agreement and may be required to make the first payment up front as a condition of entering into the second payment agreement.

3. The utility may also require the customer to enter into a budget billing plan to pay the current bill.

(3) Additional payment agreements. The utility may offer additional payment agreements to the customer.

d. Refusal by utility. A customer may offer the utility a proposed payment agreement. If the utility and the customer do not reach an agreement, the utility may refuse the offer orally, but the utility must

provide a written refusal of the customer's final offer, stating the reason for the refusal, within three days of the oral notification. The written refusal shall be considered provided to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the written refusal shall be considered provided to the customer when delivered to the last-known address of the person responsible for the payment for the service.

A customer may ask the commission for assistance in working out a reasonable payment agreement within ten days after the written refusal is provided. During the review of this request, the utility shall not disconnect the service.

199—21.5(476) Engineering practice for water service.

21.5(1) *Requirement of good engineering practice.* The design and construction of the utility's plant and distribution system will conform to good standard engineering practice.

21.5(2) *Inspection.* Each utility shall adopt and follow a program of inspection of its plant and distribution system in order to determine the necessity for replacement and repair. The frequency of the various inspections will be based on the utility's experience and accepted good practice.

199—21.6(476) Meter testing for water service.

21.6(1) *Periodic and routine tests.* Each utility shall adopt schedules approved by the commission for periodic and routine tests and repair of the utility's meters.

21.6(2) *Meter test facilities and equipment.* Each utility furnishing metered service will provide the necessary standard facilities, instruments, and other equipment for testing its meters, or contract for test of its meters by another utility or agency equipped to test meters subject to approval by the commission.

21.6(3) *Accuracy requirements.* All meters shall be in good mechanical condition and accurate to the following standards:

a. Test flow limits. For determination of minimum test flow and normal test flow limits, the utility will use as a guide the appropriate standard specifications of the American Water Works Association for the various types of meters.

b. Accuracy limits. A meter will not be placed in service if it registers less than 95 percent of the volume passed through it at the minimum test flow, or overregisters or underregisters more than 1.5 percent at the intermediate or maximum limit.

21.6(4) *Initial test and storage of meters.* Every meter will be tested prior to its installation either by the manufacturer, the utility, or an organization equipped for meter testing.

If a meter is not stored as recommended by the manufacturer, the meter will be tested immediately before installation.

21.6(5) *As found tests.* To determine the average meter error in accordance with these rules for periodic or complaint tests, meters will be tested in the condition as found in the customer's service. Tests will be made at intermediate and maximum rates of flow, and the meter error will be the algebraic average of the errors of the two tests.

21.6(6) *Request tests.* A utility will test any meter upon written request of a customer no more than once every 18 months. The customer will be given the opportunity to be present at the requested test.

21.6(7) *Commission-ordered tests.* The commission shall order tests of meters as follows:

a. Application. Upon written application to the commission by a customer or a utility, a test will be made of the customer's meter as soon as practicable.

b. Guarantee. The application will be sent by mail and accompanied by payment or money order made payable to the utility in the amount of \$25.

c. Conduct of test. On receipt of a request from a customer, the commission will forward the deposit to the utility and notify the utility of the requirement for the test. The utility will not knowingly remove or adjust the meter until tested. The utility will furnish all instruments, load devices, and other facilities necessary for the test and will perform the test and furnish verification of the accuracy of test instruments used.

d. Test results. If the tested meter is found to overregister to an extent requiring a refund under the provisions of paragraph 21.4(6) “a,” the amount paid to the utility will be returned to the customer by the utility.

e. Notification. The utility will notify the customer in advance of the date and time of the commission-ordered test.

f. Utility report. The utility will make a written report of the results of the test and send the report to the customer and commission.

21.6(8) Sealing of meters. Upon completion of adjustment and test of any water meter, the utility will place a suitable register seal on the meter in a manner that adjustment or registration of the meter cannot be changed without breaking the seal.

21.6(9) Record of meter tests. Meter test records shall include:

- a.* The date and reason for the test.
- b.* The meter reading prior to any test.
- c.* The accuracy as found at each of the flow rates required by paragraph 21.6(3) “a.”
- d.* The accuracy as left at each of the flow rates required by paragraph 21.6(3) “a.”
- e.* Statement of any repairs.
- f.* If the meter test is made using a standard meter, the utility will retain all data taken at the time of the test sufficient to permit the convenient checking of the test method, calculations, and traceability to the National Bureau of Standards’ volumetric standardization.

The test records of each meter will be retained for two consecutive periodic tests or at least for two years. A record of the test made at the time of the meter’s retirement, if any, will be retained for a minimum of three years.

199—21.7(476) Standards of quality of water service.

21.7(1) Water pressures. Under normal conditions of water usage, the pressure at a customer’s service line will be no less than 35 pounds per square inch gauge (PSIG) and no more than 125 PSIG.

At regular intervals, a utility shall make a survey of pressures in its water system. The survey will be of sufficient magnitude to indicate the quality of service being rendered at representative points on its system. The survey will be conducted during periods of high usage at or near the maximum usage during the year. The pressure charts for these surveys will show the date and time of beginning and end of the test and the test location. Records of these pressure surveys will be made available to the commission upon request.

21.7(2) Interruption of water service.

a. A utility shall make a reasonable effort to prevent interruptions of water service. When an emergency interruption occurs, the utility will reestablish service with the shortest possible delay consistent with the safety of its customers and the general public. If an emergency interruption affects fire protection service, the utility will immediately notify the fire chief or other responsible local official.

b. When a utility finds it necessary to schedule an interruption of water service, it shall make a reasonable effort to notify all customers to be affected by the interruption, including the time and anticipated duration of the interruption. Interruptions shall be scheduled at hours that create the least inconvenience to the customer.

c. A utility will retain records of interruptions for a period of at least five years.

21.7(3) Water supply shortage. The utility will attempt to furnish a continuous and adequate supply of water to its customers and to avoid any shortage or interruption of water delivery.

a. If a utility finds that it is necessary to restrict the use of water due to a shortage, it will equitably apportion its available water supply among its customers. The utility will notify its customers and the commission of the following:

- (1) The reason for the restriction.
- (2) The nature and extent of the restriction.
- (3) The effective date of the restriction.
- (4) The probable date of termination of the restriction.

b. The water use restriction will only take effect if approved by the commission, except in cases of emergency.

199—21.8(476) Applications for water costs for fire protection services.

21.8(1) Definition. For purposes of this rule, “water costs for fire protection service” means all or a part of the utility’s costs of fire hydrants and other improvements, maintenance, and operations for the purpose of providing adequate water production, storage, and distribution for public fire protection, as reflected in the utility’s current tariff for public fire protection water service.

21.8(2) Utility requirements. A utility that provides public fire protection water service to a city preparing an application pursuant to subrule 21.8(3) will provide the city all necessary information and affidavits to enable the city to meet its application filing requirements.

21.8(3) Application contents. Any city filing an application with the commission requesting inclusion of all or a part of the water costs for fire protection service in a utility’s rates or charges to customers covered by the city’s fire protection service will submit, at the time the application is filed, the following information with supporting testimony:

a. A statement showing (1) the proposed method of allocating costs to affected customers, and (2) both the proposed per-customer rate increase and the average percentage increase by customer class, based on the utility’s current tariff, if the costs for fire protection water service are included in rates charged to affected customers;

b. Copies of all bills rendered to the city by the utility for public fire protection water service during the preceding 24-month period;

c. The current number of utility customers served within the city’s corporate limits, by customer class, with an affidavit from the utility verifying the information;

d. A map illustrating both (1) the city’s corporate limits, and (2) the portion of the utility’s customer service area within the city’s corporate limits, with an affidavit from the utility verifying the customer service area; and

e. An affidavit from the utility showing that the notice required by Iowa Code section 476.6(14) “c” and subrule 21.8(4) has been provided and paid for by the applicant and mailed by the utility to all affected customers.

21.8(4) Customer notification.

a. *Prior approval.* The city will file with the commission for its approval, not less than 30 days before providing notification to affected customers, a copy of the proposed notice.

b. *Content of notification.* The notice will advise affected customers of the proposed increase in rates and charges, the proposed effective date of the increase, the percentage increase by customer class, and include a written explanation of the reason for the increase. The notice will advise customers that the city is requesting the increase and that customers have the right to file with the commission a written objection to the proposed increase and to request a public hearing.

c. *Notice of deficiencies.* Within 30 days of the filing of the proposed notice, the city will be notified either of the approval of the notice or of any deficiencies in the notice and the corrective measures required for approval.

d. *Distribution.* The city shall provide to the utility, for mailing, a sufficient number of copies of the approved notice and direct the utility either to (1) include the notice with the utility’s next regularly scheduled mailing to the affected customers, or (2) make a separate mailing of the notice to affected customers within 30 days of receiving from the city the requisite number of copies of the notice. The city will pay all expenses incurred by the utility in providing notice to affected customers. The utility may require payment prior to the mailing.

e. *Delivery.* The written notice to affected customers will be mailed or delivered by the utility not more than 90 days before the application is filed and no later than the date the application is filed.

21.8(5) Procedure.

a. *Docketing.* Within 30 days of the applicant filing the application with the commission, the commission will either approve the application or docket the case as a formal proceeding and establish a procedural schedule.

b. *Decision.* The commission will render its decision within six months of the date of the application. If the application is approved, the commission will order the utility providing the water service to the city to file tariffs implementing the commission's decision. The utility will include annually a bill insert explaining to customers that the customers are being charged for water-related fire protection costs. The city will pay all costs incurred by the utility to file and implement the required tariff.

199—21.9(476) Incident reports regarding water service.

21.9(1) *Notification.* A water utility shall notify the commission about any incident involving:

- a. The occurrence of a waterborne illness;
- b. The issuance of a boil water advisory;
- c. A contamination event;
- d. A low-pressure event (less than 20 psi) that negatively affects the quality of water service;
- e. A flood event affecting the utility's plant or distribution system; or
- f. A cyberattack affecting the well-being of the utility, its customers, or the environment.

21.9(2) *Information required.* The utility shall notify the commission immediately, or as soon as practical, of any reportable incident by emailing the duty officer at dutyofficer@iuc.iowa.gov or, when email is not available, by calling the commission duty officer at 515.745.2332. The person sending the email will leave the telephone number of a person who can provide the following information:

- a. The name of the utility, the name and telephone number of the person making the report, and the name and telephone number of a contact person knowledgeable about the incident.
- b. The location of the incident.
- c. The time of the incident.
- d. The number of deaths or personal injuries and the extent of those injuries, if any.
- e. The number of services interrupted.
- f. A summary of the significant information available to the utility regarding the likely cause of the incident and the estimated extent of damage.

21.9(3) *Normal service restored.* The utility will notify the commission when the incident has ended and normal water service has been restored.

199—21.10(476) Separate books for acquired water service assets. A utility acquiring the whole or any substantial part of a water system with a purchase price of \$3 million or more from a non-rate-regulated entity described in Iowa Code section 476.1(3) will maintain separate books and records for the acquired system until the utility's next general rate case unless otherwise ordered by the commission.

DIVISION III
SANITARY SEWAGE UTILITIES

199—21.11(476) General sanitary sewage disposal service requirements.

21.11(1) *Sanitary sewage disposal service.*

a. *Metered measurement of sanitary sewage.* All sanitary sewage disposal service sold by a utility shall be on the basis of metered measurement, except that the utility may at its option, pursuant to commission-approved tariffs, provide flat-rate or estimated service for the following:

- (1) Temporary service; or
- (2) The disposal at the sewage treatment plant of delivered sewage where the amount of sewage can be readily estimated.
- (3) When access to the meter cannot be gained.

b. *Sanitary sewage meter requirements.* Sanitary sewage disposal service provided by a utility may be based upon the amount of water used by the customer as measured pursuant to rule 199—21.3(476) or separately metered in substantial conformity with the requirements of rule 199—21.3(476). The method of measuring sanitary sewage disposal service will be filed in the utility's tariff and approved by

the commission. A proposed tariff that includes provisions for separate sanitary sewage meters will describe the circumstances under which separate meters will be used.

c. Customer classes. In establishing customer classes, the utility may consider the characteristics of the sewage generated by that customer class and the existence of any industrial pretreatment agreements. Customer classes are established pursuant to commission-approved tariffs.

21.11(2) Temporary service. When the utility renders temporary service to a customer, it may require that the customer bear all of the costs of installing and removing the service in excess of any salvage realized pursuant to commission-approved tariffs.

21.11(3) Sewage meter requirements.

a. Sewage meter installation. Each sanitary sewage utility shall adopt a written standard method or a method preapproved by the commission for meter installation, copies of which shall be available upon request. All meters will be set in place by the utility.

b. Records of sewage meters and associated metering devices. Each sanitary sewage utility shall maintain for each meter and associated metering device the following applicable data:

- (1) Meter identification.
 1. Manufacturer.
 2. Meter type, catalog number, and serial number.
 3. Meter capacity.
 4. Registration unit of measurement (gallons or cubic feet).
 5. Number of moving digits or dials on register.
 6. Number of fixed zeros on register.
 7. Pressure rating of the meter.
- (2) Meter location history.
 1. Dates of installation and removal from service.
 2. Location of installation.
 3. All customer names with readings and read out dates.

Remote register readings shall be maintained identical to readings of the meter register.

c. Registration devices for meters. Where remote meter reading is used, the customer will have a readable meter register at the meter.

d. Sewage meter readings.

(1) Sewage meter reading interval. Reading of all meters used for determining charges to customers will be scheduled at least quarterly. An effort will be made to read meters on corresponding days of each meter reading period. The meter reading date may be advanced or postponed no more than ten days without adjustment of the billing for the period.

(2) Customer sewage meter reading. The utility may permit the customer to supply the meter reading information by telephone, or electronically, provided a utility representative reads the meter at least once every 12 months and when there is a change of customer.

(3) Readings and estimates in unusual situations. When a customer is connected or disconnected, or the regular meter reading date is substantially revised causing a given billing period to be longer or shorter than usual, such bills will be prorated on a daily basis.

(4) Estimated bill. An estimated bill may be rendered in the event that access to a meter cannot be gained and a meter reading form left with the customer is not returned in time for the billing operation. Only in unusual cases will more than three consecutive estimated bills be rendered.

21.11(4) Filing published meter and service installation rules. A copy of the utility's current rules, if any, published or furnished by the utility for the use of engineers, architects, plumbing contractors, etc., covering meter and service installation will be filed with the commission upon request.

21.11(5) Extensions to customers.

a. Definitions. The following definitions apply to the terms used in this subrule:

"Advances for construction costs" means cash payments or surety bonds or an equivalent surety made to the utility by an applicant for an extension, portions of which may be refunded depending on any subsequent connections made to the extension. Cash payments, surety bonds, or equivalent sureties shall include a grossed-up amount for the income tax effect of such revenue.

“Agreed-upon attachment period” means a period of not less than 30 days nor more than one year mutually agreed upon by the utility and the applicant within which the customer will attach. If no time period is mutually agreed upon, the agreed-upon attachment period is deemed to be 30 days.

“Contribution in aid of construction” means a nonrefundable cash payment covering the costs of an extension that are in excess of utility-funded allowances. Cash payments will be grossed-up for the income tax effect of such revenue. The amount of tax shall be reduced by the present value of the tax benefits to be obtained by depreciating the property in determining the tax liability.

“Customer advance for construction record” means a separate record established and maintained by the utility, which includes by depositor:

1. The amount of advance for construction provided by the customer;
2. Whether the advance is by cash or surety bond or equivalent surety;
3. If by surety bond, all relevant information concerning the bond or equivalent surety;
4. The amount of refund, if any, to which the depositor is entitled;
5. The amount of refund, if any, which has been made to the customer;
6. The amount unrefunded; and
7. The construction project on which or work order pursuant to which the extension was installed.

“Estimated annual revenues” means an estimated calculation of annual revenue based upon the following factors, including but not limited to:

1. The size of the facility to be used by the customer;
2. The size and type of equipment to be used by the customer;
3. The average annual amount of service required by the equipment; and
4. The average number of hours per day and days per year the equipment will be in use.

“Estimated construction cost” means an estimated calculation of construction costs using average costs in accordance with good engineering practices and based upon the following factors:

1. Amount of service required or desired by the customer requesting the extension;
2. Size, location and characteristics of the extension, including all appurtenances; and
3. Whether the ground is frozen or whether other adverse conditions exist.

The average cost per foot is calculated utilizing the prior calendar year costs, to the extent such cost basis does not exceed the current costs using current construction cost methodologies, resources and material, and working conditions, divided by the total feet of extensions by size of pipe for the prior calendar year. In no event will estimated construction costs include costs associated with facilities built for the convenience of the utility.

“Extensions” means a sanitary sewer main extension.

“Similarly situated customer” means a customer whose annual consumption or service requirements, as defined by estimated annual revenue, are approximately the same as the annual consumption or service requirements of other customers.

b. Terms and conditions. The utility shall extend service to new customers under the following terms and conditions:

(1) The utility will provide all sewage treatment plant additions at its cost and expense without requiring an advance for construction or contribution in aid of construction from customers or developers except in those unusual circumstances where extensive plant additions are required before the customer can be served or where the customer will not attach within the agreed-upon attachment period after completion of construction. In such instances, the utility will require, no more than 30 days prior to commencement of construction, the customer or developer to advance funds that are subject to refund as additional customers are attached. A contract between the utility and the customer that requires an advance by the customer to make plant additions will be available for commission inspection.

(2) Where the customer will attach within 30 days after completion of the sewer main extension, the following applies:

1. If the estimated construction cost to provide a sewer main extension is less than or equal to five times the estimated annual revenue calculated on the basis of similarly situated customers, the utility will finance and make the extension without requiring an advance for construction.

2. If the estimated construction cost to provide a sewer main extension is greater than five times the estimated annual revenue calculated on the basis of similarly situated customers, the applicant for such an extension shall contract with the utility and deposit no more than 30 days prior to commencement of construction an advance for construction equal to the estimated construction cost less five times the estimated annual revenue to be produced by the customer.

(3) Where the customer will not attach within the agreed-upon attachment period after completion of the sewer main extension, the customer requesting the extension shall contract with the utility and deposit no more than 30 days prior to the commencement of construction an advance for construction equal to the estimated construction cost.

(4) Advance payments for plant additions or extensions are subject to refund for a ten-year period and may be made by cash, surety bond, or equivalent surety. In the event a surety bond or an equivalent surety is used, the bonded amount shall have added to it a surcharge equal to the annual interest rate paid by the utility on customer bill deposits times the bonded amount. The bond will be called by the utility at the end of one year or when the earned refunds are equal to the bonded amount, less the surcharge, whichever occurs first. If, upon termination of the surety bond, there are sufficient earned refunds to offset the amount of the surety bond, less the surcharge, the depositors shall provide the utility the amount of the surcharge. If, upon termination of the surety bond, there are not sufficient earned refunds to offset the full amount of the surety bond, less the surcharge, the depositors will provide the utility a cash deposit equal to the amount of the surety bond, less refunds accumulated during the bonded period, plus the surcharge, or the depositors may pay the interest on the previous year's bond and rebond the balance due to the utility for a second or third one-year period. Upon receipt of such cash deposit, the utility releases the surety bond. The cash deposit, less the surcharge, will be subject to refund by the utility for the remainder of the ten-year period.

c. Refunds. The utility will refund to the depositor for a period of ten years from the date of the original advance, a pro rata share for each service attachment to the sewer main extension. The pro rata refund will be computed in the following manner:

(1) If the combined total of five times the estimated annual revenue for the depositor and each customer who has attached to the sewer main extension exceeds the total estimated construction cost to provide the extension, the entire amount of the advance provided by the depositor will be refunded to the depositor.

(2) If the combined total of five times the estimated annual revenue for the depositor and each customer who has attached to the sewer main extension is less than the total estimated construction cost to provide the extension, the amount to be refunded to the depositor will equal five times the estimated annual revenue of the customer attaching to the extension.

(3) In no event will the total amount to be refunded to a depositor exceed the amount of the advance for construction made by the depositor. Any amounts subject to refund will be paid by the utility without interest. At the expiration of the above-described ten-year period, the customer advance for construction record will be closed and the remaining balance be credited to the respective plant account.

d. Extensions not required. Utilities do not need to make extensions as described in subrule 21.11(5) unless the extension will be of a permanent nature.

e. More favorable methods permitted. A utility may make a contract with a customer in a different manner, if the contract provides a more favorable method of extension to the customer, so long as no discrimination is practiced among customers or depositors.

f. Connections to utility-owned equipment. An individual, partnership, or company may construct its own extension; however, it will meet, at a minimum, the applicable portions of the standards in rule 199—21.13(476) and such other reasonable standards as the utility may employ in constructing extensions, so long as the standards do not mandate a particular supplier. All connections to the utility-owned equipment or facilities are to be made by the utility at the applicant's expense. At the time of attachment to the utility-owned equipment or facilities, the applicant will transfer ownership of the extension to the utility and the utility will book the original cost of construction of the extension as an advance for construction, and make refunds to the applicant in accordance with paragraph 21.11(5)“c.” The utility will be responsible for the operation and maintenance of the extension after attachment.

g. *Reimbursement of extension construction cost.* If the utility requires the applicant to construct the extension to meet service requirements greater than those necessary to serve the applicant's service needs, the utility shall reimburse the applicant for the difference in cost between the extension specifications required by the utility and the extension specifications necessary to meet the applicant's service needs.

21.11(6) *Sanitary sewer service connections.* The utility will supervise the installation and maintenance of that portion of the sanitary sewer service line from the main to and including the customer's meter or, if the customer does not have a separate meter for sanitary sewage disposal service, to the point where the sanitary sewage line exits the customer's residence or building.

21.11(7) *Location of meters.* Meters may be installed outside or inside as mutually agreed upon by the customer and utility.

a. *Outside meters.* Meters installed out-of-door shall be readily accessible for maintenance and reading, and, so far as practicable, the location should be mutually acceptable to the customer and the utility. The meter is to be installed so as to be unaffected by climatic conditions and reasonably secure from injury.

b. *Inside meters.* Meters installed inside the customer's building shall be located as near as possible to the point where the service pipe enters the building and at a point reasonably secure from injury and readily accessible for reading and testing. In cases of multiple buildings, such as two-family dwellings or apartment buildings, the meter(s) will be located within the premises served or in a common location accessible to the customers and the utility.

199—21.12(476) Customer relations for sanitary sewage disposal service.

21.12(1) *Customer information.*

a. Each utility shall:

(1) Post a notice in a conspicuous place in each office of the utility where applications for service are received, informing the public that copies of the rates and rules relating to the service of the utility are available for public inspection. This notice will also be provided on the utility's website and supplied to the customer with service applications.

(2) Maintain up-to-date maps, plans, or records of its entire system.

(3) Upon request, assist the customer or prospective customers in selecting the most economic rate schedule available for the proposed type of service.

(4) Upon request, inform the customer as to the method of reading meters and the method of computing the customer's bill.

(5) Notify customers affected by a change in rates or rate classification as directed in the commission's rules.

b. Inquiries for information or complaints to a utility will be resolved promptly and courteously. Employees who receive customer telephone calls and office visits shall be qualified and trained in screening and resolving complaints to avoid a preliminary recitation of the entire complaint to employees without ability and authority to act. The employee will provide identification to the customer, which will enable the customer to reach that employee again if needed.

c. Each utility shall notify its customers, by bill insert or notice on the bill form, of the address and telephone number where a utility representative qualified to assist in resolving the complaint can be reached. The utility will also include the following statement: "If (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Commission by calling 877.565.4450; by writing to 1375 E. Court Ave., Des Moines, IA 50319; or by email to customer@iuc.iowa.gov." This information will be provided no less than annually.

d. Any utility that does not use the standard form contained herein will file its proposed form in its tariff for approval. A utility that bills by postcard may place an advertisement in a local newspaper of general circulation or a customer newsletter instead of a mailing, as long as the advertisement is of a type size that is easily legible and conspicuous and contains the information set forth above.

21.12(2) *Customer deposits.*

a. *Deposit required.* Each utility may require from any customer or prospective customer a deposit intended to guarantee payment of bills for service.

b. *Amount of deposit.* The total deposit will not be less than \$5 nor more in amount than the maximum estimated charge for service for 90 days or as may reasonably be required by the utility in cases involving service for short periods or special occasions.

c. *New or additional deposit.* A new or additional deposit may be required from a customer when a deposit has been refunded or is found to be inadequate. Written notice is to be mailed advising the customer of any new or additional deposit requirement. The customer will have no less than 12 days from the date of mailing to comply. The utility does not need to provide written notice of a deposit required as a prerequisite for commencing initial service.

d. *Customer's deposit receipt.* The utility will issue a receipt of deposit to each customer from whom a deposit is received.

e. *Interest on customer deposits.* Interest will be paid by the utility to each customer required to make a deposit. Utilities will compute interest on customer deposits at 7.5 percent per annum, compounded annually. Interest for prior periods will be computed at the rate specified by the rule in effect for the period in question. Interest will be paid for the period beginning with the date of deposit to the date of refund or to the date that the deposit is applied to the customer's account, or to the date the customer's bill becomes permanently delinquent. The date of refund is that date on which the refund or the notice of deposit refund is forwarded to the customer's last-known address. The date a customer's bill becomes permanently delinquent is the most recent date the account is treated as uncollectible.

f. *Deposit refund.* The deposit shall be refunded after 12 consecutive months of prompt payment unless the utility has evidence to indicate that the deposit is necessary to ensure payment of bills for service. In any event, the deposit will be refunded upon termination of the customer's service.

g. *Unclaimed deposits.* The utility will make a reasonable effort to return each unclaimed deposit and accrued interest after the termination of the services for which the deposit was made. The utility will maintain a record of deposit information for at least two years or until such time as the deposit, together with accrued interest, escheats to the state pursuant to Iowa Code section 556.4, at which time the record and deposit, together with accrued interest, less any lawful deductions, will be sent to the state treasurer pursuant to Iowa Code section 556.13.

21.12(3) *Customer bill forms.* The utility will bill each customer as promptly as possible following the reading of the customer's meter. Each bill, including the customer's receipt, shall show:

a. The date and the reading of the meter at the beginning and at the end of the period or the period for which the bill is rendered.

b. The number of units metered, when applicable.

c. Identification of the applicable rates.

d. The gross and net amounts of the bill.

e. The late payment charge and the latest date on which the bill may be paid without incurring a penalty.

f. A distinct marking to identify an estimated bill, when applicable.

21.12(4) *Bill payment terms.* The bill is considered rendered to the customer when deposited in the U.S. mail with postage prepaid, or sent via electronic delivery with customer consent. If delivery is by other than U.S. mail, the bill is considered rendered when delivered to the last-known address, including electronic addresses, of the party responsible for payment. The customer will have a minimum of 20 days between the rendering of a bill and the date by which the account becomes delinquent.

a. *Late payment charge.* A utility's late payment charge will not exceed 1.5 percent per month of the past due amount.

b. *Charge forgiveness.* Each account will be granted at least one complete forgiveness of a late payment charge each calendar year. The utility's rules will be definitive that on one monthly bill in each period of eligibility, the utility will accept the net amount of such bill as full payment for such month after expiration of the net payment period. The rules shall state how the customer is notified that the eligibility has been used.

When a residential customer cannot pay in full a delinquent bill for utility service or has an outstanding debt to the utility for residential utility service and is not in default of a payment agreement with the utility, a utility shall offer the customer an opportunity to enter into a reasonable payment agreement, as defined in subrule 21.4(12).

21.12(5) *Customer records.* The utility shall retain customer billing records for the length of time necessary to permit the utility to comply with subrule 21.12(6), but not less than three years.

21.12(6) *Adjustment of bills.* Bills that are incorrect due to meter or billing errors are to be adjusted as follows:

a. Fast meters. Whenever a meter in service is tested and found to have overregistered more than 2 percent, the utility shall adjust the customer's bill for the excess amount paid. The estimated amount of overcharge is to be based on the period the error first developed or occurred. If that period cannot be definitely determined, it will be assumed that the overregistration existed for a period equal to one-half the time since the meter was last tested, or one-half the time since the meter was installed unless otherwise ordered by the commission. If the recalculated bill indicates that more than \$5 is due an existing customer, the full amount of the calculated difference between the amount paid and the recalculated amount shall be refunded to the customer. If a refund is due a person no longer a customer of the utility, a notice will be mailed to the last-known address.

b. Nonregistering meters. Whenever a meter in service is found not to register, the utility may render an estimated bill.

c. Slow meters. Whenever a meter is found to be more than 2 percent slow, the utility may bill the customer for the amount the test indicates the customer has been undercharged for the period of inaccuracy, or a period as estimated in paragraph 21.12(6) "a" unless otherwise ordered by the commission.

d. Overcharges. When a customer has been overcharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the metering installation, or other similar reasons, the amount of the overcharge shall be adjusted, refunded, or credited to the customer. The time period for which the utility is required to adjust, refund, or credit the customer's bill cannot exceed five years unless otherwise ordered by the commission.

e. Undercharges. When a customer has been undercharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the metering installation, or other similar reasons, the tariff may provide for billing the amount of the undercharge to the customer. The time period for which the utility may adjust for the undercharge need not exceed five years unless otherwise ordered by the commission. The maximum bill will not exceed the billing for like charges (e.g., usage-based, fixed, or service charges) in the 12 months preceding discovery of the error unless otherwise ordered by the commission.

21.12(7) *Refusal of service.* Service may be refused only for the reasons listed in paragraphs 21.12(7) "a" through "e" below. Unless otherwise stated, the customer shall be permitted at least 12 days, excluding Sundays and legal holidays, following mailing of notice of refusal in which to take necessary action before service is refused. When a person is refused service, the utility shall notify the person promptly of the reason for the refusal to serve and of the person's right to file a complaint about the utility's decision with the commission. Refusal of service shall be pursuant to tariffs approved by the commission.

a. Without notice in the event of an emergency.

b. Without notice in the event of tampering with the equipment furnished and owned by the utility or obtaining service by fraudulent means.

c. For violation of or noncompliance with the utility's rules on file with the commission.

d. For failure of the customer to permit the utility reasonable access to its equipment.

e. For nonpayment of bill.

21.12(8) *Method of refusing service.* A utility may refuse sanitary sewage disposal service to a residential customer by disconnecting water service or by arranging for the disconnection of water service pursuant to an agreement with the entity providing water service. Except in the event of an emergency or with prior written authorization from the commission, a utility shall not refuse sanitary

sewage disposal service to a residential customer by physically disconnecting the customer's sanitary sewage service connection.

21.12(9) *Reconnection and charges.* In all cases of discontinuance of sanitary sewage disposal service where the cause of discontinuance has been corrected, the utility will promptly restore service to the customer. The utility may make a reasonable charge applied uniformly for reconnection of service.

21.12(10) *Insufficient reasons for denying service.* The following does not constitute sufficient cause for refusal of service to a present or prospective customer:

- a. Delinquency in payment for service by a previous occupant of the premises to be served.
- b. Failure to pay the bill of another customer as guarantor thereof.
- c. Failure to pay for a different type or class of utility service.
- d. Delinquency in payment for service arising more than ten years prior, as measured from the most recent of the last date of service, the physical disconnection of service, or the last payment or promise of payment made by the customer.

21.12(11) *Customer complaints.* "Complaint" means any objection to the charge, facilities, or quality of service of a utility.

- a. Each utility will investigate promptly and thoroughly and keep a record of all complaints received from its customers that will enable the utility to review its procedures and actions. The record shall show the name and address of the complainant, the date and nature of the complaint, and the complaint's disposition and the date resolved.
- b. All complaints caused by a major service interruption shall be summarized in a single report.
- c. A record of the original complaint shall be kept for a period of three years after final resolution of the complaint.

21.12(12) *Reasonable payment agreement.* A customer may enter into a reasonable payment agreement as defined in subrule 21.4(12).

199—21.13(476) Engineering practice for sanitary sewage disposal service.

21.13(1) *Requirement of good engineering practice.* The design and construction of the utility's plant and collection system will conform to good standard engineering practice.

21.13(2) *Inspection.* Each utility shall adopt and follow a program of inspection of its plant and collection system in order to determine the necessity for replacement and repair. The frequency of the various inspections will be based on the utility's experience and accepted good practice.

199—21.14(476) Meter testing for sanitary sewage disposal service. If a utility uses separate meters to measure the volume of sewage disposal, the separate meters will be tested in substantial conformity with the requirements of rule 199—21.6(476).

199—21.15(476) Standards of quality of sanitary sewage disposal service.

21.15(1) *Operation and maintenance.* The utility shall maintain and operate any sewage treatment facility with adequate capacity and equipment to convey all sewage to the plant and to treat the sewage to the quality required by all applicable laws and regulations.

21.15(2) *Design and construction.* The design and construction of the utility's collection system, treatment facility, and all additions and modifications shall conform to the requirements prescribed by law.

21.15(3) *Reasonable efforts to prevent.* The utility will make reasonable efforts to eliminate or prevent the entry of surface water or groundwater into its sanitary sewage system or the unlawful release of untreated sanitary sewage. The utility may request assistance from any appropriate state, county, or municipal authorities, but such a request does not relieve the utility of its responsibility to make reasonable efforts to eliminate or prevent the entry of surface water or groundwater and to contain sewage. The utility will notify the commission when it requests assistance from other state or local agencies.

21.15(4) *Bypass and upset.* The utility will comply with the bypass and upset provisions of rule 567—63.6(455B).

21.15(5) *Interruption of sanitary sewage disposal service.*

a. A utility shall make a reasonable effort to prevent interruptions of sanitary sewage service. When an emergency interruption occurs, the utility will reestablish service with the shortest possible delay consistent with the safety of its customers and the general public.

b. When a utility finds it necessary to schedule an interruption of service, the utility shall make a reasonable effort to notify all customers to be affected by the interruption, including the time and anticipated duration of the interruption. Interruptions shall be scheduled at hours that create the least inconvenience to the customer. The utility shall notify the commission when sanitary sewage service is interrupted. Except for emergencies, a utility shall not interrupt sanitary sewage disposal service unless water service has been disconnected at least 24 hours prior.

c. A utility shall retain records of interruptions for a period of at least five years.

21.15(6) *Separate class.* Sanitary sewage service is considered a separate class of service for ratemaking purposes.

199—21.16(476) Incident reports regarding sanitary sewage disposal service.

21.16(1) *Notification.* A sanitary sewage utility shall notify the commission about any incident involving:

- a.* An unlawful or uncontained release of sewage into the environment;
- b.* A flood event affecting the utility's plant or collection system;
- c.* A cyberattack affecting the well-being of the utility, its customers, or the environment; or
- d.* Any event that causes serious adverse impact on the health of people or the environment or interrupts service to the customer.

21.16(2) *Information required.* The utility shall notify the commission immediately, or as soon as practical, of any reportable incident by emailing the duty officer at dutyofficer@iuc.iowa.gov or, when email is not available, by calling the commission duty officer at 515.745.2332. The person sending the email will leave the telephone number of a person who can provide the following information:

- a.* The name of the utility, the name and telephone number of the person making the report, and the name and telephone number of a contact person knowledgeable about the incident.
- b.* The location of the incident.
- c.* The time of the incident.
- d.* The number of deaths or personal injuries and the extent of those injuries, if any.
- e.* The number of services interrupted.
- f.* A summary of the significant information available to the utility regarding the likely cause of the incident and the estimated extent of damage.

21.16(3) *Normal service restored.* The utility will notify the commission when the incident has ended and normal sanitary sewage service has been restored.

199—21.17(476) Separate books for acquired sanitary sewage disposal service assets. A utility acquiring the whole or any substantial part of a sanitary sewage system with a purchase price of \$3 million or more from a non-rate-regulated entity described in Iowa Code section 476.1(3) will maintain separate books and records for the acquired system until the utility's next general rate case unless otherwise ordered by the commission.

DIVISION IV
STORM WATER DRAINAGE UTILITIES

199—21.18(476) Standards of quality of storm water drainage service.

21.18(1) *Design and maintenance.* Systems for storm water drainage by piped collection shall be designed and maintained in conformance with good engineering practices. Such systems will be designed and maintained so as to minimize flooding and ponding outside of areas designed to retain storm water and to reasonably provide for the drainage of normally anticipated rainfall events.

21.18(2) *Inspection.* Storm water drainage systems shall be inspected on a routine basis to identify and correct the blockage or obstruction of intake structures. The frequency of such inspections will be based upon the utility's experience and be pursuant to tariffs approved by the commission.

21.18(3) *Connections.* Utilities providing piped storm water drainage shall control the installation and maintenance of the piped connection up to and including all storm water intakes. Connections shall be adequate to receive all storm water drainage from properties upgradient of the storm water drainage connection unless other upgradient connections are provided. Connections shall be pursuant to tariffs approved by the commission.

21.18(4) *Rates.* Rates for storm water drainage service provided by a utility may be based upon the acreage drained, or by some other method pursuant to tariffs approved by the commission.

21.18(5) *Separate class.* Storm water drainage service is considered a separate class of service for ratemaking purposes.

199—21.19(476) Customer relations for storm water drainage service.

21.19(1) *Customer information.*

a. Each utility shall:

(1) Post a notice in a conspicuous place in each office of the utility where applications for service are received, informing the public that copies of the rates and rules relating to the service of the utility are available for public inspection. This notice will also be provided on the utility's website and supplied to the customer with service applications.

(2) Maintain up-to-date maps, plans, or records of its entire storm water drainage system.

(3) Upon request, assist the customer or prospective customers in selecting the most economic rate schedule available for the proposed type of service.

(4) Upon request, inform the customer as to the method of computing the customer's bill.

(5) Notify customers affected by a change in rates or rate classification as directed in the commission rules of practice and procedures.

b. Inquiries for information or complaints to a utility will be resolved promptly and courteously. Employees who receive customer telephone calls and office visits shall be qualified and trained in screening and resolving complaints, to avoid a preliminary recitation of the entire complaint to employees without ability and authority to act. The employee will provide identification to the customer, which will enable the customer to reach that employee again if needed.

c. Each utility shall notify its customers, by bill insert or notice on the bill form, of the address and telephone number where a utility representative qualified to assist in resolving the complaint can be reached. The utility will also include the following statement: "If (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Commission by calling 877.565.4450; by writing to 1375 E. Court Ave., Des Moines, IA 50319; or by email to customer@iuc.iowa.gov." This information will be provided no less than annually.

d. Any utility that does not use the standard form contained herein will file its proposed form in its tariff for approval. A utility that bills by postcard may place an advertisement in a local newspaper of general circulation or a customer newsletter instead of a mailing, as long as the advertisement is of a type size that is easily legible and conspicuous and contains the information set forth above.

21.19(2) *Customer deposits.*

a. Deposit required. Each utility may require from any customer or prospective customer a deposit intended to guarantee payment of bills for service.

b. Amount of deposit. The total deposit shall not be less than \$5 nor more in amount than the maximum estimated charge for service for 90 days or as may reasonably be required by the utility in cases involving service for short periods or special occasions.

c. New or additional deposit. A new or additional deposit may be required from a customer when a deposit has been refunded or is found to be inadequate. Written notice is to be mailed advising the customer of any new or additional deposit requirement. The customer will have no less than 12 days from the date of mailing to comply. The utility does not need to provide written notice of a deposit required as a prerequisite for commencing initial service.

d. Customer's deposit receipt. The utility will issue a receipt of deposit to each customer from whom a deposit is received.

e. Interest on customer deposits. Interest will be paid by the utility to each customer required to make a deposit. Utilities shall compute interest on customer deposits at 7.5 percent per annum, compounded annually. Interest for prior periods will be computed at the rate specified by the rule in effect for the period in question. Interest shall be paid for the period beginning with the date of deposit to the date of refund or to the date that the deposit is applied to the customer's account, or to the date the customer's bill becomes permanently delinquent. The date of refund is that date on which the refund or the notice of deposit refund is forwarded to the customer's last-known address. The date a customer's bill becomes permanently delinquent is the most recent date the account is treated as uncollectible.

f. Deposit refund. The deposit shall be refunded after 12 consecutive months of prompt payment unless the utility has evidence to indicate that the deposit is necessary to ensure payment of bills for service. In any event, the deposit will be refunded upon termination of the customer's service.

g. Unclaimed deposits. The utility will make a reasonable effort to return each unclaimed deposit and accrued interest after the termination of the services for which the deposit was made. The utility will maintain a record of deposit information for at least two years or until such time as the deposit, together with accrued interest, escheats to the state pursuant to Iowa Code section 556.4, at which time the record and deposit, together with accrued interest, less any lawful deductions, will be sent to the state treasurer pursuant to Iowa Code section 556.13.

199—21.20(476) Incident reports regarding storm water drainage service.

21.20(1) Notification. A utility shall notify the commission about any incident involving:

- a.* A non-storm water discharge from the storm water drainage system;
- b.* A flood event affecting the storm water drainage system;
- c.* A cyberattack affecting the well-being of the utility, its customers, or the environment; or
- d.* Any event that causes a serious adverse impact on the health of people or the environment or interrupts service to the customer.

21.20(2) Information required. The utility shall notify the commission immediately, or as soon as practical, of any reportable incident by emailing the duty officer at dutyofficer@iuc.iowa.gov or, when email is not available, by calling the commission duty officer at 515.745.2332. The person sending the email will leave the telephone number of a person who can provide the following information:

- a.* The name of the utility, the name and telephone number of the person making the report, and the name and telephone number of a contact person knowledgeable about the incident.
- b.* The location of the incident.
- c.* The time of the incident.
- d.* The number of deaths or personal injuries and the extent of those injuries, if any.
- e.* The number of services interrupted.
- f.* A summary of the significant information available to the utility regarding the likely cause of the incident and the estimated extent of damage.

21.20(3) Normal service restored. The utility will notify the commission when the incident has ended and normal storm water drainage service has been restored.

199—21.21(476) Separate books for acquired storm water drainage service assets. A utility acquiring the whole or any substantial part of a storm water drainage system with a purchase price of \$3 million or more from a non-rate-regulated entity described in Iowa Code section 476.1(3) will maintain separate books and records for the acquired system until the utility's next general rate case unless otherwise ordered by the commission.

These rules are intended to implement Iowa Code sections 17A.3, 474.5, 476.1, 476.2, 476.6(18), and 476.8.

[Filed 12/19/24, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8847C

UTILITIES COMMISSION[199]

Adopted and Filed

Rulemaking related to energy efficiency and demand response planning and reporting

The Utilities Commission hereby rescinds Chapter 35, "Energy Efficiency and Demand Response Planning and Reporting for Natural Gas and Electric Utilities Required to be Rate-Regulated," and adopts a new Chapter 35, "Energy Efficiency and Demand Response Planning and Reporting for Rate-Regulated Natural Gas and Electric Utilities," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 476.2 and 476.6.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 476.6.

Purpose and Summary

The Commission commenced this rulemaking under the provisions of Executive Order 10. The purpose of this chapter is to explain the procedures governing energy efficiency and demand response proceedings before the Commission. The Commission is rescinding the existing Chapter 35 and repromulgating a new version with the removal of redundant, duplicative, and unnecessary language, and the reduction of restrictive terms.

The Commission issued an order adopting amendments on November 26, 2024. The order is available on the Commission's electronic filing system, efs.iowa.gov, under Docket No. RMU-2023-0007.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024, as **ARC 8230C**. A public hearing was held on the following date(s):

- October 23, 2024
- November 13, 2024

The following entities attended one or both public hearings: Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; MidAmerican Energy Company; and Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy. All entities expressed support for the proposed amendments contained in the Notice.

The Commission received a written comment from OCA, in which it expressed support for the Notice.

No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Commission on November 26, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

No waiver provision is included in the amendments because the Commission has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in this chapter.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 199—Chapter 35 and adopt the following **new** chapter in lieu thereof:

CHAPTER 35

ENERGY EFFICIENCY AND DEMAND RESPONSE PLANNING AND REPORTING FOR
RATE-REGULATED NATURAL GAS AND ELECTRIC UTILITIES

199—35.1(476) Authority and purpose. These rules are intended to implement Iowa Code sections 476.6(13) and 476.6(15) relating to the energy efficiency and demand response plans and reports filed by rate-regulated natural gas and electric utilities. The purpose of these rules is to establish requirements for energy efficiency and demand response plans, modifications, prudence reviews, and cost-recovery tariffs.

199—35.2(476) Definitions. Except where otherwise specifically defined by law:

“*Annual Iowa retail rate revenue*” means the utility’s expected revenue forecast based on customer growth rate, usage per customer, volumes, margin rate, customer charge rate, and the cost of generation of fuel.

“*Assessment of potential*” means development of cost-effective energy and capacity savings available from actual and projected customer usage by applying commercially available technology and improved operating practices to energy-using equipment and buildings and considering market factors, including but not limited to the effects of rate impacts, the need to capture lost opportunities, the nonenergy benefits of measures, and the strategic value of energy efficiency and demand response to the utility.

“*Avoided cost*” means the cost the utility would have to pay to provide energy and capacity from alternative sources of supply available to utilities as calculated pursuant to subparagraphs 35.5(4)“l”(7) and 35.5(4)“m”(4).

“*Cost-effectiveness tests*” means one of the five acceptable economic tests used to compare the present value of applicable benefits to the present value of applicable costs of an energy efficiency or demand response program or plan. The tests are the participant cost test, the ratepayer impact measure test, the societal cost test, the total resource cost test, and the utility cost test. A program or plan passes a cost-effectiveness test if the cost-effectiveness ratio is equal to or greater than one.

“Customer incentive” means an amount or amounts provided to or on behalf of customers for the purpose of having customers participate in energy efficiency programs. Customer incentives do not include the cost of information provided by the utility, nor do customer incentives include customers’ bill reductions associated with reduced energy usage due to the implementation of energy efficiency programs. For the purposes of energy efficiency pricing strategies, “incentive” means the difference between a customer’s bill on an energy efficiency customized rate and the customer’s bill on a traditional rate considering factors such as the elasticity of demand.

“Demand response” means changes in a customer’s consumption pattern in response to changes in the price of electricity over time, or in response to incentive payments to induce reduced consumption during periods of high wholesale prices or when system reliability is jeopardized.

“Economic potential” means the energy and capacity savings that result in future years when measures are adopted or applied by customers at the time it is economical to do so. For purposes of this chapter, economic potential may be determined by comparing the utility’s avoided cost savings to the incremental cost of the measure.

“Energy efficiency measures” means activities on the customers’ side of the meter that reduce customers’ energy use or demand, including but not limited to end-use efficiency improvements or pricing strategies.

“Energy savings performance standards” means those standards that are cost-effectively achieved, with the exception of programs for qualified low-income persons, tree-planting programs, educational programs, and assessments of consumers’ needs for information to make effective choices regarding energy use and energy efficiency, and includes the annual capacity savings stated either in kilowatt per day (kW/day), in dekatherm per day (dth/day), or in thousand cubic feet per day (Mcf/day) and the annual energy savings stated in either kilowatt hour (kWh), dth, or Mcf.

“Free riders” means program participants who would have implemented energy efficiency measures or practices even without the program.

“Marginal energy cost” means the cost associated with supplying the next Mcf or dth of natural gas for a natural gas utility and the energy or fuel cost associated with generating or purchasing the next kWh of electricity for an electric utility.

“Market effects” means a change in the structure of a market or the behavior of participants in a market that is reflective of an increase (or decrease) in the adoption of energy-efficient products, services, or practices and is related to market intervention(s) (e.g., programs).

“Net benefits” means the present value of benefits less the present value of costs as defined in the cost-effectiveness test.

“Nonenergy benefits” means the many and diverse benefits produced by energy efficiency, in addition to energy and demand savings. The beneficiaries of these benefits can be utility systems, participants, and society.

“Participant cost test” means an economic test used to compare the present value of benefits to the present value of costs over the useful life of an energy efficiency or demand response measure or program from the participant’s perspective. Present values are calculated using a discount rate appropriate to the class of customers to which the energy efficiency or demand response measure or program is targeted. Benefits are the sum of the present values of the customers’ bill reductions, tax credits, nonenergy benefits and customer incentives for each year of the useful life of an energy efficiency or demand response measure or program. Costs are the sum of present values of the customer participation costs (including initial capital costs, ongoing operations and maintenance costs, removal costs less a salvage value of existing equipment, and the value of the customer’s time in arranging installation, if significant) and any resulting bill increases for each year of the useful life of the measure or program. The calculation of bill increases and decreases must account for any time-differentiated rates to the customer or class of customers being analyzed.

“Persistence of energy savings” means the savings due to changed operating hours, human behavior, interactive factors, and the degradation in equipment efficiency over the life of the measure compared to the baseline.

“Process-oriented industrial assessment” means an analysis that promotes the adoption of energy efficiency measures by examining the facilities, operations, and equipment of an industrial customer in which energy efficiency opportunities may be embedded.

“Ratepayer impact measure test” means an economic test used to compare the present value of the benefits to the present value of the costs over the useful life of an energy efficiency or demand response measure or program from a rate level or utility bill perspective. Present values are calculated using the utility’s discount rate. Benefits are the sum of the present values of utility avoided capacity and energy costs (excluding the externality factor) and any revenue gains due to the energy efficiency or demand response measure or program for each year of the useful life of the measure or program. Costs are the sum of the present values of utility increased supply costs, revenue losses due to the energy efficiency or demand response measures, utility program costs, and customer incentives for each year of the useful life of the measure or program. The calculation of utility avoided capacity and energy, increased utility supply costs, and revenue gains and losses must use the utility costing periods.

“Societal cost test” means an economic test used to compare the present value of the benefits to the present value of the costs over the useful life of an energy efficiency or demand response measure or program from a societal perspective. Present values are calculated using a 12-month average of the 10-year and 30-year Treasury Bond rate as the discount rate. The average is calculated using the most recent 12 months at the time the utility calculates its cost-effectiveness tests for its energy efficiency or demand response plan. Benefits are the sum of the present values of the utility avoided supply; nonenergy benefits; and energy costs, including the effects of externalities. Costs are the sum of the present values of utility program costs (excluding customer incentives), participant costs, and any increased utility supply costs for each year of the useful life of the measure or program. The calculation of utility avoided capacity and energy and increased utility supply costs must use the utility costing periods.

“Spillover (free drivers)” means the reduction in energy consumption or demand, or the reduction in both, caused by the presence of an energy efficiency or demand response program, beyond the program-related gross savings of the participants and without financial or technical assistance from the program. The term “free drivers” may be used for individuals who have spillover effects.

“Take-back effect” means a tendency to increase energy use in a facility, or for an appliance, as a result of increased efficiency of energy use. For example, a customer’s installation of high-efficiency light bulbs and the subsequent longer operation of lights constitutes “taking back” some of the energy otherwise saved by the efficient lighting.

“Total resource cost test” means an economic test used to compare the present value of the benefits to the present value of the costs over the useful life of an energy efficiency or demand response measure or program from a resource perspective. Present values are calculated using a 12-month average of the 10-year and 30-year Treasury Bond rate as the discount rate. The average is calculated using the most recent 12 months at the time the utility calculates its cost-effectiveness tests for its energy efficiency or demand response plan. Benefits are the sum of the present values of the utility avoided supply, energy costs, nonenergy benefits, and federal tax credits. Costs are the sum of the present values of utility program costs (excluding customer incentives), participant costs, and any increased utility supply costs for each year of the useful life of the measure or program. The calculation of utility avoided capacity and energy and increased utility supply costs must use the utility costing periods.

“Useful life” means the number of years an energy efficiency measure will produce benefits.

“Utility cost test” means an economic test used to compare the present value of the benefits to the present value of the costs over the useful life of an energy efficiency or demand response measure or program from the utility revenue requirement perspective. Present values are calculated using the utility’s discount rate. Benefits are the sum of the present values of each year’s utility avoided capacity, nonenergy benefits, and energy costs (excluding the externality factor) over the useful life of the measure or program. Costs are the sum of the present values of the utility’s program costs, customer incentives, and any increased utility supply costs for each year of the useful life of the measure or program. The calculation of utility avoided capacity and energy and increased utility supply costs must use the utility costing periods.

199—35.3(476) Energy efficiency and demand response plan filing.

35.3(1) Each electric and natural gas utility shall file a five-year energy efficiency plan. Each electric utility shall file a five-year demand response plan. Combination electric and natural gas utilities may file combined assessments of potential and energy efficiency and demand response plans but separately specify which energy efficiency programs and costs are attributable to the electric operation, which are attributable to the natural gas operation, and which are attributable to both. If a combination utility files separate plans, the commission may consolidate the plans for purposes of review and hearing.

35.3(2) Written notice of the energy efficiency and demand response plans.

a. Each electric and natural gas utility shall:

(1) Deliver a written notice of its plan filing to all affected customers no more than 62 days prior to the filing of its energy efficiency and demand response plans.

(2) File the written notice with the commission for approval not less than 45 days prior to the delivery of the proposed notification to affected customers.

b. Additional information not related to the energy efficiency and demand response plans shall be kept to a minimum and not distract from the required content.

c. The form of the notice, once approved by the commission, shall not be altered except to include the rate and bill impact dollars and percentages. The type size and quality shall be easily legible. The notice shall, at a minimum, include the following elements:

(1) A statement that the utility will be filing energy efficiency and demand response plans with the commission.

(2) A brief identification of the proposed energy efficiency and demand response programs, a description of benefits and savings associated with the energy efficiency and demand response plans, and the estimated annual cost of the proposed energy efficiency and demand response programs during the five-year budget time frame.

(3) The estimated annual rate and bill impacts of the proposed energy efficiency and demand response plans on each class of customer, and the estimated annual jurisdictional rate impact for each major customer grouping in dollars and as a percentage, with the proposed actual increases to be filed at the time of notice to customers. The utility may represent the estimated annual rate and bill impact dollars and percentages with blank spaces; however, the commission may require the utility to submit additional information necessary for review of the proposed form of notice. A copy of the notice with the final annual rate and bill impact dollars and percentages shall be filed with the commission at the time of customer notification.

(4) A statement that the commission will be conducting a contested case proceeding to review the application and that a customer may file comments in the commission's electronic filing system.

(5) The telephone numbers; websites; email addresses; and mailing addresses of the utility, the commission, and the consumer advocate for the customer to contact with questions.

199—35.4(476) Assessment of potential and collaboration.

35.4(1) *Assessment of potential.* The utility shall conduct an assessment of potential study to determine the cost-effective energy and capacity savings available in accordance with Iowa Code section 476.6(15). The utility's assessment shall address the potential energy and capacity savings in each of ten years subsequent to the year the assessment is filed and include economic and impact analyses of measures that address benefits and costs over the entire estimated useful lives of energy efficiency measures.

35.4(2) *Collaboration.* A utility shall offer interested persons the opportunity to participate in the development of its energy efficiency and demand response plans by providing the opportunity for interested persons to offer suggestions for programs, to offer suggestions for the assessment of potential, and to review and comment on the utility's draft of the assessment of potential and energy efficiency and demand response plans. The utility may analyze proposals from participants to help determine the effects of the proposals on the utility's plan. A participant is responsible for providing sufficient supporting information to enable the utility to analyze the participant's proposal. The opportunity to participate shall

commence at least 180 days prior to the date the utility submits the utility's energy efficiency and demand response plans and assessment of potential to the commission.

199—35.5(476) Energy efficiency and demand response plan requirements.

35.5(1) Each electric and natural gas utility shall file with the commission an energy efficiency plan, and each electric utility shall file a demand response plan.

35.5(2) The utility's energy efficiency and demand response plans shall include testimony, exhibits, and workpapers, including Microsoft Excel or similar software versions of exhibits and workpapers.

35.5(3) A utility's plan shall include a range of programs that address all customer classes across the utility's Iowa jurisdictional territory and include a program for qualified low-income residential customers, including a cooperative program with any community action agency, as defined and listed on the Iowa department of health and human services website, within the utility's service area to implement countywide or communitywide energy efficiency programs for qualified low-income customers. The utility shall consider including in the utility's plan a program for tree-planting, educational programming, and assessments of consumers' needs for information to make effective choices regarding energy use and energy efficiency.

35.5(4) The following information shall be provided by the utility with the utility's energy efficiency and demand response plan:

a. A summary of the energy efficiency and demand response plans and results of the assessment of potential written in a nontechnical style for the benefit of the general public.

b. The assessment of potential study.

c. Cost-effectiveness test analysis.

(1) The utility shall analyze cost-effectiveness for the plan as a whole and for each proposed program, using the total resource cost, societal cost, utility cost, and ratepayer impact measure and participant tests. If the utility uses a test other than the societal cost test as the criterion for determining cost-effectiveness of utility implementation of energy efficiency measures, the utility shall describe and justify the utility's use of the alternative test or combination of tests and compare the resulting impacts with the impacts from the societal cost test. The utility shall describe and justify the level or levels of cost-effectiveness, if greater or less than a cost-effectiveness ratio of 1.0, to be used as a threshold for determining cost-effectiveness of programs. The utility's threshold of cost-effectiveness for the utility's plan as a whole shall be a cost-effectiveness ratio of 1.0 or greater.

(2) The utility's analyses shall use inputs or factors reasonably expected to influence cost-effective implementation of programs, including escalation rates and avoided costs for each cost and benefit component of the cost-effectiveness test, to reflect changes over the useful lives of the programs.

(3) The utility shall provide the analyses, assumptions, inputs, and results of cost-effectiveness tests, including the cost-effectiveness ratios and net benefits, for the plans as a whole and for each program. Low-income programs, tree-planting programs, educational programs, and assessments of consumers' needs for information to make effective choices regarding energy use and energy efficiency need not be tested for cost-effectiveness unless the utility wishes to present the results of cost-effectiveness tests for informational purposes.

d. Descriptions of each program. If a proposed program is identical to an existing program, the utility may reference the program description currently in effect. A description of each proposed program shall include:

(1) The name of the program.

(2) The customers the program targets.

(3) The energy efficiency or demand response measures promoted by the program.

(4) The proposed utility promotional techniques, including the rebates or incentives offered through the program.

(5) The proposed rates of program participation or implementation of measures, including both eligible and estimated actual participants.

e. The gross and net estimated annual energy and demand savings for the plan and each program for each year of the program that accounts for free riders, take-back effects, spillover (free drivers), market effects, and persistence of energy savings.

f. The budget for the plan and for each program for each year of implementation or for each of the next five years of implementation, whichever is less, itemized by proposed costs and consistent with the accounting plan required pursuant to subrule 35.9(1). Cost categories for the plan and program budgets include overhead and incentives as described herein, and the cost categories shall be further described by the following subcategories: classifications of persons working on energy efficiency and demand response programs, full-time equivalents, dollar amount of labor costs, and the name of outside firm(s) employed and a description of service(s) to be provided.

(1) Overhead consists of:

1. Planning and design costs, which include internal and third-party expenses associated with program development, design for new programs, modifications to existing programs, and the assessment of potential.

2. Administrative costs, which include internal and third-party expenses associated with program implementation and support functions, such as fully loaded utility labor costs, office supplies and technology costs associated with program operations and delivery, program implementation costs, and labor costs for vendors required for successful operation and implementation of programs.

3. Advertising and promotional costs, which include internal and third-party labor and materials expenses associated with program-specific marketing and training and demonstration aimed at promoting energy efficiency awareness or the programs included in a utility's plan. Advertising that is part of an approved energy efficiency or demand response plan is deemed to be advertising required by the commission for purposes of Iowa Code section 476.18(3).

4. Monitoring and evaluation costs, which include internal and third-party expenses associated with ongoing program review; prepayment verification inspections; and evaluation, measurement, and verification required to be completed at least once during the five-year plan.

5. Education costs, which include internal and third-party labor and material expenses associated with program-specific or general energy efficiency education.

6. Miscellaneous costs, which are all other costs related to the implementation of the plan that are not attributable to any other cost category.

(2) Incentives consist of:

1. Customer incentives, which are utility contributions provided to participants, such as rebates, direct-install measures, energy audits, energy efficiency kits, and low-income weatherization. This includes nonrebate contributions to participants, such as payments to dealers, rate credits, and bill credits.

2. Equipment costs, which include program-specific costs associated with hardware purchased by the utility and given to customers to facilitate the customer's participation in the program.

3. Installation costs, which include internal and third-party labor associated with installation or replacement of equipment provided to participants, such as the installation of direct-install measures or load control devices.

g. A description of a pilot project as a program, if the pilot project is justified by the utility. Pilot projects are expected to explore areas of innovative or unproven approaches and include proposed evaluation procedures.

h. The rate impacts and average bill impacts, by customer class, resulting from the plan.

i. The utility's forecasted electric, natural gas, or electric and natural gas annual Iowa retail rate revenue for each of the five plan years, identifying all adjustments and eliminations to the utility's revenue forecasts and the Federal Energy Regulatory Commission (FERC) accounts used to develop the utility's forecasts.

j. A monitoring and evaluation plan describing how the utility proposes to monitor and evaluate the implementation of the utility's proposed programs, including how the utility will accumulate and validate the information needed to measure the plan's performance against the standards, a timeline that outlines each phase of the monitoring and evaluation plan, and a proposed format for monitoring reports

and a description of how annual results will be reported to the commission on a detailed, accurate and timely basis.

k. A summary of collaborative efforts and a summary of collaboration participants' suggestions, utility responses to the suggestions, and specific reasons for incorporating or declining to incorporate the suggestions in the utility's energy efficiency or demand response plans.

l. These additional requirements for electric utilities:

(1) Load forecast. Information specifying forecasted demand and energy use on a calendar-year basis, which shall include:

1. A statement, in numerical terms, of the utility's current 20-year forecasts, including summer and winter peak demand reserve margins and annual energy requirements that account for the effects to date of current and ongoing utility energy efficiency programs but not the effects of the proposed programs in paragraph 35.5(4) "d."

2. The date and amount of the utility's highest peak demand within the past five years, stated on both an actual and a weather-normalized basis. The utility shall include an explanation of the weather-normalization procedure.

3. A comparison of the forecasts made for each of the previous five years to the actual and weather-normalized demand in each of the previous five years.

4. An explanation of all significant methods and data used, as well as assumptions made, in the current 20-year forecast, including all forecasts of variables used in its demand and energy forecasts and separate identification of all sources of variables used, such as implicit price deflator, electricity prices by customer class, gross domestic product, sales by customer class, number of customers by class, fuel price forecasts for each fuel type, and other inputs.

5. A statement of the margin of error for each assumption or forecast.

6. An explanation of the results of sensitivity analyses performed, including a specific statement of the degree of sensitivity of estimated need for capacity to potential errors in assumptions, forecasts, and data. The utility may present the results and an explanation of other methods of assessing forecast uncertainty.

(2) Class load data. Load data for each class of customer that is served under a separate rate schedule or is identified as a separate customer class and accounts for 10 percent or more of the utility's demand in kW at the time of the monthly system peak for every month in the year. If those figures are not available, the data shall be provided for each class of customer that accounts for 10 percent of the utility's electric sales in kWh for any month in the reporting period. The data shall be based on a sample metering of customers that is designed to achieve a statistically expected accuracy of plus or minus 10 percent at the 90 percent confidence level for loads during the yearly system peak hour(s). These data must appear in all filings, except as provided for in numbered paragraph 35.5(4) "l"(2) "3."

1. The following information shall be provided for each month of the previous year:

- Total system class maximum demand (in kW), number of customers in the class, and system class sales (in kWh);

- Jurisdictional class contribution (in kW) to the monthly maximum system coincident demand as allocated to jurisdiction;

- Total class contribution (in kW) to the monthly maximum system coincident demand, if not previously reported;

- Total system class maximum demand (in kW) allocated to jurisdiction, if not previously reported; and

- Hourly total system class loads for a typical weekday, a typical weekend day, the day of the class maximum demand, and the day of the system peak.

2. The company shall file an explanation, with all supporting workpapers and source documents, as to how class maximum demand and class contribution to the maximum system coincident demand were allocated to jurisdiction.

3. The load data for each class of customer described above may be gathered by a multijurisdictional utility on a uniform integrated system basis rather than on a jurisdictional basis. Adjustments for substantive and unique jurisdictional characteristics, if any, may be proposed. The load

data for each class of customer shall be collected continuously and filed annually, except for the period associated with necessary interruptions during any year to modify existing or implement new data collection methods. Data filed for the period of interruption shall be estimated. An explanation of the estimation technique shall be filed with the data. To the extent consistent with sound sampling and the required accuracy standards, an electric public utility is not required to annually change the customers being sampled.

(3) Existing capacity and firm commitments. Information specifying the existing generating capacity and firm commitments to provide service. The utility shall include in its filing a copy of its most recent load and capability report submitted to Midcontinent Independent System Operator, Inc. (MISO).

1. For each generating unit owned or leased by the utility, in whole or in part, the energy efficiency and demand response plan shall include the following information:

- Both summer and winter net generating capability ratings as reported to the North American Electric Reliability Corporation (NERC).

- The estimated remaining time before the unit will be retired or require life extension.

2. For each commitment to own or lease future generating firm capacity, the plan shall include the following information:

- The type of generating capacity.

- The anticipated in-service year of the capacity.

- The anticipated life of the generating capacity.

- Both summer and winter net generating capability ratings as reported to the NERC.

3. For each capacity purchase commitment that is for a period of six months or longer, the plan shall include the following information:

- The entity with which commitments have been made and the time periods for each commitment.

- The capacity levels in each year for the commitment.

4. For each capacity sale commitment that is for a period of six months or longer, the plan shall include the following information:

- The entity with which a commitment has been made and the time periods for the commitment.

- The capacity levels in each year.

- The capacity payments to be received per kW per year in each year.

- The energy payments to be received per kWh per year.

- Any other payment to be received by the utility in each year.

(4) Capacity surpluses and shortfalls. Information identifying projected capacity surpluses and shortfalls over the 20-year planning horizon shall include:

1. A numerical and graphical representation of the utility's 20-year planning horizon comparing forecasted demand in each year from subparagraph 35.5(4) "I"(1) to committed capacity in each year from numbered paragraphs 35.5(4) "I"(3) "1" to "4." Forecasted peak demand shall include reserve requirements.

2. For each year of the 20-year planning horizon, the plan shall list in megawatts (MW) the amount by which committed capacity either exceeds or falls below the forecasted demand.

(5) Capacity outside the utility's system. Information about capacity outside of the utility's system that could meet the utility's future needs, including but not limited to cogeneration and independent power producers, expected to be available to the utility during each of the 20 years in the planning horizon. The utility shall include in the utility's filing a copy of its most recent load and capability report submitted to MISO.

(6) Future supply options and costs. Information about future supply options and their costs identified by the utility as the most effective means of satisfying all projected capacity shortfalls in the 20-year planning horizon in subparagraph 35.5(4) "I"(4), which shall include:

1. The following information that describes each future supply option as applicable:

- The anticipated year the supply option would be needed.

- The anticipated type of supply option, by fuel.

- The anticipated net capacity of the supply option.

2. The utility shall use the actual capacity cost of any capacity purchase identified in numbered paragraph 35.5(4) "l"(6)"1" and shall provide the anticipated annual cost per net kW per year.

3. The utility shall use the installed cost of a combustion turbine as a proxy for the capacity cost of any power plant identified in numbered paragraph 35.5(4) "l"(6)"1." For the first power plant option specified in numbered paragraph 35.5(4) "l"(6)"1," the following information shall be provided:

- The anticipated life.
- The anticipated total capital costs per net kW, including allowance for funds used during construction (AFUDC) if applicable.
- The anticipated revenue requirement of the capital costs per net kW per year.
- The anticipated revenue requirement of the annual fixed operations and maintenance costs, including property taxes, per net kW for each year of the 20-year planning horizon.
- The anticipated net present value of the revenue requirements per net kW.
- The anticipated revenue requirement per net kW per year calculated by utilization of an economic carrying charge.
- The after-tax discount rate used to calculate the revenue requirement per net kW per year over the life of the supply option.
- Adjustment rates (for example, inflation or escalation rates) used to derive each future cost in numbered paragraph 35.5(4) "l"(6)"3."

4. The capacity costs of the new supply options allocated to costing periods. The utility shall describe its method of allocating capacity costs to costing periods. The utility shall specify the hours, days, and weeks that constitute the utility's costing periods. For each supply option identified in numbered paragraph 35.5(4) "l"(6)"1," the plan shall include:

- The anticipated annual cost per net kW per year of capacity purchases from numbered paragraph 35.5(4) "l"(6)"2" allocated to each costing period if each new supply option is the highest cost supply option in that year.
- The anticipated total revenue requirement per net kW per year from numbered paragraph 35.5(4) "l"(6)"3" allocated to each costing period if each new supply option is the highest cost supply option in that year.

(7) Avoided capacity and energy costs. Avoided capacity costs shall be based on the future supply option with the highest value for each year in the 20-year planning horizon identified in subparagraph 35.5(4) "l"(6). Avoided energy costs shall be based on the marginal costs of the utility's generating units or purchases. The utility shall use the same costing periods identified in numbered paragraph 35.5(4) "l"(6)"2" when calculating avoided capacity and energy costs. A party may submit, and the commission shall consider, avoided capacity and energy costs derived by an alternative method. A party submitting alternative avoided costs shall also submit an explanation of the alternative method.

1. Avoided capacity costs. Calculations of avoided capacity costs in each costing period shall be based on the following formula:

$$\text{AVOIDED CAPACITY COST} = C \times (1 + \text{RM}) \times (1 + \text{DLF}) \times (1 + \text{EF})$$

C (capacity) is the greater of NC or RC.

NC (new capacity) is the value of future capacity purchase costs or future capacity costs expressed in dollars per net kW per year of the utility's new supply options from numbered paragraphs 35.5(4) "l"(6)"2" and "3" in each costing period.

RC (resalable capacity) is the value of existing capacity expressed in dollars per net kW per year that could be sold to other parties in each costing period.

RM (reserve margin) is the generation reserve margin criterion adopted by the utility.

DLF (demand loss factor) is the system demand loss factor expressed as a fraction of the net power generated, purchased, or interchanged in each costing period. For example, the peak system demand loss factor would be equal to peak system power loss (in MW) divided by the net system peak load (in MW) for each costing period.

EF (externality factor) is a 10 percent factor applied to avoided capacity costs in each costing period to account for societal costs of supplying energy. In addition, the utility may propose a different externality factor but must document the factor's accuracy.

2. Avoided energy costs. Calculations of avoided energy costs in each costing period shall be based on the following formula:

$$\text{AVOIDED ENERGY COSTS} = \text{MEC} \times (1 + \text{ELF}) \times (1 + \text{EF})$$

MEC (marginal energy cost) is the marginal energy cost expressed in dollars per kWh, inclusive of variable operations and maintenance costs, for electricity in each costing period.

ELF (system energy loss factor) is the system energy loss factor expressed as a fraction of net energy generated, purchased, or interchanged in each costing period.

EF (externality factor) is a 10 percent factor applied to avoided energy costs in each costing period to account for societal costs of supplying energy. In addition, the utility may propose a different externality factor but must submit documentation of the factor's accuracy.

m. These additional requirements for natural gas utilities:

(1) Forecast of demand and transportation volumes. Information specifying the natural gas utility's demand and transportation volume forecasts, which includes:

1. A statement in numerical terms of the utility's current 12-month and five-year forecasts of total annual throughput and peak day demand, including reserve margin, based on the purchased gas adjustment (PGA) year by customer class, including the effects to date of current and ongoing utility energy efficiency programs but not including the effects of the proposed energy efficiency programs in paragraph 35.5(4) "d."

2. A statement in numerical terms of the utility's highest peak day demand and annual throughput for the past five years by customer class.

3. A comparison of the forecasts made for the preceding five years to the actual and weather-normalized peak day demand and annual throughput by customer class, including an explanation of the weather-normalization procedure.

4. A forecast of the utility's demand for transportation volume for both peak day demand and annual throughput for each of the next five years.

5. The existing contract deliverability by supplier, contract, and rate schedule for the length of each contract.

6. An explanation of all significant methods and data used, as well as assumptions made, in the current five-year forecast(s). The utility shall file all forecasts of variables used in the utility's demand and energy forecasts. If variables are not forecasted, the utility shall indicate all sources of variable inputs.

7. A statement of the margin of error for each assumption or forecast.

8. An explanation of the results of the sensitivity analysis performed by the utility, including a specific statement of the degree of sensitivity of estimated need for capacity to potential errors in assumptions, forecasts, and data.

(2) Capacity surpluses and shortfalls. Information identifying projected capacity surpluses and shortfalls over the five-year planning horizon, which includes a numerical and graphical representation of the utility's five-year planning horizon comparing forecasted peak day demand in each year from numbered paragraph 35.5(4) "m"(1)"1" to the total of existing contract deliverability, from numbered paragraph 35.5(4) "m"(1)"5." The comparison shall list in dth or Mcf any amount for any year that contract deliverability falls below the forecast of peak day demand. Forecasted peak day demand shall include reserve margin.

(3) Supply options. Information about new supply options identified by the utility as the most effective means of satisfying all projected capacity shortfall in the 12-month and five-year planning horizons in subparagraph 35.5(4) "m"(2). For each supply option identified, the plan shall include:

1. The year the option would be needed.

2. The type of option.

3. The net peak day capacity.

4. The estimated future capacity costs per dth or Mcf of peak day demand of the options.

5. The estimated future energy costs per dth or Mcf of each option in current dollars.

6. A description of the method used to estimate future costs.

(4) Natural gas avoided capacity and energy costs. Information regarding avoided costs shall specify the days and weeks that constitute the utility's peak and off-peak periods. Avoided costs shall be calculated for the peak and off-peak periods and adjusted for inflation to derive an annual avoided cost over a 20-year period. In addition, all parties may submit information specifying the hours, days, and weeks that constitute alternative costing periods. A party may submit, and the commission shall consider, alternative avoided capacity and energy costs derived by an alternative method. A party submitting avoided cost methodology shall also submit an explanation of the alternative method.

1. Avoided capacity costs. Calculations of avoided capacity costs in the peak and off-peak periods shall be based on the following formula:

$$\text{AVOIDED CAPACITY COSTS} = [(D + OC) \times (1 + RM)] \times (1 + EF)$$

D (demand) is the greater of CD or FD.

CD (current demand cost) is the utility's average demand cost expressed in dollars per dth or Mcf during peak and off-peak periods.

FD (future demand cost) is the utility's average future demand cost over the 20-year period expressed in dollars per dth or Mcf when supplying natural gas during peak and off-peak periods.

OC (other cost) is the value of any other costs per dth or Mcf related to the acquisition of natural gas supply or transportation by the utility over the 20-year period in the peak and off-peak periods.

RM (reserve margin) is the reserve margin adopted by the utility.

EF (externality factor) is a 7.5 percent factor applied to avoided capacity costs in the peak and off-peak periods to account for societal costs of supplying energy. In addition, the utility may propose a different externality factor but must submit documentation of the factor's accuracy.

2. Avoided energy costs. Calculations of avoided energy costs in the peak and off-peak periods on a seasonal basis shall be based on the following formula:

$$\text{AVOIDED ENERGY COSTS} = (E + VOM) \times (1 + EF)$$

E (energy costs) are the greater of ME or FE.

ME (current marginal energy costs) are the utility's current marginal energy costs expressed in dollars per dth or Mcf during peak and off-peak periods.

FE (future energy costs) are the utility's average future energy costs over the 20-year period expressed in dollars per dth or Mcf during peak and off-peak periods.

VOM (variable operations and maintenance costs) are the utility's average variable operations and maintenance costs over the 20-year period expressed in dollars per dth or Mcf during peak and off-peak periods.

EF (externality factor) is a 7.5 percent factor applied to avoided energy costs in the peak and off-peak periods to account for societal costs of supplying energy. In addition, the utility may propose a different externality factor but must submit documentation of the factor's accuracy.

199—35.6(476) Contested case proceeding.

35.6(1) The commission shall conduct a contested case proceeding for the purpose of developing specific capacity and energy savings performance standards for each utility required to be rate-regulated and reviewing energy efficiency and demand response plans and budgets designed to achieve those savings.

35.6(2) Within 30 days after filing, each application for approval of an energy efficiency and demand response plan that is submitted with the information and supporting documentation required by this chapter, and that complies with the filing requirements of 199—Chapter 14, shall be docketed as a contested case proceeding. The Iowa economic development authority shall be considered a party to the proceeding. The proceeding shall follow the applicable provisions of 199—Chapter 7.

35.6(3) With the filing of a utility's application for approval of the utility's energy efficiency plan, each utility shall provide, for the commission's review, a calculation of the percentage of the utility's expected annual Iowa retail rate revenue, which the utility shall determine by dividing the total projected budget for the five-year plan by the total projected Iowa retail rate revenues for the five-year plan period. The calculation of a utility's percentage of Iowa retail rate revenue may be subject to confidential

treatment under Iowa Code chapters 22 and 550 upon request of the utility and as determined by the commission based on the commission's review of such request.

199—35.7(476) Exemptions from participation.

35.7(1) The utility shall allow customers to request exemption from participating in the utility's electric energy efficiency plan if the combined ratepayer impact measure test result for the utility's approved five-year electric energy efficiency and demand response plan is less than 1.0. The utility shall file a draft customer notice within 20 days following the commission's approval of the utility's five-year energy efficiency plan. The form of the notice, once approved by the commission, shall not be altered except to include the rate and bill impact dollars and percentages. The type size and quality shall be easily legible. The notice shall, at a minimum, provide the following elements:

a. A brief statement informing all customers that they are eligible to request an exemption from participation in the utility's electric energy efficiency plan.

b. The estimated annual rate and bill impacts of the approved electric energy efficiency plan on each class of customers and an estimate of the annual jurisdictional rate impact for each major customer grouping in dollars and as a percentage, with the proposed actual increases to be filed at the time of notice to customers. The utility may represent the estimated annual rate and bill impact dollars and percentages with blank spaces; however, the commission may require the utility to submit additional information necessary for review of the proposed form of notice. A copy of the notice with the final annual rate and bill impact dollars and percentages shall be filed with the commission at the time of customer notification.

c. A statement that customers requesting to be exempt from participation in the electric energy efficiency plan will not be eligible to participate in any utility-sponsored electric energy efficiency programs and will not be eligible to receive rebates from the utility for electric energy efficiency programs during the five-year plan cycle, beginning January 1 of the first year of the five-year plan cycle.

d. An explanation that customers requesting to be exempt from participation in the electric energy efficiency plan will no longer be assessed the energy efficiency cost recovery factor for the electric energy efficiency programs on their utility bills.

e. An explanation that customers requesting to be exempt from participation in the electric energy efficiency plan will be eligible to participate in demand response and natural gas energy efficiency programs and will be assessed costs related to those programs on their utility bills.

f. A statement that the exemption from participation in the electric energy efficiency plan is applicable for the five-year plan cycle. The ability to request an exemption from participation in future electric energy efficiency plans will depend on the specifics of the utility's energy efficiency plan and demand response plan filing as approved by the commission.

g. The utility's telephone number, website address, and email address the customer should use to request an exemption from participation in the electric energy efficiency plan.

h. A deadline by which customers must request an exemption. The deadline shall not be less than 30 days from the date of the notice.

35.7(2) The utility shall deliver the approved notice to all affected customers within 30 days of commission approval.

199—35.8(476) Annual reporting requirements. Each utility shall file by May 1 of each year an energy efficiency annual report that shall include the utility's energy efficiency and demand response spending compared to the approved budgets; actual demand and energy savings compared to the performance standards approved by the commission; cost-effectiveness results for the prior calendar year; the results of any monitoring and verification activities; and any additional information pertinent to the implementation or performance of the energy efficiency or demand response plan for the previous calendar year, such as changes in outside firms used to implement energy efficiency programs, updates on pilot projects, and other information as required by commission order.

199—35.9(476) Energy efficiency and demand response cost recovery. Each utility shall be allowed to recover the authorized energy efficiency and demand response plan expenditures adjusted for any overcollections or undercollections calculated on an annual basis. The utility may propose to recover the portion of the costs of process-oriented industrial assessments related to energy efficiency.

35.9(1) *Accounting for costs.* Each utility shall maintain accounting plans and procedures to account for all energy efficiency and demand response costs.

a. Each utility shall maintain a subaccount system, work order system, or accounting system that identifies individual costs by each program.

b. Each utility shall maintain accurate employee, equipment, material, and other records that identify all amounts related to each individual energy efficiency or demand response program.

35.9(2) *Automatic adjustment mechanism.* Each utility shall file by June 1 of each year energy efficiency and demand response costs proposed to be recovered in rates for the 12-month recovery period beginning at the start of the first utility billing month at least 30 days following commission approval.

35.9(3) *Energy efficiency cost recovery (EECR) and demand response cost recovery (DRCR) factors.* Each utility shall calculate an EECR factor to recover the costs associated with the energy efficiency plan, and each electric utility shall also calculate a DRCR factor to recover costs associated with the demand response plan. The utility shall calculate EECR/DRCR factors separately for each customer classification or grouping previously approved by the commission. A utility shall not use customer classifications or allocations of indirect or other related costs, other than those previously approved by the commission, without filing for a modification of the energy efficiency and demand response plan and receiving commission approval.

a. EECR/DRCR factors shall be calculated according to the following formula:

$$\begin{array}{rcl} \text{EECR/} & & \text{authorized recovery +} \\ \text{DRCR} & = & \text{overcollection/undercollection} \\ \text{factor} & & \text{annual sales units} \end{array}$$

b. EECR/DRCR factor is the energy efficiency or demand response recovery amount per unit of sales.

c. Authorized recovery is the difference between the actual energy efficiency or demand response expenditures by customer class for the previous calendar year and the approved energy efficiency or demand response budget by customer class for the previous calendar year plus the approved energy efficiency or demand response budget by customer class for the current calendar year.

d. Overcollection or undercollection is the actual amount recovered by customer class for the previous recovery period less the amount authorized to be recovered by customer class for the previous recovery period. Overcollection or undercollection may also include adjustments ordered by the commission in prudence reviews.

e. Annual sales units are the estimated sales for the 12-month recovery period for customers who have not requested an exemption as allowed by rule 199—35.7(476).

35.9(4) *Filing requirements.* Each utility proposing to recover energy efficiency or demand response costs through an automatic adjustment mechanism shall provide the following information:

a. Restatement of the derivation of each EECR/DRCR factor previously approved by the commission.

b. New EECR/DRCR factors based on allocation methods and customer classifications and groupings approved by the commission in previous proceedings.

c. All worksheets and detailed supporting data used to determine new EECR/DRCR factors. Information already on file with the commission may be incorporated by reference in the filing.

d. A reconciliation comparing the amounts actually collected by the previous EECR/DRCR factors to the amounts expended. Overcollection or undercollection shall be used to compute adjustment factors.

e. If the commission has determined in a prudence review that previously recovered energy efficiency or demand response costs were imprudently incurred, adjustment factors that shall include reductions for these amounts.

35.9(5) *Tariff sheets.* Upon approval of the new EECR/DRCR factors, the utility shall file separate tariff sheets for commission approval to implement the EECR/DRCR factors in the utility's rates.

35.9(6) *Customers' bills.*

a. Each electric and natural gas utility shall include the EECR factor, the customer's usage, and the dollar amount charge on the customer's bill. Customers who receive one bill for electric and natural gas service shall have a separate line item on the bill for the electric EECR and the natural gas EECR.

b. Each electric utility shall represent the DRCR factor, the customer's usage, and the dollar amount charge on the customer's bill.

199—35.10(476) Modification of an approved plan.

35.10(1) An approved energy efficiency plan or an approved demand response plan and associated budget may be modified if the modification is approved by the commission.

a. Electric utilities may request a modification to an approved energy efficiency plan due to changes in the funding as a result of customers requesting exemptions from the electric energy efficiency plan.

b. Natural gas and electric utilities may request modification of an approved energy efficiency plan, or electric utilities may request modification of an approved demand response plan, for any reason.

c. The commission, on its own motion, may consider modification of the energy efficiency or demand response plan and budget.

35.10(2) All applications to modify shall be filed in the same docket in which the energy efficiency or demand response plan was approved. All parties to the docket in which the energy efficiency or demand response plan was approved shall be served copies of the application to modify and have 14 days to file an objection or agreement. Objections should be specifically related to the contents of the modification. Failure to file a timely objection shall be deemed agreement.

35.10(3) Each application to modify an approved energy efficiency or demand response plan shall include:

- a.* A statement of the proposed modification and the party's interest in the modification.
- b.* An analysis supporting the requested modification.
- c.* An estimated implementation schedule for the modification.
- d.* A statement of the effect of the modification on attainment of the utility's performance standards and on projected results, including cost-effectiveness, of the utility's implementation of the utility's plan.

35.10(4) If the commission finds that any reasonable grounds exist to investigate the proposed modification, a procedural schedule shall be set and the commission shall take action within 90 days after the modification request is filed.

35.10(5) If an application to modify is filed and the commission finds that there is no reason to investigate, then the commission shall issue an order within 90 days after the modification request is filed stating the reasons for the commission's decision relating to the application.

35.10(6) If the commission rejects or modifies a utility's plan, the commission may require the utility to file a modified plan and may specify the minimum acceptable contents of the modified plan.

199—35.11(476) Prudence review.

35.11(1) The commission shall periodically conduct a contested case proceeding to evaluate the reasonableness and prudence of the utility's implementation of energy efficiency and demand response plans and budgets. The prudence review shall be based upon the information filed by a utility in the annual report required by rule 199—35.8(476) or based on discovery conducted in review of the annual reports.

35.11(2) The consumer advocate or another person may request the commission to conduct a prudence review based upon the information filed by a utility in the annual report required by rule 199—35.8(476) or based on discovery conducted in review of the annual reports. The request to initiate the prudence review shall identify specific issues to be evaluated and may include a proposed procedural schedule.

35.11(3) The commission shall determine whether a contested case proceeding is necessary to address the issues raised in a request for a prudence review.

35.11(4) Disallowance of past costs. If the commission finds the utility did not take all reasonable and prudent actions to cost-effectively implement its energy efficiency or demand response programs, the commission shall determine the amount in excess of those costs that would have been incurred under reasonable and prudent implementation. That amount shall be deducted from the next EECR/DRCR factors calculated pursuant to subrule 35.9(3) until the disallowed costs have been satisfied.

199—35.12(476) New structure energy conservation standards. A utility providing natural gas or electric service shall not provide service to any structure completed after April 1, 1984, unless the owner or builder of the structure has certified to the utility that the building conforms to the energy conservation requirements adopted under 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 governed by 661—Chapter 303.

These rules are intended to implement Iowa Code section 476.6.

[Filed 12/19/24, effective 2/26/25]

[Published 1/22/25]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.

ARC 8848C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Adopted and Filed

Rulemaking related to employer’s contribution and charges

The Director of the Workforce Development Department hereby rescinds Chapter 23, “Employer’s Contribution and Charges,” Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 17A and 84A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 96.

Purpose and Summary

This rulemaking repromulgates Chapter 23, which provides administrative rules for employers regarding determination and collection of unemployment insurance contributions pursuant to Iowa Code chapter 96.

As part of the Department’s review of rules under Executive Order 10, the Department identified several instances where the current chapter duplicates statutory language and uses restrictive terms. This text is removed from the chapter.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 27, 2024, as **ARC 8408C**. Public hearings were held on the following date:

- December 17, 2024

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Director of the Department on January 2, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 871—Chapter 23 and adopt the following **new** chapter in lieu thereof:

CHAPTER 23 EMPLOYER'S CONTRIBUTION AND CHARGES

871—23.1(96) Definitions.

23.1(1) *Balancing account.* An account set up to receive benefit charges that by law are not chargeable to any employer. The purpose of the balancing account is to enable the department to properly account for all benefits paid out.

23.1(2) *Average annual taxable payroll.* See Iowa Code section 96.1A(2).

23.1(3) *Calendar quarter.* See Iowa Code section 96.1A(6).

23.1(4) *Computation date.* The date as of which employers' experience with respect to unemployment or unemployment risk is measured for the purpose of determining contribution rates.

23.1(5) *Employer's contribution and payroll report.* An employer's quarterly report of the wages paid to individual workers, the total and taxable wages paid and the amount of contributions due to a state unemployment insurance fund.

23.1(6) *Contributions.* See Iowa Code section 96.1A(8).

23.1(7) *Contributor rate.* The percent constituting the rate at which the employer's payroll is taxed.

23.1(8) *Employer.* See Iowa Code section 96.1A(14).

23.1(9) *Experience.* An employer's record with respect to contributions paid, benefits charged, and taxable wages reported.

23.1(10) Experience rating. A method for determining the contribution rates of individual employers on the basis of the factors specified in the state employment security law for measuring employers' experience with respect to unemployment or unemployment risk.

23.1(11) Federal unemployment tax. The tax imposed by the Federal Unemployment Tax Act on employers with respect to having individuals in their employ.

23.1(12) Federal Unemployment Tax Act. Subchapter C of Chapter 23 of the United States Internal Revenue Code which relates to the federal unemployment tax.

23.1(13) Funds.

a. Administrative funds. Funds made available from federal, state, local and other sources to meet the cost of state workforce development administration.

b. Contingency fund. An amount of money appropriated by Congress to meet certain unpredictable increases in costs of administration by the state workforce development divisions arising from increases in workload or other specified causes.

c. Employment security administration fund. See Iowa Code section 96.13(1).

d. Special employment security contingency fund. See Iowa Code section 96.13(3).

e. Temporary emergency surcharge fund. See Iowa Code section 96.7(11).

f. Unemployment compensation fund. See Iowa Code section 96.9.

g. Unemployment trust fund. See Iowa Code section 96.9(2).

23.1(14) Indian tribe. See Iowa Code section 96.1A(24).

23.1(15) Liability determination. See Iowa Code section 96.7(4).

23.1(16) Subject employer. An employing unit that is subject to the contribution provisions of a state employment security law.

23.1(17) Quarterly wage report. A report that generates after the employer has electronically submitted its quarterly contribution and payroll.

23.1(18) Quarterly wage detail. A report listing workers and their wages by social security number. This rule is intended to implement Iowa Code sections 96.7(2) "c"(3), 96.7(7) "b," and 96.11(1).

871—23.2(96) Definition of wages for employment during a calendar quarter. Unless the context otherwise requires, terms used in rules, forms, and other official pronouncements issued by the department have the following meaning:

23.2(1) Wages paid are wages paid to an individual during the calendar quarter. Wages earned but not paid during the calendar quarter are considered as wages for employment in the quarter paid. The employer's contribution and payroll is evidence of when the wages were paid. If the wages are not listed, they shall be considered as paid as of:

a. The date appearing on the check.

b. The date appearing on the notice of direct deposit.

c. The date the employee received the cash payment.

d. The date the employee received any other type of payment in lieu of cash.

23.2(2) Wages payable means wages earned and unpaid.

23.2(3) Remuneration paid in goods or services shall be computed on the basis of the fair value of the goods or services at the time of payment.

23.2(4) Cash value of room and board.

a. If board, rent, housing, lodging, meals, or similar advantage is extended in any medium other than cash as partial or entire remuneration for service constituting employment, the reasonable cash value of same shall be deemed wages subject to contribution.

b. Where the cash value for such board, rent, housing, lodging, meals, or similar advantage is agreed upon in any contract of hire, the amount so agreed upon shall be deemed the value of such board, rent, housing, lodging, meals or similar advantage. Check stubs, pay envelopes, contracts, and the like, furnished to employees setting forth such cash value, are acceptable evidence as to the amount of the cash value agreed upon in any contract of hire except as provided in paragraphs 23.2(4) "d" and "e."

c. In the absence of an agreement in a contract of hire, the rate for board, rent, housing, lodging, meals, or similar advantage, furnished in addition to money wages or wholly comprising the wages of an

employed individual, shall be deemed to have not less than the following cash value except as provided in paragraph 23.2(4) “d.”

Full board and room per week	\$300.00
Meals (without lodging) per week	100.00
Meals (without lodging) per day	20.20
Lodging (without meals) per week	198.00
Lodging (without meals) per day	40.00
Individual meals:	
Breakfast	4.50
Lunch	5.30
Dinner	10.50
A meal not identifiable as breakfast, lunch or dinner	4.50

d. The department or its authorized representative may, after affording reasonable opportunity at a hearing for the submission of relevant information in writing or in person, determine the reasonable cash value of such board, rent, housing, lodging, meals, or similar advantage in particular instances or group of instances, if it is determined that the values fixed in or arrived at in accordance with paragraph 23.2(4) “c,” or in the contract of hire do not properly reflect the reasonable cash value of such remuneration.

e. If the department determines that the reasonable cash value is other than prescribed in a contract of hire or in paragraph 23.2(4) “c,” the employer’s quarterly payroll and contribution reports to the department shall thereafter show the value of such remuneration as determined by the department.

f. Notwithstanding the provisions of this paragraph, the cash value of meals that are provided by and for the convenience of the employer on the business premises of the employer shall not be deemed as insured wages under chapter 96 of the Iowa Employment Security Law. Lodging furnished by the employer, for the convenience and on the business premises of the employer, shall not be considered wages if the employee is required to accept the lodging as a condition of employment.

This rule is intended to implement Iowa Code section 96.1A(40).

871—23.3(96) Wages.

23.3(1) Wages are as defined in provided in Iowa Code section 96.1A(40), with the additional clarifications.

23.3(2) The term “wages” shall not include:

a. The amount of payment in addition to the employee’s regular wages paid for the sole purpose of compensating the employee for expenses inherent in the performance of services away from the regular base of operation.

b. Amounts paid specifically for travel or other ordinary and necessary expenses incurred or reasonably expected to be incurred in the employer’s business are not wages. Travel and other reimbursed expenses must be identified either by making a separate payment or by specifically indicating the separate amounts if both wages and expense allowances are combined in a single payment.

c. Cash payments, or the cash value of other remuneration, made voluntarily and without contractual obligation to, or in behalf of, an individual for periods during which such individual is in active service or training as a member of the national guard, or the military or naval forces of the United States, including the organized reserves.

d. Sick pay.

(1) “Wages” shall not include any amounts paid as sick pay if the payments are made by or on behalf of an employer under a plan or system. The plan or system must provide sick pay for the employees of the employer or a class or classes of the employer’s employees. The plan may include dependents.

(2) In the absence of a plan or system providing sick pay, any amounts paid by or on behalf of an employer on account of sickness are not included after the expiration of six calendar months following the last calendar month in which the employee worked for such employer.

e. The amount of any payment by an employing unit for or on behalf of an individual in its employ, under a supplemental unemployment benefit plan established by such employing unit, with

approval of the department. Such plan or system must make provision for payment to a trust fund or similar account on behalf of individuals performing services for it. The account must be used to pay supplemental unemployment benefits to such employing unit's employees over and above any sum to which such employees might be entitled under the provisions of the state employment security law. Such payments to employees are not remuneration for the purposes of reducing or preventing payment of unemployment benefits. Such plan shall contain the following features:

(1) The employer pays into a separately established trust fund or similar account an amount per hour (or equivalent) worked by the employees covered by the agreement until the maximum amount called for has been reached. The plan specifically provides for the supplementation of unemployment benefits under the written terms of an agreement, contract, trust arrangement, or other instrument.

(2) These payments made by the employer into the trust fund or similar account are not subject to recovery by the employer before the satisfaction of all liabilities to employees covered by the plan.

(3) The trust fund or similar account is to be used to pay supplemental unemployment benefits to employees over and above any sum to which they might be entitled under the provisions of a state employment security law.

(4) That the agreement provides that such employee is not entitled to receive any payment from the trust fund or similar account unless the employee is also concurrently eligible for benefits under a state employment security law.

(5) The plan requires that benefits are to be determined according to objective standards. Thus, a plan may provide similarly situated employees with benefits that differ in kind and amount but will not permit such benefits to be determined solely at the discretion of the administrator of the fund.

(6) That the employee has no vested right in any of the moneys paid into the trust fund or similar account except as the employee may qualify for benefits under the terms of the agreement.

(7) That any payment made to or on behalf of an employee be from and to a trust fund or similar account described in Section 401(a) of the United States Internal Revenue Code Title 26 of 1970, which is exempt from tax under Section 501(a) of said Code.

(8) An employer seeking approval of a supplemental unemployment benefit (SUB) plan should petition the department in the manner provided for petitioning for a declaratory ruling. The employer should include a written copy of its plan in the petition for declaratory ruling.

f. Remuneration paid to an officer of corporation if such officer is a majority stockholder:

(1) Unless such services are subject to a tax to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund; or

(2) If such services are required to be covered under this chapter as a condition to receiving a full tax credit against the tax imposed by the Federal Unemployment Tax Act (FUTA) (26 U.S.C. 3301-3309).

g. Remuneration paid by this state or any of its political subdivisions or by an Indian tribe to:

(1) An elected official,

(2) A member of a legislative body,

(3) A member of the judiciary of a state or political subdivision,

(4) A member of the state national guard or air national guard,

(5) An employee serving on a temporary duty basis for fire, storm, snow, earthquake, flood, or similar emergency, or

(6) A person serving in a nontenured policymaking capacity or advisory capacity pursuant to state law that ordinarily does not require duties of more than eight hours per week.

h. The term "wages" shall not include:

(1) Any amount of personal compensation withdrawn by a bona fide sole proprietor from the business or profession.

(2) Any amount of personal compensation withdrawn by a bona fide partner or partners from their partnership entity.

(3) Remuneration for services that are paid by a limited partnership to a limited partner is reportable. If a limited partner performs the duties of a general partner, remuneration is considered to be exempt.

i. Payments made by an employer to a deferred compensation plan, established to provide for an employee's retirement, are not wages subject to contributions unless the payments were deducted from the employee's pay through a salary reduction agreement. In circumstances where both the employer and the employee contribute to the plan, the employer's share is not wages unless the employee would receive a cash payment if the employee chose not to participate in the plan.

j. Remuneration paid to members of limited liability companies based on membership interest—see Iowa Code section 96.1A(19) “a”(9) and 96.1A(40) “b”(5).

k. Remuneration paid for services performed by an inmate of a correctional institution. Persons in work release programs are considered inmates, and their wages are not reportable. Remuneration paid to residents of halfway houses is reportable.

23.3(3) The term “wages” shall include:

a. *Small business corporation remuneration.* Remuneration paid to officers of “subchapter S” corporations for services performed in Iowa shall be deemed to be wages. Any corporate dividends must be approved and recorded in the corporate minutes prior to payment of such dividends. Remuneration to shareholders shall not be deemed to be dividends if such remuneration is paid regularly, either weekly or monthly, and is not in proportion to such shareholder's amount of stock, or in proportion to such shareholder's investment in the corporation. Corporate dividends are not considered wages. Ordinary income distributions as reported on IRS Form K-1 will not be considered to be wages provided that distributions are made proportionate to stock ownership or shareholder's investment and provided that corporate officers performing services for the corporation have received appropriate remuneration for services performed as defined by the Internal Revenue Service and the remuneration is reported as wages. Paragraph 23.3(2) “f” describes possible exclusion of wages paid to corporate officers who are majority stockholders.

b. *Wages of employees hired with equipment.* Where an employee is hired with equipment, except where it is ordinary in custom and usage in the trade or business for employees to furnish such equipment at their own expense, the fair value of the remuneration for the employee's services, if specified in the contract of hire, shall be considered wages. If the contract of hire does not specify the employee's wages, or the value of the wages agreed upon under the contract of hire is not a fair value, the department shall determine the employee's wages, taking into consideration the prevailing wages for similar work under comparable conditions, and the wages thus determined shall apply as wages and be so reported by the employer.

c. *Union members.* Members of a union, subject to the direction and control of the union and acting on behalf of the union, are considered employees of the union with respect to the services performed. Payments made to them by the union as reimbursement for time lost from their regular employment are considered wages.

d. *Cafeteria plans.* A cafeteria plan is a set of benefit options offered by the employer to employees or to a class of employees. A particular benefit in a cafeteria plan will be considered to be “wages” subject to contributions (tax) for Iowa unemployment insurance purposes if the employee has the option of receiving a cash payment in lieu of the benefit. If the employee does not have the option of receiving a cash payment, the benefit will still be considered “wages” subject to contributions unless the benefit is specifically excluded from the definition of “wages” in Iowa Code section 96.1A(40).

e. *Personal use of company vehicle.* The cash value of personal use of a company automobile or other vehicle is “wages” subject to contributions (tax) for Iowa unemployment insurance purposes and shall be reported to the department as wages paid in the quarter in which the personal use occurred.

This rule is intended to implement Iowa Code sections 96.5(5) “a” and 96.1A(40).

871—23.4(96) Wages—back pay. A payment in the form of or in lieu of back pay to an individual (exclusive of legal fees and other litigation expenses) shall be reported by the employer as total and taxable wages paid to the individual in the quarter in which the employer actually made the payment in the form of or in lieu of back pay. A payment for back pay is taxable and recoverable if it meets the definition of wages. Punitive or liquidated damages for other than lost wages, and job search expenses, are not taxable, recoverable or deductible as a back pay award.

23.4(1) Where the back pay wages, award or a judgment are paid as remuneration for employment by an employer into an account for an individual, the amount is considered as wages paid in the quarter in which the employer or appointed party actually pays the amount to the individual.

23.4(2) Where the department, individual, and employer agree that the employer may remit to the department amounts to repay a benefit overpayment resulting from receipt of back pay, the employer is required to report this amount to the department as total and taxable wages paid to the individual in the calendar quarter in which the amount is actually paid.

This rule is intended to implement Iowa Code section 96.3(8).

871—23.5(96) Gratuities and tips.

23.5(1) Tips received by an individual from a person or persons other than the individual's employer, and not accounted for to the employer, are not wages unless required by subrule 23.5(2). If the employee makes an accounting to the employer listing the tips received, these tips must be reported to the department as total and taxable wages. Where the customer writes the amount of the tip on a bill and the employer pays the employee the amount so shown and charges it to the customer's account, such amounts are wages.

23.5(2) Tips are considered reportable and taxable as wages when taken into account by the employer in determining the employee's compensation under the federal wage and hour law, when paid by the customer as a service charge set by the employer, or when pooled and distributed to the employees by the employer. The employer shall keep sufficient detailed records so that it can be ascertained, if necessary, by audit or other authorized inspection which compensation is reportable as taxable tips and which compensation is reportable as compensation other than tips. For reporting purposes to the department, the tips and other reportable and taxable compensation may be submitted in aggregate on Form 65-5300, Employer's Contribution and Payroll Report.

23.5(3) An accounting as used in this rule means the reporting of tips as gratuities by an employee to the employer for the purpose of deducting social security taxes or withholding taxes with the employer reporting the same on Form 941, Employer's Quarterly Federal Tax Return.

This rule is intended to implement Iowa Code section 96.1A(40).

871—23.6(96) Taxable wages.

23.6(1) If an individual has more than one employer, each employer must pay contributions on the employee's wages up to the taxable wage base.

23.6(2) The employer may not deduct any part of the contributions due on taxable wages from an employee's pay.

23.6(3) Only wages reported to the Iowa unemployment insurance program may be used in computing the employee's reportable taxable wages in Iowa.

23.6(4) A successor employer may use the taxable wages paid and reported by the predecessor employer to determine the successor employer's taxable wages if the successor employer received a transfer of experience from the predecessor employer.

23.6(5) A successor employer that received a transfer of experience may, at the successor employer's option, use the taxable wages reported by the predecessor to compute the taxable wages for the balance of the calendar year or may compute the taxable wages as if the employees acquired from the predecessor were new employees.

This rule is intended to implement Iowa Code section 96.1A(36).

871—23.7(96) New employer contribution rates.

23.7(1) The term contributory employer excludes reimbursable employers but includes employers with a "zero" rate.

23.7(2) For the purposes of this rule, an administrative contribution surcharge and a temporary emergency surcharge may be added to an employer's contribution rate.

23.7(3) For the purposes of this rule, the first quarter in which an employer's account will be considered chargeable with benefits will be the third quarter of the employer's liability unless the employer paid and reported no wages during the first two quarters of liability. In that case, the employer

will not be considered chargeable with benefits until the first quarter in which the employer pays and reports wages. Once an employer's account has been chargeable with benefits, it will be considered chargeable for rate computation purposes until it is terminated.

23.7(4) For the purposes of this rule, any single employer that has two or more establishments or businesses engaged in different industrial classification activities, with one or more establishments or businesses engaged in construction activity as defined in rule 871—23.82(96), will be assigned the contribution rate applicable to construction if 50 percent or more of the combined business activity is derived from the establishments or businesses engaged in construction activities.

This rule is intended to implement Iowa Code section 96.7.

871—23.8(96) Due date of quarterly contribution and payroll.

23.8(1) *Due date.* All covered employers subject to Iowa Code section 96.7 shall file with the department quarterly contribution and payroll reports on or before the due date, and any employer failing to file a quarterly when due shall be considered delinquent.

a. Contributions are due quarterly on the last day of the month following the calendar quarter for which the contributions have accrued. The first payment of all employers becoming liable during a calendar year unless otherwise noted shall include contributions with respect to all wages paid for employment from the first day of the calendar year.

b. If any due date listed in this rule falls on a Saturday, Sunday, or legal holiday, the due date is the next following business day. Quarterly wage detail, contributions, and payments in lieu of contributions, if mailed, shall be considered as received on the date shown on the postmark of the envelope in which they are received by the department.

23.8(2) *Due date for new employer.* The first contribution payment of any employer who becomes newly liable for contributions in any year are due on the last day of the month following that quarter wherein occurred the twentieth calendar week, during the calendar year within which a total of one or more workers were employed on any one day, or the last day of the month following that calendar quarter in which the first dollar in Iowa wages has been paid.

a. The first contribution payment of any agricultural employer who becomes newly liable for contributions in any year will become due on the last day of the month following that quarter wherein occurred the twentieth calendar week, during the calendar year within which a total of ten or more workers were employed on any one day, or the last day of the month following that calendar quarter in which a total of \$20,000 in wages was paid.

b. The first contribution payment of any domestic employer who becomes newly liable for contributions in any year will become due and payable on the last day of the month following that quarter wherein the liability was established, or the last day of the month following that calendar quarter in which a total of \$1,000 in wages was paid.

23.8(3) *Due date for elective coverage.* The first contribution payment of any employing unit that elects with the written approval of such election by the department to become an employer, or to have nonservice services performed for it deemed employment, is due on the last day of the month next following the close of the calendar quarter in which the conditions of becoming an employer by election are satisfied, and includes contributions with respect to all wages paid for employment occurring on and after the date stated in such approval (as of which such employing unit becomes an employer), up to and including the calendar quarter in which the conditions of becoming an employer by election are satisfied.

23.8(4) *Due date for newly liable employer.* The first contribution payment of an employer who becomes newly liable for contributions in any year in any other manner is due on the last day of the month next following the quarter wherein such individual or employing unit became an employer.

23.8(5) *Delinquent date and penalty and interest.*

a. A quarterly wage detail or contribution payment or payment in lieu of contributions that is not received on or before the due date is delinquent. An employer who fails to timely file quarterly contribution and payroll is liable to the department, for each such delinquent quarter, subject to waiver for good cause shown, a penalty as provided in Iowa Code section 96.14(2). No penalty will apply to

delinquent quarters when the employer proves to the satisfaction of the department that no wages were paid.

b. An employer who has not paid contributions or payments in lieu of contributions on or before the due date shall pay interest on the delinquent contribution at the rate of 1 percent per month, or 1/30 of 1 percent for each day or fraction thereof, from and after the due date until payment is received by the department unless good cause is shown why such interest shall be waived.

23.8(6) *Due date upon demand.* If the department finds that the collection of any contribution or payment in lieu of contributions will be jeopardized by delaying the collection thereof until the date otherwise described, upon written demand by the department, such contribution or payment in lieu of contribution shall become immediately due and delinquent.

23.8(7) *Extension of time.* Upon written request filed with the department before the due date of any contribution and payroll, the department may, for good cause shown, grant an extension in writing of the time for filing and the payment of the contributions, but no extension may exceed 30 days and no extension may postpone payment beyond the last day for filing tax returns under the Federal Unemployment Tax Act. If an employer who has been granted an extension fails to pay the contribution on or before the termination of the period of such extension, interest shall be payable from the original due date as if no extension had been granted.

This rule is intended to implement Iowa Code section 96.7(1).

871—23.9(96) Delinquency notice. If an employer has not submitted its quarterly contribution and payroll with 20 days of the due date, IWD will issue, via mail or email to the address on file, a delinquency notice stating the employer's name, account number, and experience rate and the quarter for which contribution and payroll is delinquent. If the employer has sold or dissolved the business, the employer is required to show the date of the last wages paid and the date of last employment. If the business was sold or transferred, the employer is required to provide the name and address of the successor and the employer's future mailing address.

This rule is intended to implement Iowa Code section 96.7(2).

871—23.10(96) Payments in lieu of contributions.

23.10(1) An employer who has qualified for reimbursement payments or has had an election to become a reimbursable employer approved shall pay to the department an amount equal to the amount of regular or extended benefits paid, including benefits that are based on wage credits transferred from another employer. If extended benefits are in effect, employers shall reimburse one-half of the extended benefits paid, except governmental employers and Indian tribes shall reimburse all extended benefits paid.

23.10(2) At the end of each calendar quarter, the department shall bill each reimbursable employer via a statement sent within 30 days of the quarter for which the benefits are charged. The statement will include the social security number, name of claimant and amount of benefits charged to the employer for each claimant as well as the amount of any previous amounts due. Payment for each quarter's charges is due within 30 days of the issuance of the statement. If the employer fails to reimburse the department within the period prescribed by these rules, the department may attempt collection of the amount due including any of the following methods:

- a.* Issuance of Notice of Jeopardy Assessment and Demand for Payment.
- b.* Issuance of Notice of Lien.
- c.* Any other actions as prescribed by the law or these rules, including collection by distress warrant. Interest on delinquent reimbursable benefits is charged at the rate of 1 percent per month or 1/30 of 1 percent per day from the date payment was due until the date of payment.

This rule is intended to implement Iowa Code section 96.7(8).

871—23.11(96) Identification of workers covered by the Iowa employment security law.

23.11(1) Each employer shall obtain the social security number of each of its employees subject to the Iowa employment security law.

23.11(2) An employer shall report the worker's social security number in making any report required by the department with respect to the worker.

23.11(3) If a worker failed to report to the employer a correct social security number or fails to show the employer a receipt issued by an office of the social security board acknowledging that the worker has filed an application for an account number, the employer shall inform the worker that Regulation 106 of the Internal Revenue Service, United States Treasury Department, under the United States Federal Insurance Contributions Act provides that:

a. Each worker shall report to every employer for whom the worker is engaged in employment a social security number with the worker's name exactly as shown on the social security card issued to the worker by the social security board.

b. Each worker who has not secured a social security number shall file an application for a social security account number on Form SS-5 of the Treasury Department, Internal Revenue Service. The application shall be filed on or before the seventh day after the date on which the worker first performs employment for wages, except that the application shall be filed on or before the date the worker leaves employment if such date precedes such seventh day.

c. If, within 14 days after the date on which the worker first performs employment for wages for the employer, or on the day on which the worker leaves the employ of the employer, whichever is the earlier, the worker does not have a social security account number, and has not shown the employer a receipt issued to the worker by an office of the social security board acknowledging that the worker has filed an application for an account number, the worker shall furnish the employer an application on Form SS-5, completely filled in and signed by the worker. If a copy of Form SS-5 is not available, the worker shall furnish the employer a written statement, signed by the worker, of the date of the statement, the worker's full name, present address, date and place of birth, father's full name, mother's full name before marriage, and worker's sex, and a statement as to whether the worker had previously filed an application on Form SS-5 and, if so, the date and place of such filing. Furnishing the employer with an executed Form SS-5, or statement in lieu thereof, does not relieve the worker of the obligation to make an application on Form SS-5 as required in paragraph 23.11(3) "b."

This rule is intended to implement Iowa Code section 96.7.

871—23.12 Reserved.

871—23.13(96) Employer elections to cover multistate workers.

23.13(1) *Arrangement.* The following rule governs the department's administrative cooperation with other states subscribing to the interstate reciprocal coverage arrangement, hereinafter referred to as the arrangement. Unless and until the department approves the arrangement via the Employer's Election to Cover Multi-State Worker form or an accepted and approved form from another jurisdiction, employers are subject to localization of employment (rule 871—23.24(96)).

23.13(2) *Definitions.* As used in this rule unless the context clearly indicates otherwise:

"Agency" means any officer, board, department, division, commission or other authority charged with the administration of the unemployment compensation law of a participating jurisdiction.

"Interested jurisdiction" means any participating jurisdiction to which an election submitted under this rule is sent for its approval, and "interested agency" means the agency of such jurisdiction.

"Jurisdiction" means any state of the United States, the District of Columbia, Puerto Rico, or, with respect to the federal government, the coverage of any federal unemployment compensation law.

"Participating jurisdiction" means a jurisdiction whose administrative agency has subscribed to the arrangement and whose adherence thereto has not terminated.

23.13(3) *Submission and approval of coverage elections under the interstate reciprocal coverage arrangement.*

a. Any employing unit may file an election to cover under the law of a single participating jurisdiction all of the services performed for the employing unit by any individual who customarily works for the employing unit in more than one participating jurisdiction. Such an election may be filed, with respect to an individual, with any participating jurisdiction in which:

(1) Any part of the individual's services are performed;
(2) The individual resides; or
(3) The employing unit maintains a place of business to which the individual's services bear a reasonable relation.

b. The agency of the elected jurisdiction (thus selected and determined) shall initially approve or disapprove the election. If such agency approves the election, it shall forward a copy thereof to the agency of each other participating jurisdiction specified thereon, under whose unemployment compensation law the individual or individuals in question might, in the absence of such election, be covered. Each such interested agency shall approve or disapprove the election, as promptly as practicable, and notify the agency of the elected jurisdiction accordingly. In case its law so requires, any such interested agency may, before taking such action, require from the electing employing unit satisfactory evidence that the affected employees have been notified of and have acquiesced in the election.

c. If the agency of the elected jurisdiction, or the agency of any interested jurisdiction, disapproves the election, the disapproving agency shall notify the elected jurisdiction and the electing employing unit of its action and of its reasons therefor.

d. Such an election is effective as to the elected jurisdiction only if approved by its agency and by one or more interested agencies. An election thus approved is effective, as to any interested agency, only if it is approved by such agency.

e. In case any such election is approved only in part, or is disapproved by some of such agencies, the electing employing unit may withdraw its election within ten days after being notified of such action.

23.13(4) *Effective period of election.*

a. *Commencement.* An election duly approved under this rule shall become effective at the beginning of the calendar quarter in which the election was submitted unless the election, as approved, specifies the beginning of a different calendar quarter. If the electing unit requests an earlier effective date than the beginning of the calendar quarter in which the election is submitted, such earlier date may be approved solely as to those interested jurisdictions in which the employer had no liability to pay contributions for the earlier period in question.

b. *Termination.*

(1) The application of an election to any individual under this rule shall terminate if the agency of the elected jurisdiction finds that the nature of the services customarily performed by the individual for the electing unit has changed so that they are no longer customarily performed in more than one particular jurisdiction. Such termination becomes effective as of the close of the calendar quarter in which notice of such findings is mailed to all parties affected.

(2) Except as provided in subparagraph 23.13(4) "b"(1), each election approved hereunder remains in effect through the close of the calendar year in which it is submitted and thereafter until the close of the calendar quarter in which the electing unit gives written notice of its termination to all affected agencies.

(3) Whenever an election under this rule ceases to apply to any individual, under subparagraph 23.13(4) "b"(1) or 23.13(4) "b"(2), the electing unit shall notify the affected individual accordingly.

23.13(5) *Reports and notices by the electing unit.*

a. The electing unit shall promptly notify each individual affected by its approved election and furnish the elected agency a copy of such notice.

b. Whenever an individual covered by an election under this rule is separated from employment, the electing unit shall again notify the individual forthwith as to the jurisdiction under whose unemployment compensation law the individual's services have been covered. If at the time of termination the individual is not located in the elected jurisdiction, the electing unit shall notify the individual as to the procedure for filing interstate benefit claims.

c. The electing unit shall immediately report to the elected jurisdiction any change that occurs in the conditions of employment pertinent to its election, such as cases where an individual's services for the employer cease to be customarily performed in more than one participating jurisdiction or where a

change in the work assigned to an individual requires such individual to perform services in a new participating jurisdiction.

This rule is intended to implement Iowa Code section 96.20.

871—23.14(96) Elective coverage of excluded services. An employing unit having services performed for it that are not subject to the compulsory coverage provisions of the Act may file an application for voluntary election to become an employer under the law or to extend its coverage to individuals performing services that do not constitute employment as defined in the law.

23.14(1) In no case shall an elective coverage agreement under Iowa Code section 96.8(3) be approved unless and until it has been established that the employing unit making application for elective coverage is normally and continuously engaged in a regular trade, business or occupation.

23.14(2) An application for elective coverage shall be disapproved if the department finds that the employing unit at the time of making the application was insolvent or expected to discontinue business for any reason within one year from the date the application is filed, or that the employing unit is not normally and continuously engaged in a regular trade, business or occupation.

23.14(3) The department may, on its own motion, request a written statement as to why an employing unit wishes to file an election to become a subject employer as provided for in Iowa Code section 96.8(3) “a” and may request evidence of financial stability.

23.14(4) Any written election for a period prior to the date of filing shall become binding upon approval by the department, and notification of the approval shall be forwarded to the employer. If for any reason the department does not approve such voluntary election, the employing unit shall be notified of the reasons why such approval was withheld.

23.14(5) The effective date of the voluntary election is the date on which the individual or individuals with noncovered wages first elect to have covered wages.

23.14(6) Effect of election approval. The first contribution payment of any employing unit that elects to become a covered employer shall become due and shall be paid on or before the due date of the reporting period during which the conditions of becoming a covered employer by election are satisfied, and shall include employer contributions with respect to all wages paid on and after the date stated in such approval (as of which such employing unit becomes a covered employer), up to and including the last pay period in the reporting period in which the conditions of becoming a covered employer by election are satisfied.

This rule is intended to implement Iowa Code section 96.8(3).

871—23.15 to 23.17 Reserved.

871—23.18(96) Nature of relationship between employer-employee.

23.18(1) *Commission salespersons and insurance solicitors.* Commission salespersons are considered employees and wages are subject to unemployment tax unless there is a department-approved independent contractor agreement in place.

23.18(2) *Directors and officers of a corporation.* Directors who receive a reasonable fee for attending meetings and who perform no other services are not employees of the corporation. Officers of associations and corporations who perform services for the associations or corporations are employees.

23.18(3) *Members of family.*

a. Services performed by an individual in the employ of a son, daughter, or spouse, and services performed by a child under the age of 18 in the employ of a father or mother are exempt from the provisions of this chapter.

b. Services performed by a foster parent in the employ of a foster child, by a stepparent in the employ of a stepchild, and by a child under the age of 18 years in the employ of a stepparent or foster parents are exempt from the provisions of this chapter.

c. Services performed by a son or daughter over the age of 18 as an approved provider for consumer-directed care in the employ of a father or mother who is an approved consumer of a home- and community-based waiver services program are exempt from the provisions of Iowa Code chapter 96.

23.18(4) *Aliens.* This chapter makes no distinction between citizens and lawful aliens. Lawful aliens in nonexempt employment are counted in determining whether the employer is subject to the Act and are covered by the contribution and benefit provision.

23.18(5) *Aged and minor employees.* Contributions are payable upon services rendered by an employee regardless of the age of the employee.

23.18(6) *Family employment.* Parents, spouse and minor children under the age of 18 years working for an individual proprietor are exempt from the provisions of this chapter. If such individuals are employed by a partnership, the exemption only applies if such a relationship exists between the worker and each member of the partnership. This exemption is not applicable to corporations or to limited liability companies.

23.18(7) *Partners.* Bona fide partners are not considered employees even though they receive salaries.

23.18(8) *Apprentices-clerks.* This chapter makes no exceptions for persons serving a clerkship or other form of apprenticeship.

23.18(9) *Members of a limited liability company.* Members of a limited liability company that perform services other than for the purpose of acquiring membership in the limited liability company are employees.

This rule is intended to implement Iowa Code section 96.1A(16).

871—23.19(96) Employer-employee and independent contractor relationship.

23.19(1) The relationship of employer and employee exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished. An employee is subject to the will and control of the employer not only as to what shall be done but how it shall be done. It is not necessary that the employer actually direct or control the manner in which the services are performed; it is sufficient if the employer has the right to do so. The right to discharge or terminate a relationship is also an important factor indicating that the person possessing that right is an employer. Where such discharge or termination will constitute a breach of contract and the discharging person may be liable for damages, the circumstances indicate a relationship of independent contractor. Other factors characteristic of an employer, but not necessarily present in every case, are the furnishing of tools, equipment, material and a place to work to the individual who performs the services. In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the result, that individual is an independent contractor. An individual performing services as an independent contractor is not as to such services an employee under the usual common law rules.

23.19(2) The nature of the contract undertaken by one for the performance of a certain type, kind, or piece of work at a fixed price is a factor to be considered in determining the status of an independent contractor. In general, employees perform the work continuously and primarily their labor is purchased, whereas the independent contractor undertakes the performance of a specific job. Independent contractors follow a distinct trade, occupation, business, or profession in which they offer their services to the public to be performed without the control of those seeking the benefit of their training or experience.

23.19(3) Independent contractors can make a profit or loss. They are more likely to have unreimbursed expenses than employees and to have fixed, ongoing costs regardless of whether work is currently being performed. Independent contractors often have significant investment in real or personal property that they use in performing services for someone else.

23.19(4) Employees are usually paid a fixed wage computed on a weekly, hourly or piece basis while an independent contractor is usually paid one sum for the entire work, whether it be paid in the form of a lump sum or installments. The employer-employee relationship may exist regardless of the form, measurement, designation or manner of remuneration.

23.19(5) The right to employ assistants with the exclusive right to supervise their activity and completely delegate the work is an indication of an independent contractor relationship.

23.19(6) Services performed by an individual for remuneration are presumed to be employment unless and until it is shown to the satisfaction of the department that the individual is in fact an independent contractor. Whether the relationship of employer and employee exists under the usual common law rules will be determined upon an examination of the particular facts of each case.

23.19(7) If the relationship of employer and employee exists, the designation or description of the relationship by the parties as anything other than that of employer and employee is immaterial. Thus, if such relationship exists, it is of no consequence that the employee is designated as a partner, coadventurer, agent, independent contractor, or the like.

23.19(8) All classes or grades of employees are included within the relationship of employer and employee. For example, superintendents, managers and other supervisory personnel are employees.

This rule is intended to implement Iowa Code section 96.1A(16).

871—23.20(96) Employment—student and spouse of student. Wages earned by a student who performs services in the employ of a school, college or university at which the student is enrolled and is regularly attending classes (either on a full-time or part-time basis) are not covered wages.

Wages earned by an individual who is a full-time employee for a school, college or university whose academic pursuit is unrelated to the full-time employment are covered wages.

Wages earned by the spouse of such a student in employment with the educational institution attended by the student are not covered wages if the employee-spouse is told prior to starting employment that the work is part of a program to provide financial assistance to the student and is not covered by unemployment insurance.

This rule is intended to implement Iowa Code section 96.1A(16) “g”(6).

871—23.21(96) Excluded employment—student. Wages earned by a student who is enrolled at a nonprofit or public educational institution under a program taken for credit that combines academic instruction with work experience are normally excluded from the definition of employment, provided that no work performed by such individual in excess of the hours called for in the contract between the school and the employer or performed in a period of time during which the institution is on a regularly scheduled vacation and for which such student receives no academic credit shall be excluded from said definition.

This rule is intended to implement Iowa Code section 96.1A(16) “g”(6).

871—23.22(96) Employees of contractors and subcontractors.

23.22(1) If one employer contracts with another employing unit for any work that is part of the first employer’s usual business, the first employer is liable for any contributions based on wages paid by the second employing unit in connection with the work if the second employing unit is not liable to pay contributions.

23.22(2) Employees of the second contractor are counted as employees of the first contractor while performing services on the contract for the first contractor.

This rule is intended to implement Iowa Code section 96.1A(15).

871—23.23(96) Liability of affiliated employing units. A nonliable employer shall be liable if the employer owns one or more employing units (or business units) and the combined employment has paid wages for service in employment in a calendar quarter in either the current or preceding year.

This rule is intended to implement Iowa Code section 96.1A(15).

871—23.24(96) Localization of employment—employees covered—exemption. When workers perform services in more than one state, the department will review each case individually and make a determination whether wages are reportable to Iowa based on the following guidelines in sequence:

23.24(1) Services performed in only one state are considered localized in that state regardless of where the employer is located. The services do not have to cover the entire reporting period. The wages are reportable to the state where the services are performed.

23.24(2) Where services are performed among two or more states in a reporting period, the base of operations is considered. The base of operations is the point from which the workers start and finish their work on a regular basis, and that is the state to which the wages are reportable. In this type of case, the department has the right to waive Iowa coverage to another jurisdiction (state of the base of operations) as long as the employee is properly covered by the other state.

23.24(3) When workers perform services in more than one state and there is no base of operations in any one state, the state from which the worker is immediately directed and controlled is the state to which the wages are reportable provided that some services are performed by the worker in that state.

23.24(4) If the services of the workers are not localized in a state, the base of operations is not involved or the place where services are directed and controlled is not applicable, then the wages are reportable to the state in which the worker resides, provided some services are performed in that state.

This rule is intended to implement Iowa Code section 96.1A(16)“b.”

871—23.25(96) Domestic service.

23.25(1) Services of a household nature performed by an individual in or about the private home of the person by whom the individual is employed or performed in or about the club rooms or house of a local college club or local chapter of a college fraternity or sorority by which the individual is employed are included within the term “domestic service.”

23.25(2) A private home is the fixed place of abode or residence of an individual or family, including the house and the lands on which the house stands.

23.25(3) Services of a general household nature are those ordinarily and customarily performed as an integral part of the upkeep operation and maintenance of a dwelling, residence or private home. In general, covered services of a household nature in or about a private home include services rendered by workers such as cleaning persons, cooks, maids, housekeepers, caretakers, yard workers and similar domestic workers. In addition, services performed by babysitters, nannies, health aides and similar workers for members of the household are covered.

23.25(4) The services enumerated above are not covered under the term “domestic service” if performed in or about rooming or lodging houses, boarding houses, clubs (except local college clubs), hotels, offices or other commercial enterprises.

23.25(5) The term “domestic service” does not include the service of an individual engaged in recognized independent craft not habitually rendered as a part of ordinary household duties. In situations where it may be necessary to determine whether or not an employer-employee relationship exists between the householder and the household worker, the guidelines as set forth in rule 871—23.19(96) will be applied.

23.25(6) Services of a household nature performed in or about the club rooms or house of a local college club, or in or about the club rooms or house of a local chapter of a college fraternity or sorority, by a student who is enrolled and regularly attending classes at a school, college, or university are excepted from employment. For the purpose of this exception, the statutory tests are the type of services performed by the employee, the character of the place where the services are performed, and the status of the employee as a student enrolled and regularly attending classes at a school, college, or university where the term “school, college, or university” is taken in its commonly or generally accepted sense.

23.25(7) In general, services of a household nature in or about the club rooms or house of a local college club or local chapter of a college fraternity or sorority include but are not limited to services rendered by cooks, janitors, laundry persons, furnace persons, handy persons, gardeners and housekeepers.

23.25(8) A local college club or local chapter of a college fraternity or sorority does not include an alumni club or chapter. If the club rooms or house of a local college club or local chapter of a college fraternity or sorority is used primarily for the purpose of supplying board or lodging to students or the public as a business enterprise, the services performed there are not covered under the term “domestic service.”

23.25(9) Where an individual is employed by a domestic service or home health care organization to perform domestic services in a private home, the individual is an employee of the service firm, not the householder.

This rule is intended to implement Iowa Code section 96.1A(11) and 96.1A(14) “m.”

871—23.26(96) Definition of a farm—agricultural labor.

23.26(1) “Farm” as used in Iowa Code section 96.1A(16) “g”(3) and in these rules means one or more plots of land not necessarily contiguous, including structures and buildings, used either primarily for raising or harvesting any agricultural or horticultural commodity, including caring for and the raising, shearing, feeding, training, and management of livestock, bees, poultry and furbearing animals and wildlife or both such uses, if the activities conducted have an agricultural purpose.

23.26(2) The definition of farm in subrule 23.26(1) includes but is not limited to nurseries, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities. A plot of land used primarily for the raising of nursery stock from seeds, cuttings or transplanted stock is a farm. If any plot of land is used both for the raising of nursery stock and for display of nursery stock or allied products for sale, the parcel or portion is not a farm if the raising is not the primary operation. A parcel of real property or a portion of a parcel of real property that is used primarily to display nursery stock for sale or to display an allied product for sale, or both, is not a farm. Allied product, as used in this rule, includes but is not limited to garden supplies, lawn supplies, tools, equipment, fertilizers, sprays, insecticides or pottery.

23.26(3) If other than incidental sales of an allied product are made in connection with a nursery, the operations in connection with the sales area are commercial operations as distinguished from ordinary farm operations and services performed with respect to the sales areas are not agricultural labor.

23.26(4) A plot of land used primarily for the raising of Christmas trees is a farm.

23.26(5) The following shall be used to determine whether services are defined as agricultural labor.

a. Services performed by an individual on a farm, employed by the owner, tenant or operator, in connection with the operation constitutes agricultural labor if:

(1) The services are on the farm on which the materials in their raw or natural state were produced, and

(2) Processing, packing, packaging, transportation, or marketing is carried on as incidental to ordinary farming operation.

b. If the service performed is incidental to industrial, manufacturing or commercial operation, it does not constitute agricultural labor. **EXAMPLE:** Services performed for an insurance company in repair and construction of farm buildings do not constitute agricultural labor.

23.26(6) Services performed on nonfarm property by an employee of one who is not the owner, tenant or operator of the farm to which the operation relates or any service rendered in connection with the maintenance and repair of equipment, used in operation on the farm, as well as related collection, clerical and bookkeeping services, are not agricultural labor.

23.26(7) Services performed in the handling or processing of any agricultural or horticultural commodity are agricultural employment if performed by an employee of the owner, tenant, or other farm operator, only if the commodity is in a nonmanufactured state and only if the operator produced more than half of the commodity with respect to which the service was performed.

23.26(8) Aerial seeding, fertilizing, spraying, dusting, custom planting, cultivating or combining of farm acres by an employee of any agricultural enterprise is agricultural labor. This includes mixing or loading into an airplane the spraying or dusting material, as well as the measuring of the swaths and the marking and flagging of the fields, and is considered agricultural as long as it is performed on a farm. If any of these services are performed on property other than a farm, they are not agricultural labor and are covered by other provisions of the Iowa employment security law.

23.26(9) If the employer does not own or operate the farm that is being sprayed or dusted, any service related to employees in connection with maintenance and repair of the aircraft, trucks, or other

equipment used in those operations, as well as related collection, clerical and bookkeeping services, are not agricultural labor and are not exempt under the Iowa employment security law.

23.26(10) Services performed on a farm by an employee of any person in connection with hatching poultry are agricultural labor. A plot of land together with the structures and buildings located off the farm, devoted to the hatching of poultry, is not considered to be a farm. Any service, under any contract of hire, performed off the farm in connection with the hatching of poultry is not considered agricultural labor.

23.26(11) Executive, supervisory, administrative, clerical, stenographic, and office work are not agricultural labor even if performed on a farm and in relation to a farm.

23.26(12) Services performed on a farm incidental to the overall commercial activities that are not incidental to ordinary farming operation or directly related to the farming operation are not agricultural labor.

23.26(13) Services performed in connection with the processing of agricultural commodities performed on a farm, for a farm operation, are not agricultural labor unless one-half or more of the commodities processed are produced by the farm operator.

23.26(14) Services performed in agricultural employment as defined in Iowa Code section 96.1A(16)“g”(3) or rule 871—23.26(96) by an agricultural employee for one-half or more of any calendar month are considered agricultural employment the whole of that calendar month.

This rule is intended to implement Iowa Code section 96.1A(16)“g”(3).

871—23.27(96) Exempt employment in the employ of a church, association of churches or an organization that is operated primarily for religious purposes.

23.27(1) The word “church” is used in its limited sense and is synonymous with an individual house of worship maintained by a particular congregation. Any service by an individual for a church, convention or association of churches is excluded from coverage. However, the exclusion does not apply to service performed for an organization that may be religious in orientation unless it is operated primarily for religious purposes and is operated, supervised, controlled or principally supported by a church (or a convention or association of churches). Thus, the service of the janitor of a church is excluded, but the service of a janitor for a separately incorporated college, although it may be church-related, is covered.

23.27(2) Service for a college devoted primarily to the preparation of students for the ministry is exempt, as is service for a novitiate or a house of study, training candidates to become members of religious orders. However, this chapter does not consider a church-related (separately incorporated) charitable organization (such as an orphanage or a home for the aged) to be operated primarily for religious purposes.

23.27(3) The exclusion of service performed by ministers in the exercise of their ministry and by members of a religious order in performing the duties required by such order applies only when such service is performed for nonprofit organizations ordinarily required to be covered by the Iowa employment security law.

23.27(4) A minister is ordained, commissioned, or licensed if such minister has been vested with ministerial status in accordance with the procedure followed by the particular church denomination. Such minister does not have to be connected with a congregation. Ministerial authority continues until revoked by the church.

23.27(5) The term “exercise of the ministry” includes the conduct of religious worship and the ministration of sacerdotal functions; service performed in the control, conduct, and maintenance of a religious organization under the authority of a religious body constituting a church or church denomination or an organization operated as an integral agency of such a religious organization or of a church or church denomination; service performed for any organization under an assignment or designation by a church (not including cases in which a church merely helps a minister by recommending such minister for a position involving nonministerial services for an organization not connected with the church); and missionary service or administrative work in the employ of a missionary organization. Control, conduct, and maintenance of an organization does not include services such as

operating an elevator, or being a janitor, but refers to services performed in the directing, management, or promotion of the activities of the organization.

23.27(6) Accordingly, service of clergy as a chaplain in an orphanage or in an old-age home is excluded since such service is in the exercise of a ministry as is the service of members of a teaching or nursing order who are engaged in teaching or nursing. In the case of a member of a religious order, the criterion is whether the order requires the performance of such service.

23.27(7) School coverage.

a. Schools that are not separately incorporated and are affiliated with a church are exempt from insured employment because their employees are in the direct employ of a church or convention or association of churches.

b. Schools that are separately incorporated and are affiliated with a church are exempt from insured employment if such schools are operated primarily for religious purposes.

c. Schools that are not affiliated with a church are covered employers with covered employment.

“Affiliated” as used in this rule means operated, supervised, controlled, or principally supported by a church or convention or association of churches. A school that is operated primarily for religious purposes must have as its chief and principal purpose for operation a religious orientation. The school must have as its purpose of first or highest rank of importance the religious indoctrination of its students.

This rule is intended to implement Iowa Code section 96.1A(16) *“a”*(6)(a) and (c).

871—23.28(96) Successor.

23.28(1) “Successor employer” means an employing unit that:

a. Acquired, and continues to operate, the organization, trade or business, or substantially all the assets of an employing unit that were subject to the provisions of Iowa Code chapter 96 prior to the acquisition, regardless of whether the acquirer was an employing unit prior to the acquisition.

b. Acquired a severable portion of the business of an employer who is subject to Iowa Code chapter 96 if:

(1) The portion of the business or enterprise acquired would have qualified as an “employer” pursuant to Iowa Code section 96.1A(14) *“a.”*

(2) A request for a transfer of experience of the severable portion was made within 90 days of the transfer date.

(3) The transfer request contains information required by the department and is approved by both the predecessor and department.

23.28(2) An “organization,” “trade” or “business” as used in Iowa Code section 96.1A(14) *“b”* is acquired if an employing unit acquires factors of an employer’s organization, trade or business sufficient to constitute an entire existing going business unit, not merely assets from which a new business may be built. Acquisition is determined by examining all of the factors of the transfer, including:

a. Place of business.

b. Employees.

c. Customers.

d. Good will.

e. Trade name.

f. Stock in trade.

g. Tools and fixtures.

h. Other assets.

23.28(3) As used in Iowa Code section 96.1A(14) *“b,”* “substantially all of the assets” means substantially all of the assets of any employer that generate substantially all of the employment, except those retained for liquidation.

23.28(4) A “segregable and identifiable part” of enterprise as used in Iowa Code section 96.7(3) *“b”* is acquired if an employing unit acquires factors of an existing organization, trade or business sufficient to constitute an existing separable going business unit, not merely assets from which a new business may be built. Acquisition of a distinct and severable portion is determined by examining all the factors, including:

- a. Place of business.
- b. Employees.
- c. Customers.
- d. Good will.
- e. Trade name.
- f. Stock in trade.
- g. Accounts receivable.
- h. Tools and fixtures.

23.28(5) “Successor liability” as used in Iowa Code chapter 96 and these rules occurs for the acquiring employing unit when there is a transfer of assets necessary to the continued operation of the employing unit from the predecessor to the successor and the successor continues to operate the business as though there has been no change in ownership or control.

23.28(6) Successor liability will be found to occur if an enterprise or business is leased to a covered employer and any party or entity purchases or assumes the covered employer’s lease, or any party or entity acquires a new lease and substantially all of the assets of the covered employer, and the new lessee continues the operation of the enterprise or business as though there had been no change in the ownership or control of the enterprise or business, such party or entity acquires the covered employer’s experience.

23.28(7) The department will utilize the following general criteria when establishing successorship in specialized cases:

a. Where a covered employing unit is operating an enterprise or business under a lease agreement and it is terminated, there will be no transfer of the covered employing unit’s experience unless the lessor takes over and continues to operate the enterprise or business in which case the lessor will be considered the successor to the covered employer’s experience.

b. Where an enterprise or business is leased to a covered employing unit, and the lease agreement has terminated with the lessor acquiring a new lessee, the new lessee is not considered to be a successor to the experience of the predecessor lessee unless the new lessee acquires substantially all of the assets of the predecessor lessee and the new lessee continues the operation of the enterprise or business to the same basic extent as though there had been no change in the ownership or control of the enterprise or business.

c. A franchise agreement will be treated the same as a lease agreement.

d. If the bankruptcy court closes an enterprise or business, the court becomes the agent for the bankrupt employer.

(1) Where the court closes the enterprise or business and starts liquidating procedures, the employer’s account is placed in an inactive status subject to termination and no successorship or transfer of the employer’s experience is involved, or

(2) If the court appoints a trustee or receiver to continue the operation of the enterprise or business, the account address will be corrected to include the name of the trustee or receiver for mailing purposes. If the trustee or receiver obtains a new federal identification number for this business, a new account number will be established for the trustee or receiver as a successor to the original enterprise or business. If the trustee or receiver sells the enterprise or business as a going enterprise, the new owner will be a successor to the predecessor’s experience.

e. If a covered employer is forced out of business through foreclosure proceedings, there will be no transfer of the employer’s experience unless the mortgagee takes over the operation of the business or enterprise and continues it to the same basic extent as though there had been no basic change in the ownership control.

This rule is intended to implement Iowa Code sections 96.7(3) “b,” 96.8 and 96.1A(14) “b.”

871—23.29(96) Transfer of entire business.

23.29(1) Notice of acquisition.

a. Whenever an employing unit in any manner succeeds to or acquires from an employer either the organization, trade or business or substantially all the assets thereof, and continues such organization,

trade or business, such employing unit shall notify the department to transfer the account of the predecessor employer to the successor employing unit. The notification must include the name and address of the predecessor, the date of transfer, and the name and address of the successor. When the department receives the notice, or alternatively, when the department receives through other means information establishing the acquisition, the actual contribution and benefit experience and taxable payrolls of the predecessor will be transferred to the successor employing unit to determine its rate of contribution. Thereafter, benefits chargeable are charged to the account of the successor. The predecessor must notify the department of the status change.

b. Where one or more employing units have been reorganized, merged or consolidated into a single employing unit and the successor employing unit continues to operate the merged or consolidated enterprise, the employing units involved shall notify the department within 30 days from the date of the transaction. All entities involved in the merger shall provide the articles of merger or, if there are no articles of merger, a statement advising of the merger.

(1) The predecessor business or businesses involved in the merger shall each file a final quarterly payroll report form as soon as possible after the merger has occurred but in no case later than 30 days after the close of the quarter in which the merger was effective.

(2) The successor entity shall indicate whether the experience rates of all accounts are to be combined and the rate recomputed for the balance of the calendar year in which the merger took place.

23.29(2) Contribution rate. The successor's contribution rate for the remainder of the calendar year in which an acquisition took place is determined as follows:

a. If the successor had no account prior to the transfer and the successor purchased the business of only one predecessor, or more than one predecessor with identical rates, the rate assigned will be the rate of the predecessor employer or employers.

b. If the successor had no account prior to the transfer and purchased the business of more than one predecessor with the same legal date of transfer, the rate assigned will be a computed rate based on the combined experience of all the predecessor employers.

c. If the successor in a merger had an account prior to the transfer, the rate assigned will be the successor's current rate. However, the successor may apply for a recomputed rate based on the combined experience of all predecessors and the experience of the successor only if the legal date of transfer is prior to October 1 in the year it took place.

This rule is intended to implement Iowa Code section 96.7(2)“b.”

871—23.30(96) Successorship—liability for contributions and payments in lieu of contributions.

Any employer who becomes a successor to an employer account is liable for any debt owed to the department by the predecessor at the time of the transfer. Any employer found to be successor to a reimbursable account is liable to reimburse the department for any benefits paid based on wages paid by the reimbursable employer, whether or not the successor has elected to be reimbursable or is qualified to be reimbursable.

This rule is intended to implement Iowa Code section 96.7.

871—23.31(96) Transfer of segregable portion of an enterprise or business.

23.31(1) Application and required information.

a. Partial experience will be transferred to an employing unit that has acquired such portion only if the successor employing unit:

- (1) Submits a registration online within 90 days of the legal date of transfer;
- (2) Provides necessary information showing the separate identity of the accounts within 30 days after request is made by the department unless the time has been extended for good cause; and
- (3) Continues to operate the acquired part of the business or organization.

b. Information required to demonstrate the separate identity of the account includes but is not limited to:

- (1) Predecessor signed department forms 68-0068 and 68-0065 report of employer on transfer of one of two or more employing units.

- (2) Legal date of transfer for the portion of the business.
- (3) Start date for the portion of the business by the predecessor.
- (4) Names, social security numbers and wages of the employees acquired for the six calendar quarters prior to the quarter in which the acquisition took place.

(5) Predecessor and successor names, address, account numbers and total taxable wages and benefit charges being transferred by quarter for the 20 calendar quarters including and prior to the legal date of transfer.

c. It is the responsibility of the successor employer to decide whether to apply for a partial transfer of experience. A partial transfer request may be withdrawn prior to the department's notice that the transfer has been approved.

d. It is the responsibility of the predecessor employer to decide whether to grant the partial transfer of experience. Permission to grant the partial transfer of experience may be withdrawn prior to the department's notice that the transfer has been approved.

23.31(2) *Portion of reserve and payroll transferred.* When the requirements for partial transfer as defined in subrule 23.31(1) have been met, the transfer shall be made in accordance with one of the following:

a. If the predecessor's account has been in existence less than five years prior to the legal date of transfer (or more than five years when records are available), the information necessary to calculate future rates will be transferred; or

b. If the predecessor's account has been in existence more than five years (and records prior to five years are unavailable) and the acquired portion has also been in existence more than five years:

(1) The actual taxable wages, and benefit charges attributable to the acquired portion for the five-year period prior to the legal date of transfer will be transferred, plus

(2) The portion of the predecessor's benefit charges for the period commencing with the beginning date of the predecessor's account and ending five years prior to the legal date of transfer equal to the ratio of the taxable wages attributable to the acquired predecessor for the 12 completed calendar quarters immediately preceding the legal date of transfer to the total taxable wages reported by the predecessor for the same 12-quarter period, and

(3) The individual wage records attributable to the acquired portion; or

c. If the predecessor's account has been in existence more than five years but the acquired portion came into existence within the last five years, the actual taxable wages, benefit charges, and individual wage records attributable to the acquired portion will be transferred; or

d. In the case of governmental transfers in addition to the items listed above, contributions and interest earned must be transferred for all years.

23.31(3) *Future benefit charges based on wages paid by the predecessor prior to the acquisition or purchase date.* The successor employer will be charged for future benefits based on the wage credits transferred to its account for the six-quarter period prior to the acquisition date plus any benefit charges based on wages attributable to the acquired portion prior to the six-quarter period on claims already filed on the date of the acquisition.

23.31(4) *Notification of approval or denial of transfer and appeals.*

a. Upon review of the application and information indicating a partial transfer, the department will issue a decision approving or denying the transfer. A determination approving a partial transfer request will include the current year's unemployment tax rates for both parties.

b. If the department finds that the acquisition of a business or a severable portion thereof was made solely or primarily for the purpose of obtaining a more favorable rate of contribution (e.g., the department fails to find any reasonable business purpose for the acquisition other than a more favorable contribution rate), the transfer will not be approved.

c. Any denial of a partial transfer is final and shall become conclusive and binding upon both the predecessor and successor unless one or both of them file an appeal according to this chapter.

23.31(5) *Liability of successor for contribution.* Any individual or organization, whether or not an employing unit, that is determined by the department to be a successor is liable for the payment of

contribution, interest and penalty due from the predecessor if the department concludes that such contributions cannot be collected from the predecessor.

This rule is intended to implement Iowa Code section 96.7(3).

871—23.32(96) Mandatory and prohibited successorships.

23.32(1) This rule applies to the mandatory successorship in Iowa Code section 96.7(2) “b”(2) and the prohibited successorship in Iowa Code section 96.7(2) “b”(3). If one employing unit receives the organization, trade or business, or a portion thereof of an employing unit and there is substantially common ownership, management or control of the two, the attributable unemployment experience will be transferred. This rule does not require a transfer of substantially all of the assets nor does it require the transferred portion to be segregable or identifiable. The acquiring employer must continue to operate the organization, trade or business or must transfer operation to an entity with substantially common ownership, management or control with the acquiring entity. Mandatory successorship also applies when the acquirer was not an employing unit prior to the transfer.

a. A transfer of staff and the business activity of that staff to an acquiring employer unit that continues to operate the portion of the business will establish mandatory successor liability.

b. The mandatory and prohibited successorships contained in Iowa Code section 96.7(2) “b”(2) and 96.7(2) “b”(3) apply to corporations, limited liability companies, government or governmental subdivisions or agencies, business trusts, estates, trusts, partnerships, sole proprietorships or associations, or any other legal entity as defined in Iowa Code chapter 96.

c. “Substantially common ownership, management or control” is determined from the facts of a particular case. Among the factors to be considered are:

- (1) The authority to make policy decisions.
- (2) The authority to perform personnel actions.
- (3) Direction and control of the day-to-day operations.
- (4) Financial investment.
- (5) Substantial or complete ownership by the same legal entity or entities.
- (6) Ability to conduct or liability for financial transactions on behalf of the business.
- (7) Authority to commit the business assets.
- (8) Common management, which may include direction or overall supervision by an individual or group of individuals.

d. For a mandatory full successorship, the tax rate shall be established as provided in subrule 23.29(2), and for a mandatory partial successorship, the tax rate shall be established as provided in subrule 23.32(4).

23.32(2) In determining whether or not an acquiring entity continues to operate an organization, trade or business as used in Iowa Code section 96.7(2) “b”(2), the following rules apply:

a. The acquiring entity continues the ongoing business operation (taking into account any seasonal or prior operational pattern) and continues the same business activity as the prior employer. A temporary cessation of the business activity by the acquiring entity will not constitute a discontinuance of the business.

b. The acquiring entity, not having operated the business, reassigns or otherwise transfers the operation of the business to a third-party entity that has substantially common ownership, management or control with the acquiring entity. The third party is considered to be continuing the operation of the original entity.

23.32(3) Prohibited successor liability. Successor liability is prohibited when the department finds that a legal entity that is not subject to Iowa Code chapter 96 at the time of acquisition (regardless of whether common ownership, management or control exists) acquires an organization, trade or business solely or primarily for the purpose of obtaining a lower rate of contribution. Factors to be considered include:

- a.* The existing employer account has a tax rate less than would be assigned to a new employer,
- b.* The cost of acquiring the organization, trade or business as compared with any potential savings in contributions costs,

c. The acquiring entity substantially changed the organization, trade or business after a short period of time, and

d. A substantial number of new employees were hired to perform duties unrelated to the organization, trade or business operated prior to the acquisition.

23.32(4) When a mandatory transfer of a portion of a business occurs, the successor's experience and contribution rate will be determined as follows:

a. The experience transferred to the acquiring employing unit will be based on the percentage of employees moving from the predecessor to that unit.

(1) The percentage will be computed by comparing the number of employees on the successor's first quarterly report covering a complete calendar quarter to the average number of employees on the four complete quarterly reports filed by the predecessor immediately preceding the transfer. The average number of employees will be computed using only the predecessor's reports that have wages paid during those four quarters.

(2) Using this percentage, taxable wages and benefit charges, commencing with the beginning date of the predecessor's account, will be transferred from the predecessor's account to the successor's account.

b. If the successor had no account prior to the transfer, the rate assigned will be the rate of the predecessor for the remainder of the calendar year beginning with the date of acquisition.

c. If the successor already had an account prior to the transfer, the rate for the balance of the year in which the transfer took place will be recomputed by combining the transferred experience with the employer's own experience as of the last computation date.

d. For the years following the year of acquisition, the rates will be computed using the experience of the employer combined with the transferred experience.

e. Future benefit(s) will be charged to the base period employer who reported the base period wages.

f. The department will issue a notification when the partial transfer has been completed. The determination will include notice to both parties as to their contribution rate for the current year.

g. Any rate determination resulting from a partial transfer will become final unless one or both of the parties file an appeal. Specific procedures and requirements for perfecting an employer liability determination appeal are contained in rule 871—23.52(96).

h. In the case of governmental transfers in addition to the items listed above, contributions and interest earned must be transferred for all years.

23.32(5) Penalty contribution rate. The department may assess a penalty contribution rate of 2 percent for the current year and two subsequent years for an employer that the department finds has attempted to manipulate and circumvent the proper unemployment tax rate as provided in Iowa Code section 96.7(2) "b"(2) and 96.7(2) "b"(3) by deliberate nondisclosure of a material fact.

a. The employer will be notified of the penalty contribution rate.

b. If, after a liability determination has been issued, the department discovers, based upon new facts not available to the department at the time the determination was made, that a previously nonliable entity acquired a business solely or primarily to obtain a lower tax rate, the department will amend the original determination and assign a new employer rate and may provide a penalty contribution rate.

c. Interest will accrue on unpaid penalty contributions in the same manner as on regular contributions.

This rule is intended to implement Iowa Code sections 96.7(2) "b" and 96.16(5).

871—23.33 to 23.35 Reserved.

871—23.36(96) Predecessor—contribution rates for winding down a business. If a predecessor has transferred its organization, trade, or business, or substantially all assets, to a successor, and the predecessor continues to operate a part of the business in order to wind down or close the business after the legal date of transfer, the predecessor will be issued a new account number and treated as a new employer for wages paid beyond four quarters after the legal date of transfer. "Wind down wages" do not

include wages earned before the sale or transfer of the business that were paid out within the four quarters after the quarter in which the sale or transfer took place.

This rule is intended to implement Iowa Code section 96.8(1) and 96.8(4) “a.”

871—23.37(96) Adjustments and refunds of contributions.

23.37(1) If an employer, after submitting a quarterly unemployment tax report, discovers an error that results in an overpayment of contribution due and owing, such employer may file an application for credit allowance or refund. If the department discovers that the contribution submitted by any employer is incorrect, resulting in overpayment of contribution, it may on its own initiative refund or make a credit allowance. No refund or credit will be made after three years from the date on which the overpayment was made. The employer will submit a wage adjustment to show corrections for the employee wage lines impacted, corrected total and taxable wages, and an explanation for the wage adjustment.

23.37(2) If an employer submits a quarterly unemployment tax report that understates the amount of wages paid in a calendar quarter, the employer will submit a wage adjustment for the period and make payment for all additional contributions, penalty and interest due.

a. If it is apparent, upon review of wages reported or adjusted, that an employer has overpaid contribution, the department may make an adjustment and issue a credit within three years from the date of the overpayment. If an employer has multiple accounts, any credit may be moved to an account where there is a balance due.

b. If an employer discovers that it may have overpaid contribution, it may submit a request for credit within three years from the date on which the overpayment was made. The department will review the request and, if it determines an adjustment is required, shall issue a credit or refund for the overpayment.

23.37(3) A valid credit will be applied to an outstanding balance due on an unemployment tax account. If an employer has multiple accounts, a credit can be moved to a different account where debt might be owed. An employer may request a refund of the credit within three years from the date the credit was created. If the credit is not requested within three years, it will be canceled by the department. Upon request of the employer or at the discretion of the department, a refund can be issued for any overpayment. If the employer fails to utilize the credit as provided above, the department shall, three years from the date of issuance, cancel the credit and show it as a nonrefundable credit. Warrants are issued by the state comptroller.

This rule is intended to implement Iowa Code section 96.14(5).

871—23.38(96) Denial of claim for refund or credit. If the department requests proof of the validity of any claimed credit, and the employing unit fails to provide the proof within 30 days, the claim will be denied unless the department has provided an extension of time to provide the information.

This rule is intended to implement Iowa Code section 96.14(5).

871—23.39 Reserved.

871—23.40(96) Computation of rates for private sector employer. An employer’s experience rate shall be computed by dividing the average of all benefits charged to an employer during the five periods of four consecutive calendar quarters immediately preceding July 31 of each year by the employer’s five-year average annual taxable payroll to determine its benefit ratio. This ratio is then applied to the current tax rate table to determine the employer’s contribution rate for the next calendar year. Contributory Indian tribes are considered private sector employers for the purpose of computing their contribution rate.

This rule is intended to implement Iowa Code sections 96.7(2), 96.7(11), 96.7(12) and 96.1A(7).

871—23.41(96) Computation date defined. The computation date for determining tax rates for future years is July 1. Rate computation includes all taxable wages and benefit charges for the quarters prior to and ending on June 30 immediately prior to the computation date. Delinquent reports filed after

September 30 immediately following the computation date will not be used in the current year's tax rate computation.

This rule is intended to implement Iowa Code section 96.1A(7).

871—23.42 Reserved.

871—23.43(96) Charging of benefits to employer accounts.

23.43(1) *Benefits paid to an eligible claimant.* Benefits paid to an eligible claimant are charged against the base period wage credits in the same inverse chronological order in which the wages were paid to the claimant.

23.43(2) *Formula for charging employer accounts.*

a. Wage credits in the most recent quarter of the base period will be used first, and when wage credits in this quarter are exhausted, wage credits for the next most recent quarter will be used until each of the four quarters in the base period is exhausted or until the claimant is paid an amount not to exceed the claimant's maximum benefit amount.

b. Each employer who has wage credits in the quarter of the base period will be charged the employer's proportional share of each payment. The proportional share to be charged to each employer in a specific quarter will be based upon the total employer wage credits within that quarter.

23.43(3) *Rule of two affirmances.*

a. Whenever an administrative law judge affirms a decision of the representative or the employment appeal board affirms the decision of an administrative law judge, allowing payment of benefits, such benefits will be paid regardless of any further appeal.

b. However, if the decision is subsequently reversed by higher authority:

(1) The protesting employer involved will have all charges removed for all payments made on such claim.

(2) All payments to the claimant will cease as of the date of the reversed decision unless the claimant is otherwise eligible.

(3) No overpayment will accrue to the claimant because of payment made prior to and during the period in which the department is processing the reversal decision.

23.43(4) *Supplemental employment.*

a. An individual who has been separated with cause attributable to the regular employer and who remains in the employ of the individual's part-time, base period employer continues to be eligible for benefits as long as the individual is receiving the same employment from the part-time employer that the individual received during the base period. The part-time employer's account, including the reimbursable employer's account, may be relieved of benefit charges.

b. On a second benefit year claim where the individual worked only for the part-time employer during the base period and the lag quarter, the part-time employer is not considered for relief of benefit charges with the onset of the second benefit year. It is the part-time employer's responsibility to notify the department of the part-time employment situation so the department may render a decision as to the availability of the individual and benefit charges. The individual is required to report gross wages earned in the part-time employment for each week claimed, and the wages will be deducted from any benefits paid in accordance with Iowa Code section 96.3(3).

c. An individual who voluntarily quits supplemental part-time employment without good cause and who has not requalified for benefits following the voluntary quit of supplemental part-time employment, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, will not be disqualified for voluntarily quitting without good cause the supplemental part-time employer.

d. The individual and the supplemental part-time employer that was voluntarily quit without good cause will be notified of the decision made by a department representative, via the Decision of the Workforce Development Representative form, that benefit payments that are based on the wages paid by the supplemental part-time employer shall not be made and benefit charges shall not be assessed against the supplemental part-time employer's account; however, once the individual meets the requalification

requirements following the voluntary quit without good cause of the supplemental part-time employer, the wages paid in the supplemental part-time employment will be restored for benefit payment and charging purposes as determined by applicable requalification requirements.

23.43(5) *Sole purpose.* The claimant is eligible for benefits, even though the claimant voluntarily quit, if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. No charge will accrue to the account of the former voluntarily quit employer.

23.43(6) *Department-approved training.* A claimant who qualifies and is approved for department-approved training (rule 871—24.39(96)) shall continue to be eligible for benefit payments. No contributing employer shall be charged for benefits that are paid to the claimant during the period of the department-approved training. The relief from charges does not apply to the reimbursable employer that is required by law or election to reimburse the trust fund, and the employer shall be charged with the benefits paid.

23.43(7) *Ten times the weekly benefit amount in insured work requalification.*

a. In order to meet the provision regarding ten times the weekly benefit amount in insured work requalification, the following criteria must be met:

Subsequent to leaving or refusing work, the individual shall have worked in (except in back pay awards) and been paid wages equal to ten times the claimant's weekly benefit amount.

b. An employer's account will not be charged with benefit payments to an eligible claimant who quit such employment without good cause attributable to the employer or who was discharged for misconduct or who failed without good cause either to apply for available, suitable work or to accept suitable work with that employer but shall be charged to the balancing account.

c. The requalification and transfer of charges will occur for the employer if the requalifying employment is earned with an out-of-state covered employer. The transfer of charges will be made to the balancing account.

d. Periods of insured employment with separate employers may be joined to collectively equal ten times the individual's weekly benefit amount when requalification cannot be accomplished by an individual insured employer. The employer from whom the individual left work or was discharged or with whom the individual failed to apply or accept suitable work will not accrue any charges.

e. Before benefits can be paid or the transfer of charges can occur, sufficient evidence must be present to establish the fact that the criteria in paragraph 23.43(8)"a" has been met. Verification of employment may be completed through the records of the department or by using any method establishing proof of the necessary wage credits, including the following:

(1) An employment verification form is an affidavit prepared in duplicate stating the insured employer's name, mailing address, the starting date of employment, and wages paid subsequent to that date. The form must be signed by the claimant alleging that the facts are correct. Any misrepresentation in the form may result in overpayment, fraud charges, an administrative penalty, or any or all thereof. A copy of the form must be mailed to the employer or employers for verification. The employer should review the information on the form and certify that it is either correct or in error. If the information is incorrect, the employer should give the proper information. If the employer fails to return the form within five days of date mailed, the information on the form will be presumed to be correct.

(2) Employment check stubs may be used in conjunction with the employment verification form to indicate the requalifying period.

23.43(8) *Combined wage claim transfer of wages.*

a. Iowa employers whose wage credits are transferred from Iowa to an out-of-state paying state under the interstate reciprocal benefit plan as provided in Iowa Code section 96.20 will be liable for charges for benefits paid by the out-of-state paying state.

(1) No reimbursement so payable may be charged against a contributory employer's account for the purpose of Iowa Code section 96.7 unless wages so transferred are sufficient to establish a valid Iowa claim, and such charges may not exceed the amount that would have been charged on the basis of a valid Iowa claim.

(2) An employer who is required by law or by election to reimburse the trust fund will be liable for charges against the employer's account for benefits paid by another state as required in Iowa Code section 96.8(5), regardless of whether the Iowa wages so transferred are sufficient to establish a valid Iowa claim. Benefit payments shall be made in accordance with the claimant's eligibility under the paying state's law. Charges are assessed to the employer that are based on benefit payments made by the paying state.

b. The Iowa employer whose wage credits have been transferred and who has potential liability will be notified that the wages have been transferred, the state to which they have been transferred, and the mailing address to which a protest of potential charges may be mailed. This protest must be postmarked or received by the department within ten days of the date on the notice to be considered as a timely protest of charges. If the protest from either the reimbursable or contributory employer justifies relief of charges, charges will go to the balancing account.

c. Requests received from the paying state for amounts in excess of an amount equal to potential charges of an Iowa claim will not be charged to the Iowa employer.

d. When Iowa is the paying state on an interstate claim and Iowa wage credits are insufficient to have a valid Iowa claim, charges will not be made against the Iowa employer's account but will be charged to the balancing account.

23.43(9) *Extended benefits.*

a. Fifty percent of the amount of each week of extended benefits paid to an individual in accordance with rule 871—24.46(96) shall be charged against the account of the employer that is chargeable for the extended benefits; however, 100 percent of the amount of each week of extended benefits paid to an individual shall be charged against the account of the Indian tribal and governmental contributory or reimbursable employer that is chargeable for the extended benefits.

b. The lack of a one-week waiting period prohibits this state from receiving a payment from the U.S. Department of Labor for 50 percent of the amount of the first week of extended benefits paid to an individual. This amount will not be charged against the account of the employer that is chargeable for the extended benefits unless the employer is a nonprofit reimbursable employer but shall be charged against the balancing account.

c. In the event that a payment from the U.S. Department of Labor for 50 percent of any week of extended benefits paid to an individual is reduced under an order issued under Section 252 of the United States Balanced Budget and Emergency Deficit Control Act of 1985, the amount of the reduction may not be charged against the account of the employer that is chargeable for the extended benefits unless the employer is a nonprofit reimbursable employer but shall be charged against the balancing account.

23.43(10) *Charging of benefits paid to individuals employed by two or more employers.*

a. Whenever wage reports submitted to the department show the employment of an individual by more than one employer in the same calendar quarter, benefits shall be charged to each employer's account in the same proportion as wages paid in the quarter.

b. Benefits for partial unemployment shall be charged in the same manner as benefits for total unemployment.

23.43(11) *Government contributory charges.* For the purpose of determining the base rate for government contributory employers, a percentage of all benefits that are paid but are not chargeable to employer accounts because of various provisions of the law will be considered as belonging to government contributory employers. The percentage of the nonchargeable benefits considered to be attributable to government contributory employers for each calendar year will be determined by the ratio of the benefits actually charged to government contributory accounts for the year to the total benefits charged to all contributory accounts for the year.

23.43(12) *Removal of benefit charges upon the sale or transfer of a clearly segregable part of an employer's business or enterprise when the acquiring employer does not receive a partial transfer of experience.* Benefits based on wages earned with the transferring employer, paid to an individual who worked in and was paid wages for work with the acquiring employer, shall be transferred to the balancing account. The transferring employer must protest this issue on the Notice of Claim in a timely

manner to receive relief from the charges. The relief of charges applies to both contributory and reimbursable employers.

23.43(13) *Disaster relief.* An employer will not be charged with benefits for unemployment that is directly caused by a disaster declared by the president of the United States, pursuant to the United States Disaster Relief Act of 1974, if the individual would have been eligible for disaster unemployment assistance with respect to that unemployment but for the individual's receipt of regular benefits. The employer may protest the charges on the Notice of Claim or the Quarterly Charge Statement within 30 days after the date of mailing of the Quarterly Charge Statement.

This rule is intended to implement Iowa Code sections 96.3(7), 96.5(1), 96.6(2), 96.7, 96.8(5), 96.9(5), 96.11(1), 96.16(4) and 96.29.

871—23.44(96) Benefits payments.

23.44(1) The employer may not be relieved of benefit charges for a payment of back pay until the amount of the overpayment is recovered by the department.

23.44(2) If the department determines that an overpayment has been made:

- a. The charge for the overpayment against the employer's account shall be removed,
- b. The account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund, and this credit shall include both contributory and reimbursable employers, and
- c. The employer shall not be relieved of charges if benefits are paid because the employer or an agent of the employer failed to respond timely or adequately to the department's request for information relating to the payment of benefits unless the department determines that an employer's failure to respond timely or adequately was due to insufficient notification from the department, in which case the employer's account shall not be charged for the overpayment.

This rule is intended to implement Iowa Code sections 96.7(3), 96.11(1) and 96.20(2).

871—23.45 and 23.46 Reserved.

871—23.47(96) Termination of accounts because of no wage reports.

23.47(1) If an employer discontinues business or continues business without employment, the employer may request that the employer's account be placed in an inactive status. Upon verification of inactive status, the department shall notify the employer and the employer is not required to file quarterly reports.

23.47(2) If the department finds that an employer has discontinued business or is no longer paying wages, the department may on its own motion place the account in an inactive status.

23.47(3) If an employer has not reported wages for eight consecutive quarters, the account will be placed in inactive status.

23.47(4) An employer must notify the department if the employer resumes paying Iowa wages.

23.47(5) Inactive accounts will be reactivated, with an experience rate (if eligible), when the date first wages paid after employment resumed is less than or equal to ten consecutive calendar quarter from the quarter in which wages were last paid or when the tenth quarter falls within the same year as the date first wages paid after employment resumed. An employer shall provide all quarterly wage reports, including no wage reports.

This rule is intended to implement Iowa Code sections 96.7(2) "c" and "d" and 96.8(4) "b."

871—23.48(96) Previously liable employers. A new unemployment tax account and new employer rating will be given to reimbursable employers electing to become contributory and to formerly active contributory employers whose unemployment tax accounts have changed from inactive to active status.

This rule is intended to implement Iowa Code sections 96.7 and 96.8.

871—23.49 and 23.50 Reserved.

871—23.51(96) Reimbursable employer contributions. A nonprofit organization that has been approved to make payments in lieu of contributions (e.g., a reimbursable employer) will be billed each quarter for benefits paid during such quarter.

23.51(1) Charges billed to the employer's unemployment account are equal to the regular benefits and one-half of the extended benefits paid. Charges are paid to the unemployment fund.

23.51(2) Government and Indian tribal reimbursable employers will be charged an amount equal to all the extended benefits paid.

This rule is intended to implement Iowa Code section 96.8(5).

871—23.52(96) Employer liability appeal.

23.52(1) An employer liability determination including employer status and liability, assessments, rate of contributions, successorships, worker's status, and all questions regarding coverage of a worker or group of workers may be appealed to the department of workforce development for a hearing before an administrative law judge with the department of inspections, appeals, and licensing.

23.52(2) The appeal must be in writing, stating:

- a. The name, address and Iowa employer account number of the employer.
- b. The name and official position of the person filing the appeal.
- c. The decision that is being appealed.
- d. The grounds upon which the appeal is based.

23.52(3) The appeal shall be addressed or delivered to: Department of Workforce Development, Tax Bureau, 1000 East Grand Avenue, Des Moines, Iowa 50319. Appeals transmitted by facsimile that are received by the tax bureau after 11:59 p.m. central time will be deemed filed as of the next regular business day.

23.52(4) Unless otherwise required, all determinations by the tax bureau will be sent by regular mail or email, depending on how the employer elected to receive correspondence. The determination will be dated, and the employer or other interested party shall have 30 days from the mailing date printed on the notice to appeal the determination. The employer has 15 days to appeal a Notice of Reimbursable Benefit Charges.

23.52(5) If the department concludes, upon reviewing an appeal, that the original determination is correct, the tax bureau may write to the employer and further explain the decision. If the employer still desires a hearing before an administrative law judge, the employer should notify the department within 30 days of the date of the letter from the department.

23.52(6) Upon receipt of a request for hearing, the tax bureau will ask the department of inspections, appeals, and licensing to schedule a hearing for the employer. A copy of the request will be mailed to the employer. A copy of the file containing all relevant information regarding the issue of the appeal shall be forwarded to the administrative law judge. Documents that may be sent to the administrative law judge include a copy of the disputed decision, the employer's original letter of appeal, all relevant correspondence from the department, and the employer's letter requesting a hearing. All employer liability appeals shall be heard by an administrative law judge and shall be scheduled for hearing at the earliest possible date. Procedures for employer liability hearings are set out in rule 871—26.5(17A,96).

23.52(7) In those cases in which the department finds that a genuine controversy exists or has existed regarding an employing unit's liability for contributions on all or a part of its employees or a rate appeal or other employer liability question and the case has been resolved against such employing unit, no interest or penalty will accrue from the date of such controversy between the department and the employing unit until 30 days after the decision becomes final.

This rule is intended to implement Iowa Code section 96.6(3).

871—23.53(96) Rate appeal and eligibility decision reversal. An employer who appeals a rate notice or corrected rate notice within 30 days may have its rate recomputed based upon the reversal of a benefit eligibility decision under the following circumstances:

23.53(1) An employer may appeal on the grounds that benefit charges against the employer's account have been reversed by a decision issued after the rate computation date. The department will investigate and, if warranted, remove benefit charges that were reversed by a later decision and issue a corrected rate notice.

23.53(2) The employer may appeal on the grounds that benefits charged against the employer's account may be reversed by a decision to be issued on a pending claim or charge-back appeal. The employer's rate will not be recomputed, but it will not become final and the appeal may be reopened by the employer, provided the employer submits a written request to reopen the appeal within 30 days of the next rate notice following the decision. If warranted, the charges will be removed from the computation of the original rate and a corrected rate notice will be issued. The employer must pay any contributions that become due at the disputed rate prior to the receipt of the decision reversing the benefit charges, but a refund of any overpayment of contributions and interest paid by the employer as a result of the recomputation of the rate will be issued, subject to the three-year statute of limitations set out in Iowa Code section 96.14(5).

23.53(3) An employer's payment of contributions at the disputed rate in the circumstances described in subrule 23.53(2) does not indicate the employer's acceptance of the disputed rate.

23.53(4) An employer must file a separate appeal of each rate notice received that contains the disputed benefit charges. If the employer does not file a timely appeal of each affected rate notice, any appeal filed following receipt of a decision reversing the allowance of benefits will be considered as applying only to rate notices that were timely appealed and to the next rate notice.

23.53(5) If the employer appeals on the grounds that the benefits charged against the employer's account were paid to an employee who was still working for the employer in the same employment as in the base period of the claim, the department will remove the charges and will issue a corrected rate notice if it finds the facts warrant such reversal. The employer's appeal must have been made within 30 days of the date on the first rate notice received that included any of the disputed charges, and the issue of charging of benefits will not have been previously adjudicated in either an appeal of the original claim notice or an appeal of a quarterly benefit charge statement.

This rule is intended to implement Iowa Code section 96.7.

871—23.54(96) Payment of disputed assessments.

23.54(1) Payment of a disputed assessment is held to be an acceptance of the assessment only when a timely appeal is not filed.

23.54(2) An employing unit that has appealed a determination of liability, or a payment of contributions due, shall submit full payment of any disputed assessment or amounts estimated to be due and file quarterly contribution and payroll for all quarters for which the employer is held liable regardless of any appeal.

This rule is intended to implement Iowa Code section 96.7.

871—23.55(96) Burden of proof.

23.55(1) The employer bears the burden of proof in all employer liability cases.

23.55(2) The burden of proof shall rest with an employing unit that employs any individual during any calendar year but that considers itself not an employer subject to the Act, to establish that it is not an employer subject to the Act by presenting proper records, including a record of the identity of the employees, number of individuals employed during each week, and the particular days of each week on which services have been performed, and the amount of wages paid to each employee.

23.55(3) The burden of proof in successorship and partial successorship cases for determinations, appeals, and licensing shall rest with the employer that is appealing the determination of the department.

This rule is intended to implement Iowa Code section 96.7.

871—23.56(96) Informal settlement.

23.56(1) Pursuant to Iowa Code chapter 17A, a controversy may, unless precluded by statute, at the discretion of the department be informally settled by mutual agreement of the department and the person or employer who is or is about to be engaged in the controversy. The settlement is effected by a written

statement reciting the subject of the controversy and the proposed solution mutually agreed upon including a statement of the action to be taken, or to be refrained from, by each of the parties. The informal settlement constitutes a waiver, by all parties, of the formalities to which they are entitled under the terms of Iowa Code chapter 17A, with respect to the specific fact situation comprising the controversy.

Either party may initiate a proposal for informal settlement of the controversy by communicating a proposal to the other party before the contested hearing is convened.

23.56(2) If the parties agree to a settlement, the written statement is presented to the administrator of the division of unemployment insurance services for review and approval.

23.56(3) In the event a settlement is reached in a case that has been appealed to the courts, the formal settlement will be presented to the appropriate district court. If an assessment of contributions or a decision upon which an assessment is based has become final without appeal, the actual established contribution may be compromised by agreement of the parties and submission to the district court pursuant to Iowa Code section 96.14(5). Doubtful collectibility as contained in Iowa Code section 96.14(5) includes tax debts that are doubtful as to validity or as to collectibility. The department is not required to enter into any informal settlement or compromise with regard to any employer liability determination and may do so at its own discretion.

This rule is intended to implement Iowa Code sections 96.6(3) and 96.14(7).

871—23.57(96) Interest and penalty on contributions paid with adjustments submitted by employer.

23.57(1) If an employer, on its own motion, submits an adjustment for an error made on previously submitted wage detail and pays any additional contributions due on the adjustment when submitting the adjustment, no interest on the additional contributions will be charged if it is shown to the satisfaction of the department that the error and subsequent late payment were not the result of negligence, fraud, or intentional disregard of the law or rules of the department.

23.57(2) If an employer submits an adjustment without payment, and payment is due, the employer will be assessed for the additional contributions plus interest as provided by law.

This rule is intended to implement Iowa Code section 96.14.

871—23.58 Reserved.

871—23.59(96) Determination and assessment of estimated contributions and errors in reporting.

23.59(1) If the department finds from the examination of the employer's account that contributions have been underpaid because of a department error in assigning the contribution rate, the additional contributions shall be paid within 30 days after the department notifies the employer. No interest or penalty will accrue until 30 days after the notification.

23.59(2) Assessment—failure to file quarterly contribution and payroll.

a. If any employing unit fails to file quarterly contribution and payroll reports as required, the department may file estimated wage reports based on the available information. The employer is responsible for all tax, interest and penalties on estimated wage reports.

b. Whenever the department determines that the collection of contributions from an employer is in jeopardy and the employer has not timely filed the necessary quarterly wage reports, the department shall prepare estimated reports.

c. Estimates made by authorized personnel shall be referred to the collection unit.

This rule is intended to implement Iowa Code section 96.7.

871—23.60(96) Accrual of interest and penalties.

23.60(1) An employer who fails to file timely and accurate quarterly wage reports shall pay to the department a penalty in accordance with Iowa Code section 96.14(2).

23.60(2) The amount of the penalty for a delinquent or insufficient quarterly contribution and payroll is based on the total wages paid by the employer in the period for which the report was due. The penalty may not be less than \$35 for the delinquency or the insufficient wage detail not made sufficient

within 30 days of a request to do so. Insufficient wage detail is defined as a quarterly submission that does not have all social security numbers, all corresponding names, total wages for each employee, or a reporting unit number. Wage detail submitted without a correct account number, federal employer identification number, labor market information, or wage detail submitted for an unemployment account that has not yet been established by the employer or agent may be considered insufficient.

23.60(3) Interest and penalty will not accrue with respect to contributions required from an employer based upon wages for employment in those cases in which the employer's liability is based solely upon the provisions of Iowa Code section 96.1A(14) "g" until 30 days after determination of such liability under FUTA.

23.60(4) Interest and penalty may not accrue in those cases where the department finds that, as a matter of equity and good conscience, the employer should not be required to pay interest.

23.60(5) Interest as provided under Iowa Code section 96.14 accrues 30 days after the quarterly billing to reimbursable employers.

23.60(6) The penalties applicable to contributory employers are applicable to employers who have been approved to make payments in lieu of contributions.

23.60(7) Payment checks not honored by bank. An employer is liable for interest for a check in payment of contributions that is not honored by the bank upon which it is drawn.

This rule is intended to implement Iowa Code section 96.14(2).

871—23.61(96) Collection of interest and penalties. When quarterly wage reports are filed with contributions paid, but without payment of penalties and interest due, penalties and interest may be assessed and a lien filed in the same manner as for unpaid contributions.

This rule is intended to implement Iowa Code section 96.16(4).

871—23.62(96) Rescission of interest and penalty.

23.62(1) Interest and penalty charges may be rescinded whenever an employer can provide documentary evidence to the satisfaction of the department that an inquiry in writing was directed to the department within 15 days following the end of the quarter for the contribution or payroll, untimely filed or paid, and such contributions are paid in full.

23.62(2) Penalty charges only may be rescinded whenever the employer can show documentary evidence that the wages paid to employees used to determine liability to the department were reported to another state in good faith and the contributions thereon were properly paid to the state to which the wages were reported and that said employees were fully insured during the period of unreported liability to this department.

This rule is intended to implement Iowa Code section 96.14(2).

871—23.63(96) Cancellation of interest and penalty. The department may, at its discretion and for good cause, cancel interest and penalty upon written request from the employer or its agent. Requests should be directed to the department at its administrative office. The employer will be advised if the request is denied.

In determining whether good cause has been shown, the department shall consider all relevant factors including but not limited to whether the party acted in the manner that a reasonably prudent individual would have acted under the same or similar circumstances, whether the party received timely notice of the need to act, whether there was administrative error by the department, whether there were factors outside the control of the party that prevented a timely action, the efforts made by the party to seek an extension of time by promptly notifying the department, the party's physical inability to take timely action, the length of time the action was untimely, and whether any other interested party has been prejudiced by the untimely action.

This rule is intended to implement Iowa Code section 96.14(2).

871—23.64(96) Refund of interest and penalty.

23.64(1) Interest or penalty may be refunded only when it has been erroneously paid or overpaid. Interest or penalty erroneously collected in excess of the amount due may be credited or refunded to the employing unit or other person(s) who paid such interest or penalty subject to the following limitations.

23.64(2) If the department determines that a claim for refund or credit is allowable in accordance with the Iowa Code and these rules, it shall make necessary adjustments as follows:

a. The amount of the overpayment is first applied against any unpaid liability then due from or accrued against the employing unit.

b. The remainder of any such overpayment will be refunded to the employing unit or other person(s) by whom it was paid, or its or their successor, administrators or executors.

This rule is intended to implement Iowa Code section 96.14(2).

871—23.65(96) Liens for unpaid contributions, interest, and penalties.

23.65(1) Filing of liens and notice of jeopardy assessments.

a. If wages are filed by an employer for the purpose of determining the amount of contribution due, or an assessment of contribution due, and the employer fails to pay any part of the contributions, interest and penalties due, a Notice of Assessment and Lien will be issued to the employer.

b. If, 30 days after a Notice of Assessment and Lien or a Notice of Jeopardy Assessment, has been issued (subrule 23.59(2)) and the employer has failed to make payment in full of the amounts that were assessed, the department may file a lien with the county recorder of the county in which the employer has its principal place of business or with the county recorder of any county in which the employer has real or personal property.

c. The lien, known as a Notice of Lien, shall state the date of assessment; the employer's name, address and account number; and the amount due. The recorder shall record the Notice of Lien as provided in Iowa Code section 96.14(3).

23.65(2) When the Notice of Lien is duly filed and recorded, the amount stated shall be a lien upon the entire interest of the employer, legal or equitable, in any real property, and upon any personal property, tangible or intangible, located in any county where the Notice of Lien or copy is filed.

23.65(3) As provided in Iowa Code section 96.14(3), the lien shall attach as of the date the assessment is issued to the employer.

23.65(4) The transfer, through sale, exchange, or other method, of a major portion of the assets of a delinquent employer shall not defeat or impair the lien in favor of the department, and the person acquiring such assets shall be held liable for payment of all delinquent contributions, interest, and penalties due from the delinquent employer. The department shall be made a party to any foreclosure action involving any real or personal property against which the department has or may claim a lien.

23.65(5) Liens against out-of-state employers and resident employers who remove themselves from the state of Iowa may be obtained in accordance with Iowa Code section 96.14(6).

23.65(6) The department may, at its discretion and in accordance with Iowa Code section 96.14(3), make an assessment and file a lien in the recorder's office in the county or state where the employer resides. Liens shall be recorded in accordance with the law governing liens in the state where filed, and the costs shall be borne by the employer.

23.65(7) No employment security lien(s) shall be released without payment of the contributions secured except as follows:

a. It is shown to the department's satisfaction that the lien(s) was filed in error. If this is shown, the lien shall be at the expense of the department.

b. Release of the lien(s) is ordered by a judge having jurisdiction over same.

c. A release is necessary to facilitate payment to the department from proceeds of sale in an equity action.

d. A foreclosure action has been initiated by a secured creditor and it is demonstrated to the department's satisfaction all of the following:

(1) The lien of the secured creditor is properly perfected and is senior to the employment security lien.

(2) The property, both real and personal, does not exceed in value the amount of the secured lien on which the foreclosure is taken.

23.65(8) In such cases, the department may release its lien(s) but such release shall be only in respect to the property foreclosed upon by the secured creditor.

23.65(9) Interest and penalty secured by a lien may be compromised by the department at its discretion.

23.65(10) Upon payment of contributions, interest, penalty, and costs, the department shall execute a Satisfaction of Lien by filing it with the recorder's office for the county where the lien was filed. A copy of this satisfaction shall be provided to the employer.

This rule is intended to implement Iowa Code section 96.14(3).

871—23.66(96) Jeopardy assessments.

23.66(1) If the department believes the collection of any contribution will be jeopardized by delay, the department may, whether or not the time otherwise prescribed by rule 871—23.8(96) for filing and paying any contribution has expired, immediately assess the contributions, together with all interest and penalty. The contributions, penalty and interest shall become immediately due and payable. The jeopardy assessment may be made by personal service upon the employer or the employer's agent by a representative of the department or civil officer of the state. Should immediate personal service not be possible, the jeopardy assessment shall be sent by mail to the employer's address of record and such mailing shall be a satisfactory service.

23.66(2) If, after a jeopardy assessment has been served, the amount assessed remains unpaid and no appeal has been filed by the employer, a notice of lien shall be recorded in the recorder's office for the county or counties in which the employer resides or owns property. A copy of the lien shall be mailed to the employer at the address of record.

23.66(3) If, at the time of service of a jeopardy assessment, the employer protests or disputes the correctness of the assessment, the employer may furnish to the department and the department may accept a bond in an amount the department deems necessary but not to exceed double the amount of contributions due, provided the department is satisfied as to the security of the bond. So long as the bond remains in force and the assessment remains in dispute, the department shall not issue a distress warrant. If, after final adjudication of the jeopardy assessment, the employer fails to pay the assessed amount in full, the bond shall be forfeited to the extent necessary to satisfy the jeopardy assessment plus any accrued interest. Any overage shall be refunded to the employer by warrant or credit. If the bond is insufficient to pay the jeopardy assessment in full, the department may issue a distress warrant as provided in rule 871—23.67(96).

23.66(4) After a lien has been filed and the amount or any portion of the amount assessed and any additional accrued interest remains unpaid, the department may at any time issue a distress warrant instructing a sheriff or peace officer to levy upon and seize or attach any real or personal property of the employer in satisfaction of the amount assessed and secured by the lien.

This rule is intended to implement Iowa Code section 96.7(7).

871—23.67(96) Distress warrants.

23.67(1) In addition to and as an alternative to any other remedy provided by the Iowa Code and these rules, the department may proceed to enforce its lien by issuing to the sheriff of any county or to any civil officer of the state of Iowa having proper jurisdiction a distress warrant commanding the sheriff or civil officer to levy upon and sell any real or personal property that may be found within its jurisdiction belonging to an employer who has defaulted in the payment of any sum determined by the department to be due from the employer and to pay the proceeds of the sale over to the clerk of district court in and for the county in which the property is found. All costs of the execution shall be charged to the employer.

23.67(2) The sale shall be held after the property has been levied upon, the period of redemption has expired, and the department has petitioned for and been granted a condemnation order in the district

court in and for the county in which the property was levied upon, in accordance with the Iowa Code and the Iowa Rules of Civil Procedure.

23.67(3) No property belonging to the employer is exempt from execution.

23.67(4) Whenever a warrant is returned not satisfied in full, the department may proceed to issue a new warrant in the amount remaining unsatisfied, together with any additional interest, penalties, and costs, as provided above.

This rule is intended to implement Iowa Code section 96.7(6).

871—23.68(96) Collection of covered unemployment compensation. Pursuant to 26 U.S.C. 6402(f), the department shall utilize the Treasury Offset Program to collect covered unemployment compensation.

This rule is intended to implement Iowa Code section 96.14.

871—23.69(96) Injunction for nonpayment or failure to provide required information.

23.69(1) In addition or as an alternative to any other remedy provided in Iowa Code chapter 96 and this rule, the department may proceed to enjoin an employer who has refused or failed to pay any contributions, interest, or penalty or who has failed to file or provide any information required by the department.

23.69(2) The department retains discretion as to whether or not to seek an injunction.

23.69(3) When the department determines that an injunction should be obtained, the department will send by certified mail or by personal service to the employer at the last-known address for the employer a notice containing the following information:

- a.* That the department plans to seek an injunction against the employer.
- b.* The period(s) for which there are delinquent contributions, interest, and penalty due or for which required information has not been provided.
- c.* The amount of indebtedness.
- d.* That the injunction will enjoin the employer from operating any businesses in the state of Iowa until one of the following conditions is met:

- (1) The entire indebtedness is paid.
- (2) The employer files a full and sufficient bond.
- (3) The employer has entered into a court-approved plan providing for payment of the indebtedness.

(4) Requested information has been provided.

e. The employer has ten days in which to respond to the department.

23.69(4) Upon expiration of the ten days following the notice, if the employer has not responded satisfactorily, the department may file with the district court for the county in which the employer resides a petition requesting a hearing and an order granting the injunction.

23.69(5) Upon the issuance of a court order granting the injunction, the department will proceed to periodically check to ensure that the employer is complying with the injunction order. Should the department find that the employer is not in compliance, it will ask the court for a finding of contempt and ask the court to impose appropriate punishment.

23.69(6) Upon payment in full of the delinquent contributions, interest, and penalty and the filing of all delinquent wage detail, the department shall have the injunction dissolved.

23.69(7) If the employer, as the result of a court-approved payment plan, is relieved by the court of the injunction and the employer fails to perform strictly as set out in the plan, the department may, at its discretion, ask the court to reinstate the injunction upon notice and hearing.

23.69(8) Any costs of these actions shall be borne by the employer.

This rule is intended to implement Iowa Code section 96.14(16).

871—23.70(96) Nonprofit organizations.

23.70(1) Any nonprofit organization can be considered eligible to reimburse the Iowa unemployment compensation fund in lieu of paying contributions. Any nonprofit organization wishing to

be considered as a reimbursable employer shall file as provided under Iowa Code section 96.7 the election to reimburse the fund with the department for its consideration.

23.70(2) The election to reimburse must be signed by an authorized official of the nonprofit organization and be accompanied by:

- a. A letter of intent indicating the organization's desire to be considered for reimbursable status.
- b. A copy of the organization's letter of 501(c)(3) exemption from the Internal Revenue Service. If the organization does not have a 501(c)(3) letter at the time of the filing of its election to become a reimbursable employer, it may file a written request with the department for an extension of time setting forth the reason for the request, and the department may grant an extension not to exceed 180 days. Included with this extension request should be a copy of the application for exemption, Election to Make Payments in Lieu of Contributions, or evidence that the request for 501(c)(3) exemption has been made.
- c. A corporate charter or other foundational documents.

23.70(3) All requests by nonprofit organizations wishing to be considered for reimbursable status shall be filed on Form 68-0463 and that form, along with the organization's 501(c)(3) Internal Revenue Service letter of exemption, except as otherwise provided in subrule 23.70(2), shall be directed to the attention of the tax bureau. The request for reimbursable status will be examined by an authorized representative.

23.70(4) An organization not possessing a 501(c)(3) nonprofit tax exemption at the time its election is submitted shall be granted reimbursable status provided that the exemption is obtained and a copy is filed with the department within 180 days of the date the election is submitted. Should the organization fail to obtain an exemption within 180 days, the election shall be invalid and the organization required to pay contributions upon all taxable wages paid during the period covered by the invalid election at the contribution rate it would have had if the invalid election had not been made. A new election may not be made by the organization until it has obtained a 501(c)(3) nonprofit tax exemption and has filed a new election. The new election shall not be retroactive to cover the period of the invalid election. Benefits reimbursed during the invalid election shall be used to offset the contributions due, and any excess shall be refunded to the organization.

23.70(5) Any nonprofit organization that terminates its election to reimburse the fund shall continue to be liable to reimburse the fund for benefits that are paid based on wages earned during the effective period of the employer's Election to Make Payments in Lieu of Contributions. All benefits charges based on wages paid after the date of the approval of the change of status to a contributory employer shall be charged to the employer's contributory account.

a. A nonprofit organization changing its tax status from reimbursable to contributory or contributory to reimbursable will be given a new employer account number. A nonprofit organization terminating its election to reimburse the fund shall be treated as a newly covered employer for the purpose of establishing a contribution rate, except as provided in paragraph 23.70(4) "b."

b. The experience, while under each tax status, will not be combined for rate computation purposes unless the department finds, or has reason to believe, that the nonprofit organization changing from a reimbursable status to a contributory status is unable to reimburse the fund for benefits outstanding at the time of the change in status, plus any benefits paid after the change in status that are based on wages paid while the nonprofit organization was still in a reimbursable status. The department may then, at its own option, use the unreimbursed benefits in the computation of the nonprofit organization's contribution rate and transfer any contributions collected, above what the nonprofit organization would have paid as a newly covered employer, from the nonprofit organization's contributory account to the reimbursable account to apply against the unreimbursed benefits.

23.70(6) Any nonprofit organization that elects to change its status from contributory to reimbursable shall continue to be liable for charges on all benefits based on wages paid when the nonprofit organization was a contributory employer. These charges will be charged to the nonprofit organization's contributory account. The experience of the contributory account will not be merged with the nonprofit organization's reimbursable account.

23.70(7) In the event that a reimbursable nonprofit organization succeeds to a contributory employer, such successor employer shall not receive a transfer of account balance from the predecessor

account. The account balance shall remain with the predecessor account and be used as an offset against any claims attributable to that account. If an employer, whether or not the employer may elect to be reimbursable, becomes a successor to a reimbursable nonprofit organization, the successor employer shall become obligated for the reimbursable nonprofit organization's unpaid benefit charges in the event that the reimbursable nonprofit organization cannot meet this obligation. The successor employer shall also be liable to reimburse the department, whether or not the successor employer is reimbursable or is eligible to elect to become reimbursable, for benefits paid after the date of the sale or transfer that are based on wages paid by the reimbursable nonprofit organization prior to the date of the sale or transfer.

23.70(8) In the event a reimbursable nonprofit organization discontinues business, the reimbursable nonprofit organization will continue to be liable to reimburse the fund in an amount equivalent to the amount of regular unemployment benefits and one-half of the extended benefits paid to an individual that is attributable to wages paid by the reimbursable nonprofit organization prior to the discontinuance of business.

This rule is intended to implement Iowa Code section 96.7(9).

871—23.71(96) Governmental entity—definition.

23.71(1) The definition of a governmental entity is held to include but not be limited to:

a. An organization or any division, department, agency, commission, or board of a state or political subdivision established by proper authorities, authorized and created under constitutional provisions or statutes, for the purpose of carrying out a portion of the function of government, including both governmental and proprietary functions.

b. An instrumentality is one that is organized to carry on some function or purpose of government for a state or a political subdivision. There is expressed or implied statutory or other authority creating it. It is an independent legal entity with power to hire, supervise, and discharge its own employees. Generally, it can sue or be sued in its own name, to hold, convey real and personal property and borrow money.

c. Political subdivisions include counties, cities, municipalities, towns, villages, and townships, as well as irrigation, flood control, sanitation, utility, reclamation, drainage, improvement, and public school districts and authorities or any combination of these and similar governmental entities within the state of Iowa.

d. Instrumentalities shall include departments, boards, agencies, commissions, county or municipal corporations, associations and organizations of a state or a political subdivision of the state when the instrumentality is operated by virtue of the authority, power, or powers conferred upon the instrumentality by a state or political subdivision of the state, or when the instrumentality is controlled, supervised or receives direction, expressed or implied, from a state or political subdivision of a state or such rights are vested in public authority or authorities, or the state or the political subdivision of a state has the right, expressed or implied, to control or direct the policy, operation or to influence the organizations or action of individuals, parties or interests that control those who manage or administer the affairs of such organizations.

23.71(2) In cases involving the status of an organization as to whether it is a state, a state instrumentality, a political subdivision of a state or a political subdivision instrumentality, the following factors may be taken into account:

a. Whether the revenues are subject to control by a state, a political subdivision of a state or an instrumentality of either.

b. Whether the organization has broad powers of taxation, appropriation or authority to levy special assessments on the land located in the district that will stand as a lien upon the property assessed.

c. Whether the organization has been created or is existing by virtue of a state, a political subdivision of the state or instrumentality of either, which operates in the public interest, without profit to private persons, and whose purpose is presumed to be a public benefit and conducive to the public health, convenience and welfare.

d. Whether the organization is organized or used for a governmental purpose or an aid in the function of government or it performs a governmental function.

e. Whether there is an expressed or implied statutory or other authority necessary or existing for the creation or use of the organization.

23.71(3) The term “employment” does not apply to services performed for this state, a political subdivision of this state, an Indian tribe or an instrumentality of either by an individual who is an elected official; a member of a legislative body; a member of the judiciary of a state or political subdivision; a member of the state national guard, air national guard, or armed forces reserve; an employee on a temporary-duty basis in the case of fire, storm, snow, earthquake, flood or similar emergency; or in a position designated as a major nontenured policymaking or advisory position pursuant to state law if the position does not ordinarily require duties of more than eight hours per week.

a. The exclusion for a governmental entity or Indian tribe from coverage of unemployment of the services of an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency applies only to those individuals who are hired or pressed into service to assist directly with an emergency or urgent distress associated with an emergency, including such temporary tasks as firefighting, rescue, removal of storm debris, cleaning up mud and flood debris, restoration of public facilities, snow removal and road clearance. Volunteer firefighters and police officers, and snow removal personnel, who are called to duty in emergency situations such as fires, floods, emergency snow removal or similar public emergency to perform services on a temporary basis for which they receive pay, are excluded from coverage. The exclusion does not apply to permanent employees whose usual responsibilities include emergency situations.

b. The provision that excludes an individual employed by a governmental entity or Indian tribe who exercises duties in a position defined in state law as a major nontenured policymaking or advisory position, or a policymaking or advisory position that ordinarily does not require duties of more than eight hours per week, covers those individuals holding positions designated by, or pursuant to, state law as a policymaking or advisory position. Political subdivisions that have authority to enact ordinances or resolutions without recourse to the state legislature but under authority of state law may also establish and define such positions. The positions may qualify for the exclusion if the political subdivision has enacted an ordinance or resolution creating or designating one of its positions as policymaking or advisory, provided power to make the ordinance or resolution is authorized or permitted by the laws of the state. If the state law or local ordinance or resolution properly designated the positions as policymaking or advisory, the exclusion is clearly applicable. Where the law or the ordinance does not clearly and specifically so categorize or label the position, other pertinent factors such as job descriptions, the qualification of individuals considered for and appointed to the position, and the responsibilities involved shall be taken into account in determining the character of the position for purposes of applying the exclusion.

(1) “Policymaker” is defined as generally referring to the determination of the direction, emphasis and scope of action in the development of, and the administration of, governmental programs. Such responsibilities are confined to and inherent in jobs of the higher echelons of government.

(2) An “advisory position” is one that advises established governmental agencies and officers with respect to policy, program and administration without having authority to implement the recommendations.

(3) The word “major” in the phrase “major nontenured policymaking or advisory position” refers to high level governmental positions usually filled by appointment by the chief executive of the political entity (governor, mayor, etc.), or a council, and that involves responsibilities affecting the entire political entity, whether it be the state, county or city.

(4) The term “nontenured” is used in its usual meaning to mean that the position is not covered by merit system or civil service law or rules with respect to duration of appointment to the service.

(5) Service in a policymaking or advisory position where the performance of the duties ordinarily does not require more than eight hours per week is exempted. It makes no difference whether the position is tenured. If the position ordinarily requires more than eight hours per week, the exclusion does not apply. The number of hours required should be determined by reference to the law establishing the position and the actual time spent by incumbents.

c. An elected official includes an individual appointed to serve the unexpired term of an elected position. Such an individual's services for such period are excluded because the individual is performing excluded services.

d. An official elected by a body other than the public, such as by a vote by the legislature, board of supervisors, council, school board or trustees, to perform services for a government entity, such individual is not excluded from coverage.

e. Services performed for the state national guard or the air national guard are excluded from coverage of the employment security law only as to the services in the individual's "military" capacity. It does not apply to any service performed in any other capacity.

f. If a member of the state national guard or air national guard is employed in a civilian capacity performing services for either organization as distinguished from "military" service, the civilian service would be covered as an employee of a governmental entity to the same extent as any other employee.

23.71(4) Exemption from "employment" for individuals performing services for a governmental entity or Indian tribe as part of an unemployment work relief or work training program. Services performed by an individual for a government entity or Indian tribe for the purpose of qualifying or repaying a welfare or relief grant will not be considered "employment" provided that:

a. The major purpose of the program under which the work is performed is to relieve individuals from their unemployment or poverty.

b. The government entity does not pay the welfare or relief grant directly to the individual but instead pays items such as rent, power bills, medical bills, etc., for the individual.

c. The services performed by the individuals do not displace regularly employed workers of the government entity.

This rule is intended to implement Iowa Code sections 96.7(8) and 96.1A(16) "a"(6).

871—23.72(96) Governmental entity—elective coverage and liability.

23.72(1) Any governmental entity may elect to be a governmental contributory employer by filing for elective coverage as a governmental contributory employer. The rules governing the selection of coverage status for governmental entities apply to Indian tribes. Any governmental entity failing to file such an election will be considered as a governmental reimbursable employer. The application must be signed by a duly constituted governmental official. The election shall be approved if the department finds that:

a. It is an application for all employees of the entity.

b. The applicant is a "governmental entity."

c. It sets forth the name and address of the entity.

23.72(2) The effective date of an elective coverage agreement filed by a government entity is the first day of the calendar year in which the election was filed.

23.72(3) An agreement for elective coverage shall be continued in effect from period to period unless a written application for termination has been filed with the department 30 days before the beginning of the taxable year for which such termination shall first be effective following the initial one-year period of coverage.

23.72(4) An applicant may withdraw an application for elective coverage prior to final approval of the application. The department may, upon written request of the applicant, cancel an elective coverage agreement that has been finally approved if the applicant shows that the application was submitted through justifiable mistake, or error, or was submitted by a person not having proper authorization to bind the applicant.

23.72(5) If a governmental entity is succeeded in whole or in part by another governmental entity, the successor may elect to continue the elective coverage agreement of the predecessor or may elect to terminate the elective coverage agreement of the predecessor. If the successor governmental entity was, prior to the acquisition of the predecessor, a governmental entity under an approved elective coverage agreement, the elective coverage agreement of the predecessor shall be continued to the same extent as the elective coverage agreement of the successor. If the successor governmental entity was, prior to the acquisition of the predecessor, a governmental entity not under an approved elective coverage

agreement, the successor shall meet the requirements of this rule if it elects to continue the elective coverage agreement of the predecessor.

23.72(6) The contribution rate of a governmental contributory employer shall be determined by the ranking of the governmental contributory employer's percentage of excess when compared to all other governmental contributory employers' percentage of excesses and the rate assigned to each rank as determined by the base rate of all governmental contributory employers. The base rate is determined by adding or subtracting the difference between the benefits charged and the contributions paid by governmental contributory employers since January 1, 1980 (adjusted if necessary by excess contributions from calendar years 1978 and 1979), to or from the total benefits charged to governmental contributory employers during the preceding calendar year and dividing this sum by the total taxable wages reported by governmental contributory employers during the same calendar year. The contribution rate of a governmental contributory employer shall be payable on the taxable wages paid by the governmental contributory employer.

23.72(7) Liability upon the sale, transfer or discontinuance of a reimbursable governmental employer.

a. If a governmental reimbursable employer sells or otherwise transfers its enterprise, business, or operation to a subsequent employing unit, and the subsequent employing unit is determined to be a successor employer, the successor employer shall become liable to the department for the predecessor governmental reimbursable employer's benefit charges that are unpaid as of the date of the sale or transfer in the event that the predecessor governmental reimbursable employer cannot meet this obligation. The successor employer shall also be liable to reimburse the department, whether or not the successor employer is reimbursable or is eligible to elect to become reimbursable, for benefits paid after the date of the sale or transfer that are based on wages paid by the predecessor governmental reimbursable employer prior to the date of the sale or transfer.

b. If a reimbursable instrumentality of either a state or a political subdivision is discontinued other than by sale or transfer, the state or the political subdivision shall reimburse the department for the reimbursable instrumentality's benefit charges that are unpaid at the time the reimbursable instrumentality was discontinued. In addition, the state or the political subdivision shall be liable to reimburse the department for benefits paid after the discontinuance of the reimbursable instrumentality that are based on wages paid by the reimbursable instrumentality prior to the discontinuance.

This rule is intended to implement Iowa Code section 96.7(8).

871—23.73(96) Governmental entities—delinquent accounts.

23.73(1) Any governmental entity that is an employer and that becomes delinquent in the payment of contributions or the reimbursement of benefits shall be assessed for the same together with any interest and penalty due thereon.

23.73(2) Contributions are due within 30 days of the end of the quarter for which they are incurred. Reimbursable benefit payments are due 30 days after the date of the statement.

This rule is intended to implement Iowa Code section 96.14(3).

871—23.74 to 23.81 Reserved.

871—23.82(96) Definition of construction employer.

23.82(1) Construction. The department will utilize the North America Industry Classification System manual (2022 edition) to determine which employers will be classified as construction. The manual is available on the Internet to view or download at www.census.gov/naics.

a. The construction sector is comprised of establishments primarily engaged in the construction of buildings and other structures, heavy construction (except buildings), additions, alterations, reconstruction, installation, maintenance and repairs. Establishments engaged in demolition or wrecking of buildings and other structures, clearing of building sites, and sale of materials from demolished structures are also included. This sector also includes those establishments engaged in blasting, test drilling, landfill, leveling, earthmoving, excavating, land drainage, and other land preparation. The industries within this sector have been defined on the basis of their unique production processes. As with

all industries, the production processes are distinguished by their use of specialized human resources and specialized physical capital. Construction activities are generally administered or managed at a relatively fixed place of business, but the actual construction work is performed at one or more different project sites. Employers that provide workers primarily for construction will be classified as construction employers.

b. This sector is divided into three subsectors of construction activities:

- (1) Building construction and land subdivision and land development;
- (2) Heavy construction (except buildings), such as highways, power plants, and pipelines; and
- (3) Construction activity by special trade contractors.

c. Establishments classified in Subsector 233, Building, Developing, and General Contracting, and Subsector 234, Heavy Construction, usually assume responsibility for an entire construction project and may subcontract some or all of the actual construction work. Operative builders who build on their own account for sale and land subdividers and land developers who engage in subdividing real property into lots for sale are included in Subsector 233, Building, Developing, and General Contracting. (Special trade contractors are included in Subsector 234, Heavy Construction, if they are engaged in activities primarily relating to heavy construction, such as grading for highways.) Establishments included in these subsectors operate as general contractors, design-builders, engineer-constructors, joint-venture contractors, and turnkey construction contractors. Establishments identified as construction management firms are also included.

d. Establishments classified in Subsector 235, Special Trade Contractors, are primarily engaged in specialized construction activities, such as plumbing, painting, and electrical work and work for builders and general contractors under subcontract or directly for project owners. Establishments engaged in demolition or wrecking of buildings and other structures, dismantling of machinery, excavating, shoring and underpinning, anchored earth retention activities, foundation drilling, and grading for buildings are also included in this subsector.

e. “Force account” construction is construction work performed by an establishment primarily engaged in some business other than construction, for its own account and use, and by employees of the establishment. This activity is not included in this industry sector unless the construction work performed is the primary activity of a separate establishment of the enterprise.

f. The installation of prefabricated building equipment and materials, such as elevators and revolving doors, is classified in the construction sector. Installation work incidental to sales by employees of a manufacturing or retail establishment is classified as an activity of those establishments.

23.82(2) The term “construction” includes but is not limited to:

a. *Land subdividing and land development.* Establishments primarily engaged in subdividing real property into lots or developing lots for sale.

b. *Residential building construction.*

(1) Single-family housing construction. Establishments primarily responsible for the entire construction (i.e., new work, additions, alterations, and repairs) of single-family residential housing units.

Building alterations, single-family—general contractors

Building construction, single-family—general contractors

Custom builders, single-family houses—general contractors

Designing and erecting, combined: single-family houses—general contractors

Home improvements, single-family—general contractors

House construction, single-family—general contractors

House: shell erection, single-family—general contractors

Mobile home repair, on site—general contractors

Modular housing, single-family (assembled on site)—general contractors

One-family house construction—general contractors

Prefabricated single-family houses erection—general contractors

Premanufactured housing, single-family (assembled on site)—general contractors

Remodeling buildings, single-family—general contractors

Renovating buildings, single-family—general contractors
Repairing buildings, single-family—general contractors
Residential construction, single-family—general contractors
Row house (single-family) construction—general contractors
Town house construction—general contractors

(2) Multifamily housing construction. Establishments primarily responsible for the entire construction (i.e., new work, additions, alterations and repairs) of multifamily residential housing units.

Apartment building construction—general contractors
Building alterations, residential: except single-family—general contractors
Building construction, residential: except single-family—general contractors
Custom builders, residential: except single-family—general contractors
Designing and erecting, combined: residential, except single-family—general contractors
Dormitory construction—general contractors
Home improvements, residential: except single-family—general contractors
Prefabricated building erection, residential: except single-family—general contractors
Remodeling buildings, residential: except single-family—general contractors
Renovating buildings, residential: except single-family—general contractors
Repairing buildings, residential: except single-family—general contractors
Residential construction, except single-family—general contractors

c. Nonresidential building construction.

(1) Manufacturing and industrial building construction. Establishments primarily responsible for the entire construction (i.e., new work, additions, alterations and repairs) of manufacturing and industrial buildings.

Building alterations, industrial and warehouse—general contractors
Building components manufacturing plant construction—general contractors
Building construction, industrial and warehouse—general contractors
Clean room construction—general contractors
Cold storage plant construction—general contractors
Commercial warehouse construction—general contractors
Custom builders, industrial and warehouse—general contractors
Designing and erecting, combined: industrial—general contractors
Dry cleaning plant construction—general contractors
Factory construction—general contractors
Food products manufacturing or packing plant construction—general contractors
Grain elevator construction—general contractors
Industrial building construction—general contractors
Industrial plant construction—general contractors
Paper pulp mill construction—general contractors
Pharmaceutical manufacturing plant construction—general contractors
Prefabricated building erection, industrial—general contractors
Remodeling buildings, industrial and warehouse—general contractors
Renovating buildings, industrial and warehouse—general contractors
Repairing buildings, industrial and warehouse—general contractors
Truck and automobile assembly plant construction—general contractors
Warehouse construction—general contractors

(2) Commercial and industrial building construction. Establishments primarily responsible for the entire construction (i.e., new work, additions, alterations and repairs) of commercial and industrial buildings.

Administration building construction—general contractors
Amusement building construction—general contractors
Auditorium construction—general contractors
Bank building construction—general contractors

Building alterations, nonresidential: except industrial and warehouses—general contractors
 Building construction, nonresidential: except industrial and warehouses—general contractors
 Casino construction—general contractors
 Church, synagogue and related building construction—general contractors
 Civic center construction—general contractors
 Commercial building construction—general contractors
 Custom builders, nonresidential: except industrial and warehouses—general contractors
 Designing and erecting, combined: commercial—general contractors
 Dome construction—general contractors
 Farm building construction, except residential—general contractors
 Fire station construction—general contractors
 Garage construction—general contractors
 Hospital construction—general contractors
 Hotel construction—general contractors
 Institutional building construction, nonresidential—general contractors
 Mausoleum construction—general contractors
 Motel construction—general contractors
 Municipal building construction—general contractors
 Museum construction—general contractors
 Office building construction—general contractors
 Passenger and freight terminal building construction—general contractors
 Post office construction—general contractors
 Prefabricated building erection, nonresidential: except industrial and warehouses—general contractors
 Prison construction—general contractors
 Remodeling buildings, nonresidential: except industrial and warehouses—general contractors
 Renovating buildings, nonresidential: except industrial and warehouses—general contractors
 Repairing buildings, nonresidential: except industrial and warehouses—general contractors
 Restaurant construction—general contractors
 School building construction—general contractors
 Service station construction—general contractors
 Shopping center construction—general contractors
 Silo construction, agricultural—general contractors
 Stadium construction—general contractors
 Store construction—general contractors
d. Highway, street, bridge and tunnel construction.
 (1) Highway and street construction. Establishments primarily responsible for the entire construction (i.e., new work, reconstruction, or repairs) of highways (except elevated), streets, roads, or airport runways, and establishments identified as highway and street construction management firms, and establishments identified as special trade contractors engaged in performing subcontract work primarily related to highway and street construction.
 Airport runway construction—general contractors
 Alley construction—general contractors
 Asphalt paving; roads, public sidewalks and streets—contractors
 Concrete construction; roads, highways, public sidewalks, and streets—contractors
 Grading for highways, streets and airport runways—contractors
 Guardrail construction on highways—contractors
 Highway construction, except elevated—general contractors
 Highway signs, installation of—contractors
 Parkway construction—general contractors
 Paving construction—contractors
 Resurfacing streets and highways—contractors

Road construction, except elevated—general contractors
Sidewalk construction, public—contractors
Street maintenance or repair—contractors
Street paving—contractors

(2) Bridge and tunnel construction. Establishments primarily responsible for the entire construction (i.e., new work, reconstruction, or repairs) of bridges, viaducts, elevated highways and tunnels, and establishments identified as bridge and tunnel construction management firms, and establishments identified as special trade contractors primarily engaged in performing subcontract work related to bridge and tunnel construction.

Abutment construction—general contractors
Bridge construction—general contractors
Causeway construction on structural supports—general contractors
Highway construction, elevated—general contractors
Overpass construction—general contractors
Trestle construction—general contractors
Tunnel construction—general contractors
Underpass construction—general contractors
Viaduct construction—general contractors

e. Other heavy construction.

(1) Water, sewer, and pipeline construction. Establishments primarily responsible for the entire construction (i.e., new work, reconstruction, rehabilitation or repairs) of water mains, sewers, drains, gas mains, natural gas pumping stations, and gas and oil pipelines, and establishments identified as water, sewer and pipeline construction management firms, and establishments identified as special trade contractors engaged in activities primarily related to water, sewer, and pipeline construction.

Aqueduct construction—general contractors
Conduit construction—contractors
Distribution lines (oil and gas field) construction—general contractors
Gas main construction—general contractors
Manhole construction—contractors
Natural gas compressing station construction—general contractors
Pipe laying—general contractors
Pipeline construction—general contractors
Pipeline wrapping—contractors
Pumping station construction—general contractors
Sewage collection and disposal line construction—general contractors
Sewer construction—general contractors
Water main line construction—general contractors

(2) Power and communication transmission line construction. Establishments primarily responsible for the entire construction (i.e., new work, reconstruction, rehabilitation or repairs) of electric power and communication transmission lines and towers, radio and television transmitting/receiving towers, cable laying, and cable television lines, and establishments identified as power and communication transmission line construction management firms, and establishments identified as special trade contractors engaged in activities primarily related to power and communication line construction.

Cable laying construction—contractors
Cable television line construction—contractors
Pole line construction—general contractors
Power line construction—general contractors
Telegraph line construction—general contractors
Telephone line construction—general contractors
Television and radio transmitting tower construction—general contractors
Transmission line construction—general contractors

(3) Industrial nonbuilding structure construction. Establishments primarily responsible for the entire construction (i.e., new work, reconstruction, rehabilitation or repairs) of heavy industrial nonbuilding structures, such as chemical complexes, or facilities, cement plants, petroleum refineries, industrial incinerators, ovens, kilns, power plants (except hydroelectric plants), and nuclear reactor containment structures, and establishments identified as industrial nonbuilding construction management firms, and establishments identified as special trade contractors engaged in activities primarily related to industrial nonbuilding construction.

Chemical complex or facilities construction—general contractors

Coke oven construction—general contractors

Discharging station construction, mine—general contractors

Furnace construction for industrial plants—general contractors

Industrial incinerator construction—general contractors

Industrial plant appurtenance construction—general contractors

Kiln construction—general contractors

Light and power plant construction—general contractors

Loading station construction, mine—general contractors

Mine loading and discharging station construction—general contractors

Mining appurtenance construction—general contractors

Nuclear reactor containment structure construction—general contractors

Oil refinery construction—general contractors

Oven construction, bakers'—general contractors

Oven construction for industrial plants—general contractors

Petrochemical plant construction—general contractors

Petroleum refinery construction—general contractors

Power plant construction—general contractors

Tipple construction—general contractors

Washeries construction, mining—general contractors

(4) All other heavy construction. Establishments primarily responsible for the entire construction (i.e., new work, reconstruction or repairs) of heavy nonbuilding construction projects (except highway, street, bridge, tunnel, water lines, sewer lines, pipelines, and power and communication transmission lines), and industrial nonbuilding structures, and establishments identified as all other heavy construction management firms, and establishments primarily engaged in construction equipment rental with an operator, and establishments identified as special trade contractors engaged in activities primarily related to all other heavy construction.

Athletic field construction—general contractors

Blasting, except building demolition—contractors

Breakwater construction—general contractors

Bridle path construction—general contractors

Brush clearing or cutting—contractors

Caisson drilling—contractors

Canal construction—general contractors

Channel construction—general contractors

Channel cutoff construction—general contractors

Clearing of land—general contractors

Cofferdam construction—general contractors

Cutting right-of-way—general contractors

Dam construction—general contractors

Dike construction—general contractors

Dock construction—general contractors

Drainage project construction—general contractors

Dredging—general contractors

Earthmoving, not connected with building construction—general contractors

Flood control project construction—general contractors
Golf course construction—general contractors
Harbor construction—general contractors
Heavy equipment rental with an operator—contractors
Hydroelectric plant construction—general contractors
Irrigation projects, construction—general contractors
Jetty construction—general contractors
Land clearing—contractors
Land drainage—contractors
Land leveling (irrigation)—contractors
Land reclamation—contractors
Levee construction—general contractors
Lock and waterway construction—general contractors
Marine construction—general contractors
Missile facilities construction—general contractors
Pier construction—general contractors
Pile driving—general contractors
Pond construction—general contractors
Railroad construction—general contractors
Railway roadbed construction—general contractors
Reclamation projects construction—general contractors
Reservoir construction—general contractors
Revetment construction—general contractors
Rock removal-underwater—contractors
Sewage treatment plant construction—general contractors
Ski tow erection—general contractors
Soil compacting service—contractors
Submarine rock-removal—general contractors
Subway construction—general contractors
Tennis court construction, outdoor—general contractors
Timber removal-underwater—contractors
Trail building—general contractors
Trailer camp construction—general contractors
Trenching—contractors
Waste disposal plant construction—general contractors
Water power project construction—general contractors
Water treatment plant construction—general contractors
Waterway construction—general contractors
Wharf construction—general contractors

f. Plumbing, heating and air-conditioning contractors. Establishments primarily engaged in one or more of the following: (1) installing plumbing, heating, and air-conditioning equipment; (2) servicing plumbing, heating, and air-conditioning equipment; and (3) the combined activity of selling and installing plumbing, heating, and air-conditioning equipment. The plumbing, heating, and air-conditioning work performed includes new work, additions, alterations, and maintenance and repairs.

Air system balancing and testing—contractors
Air-conditioning, with or without sheet metal work—contractors
Boiler cleaning—contractors
Boiler erection and installation—contractors
Drainage system installation (cesspool and septic tank)—contractors
Dry well (cesspool) construction—contractors
Fuel oil burner installation and servicing—contractors
Furnace repair—contractors

- Gasline hookup—contractors
- Heating equipment installation—contractors
- Heating, with or without sheet metal work—contractors
- Lawn sprinkler system installation—contractors
- Mechanical contractors
- Piping, plumbing—contractors
- Plumbing and heating—contractors
- Plumbing repair—contractors
- Plumbing, with or without sheet metal work—contractors
- Solar heating apparatus—contractors
- Sprinkler system installation—contractors
- Steam fitting—contractors
- Sump pump installation and servicing—contractors
- Ventilating work, with or without sheet metal work—contractors
- Water pump installation and servicing—contractors
- Water system balancing and testing—contractors
- Work combined with heating or air-conditioning—contractors

g. Painting and wall covering contractors. Establishments primarily engaged in interior or exterior painting and interior wall covering. The painting and wall covering work includes new work, additions, alterations, and maintenance and repairs.

- Bridge painting—contractors
- Electrostatic painting on site (including lockers and fixtures)—contractors
- House painting—contractors
- Painting of buildings and other structures, except roofs—contractors
- Paper hanging—contractors
- Ship painting—contractors
- Traffic lane painting—contractors
- Wallpaper removal—contractors
- Whitewashing—contractors

h. Electrical contractors. Establishments primarily engaged in one or more of the following: (1) performing electrical work at the site; (2) servicing electrical equipment at the site; and (3) the combined activity of selling and installing electrical equipment. The electrical work performed includes new work, additions, alterations, and maintenance and repairs.

- Cable splicing, electrical—contractors
- Cable television hookup—contractors
- Communication equipment installation—contractors
- Electric work—contractors
- Electrical repair at site of construction—contractors
- Electronic control system installation—contractors
- Highway lighting and electrical signal construction—contractors
- Intercommunication equipment installation—contractors
- Sound equipment installation—contractors
- Telecommunications equipment installation—contractors
- Telephone and telephone equipment installation—contractors

i. Masonry, stone work, tile setting and plastering.

(1) Masonry and stone contractors. Establishments primarily engaged in masonry work, stone setting, and other stone work. The masonry work, stone setting and other stone work performed includes new work, additions, alterations, and maintenance and repairs.

- Bricklaying—contractors
- Cement block laying—contractors
- Chimney construction and maintenance—contractors
- Concrete block laying—contractors

Foundations, building of: block, stone or brick—contractors
Marble work, exterior construction—contractors
Masonry—contractors
Refractory brick construction—contractors
Retaining wall construction: block, stone or brick—contractors
Stone setting—contractors
Stone work erection—contractors
Tuck pointing—contractors

(2) Drywall, plastering, acoustical, and insulation contractors. Establishments primarily engaged in drywall, plaster work, acoustical and building insulation work. The drywall, plaster work, acoustical and insulation work performed includes new work, additions, alterations, and maintenance and repairs.

Acoustical work—contractors
Ceilings, acoustical installation—contractors
Drywall construction—contractors
Insulation installation, buildings—contractors
Lathing—contractors
Plastering, plain or ornamental—contractors
Solar reflecting insulation film—contractors
Stucco construction—contractors
Taping and finishing drywall—contractors

(3) Tile, marble, terrazzo, and mosaic contractors. Establishments primarily engaged in (1) setting and installing ceramic tile, marble (interior only), terrazzo, and mosaic, or (2) mixing marble particles and cement to make terrazzo at the job site. The tile, marble, terrazzo, and mosaic work performed includes new work, additions, alterations, and maintenance and repairs.

Fresco work—contractors
Mantel work—contractors
Marble installation, interior; including finishing—contractors
Mosaic work—contractors
Terrazzo work—contractors
Tile installation, ceramic—contractors
Tile setting, ceramic—contractors

j. Carpentering and floor contractors.

(1) Carpentry contractors. Establishments primarily engaged in framing, carpentry, and finishing work. The carpentry work performed includes new work, additions, alterations, and maintenance and repairs.

Carpentry work—contractors
Folding door installation—contractors
Framing—contractors
Garage door installation—contractors
Joinery, ship—contractors
Ship joinery—contractors
Store fixture installation—contractors
Trim and finish—contractors
Window and door (prefabricated) installation—contractors

(2) Floor laying and other floor contractors. Establishments primarily engaged in the installation of resilient floor tile, carpeting, linoleum, and wood or resilient flooring. The floor laying and other floor work performed includes new work, additions, alterations, and maintenance and repairs.

Asphalt tile installation—contractors
Carpet laying or removal service—contractors
Fireproof flooring construction—contractors
Floor laying, scraping, finishing and refinishing—contractors
Flooring, wood—contractors

- Hardwood flooring—contractors
- Linoleum installation—contractors
- Parquet flooring—contractors
- Resilient floor laying—contractors
- Vinyl floor tile and sheet installation—contractors

k. Roofing, siding, and sheet metal contractors. Establishments primarily engaged in the installation of roofing, siding, sheet metal work, and roof drainage-related work, such as downspouts and gutters. The roofing, siding and sheet metal work performed includes new work, additions, alterations, and maintenance and repairs.

- Architectural sheet metal work—contractors
- Ceilings, metal; erection and repair—contractors
- Coppersmithing, in connection with construction work—contractors
- Downspout installation, metal—contractors
- Duct work, sheet metal—contractors
- Gutter installation, metal—contractors
- Roof spraying, painting or coating—contractors
- Roofing work, including repairing—contractors
- Sheet metal work: except plumbing, heating or air-conditioning—contractors
- Siding—contractors
- Skylight installation—contractors
- Tinsmithing, in connection with construction work—contractors

l. Concrete contractors. Establishments primarily engaged in the use of concrete and asphalt to produce parking areas, building foundations, structures, and retaining walls and the use of all materials to produce patios, private driveways and private walks. The concrete work performed includes new work, additions, alterations, and maintenance and repairs.

- Asphalting of private driveways and private parking areas—contractors
- Blacktop work; private driveways and private parking areas—contractors
- Concrete finishers—contractors
- Concrete work: private driveways, sidewalks, and parking areas—contractors
- Culvert construction—contractors
- Curb construction—contractors
- Foundations, building of: poured concrete—contractors
- Grouting work—contractors
- Guniting work—contractors
- Parking lot construction—contractors
- Patio construction, concrete—contractors
- Sidewalk construction, except public—contractors

m. Water well drilling contractors. Establishments primarily engaged in drilling, tapping, and capping of water wells and geothermal drilling. The water well drilling work performed includes new work, additions, alterations, and maintenance and repairs.

- Drilling water wells—contractors
- Geothermal drilling—contractors
- Servicing water wells—contractors
- Well drilling, water: except oil or gas field water intake—contractors

n. Other special trade contractors.

(1) Structural steel erection contractors. Establishments primarily engaged in one or more of the following: (1) erecting metal, structural steel and similar products of prestressed or precast concrete to produce structural elements of building exterior, and elevator fronts; (2) setting rods, bars, rebar, mesh and cages to reinforce poured-in-place concrete; and (3) erecting cooling towers and metal storage tanks. The structural steel erection work performed includes new work, additions, alterations, reconstruction, and maintenance and repairs.

- Building front installations, metal—contractors

Concrete products, structural precast or prestressed: placing of—contractors

Concrete reinforcement, placing of—contractors

Curtain wall installation—contractors

Elevator front installation, metal—contractors

Iron work, structural—contractors

Metal furring—contractors

Steel work, structural—contractors

Storage tanks, metal; erection—contractors

Storefront installation, metal—contractors

(2) Glass and glazing contractors. Establishments primarily engaged in installing glass or tinting glass. The glass work performed includes new work, additions, alterations, and maintenance and repairs.

Glass installation, except automotive—contractors

Glass work, except automotive—contractors

Glazing work—contractors

Tinting glass—contractors

(3) Excavation contractors. Establishments primarily engaged in preparing land for building construction. The excavation work performed includes new work, additions, alterations, and repairs.

Excavation work—contractors

Foundation digging (excavation)—contractors

Grading: except for highways, streets and airport runways—contractors

(4) Wrecking and demolition contractors. Establishments primarily engaged in wrecking and demolition of buildings and other structures.

Concrete breaking for streets and highways—contractors

Demolition of buildings or other structures, except marine—contractors

Dismantling steel oil tanks, except oil field work—contractors

Underground tank removal—contractors

Wrecking of building or other structures, except marine—contractors

(5) Building equipment and other machinery installation contractors. Establishments primarily engaged in one or more of the following: (1) the installation or dismantling of building equipment, machinery or other industrial equipment; (2) machine rigging; and (3) millwrighting. The building equipment and other machinery installation work performed includes new work, additions, alterations, and maintenance and repairs.

Conveyor system installation—contractors

Dismantling of machinery and other industrial equipment—contractors

Dumbwaiter installation—contractors

Dust collecting equipment installation—contractors

Elevator installation, conversion, and repair—contractors

Incinerator installation, small—contractors

Installation of machinery and other industrial equipment—contractors

Machine rigging—contractors

Millwrights

Pneumatic tube system installation—contractors

Power generating equipment installation—contractors

Revolving door installation—contractors

Vacuum cleaning systems, built-in—contractors

(6) All other special trade contractors. Establishments primarily engaged in specialized construction work. The other specialized work performed includes new work, additions, alterations, and maintenance and repairs.

Antenna installation, except household type—contractors

Artificial turf installation—contractors

Awning installation—contractors

Bathtub refinishing—contractors

Boring for building construction—contractors
Bowling alley installation and service—contractors
Cable splicing service, nonelectrical—contractors
Caulking (construction)—contractors
Cleaning building exteriors—contractors
Cleaning new buildings after construction—contractors
Coating of concrete structures with plastic—contractors
Core drilling for building construction—contractors
Countertop installation—contractors
Dampproofing buildings—contractors
Dewatering—contractors
Diamond drilling for building construction—contractors
Epoxy application—contractors
Erection and dismantling of forms for poured concrete—contractors
Fence construction—contractors
Fire escape installation—contractors
Fireproofing buildings—contractors
Forms for poured concrete, erection and dismantling—contractors
Gas leakage detection—contractors
Gasoline pump installation—contractors
Glazing of concrete surfaces—contractors
Grave excavation—contractors
House moving—contractors
Insulation of pipes and boilers—contractors
Lead burning—contractors
Lightning conductor erection—contractors
Mobile home site setup and tie down—contractors
Ornamental metal work—contractors
Paint and wallpaper stripping—contractors
Plastic wall tile installation—contractors
Posthole digging—contractors
Sandblasting of building exteriors—contractors
Scaffolding construction—contractors
Service and repair of broadcasting stations—contractors
Service station equipment installation, maintenance and repair—contractors
Shoring and underpinning work—contractors
Spectator seating installation—contractors
Steam cleaning of building exteriors—contractors
Steeplejacks
Swimming pool construction—contractors
Television and radio stations, service and repair of—contractors
Test boring for construction—contractors
Tile installation, wall: plastics—contractors
Waterproofing—contractors
Weatherstripping—contractors
Welding contractors, operating at site of construction
Window shade installation—contractors

23.82(3) *The assignment of standard industrial codes.* Each operating establishment is assigned an industry code on the basis of its primary activity, which is determined by its principal product or group of products produced or distributed, or services rendered. Ideally, the principal product or service should be determined by its relative share of value added at the establishment. Since this is not possible for all sectors of the economy, the following is used as a guide for determining industry codes:

Division	Data Measure
Agriculture, forestry and fishing (except agricultural services)	Value of production
Mining	Value of production
Construction	Value of production
Manufacturing	Value of production
Transportation, communication, electric, gas and sanitary services	Value of receipts or revenues
Wholesale trade	Value of sales
Retail trade	Value of sales
Finance, insurance, and real estate	Value of receipts
Service (including agricultural services)	Value of receipts or revenues
Public administration	Employment or payroll

In some cases it will not be possible to determine even on an estimated basis the value of production or similar appropriate measure for each product or service. In other cases an industrial classification based on measures of output will not accurately reflect the importance of the diversified activities. In these cases, employment or payroll should be used in lieu of the normal basis for determining the primary activity and subsequent code assignment of the establishment.

This rule is intended to conform to federal changes in the North American Industry Classification System and implements Iowa Code sections 96.7(2), 96.7(3), 96.7(4) and 96.11(1).

871—23.83(96) References.

23.83(1) All references to the Code of Federal Regulations (CFR) and United States Code (U.S.C.) in this chapter are to the laws as amended as of November 1, 2024.

23.83(2) All references to the Federal Unemployment Tax Act refer to 23 U.S.C. Sections 3301 through 3311 as amended as of November 1, 2024.

23.83(3) All references to the United States Internal Revenue Code refer to 26 CFR Sections 1 through 9834 as amended as of November 1, 2024.

23.83(4) All references to the United States Federal Insurance Contributions Act refer to 26 U.S.C. Sections 3101 through 3134 as amended as of November 1, 2024.

23.83(5) All references to the United States Balanced Budget and Emergency Deficit Control Act of 1985 refer to PL 99-177 as amended as of November 1, 2024.

23.83(6) All references to the United States Disaster Relief Act of 1974 refer to PL 93-288 as amended as of November 1, 2024.

This rule is intended to implement Iowa Code chapter 96 and section 17A.6.

[Filed 1/2/25, effective 2/26/25]

[Published 1/22/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/22/25.